

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

A collection of United Nations documents associated with the drafting of the Universal Declaration of Human Rights, these volumes facilitate research into the scope of, meaning of and intent behind the instrument's provisions. It permits an examination of the various drafts of what became the thirty articles of the Declaration, including one of the earliest documents – a compilation of human rights provisions from national constitutions, organized thematically. The documents are presented chronologically, and thorough thematic indexing facilitates research into the origins of specific rights and norms. They are also annotated in order to provide information relating to names, places, events and concepts that might have been familiar in the late 1940s but are today more obscure.

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Preface

The Universal Declaration of Human Rights has been the centrepiece of the modern international law of human rights for more than sixty years. If anything, its significance continues to grow. The Declaration was adopted by the United Nations General Assembly on 10 December 1948. The Charter of the United Nations, which entered into force in October 1945, recognized the importance of human rights but gave only the most general indications about the content of the concept. At the time the Charter was adopted, at the San Francisco Conference in June 1945, United States President Harry S. Truman said that “under this document [the Charter] we have good reason to expect an international bill of rights, acceptable to all the nations involved”.

The official documents relating to the drafting of the Universal Declaration are reproduced in this collection, from the pioneering work of the so-called “nuclear” Commission on Human Rights, in 1946, to the final drama of the vote in the General Assembly on the evening of 10 December 1948. There are more than 700 individual documents. The material actually begins with the work of the Preparatory Commission, set up in late 1945 following the entry into force of the Charter of the United Nations. Thus, it does not contain the proceedings of the San Francisco Conference or of the earlier Dumbarton Oaks discussions. It concludes with the resolution of the General Assembly to which the Universal Declaration of Human Rights is annexed. The documents are drawn from a range of United Nations bodies, essentially the Commission on Human Rights and its subsidiary organs, the Economic and Social Council and the General Assembly. Relevant materials from the 1948 Conference on Freedom of Information and of the Press are also included. Every item in this collection bears an official United Nations document code.

Students of the Universal Declaration of Human Rights might well go beyond these materials, consulting the archival records of the various governments involved in the adoption of the Declaration and perhaps even those that were not Member States at the time. The memoirs of participants in the debates, as well as their unpublished papers, may also provide insight. Documents in the archives of non-governmental organizations might also be canvassed. But all of these materials are beyond the scope of the present project.

The official drafting history is important to the historiography of the Universal Declaration of Human Rights as well as to human rights law more generally. It is also of special relevance to the interpretation of the Declaration. When a document such as the Declaration is being negotiated, participating States are quite conscious of the fact that they are constructing a documentary record that will be consulted in the future and quite possibly invoked in legal disputes. They make statements and reservations that are intended to condition the future interpretation of the text that is being adopted.

Affirming what is undoubtedly a customary principle of the interpretation of treaties, article 32 of the Vienna Convention on the Law of Treaties says recourse may be had to the preparatory work of a treaty and the circumstances of its conclusion, but only as a supplementary means of interpretation when other principles leave the meaning ambiguous or obscure or lead to a result which is manifestly absurd or unreasonable. Strictly speaking, the Vienna Convention is not applicable because the Universal Declaration of Human Rights is not a treaty. However, the negotiating history and subsequent application indicate that it is treaty-like, and there is no good reason to apply a different approach to interpretation of the Declaration from that which would be used for a treaty.

In practice, the *travaux préparatoires* of international legal instruments are regularly consulted by courts without much insistence on the exhaustion of other techniques of interpretation, despite the words of the Vienna Convention. The International Court of Justice has often used the *travaux* to “confirm its reading of the relevant texts”.¹ There is the inevitable objection that reliance on the drafting history risks freezing the interpretation of an instrument, making its meaning dependent upon the prevailing views at the time of its adoption. This is a particular concern with human rights texts. Alejandro Alvarez, who authored one of the texts that most influenced the drafters of the Universal Declaration of Human Rights, in an opinion he wrote at the International Court of Justice, said that “a treaty or a text that has once been established acquires a life of its own. Consequently, in interpreting it, we must have regard to the exigencies of contemporary life rather than to the intentions of those who framed it.”² The principle of dynamic or evolutive interpretation is especially significant with respect to instruments that protect human rights.³ But regardless of their legal significance, the *travaux préparatoires* are of

¹ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russia)*, Preliminary Objections, 1 April 2011, para. 142. Also: *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, Judgment, [2002] ICJ Reports 653, para. 53; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, Jurisdiction and Admissibility, Judgment, [1995] ICJ Reports 21, para. 40.

² *Competence of the Assembly for the Admission of a State to the United Nations*, [1950] ICJ Reports 18.

³ *Vo c. France* [GC], no. 53924/00, ECHR 2004 VIII, para. 82. Also: *Zolotukhin v. Russia* [GC], no. 14939/03, 10 February 2009, para. 80; *Micallef v. Malta* [GC], no. 17056/06, 15 October 2009, para. 81; *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, 17 September 2009, para. 104.

undeniable historical interest. The lawmaking process itself is one of endless fascination, especially on a topic of such importance.

As an exception, two official United Nations documents of some length have been omitted from this compilation, the report of Professor Charles de Visscher to the Institut de droit international⁴ and the report of Professor Hersch Lauterpacht to the International Law Association.⁵ These two documents are readily available in other published sources. Although consulted by the drafters they were not, strictly speaking, generated by States as part of the drafting process. Rather, they were reproduced by the Secretariat for the convenience of delegates. It should be recalled that this was prior to the availability of photocopying. For the reports of de Visscher and Lauterpacht to be made available, they needed to be retyped and then mimeographed, as well as translated into French, the other working language of the United Nations. Admittedly, the exclusion of these documents from this collection may be open to question, as the claim that such expert opinions should be part of the *travaux* is not without considerable merit.⁶

Verbatim transcripts of many of the meetings were taken. These are available in the archives of the United Nations as well as in some private archival collections. However, as a general rule they are not part of the official record of the negotiations and they are not reproduced in this collection, with the exception of the rather perfunctory sessions of the General Assembly. Most of the debates take the form of “summary records”, which amount to *précis* prepared by professionals within the United Nations Secretariat. They may lack some of the colour of a verbatim record although they should provide a reliable guide to the content. Summary Records are circulated to delegates so that corrections may be made. The corrections are then issued as distinct documents and incorporated in subsequent versions, notably in the *Official Records* of the organ in question.

Where the texts of documents have been taken from the *Official Records* this is indicated in a footnote, although the original code is used for identification of the document. This is the case for documents of the General Assembly, its Third Committee and the plenary Economic and Social Council. Comparison of the texts in the original documents and the versions published in the *Official Records* indicates that minor changes of an editorial nature are sometimes made. There does not appear to be any meaningful difference from the standpoint of substance, however. In the interests of thoroughness, a scholar might wish to consult the original mimeographed text as well as the version in the *Official Records*, which has been edited and bears slight annotations and cross-references.

⁴ E/CN.4/40. ⁵ E/CN.4/89.

⁶ Yves Le Bouthillier, ‘Article 32’, in Olivier Corten and Pierre Klein, eds., *The Vienna Conventions on the Law of Treaties, A Commentary*, Vol. I, Oxford: Oxford University Press, 2011, pp. 853–4.

In this compilation, small grammatical and technical mistakes have frequently been corrected without any indication to this effect appearing to indicate the change. It was felt that highlighting the existence of obvious errors would smack of pedantry and be of no practical use to those who consult these materials. There has been an attempt to avoid excessive use of [*sic*]. Sometimes, however, where the original meaning was unclear, its use has seemed unavoidable if an accurate reflection of the original documents is to be provided. Very occasionally the original document, which was actually reproduced by mimeography, is not clear, and this has been indicated. Spellings have been rendered consistent in accordance with the publisher's approved style.

Most of the *travaux* were prepared using typewriters. Titles and emphasis were indicated using a combination of upper case, underlining, centring and indenting, with practice varying considerably even for documents generated at the same set of meetings. Although the United Nations probably had a formal style guide to assist those who were typing and editing the documents, it was not followed rigorously. Differences seem to reflect the practice of the individuals preparing the materials. Consequently, the formatting of the documents in this collection follows the originals but only in a very general sense. Words entirely in upper case have been avoided, and italics have replaced underlining.

Pagination of the originals is indicated using square brackets. Footnotes in the original are reproduced within the text itself and generally appear at the end of each page, immediately before the page break. At the time, multiple asterisks rather than numerals were usually employed for footnotes. The consecutively numbered footnotes in this compilation are the work of the editor. They provide indications about the meaning of the original and indicate errors and corrections. They are also used to provide annotations intended to assist the reader in understanding references made in the documents.

Each United Nations document is identified by the document code followed by the date of issue of the document. The document code indicates the body that produced the document ("A/" for General Assembly, "E/" for Economic and Social Council, "E/CN.4/" for Commission on Human Rights, and so on; see the Table of Documents for a full indication). The documents are presented in chronological order rather than grouped by the organ that produced them. Of course, because the work was carried out by one organ at a time, the documents of a particular body, such as the Drafting Committee, tend to be clustered together. But occasionally they are interrupted by a document from another source that may have been issued while the Committee was in session. For a list of documents emanating from one particular body, the Table of Documents should be consulted.

Although the date of the document is the basis for establishing the chronological order, an exception is made in the case of the Summary Records and Verbatim

Reports. These documents recording the debates themselves are often issued days or weeks after the meeting and their issuance does not necessarily follow the chronology of the meetings themselves. For such documents, the date of the meeting is the basis for the classification; an explanatory footnote indicates the date of issuance of the document, as it appears on the original.

Difficult editorial decisions arose because of the relationship between the draft declaration and the draft covenant. Initially, work was undertaken on the “bill of rights” but by June 1947 the Drafting Committee of the Commission on Human Rights had separated the project into three components, a draft manifesto (ancestor of the Declaration), a draft convention (ancestor of the two International Covenants, finally adopted in 1966) and the issue of implementation, a complex subject that to some extent remains unfinished business. Negotiations of the draft declaration and draft covenant proceeded in parallel. Because, in some cases, the provisions and the rights in question were closely related, documents that at first glance appear to concern the draft covenant or measures of implementation have been included in the compilation. As a rule of thumb, when reference was made to the draft declaration, even in the context of a discussion directly related to one of the other two subjects, the document is included in this compilation.

At the time the Universal Declaration was drafted, the United Nations had five official languages (Arabic was added in 1973) but for the first years English and French were the working languages. Spanish was added on 7 December 1948, the same day that the Third Committee adopted the draft declaration.⁷ The *travaux* are available in both English and French, although delegations were free to submit documents in any of the official languages. Occasionally, the originals were in Spanish or Russian, though never in Chinese. They were then translated into the two working languages. The documents in this collection are the English-language versions. When a document was issued in a language other than English, this is indicated. Otherwise, English is presumed. A thorough researcher would be wise to review the French-language texts as well, to ensure that there are no discrepancies.

My thanks go first and foremost to Christina Szurlej, who is completing a doctorate in international human rights law in an area related to the Universal Declaration of Human Rights. Christina worked indefatigably in the compilation of these materials, bringing her considerable expertise to bear on the project. She received invaluable assistance from Bethan McGarry, who interned at the Irish Centre for Human Rights during 2011 while research on this project was ongoing. Penelope Soteriou made an important contribution at the proofreading stage. The Vice-President for Research at the National University of Ireland Galway, Terry Smith, provided support for the project and, indeed, made it possible. I am also

⁷ GA Res. 246(III).

grateful to Middlesex University, where I was appointed Professor of International Law in 2011 and where the bulk of the work on this project was conducted.

The assistance of many librarians is greatly appreciated, notably those of the Dag Hammarskjöld Library at United Nations headquarters in New York, in particular the reference and digitalization team, and of the British Library in London, in particular Vera Eterovic and Jerry Jenkins. Help from Deborah Gardner and Fay Rosenfeld of Roosevelt House in New York is also acknowledged.

Finally, many thanks are due to Finola O’Sullivan, Nienke van Schaverbeke, Sarah Roberts and Richard Woodham of Cambridge University Press.

William A. Schabas
London, 10 December 2012

Foreword

“All human beings are born free and equal in dignity and rights . . . Everyone has the right to life, liberty and security of person . . . All are equal before the law.”

With these fundamental words, the 1948 Universal Declaration of Human Rights recognized that all the human rights – civil, cultural, economic, political and social – belonged inherently to all the people of the world. The Declaration is the cornerstone of modern human rights law: it stipulates that these rights inherently belong to people, rather than being “gifts” which can be bestowed upon them, or denied to them, by design, fate or the whims of their rulers.

Composed of 30 succinct provisions, the Declaration has probably had more impact on mankind than any other document in modern history. Adopted in the 5 official languages of the United Nations, it has been translated into another 380 versions, all of them available on the website of the Office of the High Commissioner for Human Rights. The Declaration offers a “common understanding” of the rights and freedoms enshrined in the Declaration itself, and the Charter of the United Nations, as well as the many general and specialized treaties, declarations and other instruments that followed its adoption.

Immediately after the end of the Second World War, statesmen and stateswomen, diplomats, journalists, activists and – above all – the “common people”, to use the words of the inspiring preamble to the Declaration, wanted to prevent such a devastating conflict ever happening again. This meant tackling its causes as well as its aftermath. They were determined to ensure that there would never be another Holocaust, and that everyone – especially the poor, the hungry, the displaced and the marginalized – would in future have systems to support them and international legal frameworks to protect them. Many of the world’s most impressive legal treaties and institutions, including the United Nations itself, date back to this fertile period in the late 1940s. But the Universal Declaration had and still has a truly special place.

It has been more than six decades since the Declaration was adopted by the United Nations General Assembly, on 10 December 1948. Human rights had

already featured in the Charter, which dates from June 1945, but the founding document of the United Nations left some important matters to be resolved. The Charter spoke in a general sense about human rights and fundamental freedoms, the importance of international cooperation, the essential precondition of peace, and the equality of women and men. The Universal Declaration articulated a more developed and detailed view of the scope of these rights, using concise texts to explore the scope of the freedoms of religion and expression, and to privacy, the family, migration, education, fair employment and a host of other issues.

Yet the Declaration was never intended to be the last word on the subject. Rather, the formulation of human rights was viewed as a work in progress, and there was much unfinished business, including more treaties to be negotiated. The Declaration is not only a seminal document in the development of international human rights law, it is also a living instrument that continues to be relevant to and applied in a broad range of contexts. The Declaration is regularly cited by tribunals throughout the world, as well as by the United Nations treaty bodies. Recently, its importance was enhanced when the Human Rights Council identified the Declaration as one of the central legal bases for the Universal Periodic Review process. In addition to explicit references to the Declaration by States in their reports to the Council, and in the comments of their peers, the content of the Declaration underpins the mechanism as a whole.

In this context, this comprehensive collection of the United Nations documents relevant to the adoption of the Universal Declaration of Human Rights assembled by Professor William Schabas will undoubtedly contribute to furthering the understanding of the body of human rights. A complex understanding of the core fundamental rights and freedoms emerges from this material. It traces the drafting of the Universal Declaration through the early work of the Nuclear Commission on Human Rights and then the Commission itself to the General Assembly, as well as in the specialized work of bodies like the Commission on the Status of Women and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. Never has the drafting record of the Universal Declaration been so accessible, not only because the compilation of documents is thorough and complete but also because of the detailed indexing. Henceforth, those who research the meaning and content of human rights will turn systematically to this record of the early debates. New insights into fundamental rights will emerge as the preparatory work is carefully scrutinized. I wish personally to commend Professor Schabas for this outstanding collection.

Today, the international human rights movement has many dimensions. Professionals and activists take on a variety of roles, as diplomats, NGO campaigners and ordinary citizens who participate in the development of the shared vision launched by the Declaration. As Eleanor Roosevelt once said, human rights begin in

small places, close to home. An important contribution to this constantly evolving system is made by scholars and academics, who enrich our grasp of the content of international human rights. They examine the history of human rights, analysing the themes of the time and the unresolved debates. This exploration of the past helps in better understanding the present as well as in pointing the way to the future.

Navanetham Pillay
United Nations High Commissioner for Human Rights
Geneva, 3 October 2012

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Abbreviations and acronyms

AF of L	American Federation of Labor
FAO	Food and Agriculture Organization
HRDC	Human Rights Commission Drafting Committee
IFCTU	International Federation of Christian Trade Unions
ILO	International Labour Organization
IMT	International Military Tribunal
IRO	International Refugee Organization
TWC	Trials of the War Criminals
UNCIO	United Nations Conference on International Organization
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
WFTU	World Federation of Trade Unions
WHO	World Health Organization

Introductory essay: the drafting and significance of the Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948 following a complex drafting process that took nearly two years. Consisting of a preamble and thirty concise articles, totalling less than 1,800 words, the Declaration describes itself as “a common standard of achievement for all peoples and all nations”. It was designed to be part of a package comprising three components: a declaration or manifesto, a treaty or covenant, and provisions for implementation. The other parts followed the Declaration later, taking nearly two decades for adoption and another ten years for entry into force. The great impact of the Universal Declaration may not have been immediate.¹ Its significance has grown over the years and continues to grow. The Declaration has been invoked in scores of international treaties, in national constitutions and legislation, and in judicial decisions at both the national and the international levels.² In 2007, the United Nations Human Rights Council decided that all Member States would present periodic reports on their human rights compliance. Central to the legal framework of this new and novel procedure, known as Universal Periodic Review, are the standards set out in the Universal Declaration of Human Rights.³

Many of the principles that underpin the modern law of human rights can be traced back centuries, and even further. Religious texts and writings of ancient philosophers provide a fertile source. These materials are of special interest to those who base the norms we recognize today in natural law. From such a standpoint, fundamental rights and the protection of human dignity are and always have been our entitlement. Following this natural law perspective, the Universal Declaration of Human Rights is more of a codification of existing principles than an exercise in

¹ Samuel Moyn, *The Last Utopia, Human Rights in History*, Cambridge, MA and London: Belknap Press, 2010.

² Egon Schwelb, “The Influence of the Universal Declaration of Human Rights on International and National Law”, (1959) 53 *Proceedings of the American Society of International Law* 217; Hurst Hannum, “The Status of the Universal Declaration of Human Rights in National and International Law”, (1995) 25 *Georgia Journal of International and Comparative Law* 287.

³ Institution-building of the United Nations Human Rights Council, HRC/RES/5/1, 5/1, Annex, I.A.1(b).

creative lawmaking.⁴ Certainly, nobody would contend that the Universal Declaration was cut from whole cloth. Nevertheless, it is also evident from these *travaux préparatoires* that the drafters were also setting new standards, provoked by a desire to put the misery of the social and political environment associated with the Second World War behind them. They were also sensitive to the evolving nature of human rights; the standards they defined should also leave room for growth and expansion as principles of human decency evolved. Either way, whether one's philosophical bent is towards natural law or whether it is more positivistic, the process by which the fundamental norms were identified during 1947 and 1948 is of profound interest.

The most direct ancestor of the actual language in the Universal Declaration is the Magna Carta, a covenant imposed by his barons upon the English king in 1215. It set out certain rights for "freemen" and affirmed that even the monarch was not above the law. The Magna Carta launched an increasingly robust legal tradition that manifested itself in such texts as the Habeas Corpus Acts and the 1688 Bill of Rights. In the seventeenth century, religious and political refugees brought this law with them to the United States where, as part of the War of Independence, the norms became entrenched in the Constitution. Translated into French and exported by Thomas Jefferson and the Marquis de Lafayette, the language of human rights and the rule of law surfaced in revolutionary Paris. Over the next 150 years, the proclamations of the Americans and the French provided models for many others who associated statehood and independence with an entitlement of individuals to certain fundamental rights. By the early twentieth century, fundamental human rights were familiar components of many national constitutions. However, there was as yet no global benchmark nor, for that matter, a proper forum in which to proclaim one.

The beginnings of international human rights law

Although provisions in international treaties addressing specific human rights issues, such as the slave trade and the rights of religious minorities, can be found as early as the seventeenth century, the advent of texts that resemble those of the Universal Declaration of Human Rights dates from the end of the First World War. At the Paris Peace Conference, in 1919, Japan proposed that the Covenant of the League of Nations include a clause recognizing racial equality. This met with vigorous opposition from President Woodrow Wilson, who blocked adoption, although the proposal garnered support from a majority of delegations. In angry

⁴ Johannes Morsink, "The Philosophy of the Universal Declaration", (1984) 6 *Human Rights Quarterly* 309.

reaction, American blacks rioted in Washington and other cities.⁵ Despite this setback, the new post-War legal order manifested several important innovations in the protection of minorities and refugees, and the rights of labour.

During the inter-war period, initiatives aimed at the international recognition of fundamental rights emerged within global civil society.⁶ A proposal for a comprehensive declaration of human rights issued from the Institut de Droit International. A rather elite body composed of eminent legal scholars, the Institut undertook the drafting of the “Declaration of the International Rights of Man” under the leadership of André Mandelstam. It was adopted in 1929. The Declaration contained clauses that addressed the rights to life, liberty and property, without distinction based on prohibited grounds that included race, sex, language and religion. Years later, René Cassin credited the Institut de Droit International with playing an important role in the history of the Universal Declaration of Human Rights, noting in particular that the right to life was included as part of the 1929 Declaration.⁷

The international concern with human rights moved to centre stage following the outbreak of the Second World War.⁸ With the aggressors deeply committed to policies of racial discrimination, brutal suppression of free speech and political opposition, and even genocide, the War was presented as a struggle between value systems. In a January 1941 speech to Congress, many months before the United States formally entered the conflict, American President Franklin D. Roosevelt proposed the “four freedoms” as a condensed vision of the ideas for which the War was being fought:

In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms.

The first is freedom of speech and expression – everywhere in the world.

The second is freedom of every person to worship God in his own way – everywhere in the world.

The third is freedom from want – which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants – everywhere in the world.

The fourth is freedom from fear – which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be

⁵ Paul Gordon Lauren, *The Evolution of International Human Rights, Visions Seen*, Philadelphia: University of Pennsylvania Press, 2003, pp. 98–100.

⁶ Jan Herman Burgers, “The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century”, (1992) 14 *Human Rights Quarterly* 447.

⁷ René Cassin, “La déclaration universelle et la mise en oeuvre des droits de l’homme”, (1951) 79 *Recueil de Cours de l’Académie de Droit International* 241, at p. 272. The 1929 Declaration was also examined by the drafters of the American Declaration of the Rights and Duties of Man: Inter-American Council of Jurists, *Recomendaciones e informes, documentos oficiales, 1945–1947*, Washington, DC: Organization of American States, 1948, pp. 18–19.

⁸ On the link between the Second World War and the Universal Declaration of Human Rights, see: Johannes Morsink, “World War Two and the Universal Declaration”, (1991) 15 *Human Rights Quarterly* 357.

in a position to commit an act of physical aggression against any neighbor – anywhere in the world.

That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called new order of tyranny which the dictators seek to create with the crash of a bomb.

To that new order we oppose the greater conception – the moral order. A good society is able to face schemes of world domination and foreign revolutions alike without fear.⁹

Roosevelt's four freedoms were later incorporated in the preambles of the primary documents comprising the International Bill of Rights, namely the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Even today they are a helpful reference, binding together what some have called the generations of human rights: the classic political liberties of the first generation, the economic and social entitlements of the second, and the importance of peace in the third.

In August 1941, Roosevelt and Churchill met aboard-ship off the coast of Newfoundland and adopted what became known as the “Atlantic Charter”. The Charter affirmed “the right of all peoples to choose the form of government under which they will live” and pledged that: “after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want”.¹⁰ Nelson Mandela would later observe that:

Some in the West saw the Charter as empty promises, but not those of us in Africa. Inspired by the Atlantic Charter and the fight of the Allies against tyranny and oppression, the [African National Congress] created its own Charter . . . We hoped that the government and ordinary South Africans would see that the principles they were fighting for in Europe were the same ones we were advocating at home.¹¹

In parallel to these statements at the highest level were initiatives by public intellectuals like H. G. Wells, who prepared his own draft “Declaration of Rights”. Wells published a book entitled *The Rights of Man or What Are We Fighting For?*¹² It stated the case for the familiar judicial rights, such as habeas corpus, but also insisted upon “the right to subsistence”, and “the right to work and to have property”. Hersch Lauterpacht, who was Professor of International Law at the University of Cambridge, prepared the “International Bill of the Rights of Man” at the request of the American

⁹ Congressional Record, 1941, Vol. 87, Pt I.

¹⁰ “Atlantic Charter, August 12, 1941”, in Elizabeth Borgwardt, *A New Deal for the World, America's Vision for Human Rights*, Cambridge, MA and London: Harvard University Press, 2005, pp. 303–4.

¹¹ Nelson Mandela, *A Long Walk to Freedom*, Boston: Little Brown, 2000, pp. 82–3.

¹² H. G. Wells, *The Rights of Man or What Are We Fighting For?* Harmondsworth: Penguin Books, 1940.

Jewish Committee.¹³ Probably the most influential of these non-official efforts in terms of the Universal Declaration was undertaken by the American Law Institute.¹⁴

The central role of human rights in the War aims of the Allies was broadened considerably on 1 January 1942, when thirty-six States, including the United States, the United Kingdom, the Soviet Union, China, Canada, Haiti, Cuba, India, New Zealand and South Africa signed the Declaration of the United Nations. It proclaimed a commitment to providing a “decent life, liberty, independence, and religious freedom”, and pledged a crusade “to preserve human rights and justice in their own lands as well as in other lands”.¹⁵ The Declaration of the United Nations made only the most oblique reference to the establishment of a new international organization. In 1944 that subject took on greater importance.

Human rights and the Charter of the United Nations

The principal stage in preparations for the post-War world order was the Dumbarton Oaks Conference, organized in Washington in August, September and October 1944 by the United States and the United Kingdom, together with the Soviet Union and, later, China. The “Proposals for the Establishment of a General International Organization” were the result.¹⁶ The human rights language that had figured in the Atlantic Charter and the Declaration of the United Nations was no longer present. An American proposal to list human rights as one of the main purposes was rejected by Britain and the Soviet Union. By the time China arrived at the meeting, “the Big Three (Britain, the Soviet Union, and the United States) already had agreed among themselves to bury any mention of human rights deep within the text and confine it to social and economic cooperation, and to completely eliminate all mention of racial equality as originally proposed by China”.¹⁷ Ultimately, there was only one perfunctory reference: “promote respect for human rights and fundamental freedoms”.¹⁸ Confident of military victory, the Great Powers were no longer as concerned as they had been a few years previously about the need to rally smaller countries and their populations, as well as minorities within their own borders, by promises of freedom, equality and self-determination.

¹³ Hersch Lauterpacht, *An International Bill of the Rights of Man*, New York: Columbia University Press, 1945. See also: Elihu Lauterpacht, *The Life of Sir Hersch Lauterpacht, QC, FBA, LL.D.*, Cambridge: Cambridge University Press, 2010, pp. 251–64.

¹⁴ American Law Institute, *Report to the Council of the Institute and Statement of Essential Human Rights*, New York: American Law Institute, 1944.

¹⁵ Cited in Paul Gordon Lauren, *The Evolution of International Human Rights, Visions Seen*, Philadelphia: University of Pennsylvania Press, 2003, p. 140.

¹⁶ Wilhelm G. Grewe and Daniel Erasmus Khan, “History”, in Bruno Simma, ed., *The Charter of the United Nations, A Commentary*, 2nd edn, Oxford: Oxford University Press, 2002, pp. 1–12.

¹⁷ Paul Gordon Lauren, *The Evolution of International Human Rights, Visions Seen*, Philadelphia: University of Pennsylvania Press, 2003, p. 163.

¹⁸ “Dumbarton Oaks Proposals for a General International Organization”, *Documents of the U.N. Conference on International Organization, San Francisco, 1945*, Vol. III, London, New York: United Nations Information Organizations, 1945, Doc. 1 G/1, pp. 1–23, at p. 19.

The shortcomings of the Dumbarton Oaks proposals were strongly criticized by many of the States that had not been involved but were expected to participate in the creation of the new organization.¹⁹ Dissatisfaction within Latin America was particularly apparent at the Inter-American Conference on Problems of War and Peace, convened at Chapultepec in Mexico City in February 1945. Recalling that the participants at Chapultepec “did not take part in the Dumbarton Oaks Conversations”, the Conference adopted a number of resolutions concerning the protection of human rights. The most significant affirmed the need for “a system of international protection of these rights”. The resolution mandated the Inter-American Juridical Committee to prepare a “Declaration of the International Rights and Duties of Man”.²⁰

The Charter of the United Nations was adopted at the San Francisco Conference, which convened in April 1945 and concluded on 26 June. Many States made proposals to insert provisions concerning human rights in the draft Charter, including South Africa,²¹ Panama²² and Cuba.²³ But credit for the campaign in favour of human rights provisions is also due to another party that was absent at Dumbarton Oaks, civil society.²⁴ John Humphrey wrote that the Charter of the United Nations would have had “only a passing reference” to human rights were it not for the efforts of non-governmental organizations.²⁵ Confronted with such unexpected pressures, the Great Powers realized that they would need to correct the oversight in the Dumbarton Oaks proposals and incorporate provisions in the Charter concerning human rights.

There are seven relevant references to human rights in the Charter of the United Nations, one in the preamble, one in the statement of purposes of the United Nations, one governing the authority of the General Assembly, and the remainder in the Chapters that concern the Economic and Social Council and the Trusteeship Council.²⁶ Article 68

¹⁹ Paul Gordon Lauren, *The Evolution of International Human Rights, Visions Seen*, Philadelphia: University of Pennsylvania Press, 2003, pp. 168–70.

²⁰ Pan American Union, *Inter-American Conference on War and Peace*, Washington, DC: Pan American Union, 1945.

²¹ “Verbatim Minutes of the Sixth Plenary Session”, *Documents of the U.N. Conference on International Organization, San Francisco, 1945*, Vol. I, London, New York: United Nations Information Organizations, 1945, Doc. 55 P/13, pp. 416–55, at p. 425.

²² “Additional Amendments Proposed by the Delegation of the Republic of Panama concerning the Proposals for the Maintenance of Peace and Security agreed upon at the Conference of Dumbarton Oaks”, *Documents of the U.N. Conference on International Organization, San Francisco, 1945*, Vol. III, London, New York: United Nations Information Organizations, 1945, Doc. 2 G/7(g)(2), pp. 265–269.

²³ “Seven Proposals on the Dumbarton Oaks Proposals Submitted by the Delegation of Cuba”, *Documents of the U.N. Conference on International Organization, San Francisco, 1945*, Vol. III, London, New York: United Nations Information Organizations, 1945, Doc. 2 G/14(g), pp. 493–509, at pp. 499–502.

²⁴ William Korey, *NGOs and the Universal Declaration of Human Rights*, New York: St Martin’s Press, 1998, pp. 29–42.

²⁵ John P. Humphrey, “The UN Charter and the Universal Declaration of Human Rights”, in Evan Luard, ed., *The International Protection of Human Rights*, London: Thames & Hudson, 1967, pp. 30–58, at pp. 39–40.

²⁶ Egon Schwelb, “The International Court of Justice and the Human Rights Clauses of the Charter”, (1972) 68 *American Journal of International Law* 337; F. Jhabvala, “The Drafting of the Human Rights Provisions of the UN Charter”, (1997) 44 *Netherlands International Law Review* 1. For the text of the relevant provisions, see E/CN.4/W.4.

is of particular significance because of its call for the establishment of a Commission on Human Rights as a subsidiary organ of the Economic and Social Council. This modest presence of human rights in the Charter is mitigated by one of the principles, which is set out in article 2(7): “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state . . .” Paul Gordon Lauren has written that “it is easy to conclude that the delegates who drafted and signed the Charter engaged in nothing less than deliberate duplicity. That is, they cynically and capriciously took away with one hand what they had given with the other.”²⁷ But Lauren is actually somewhat more charitable, believing that many delegates thought there was no incompatibility between the recognition of international human rights in article 1 and the affirmation of State sovereignty in article 2.

A proposal from Panama²⁸ to include a declaration of human rights as part of the Charter was not acted upon at San Francisco. The Committee responsible for the Preamble, Purposes and Principles of the Charter was sympathetic, but reported that:

the present Conference, if only for lack of time, could not proceed to realize such a draft in an international contract. The Organization, once formed, could better proceed to consider the suggestion and to deal effectively with it through a special commission or by some other method. The Committee recommends that the General Assembly consider the proposal and give it effect.²⁹

Panama returned the following year, strongly pushing, along with other Latin American States, for the codification of human rights.³⁰

Drafting of the Declaration

The Charter of the United Nations adopted in June in San Francisco entered into force later in 1945, on 24 October, following ratification by the Soviet Union, Ukraine, Byelorussia and Poland. The Final Act of the San Francisco Conference contemplated a Preparatory Commission. That body was already at work by November, in London, making ready for the first sessions of the principal organs. On 12 November 1945, the Executive Committee of the Commission submitted a range of proposals including expectations for the initial work of the Commission on Human Rights. The report states:

²⁷ Paul Gordon Lauren, *The Evolution of International Human Rights, Visions Seen*, Philadelphia: University of Pennsylvania Press, 2003, p. 193.

²⁸ “Additional Amendments Proposed by the Delegation of the Republic of Panama concerning the Proposals for the Maintenance of Peace and Security agreed upon at the Conference of Dumbarton Oaks”, *Documents of the U.N. Conference on International Organization, San Francisco, 1945*, Vol. III, London, New York: United Nations Information Organizations, 1945, Doc. 2 G/7(g)(2), pp. 265–9.

²⁹ Report of Rapporteur of Committee I to Commission I, UNCIO Doc. 944, I/1/34(I), p. 11.

³⁰ Mary Ann Glendon, “Forgotten Crucible: The Latin American Influence on the Universal Human Rights Idea”, (2003) 16 *Harvard Human Rights Journal* 27.

“In particular the work of the Commission might be directed towards the following objects: (a) formulation of an international bill of rights.”³¹ This is the starting point of the drafting of the Universal Declaration of Human Rights and therefore the first document in the present collection. It confirms the momentum that had developed in San Francisco for human rights in general, as a core activity of the United Nations. Drafting of the bill of rights, as it was then called, constituted a huge piece of unfinished business. There was at the time no clarity on the form the bill of rights might take.

The first session of the United Nations General Assembly convened in January 1946 in London. Meetings were held at the Westminster Central Hall (or “Methodist Central Hall”; it was built early in the twentieth century on the centenary of the death of John Wesley), facing the Houses of Parliament. On 5 January 1946, Cuba submitted a request to incorporate in the agenda of the first session an item on a “Declaration of the International Duties and Rights of Man”.³² Cuba’s representative, Ernesto Dihigo, told the General Assembly that “we need to tell the world that we have not forgotten the promises that were made in San Francisco”.³³ But the General Assembly voted down the Cuban request to modify the agenda.³⁴ Article 13(1)(b) of the Charter authorizes the General Assembly to “initiate studies and make recommendations for the purpose of: . . . assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”. Nevertheless, the prevailing view was that the initial discussions of the proposed bill of rights belonged with the Commission on Human Rights, as the Preparatory Commission had expected. The Commission on Human Rights was subordinate to the Economic and Social Council, not the Assembly. Henceforth, the General Assembly did not play a significant role in the drafting of the Universal Declaration until the final phase, in September 1948. Then, over nearly three months of intense activity, it thoroughly reworked the earlier drafts and crafted the final version.

The Economic and Social Council, whose authority in the area of human rights was stated explicitly in the Charter of the United Nations, also met in London in early 1946. Rebuffed by the General Assembly, the Cuban delegation turned its attention to the Council. This time its proposal was associated with a draft declaration.³⁵ Before concluding its work, towards the end of February 1946, the Council adopted a resolution establishing the Commission on Human Rights and confirming that its mandate was to prepare an international bill of rights.

1. The Economic and Social Council, being charged under the Charter with the responsibility of promoting universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility,
Establishes a Commission on Human Rights.

³¹ PC/EX/113/Rev.1. ³² A/3. ³³ A/PV.7, p. 103. ³⁴ *Ibid.*, p. 107. ³⁵ E/HR/1.

2. The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) an International bill of rights; ...³⁶

The Economic and Social Council set up a Nuclear Commission on human rights. It was envisaged as a temporary body, charged with making recommendations on the definitive composition of the Commission on Human Rights, the establishment of which was expressly contemplated by article 68 of the Charter of the United Nations. The members of the Nuclear Commission, who were named in the resolution itself, included individuals destined to play very important roles in the drafting of the Universal Declaration, notably René Cassin³⁷ and Eleanor Roosevelt.³⁸

The Nuclear Commission on Human Rights

The Nuclear Commission convened on 29 April 1946 at Hunter College, then located in the Bronx in buildings constructed in 1931 by the New York State Works Project Administration. It was the women's college of the City University of New York system, an institution with which the Roosevelts had a long attachment. In 1943, Eleanor had given Hunter College a Manhattan townhouse she had received as a wedding present. Today, the Bronx campus where the Nuclear Commission met in 1946 is known as Lehman College.

Of the nine members, only six actually attended the sessions of the Nuclear Commission: René Cassin (France), C. L. Hsia (China), K. C. Neogi (India), Dusan Brkish (Yugoslavia), Eleanor Roosevelt (United States) and Nicolai Kriukov (USSR).³⁹ Cassin arrived a few days late – “delayed somewhere on an airplane”, wrote Eleanor Roosevelt in her daily newspaper column “My Day” – although the summary record states that he was present from the first session. The provisional agenda did not in fact contain a point addressing specifically the International Bill of Rights. However, item 8 on the agenda indicated that documents submitted by Member States were to be considered, and it listed the two draft declarations proposed by Cuba and Panama.⁴⁰ A United Nations official, Henri

³⁶ E/27.

³⁷ René Cassin (1887–1976) was a French jurist, law professor and judge. A soldier in World War I, he went on to form the Union Fédérale, an organization of veterans. When France was occupied, he joined the Free French forces in London and worked closely with Charles de Gaulle. Cassin was a judge at the European Court of Human Rights, serving as its President from 1965 to 1968. He received the Nobel Peace Prize in 1968 for his work in drafting the Universal Declaration of Human Rights.

³⁸ Eleanor Roosevelt (1884–1962) was the wife of American President Franklin D. Roosevelt, who died in April 1945. She campaigned actively for the establishment of the United Nations, and served on the Commission on Human Rights from its first meeting until 1953. On the drafters of the Declaration, see generally: M. Glen Johnson, “A Magna Carta for Mankind: Writing the Universal Declaration of Human Rights”, in M. Glen Johnson and Janusz Symonides, eds., *The Universal Declaration of Human Rights, A History of its Creation and Implementation, 1948–1998*, Paris: UNESCO Publishing, 1998, pp. 19–78.

³⁹ E/HR/6. ⁴⁰ E/HR/5.

Laugier, opened the session.⁴¹ After some general introductory comments, he turned to the task that was to occupy the Commission for the next two years:

You will have to study all the declarations of rights which were born in the spirit of man and people on the march toward their liberation. You will have to show that the political rights are the first condition of liberty but that today the progress of scientific and industrial civilization has created economic organizations which are inflicting on politically free men intolerable servitude, and that therefore, in the future, the declaration of the rights of man must be extended to the economic and social fields. You will have to look for a basis for a fundamental declaration on human rights, acceptable to all the United Nations, the acceptance of which will become the essential condition of the admission in the international community.⁴²

When he finished, the Nuclear Commission elected Eleanor Roosevelt as its Chairman. The next day, she wrote:

Mr. Laugier made us a serious and inspiring speech, but I think all of us fully realize that our responsibility is great. Being chairman rather frightened me, since I am not very good on parliamentary law! Fortunately, we adopted the rules of procedure which were suggested for the commission, so I only have to keep them before me in case any difference of opinion crops up.

Eleanor was usually listed as “Mrs. Franklin D. Roosevelt”, language that might today seem inappropriate but that must be understood in its context. Perhaps it reflects deference to her husband, who had died less than a year earlier. Franklin Delano Roosevelt’s cousin, she was born with the same surname. Eleanor Roosevelt presided over the debates in the full Commission until it handed its well-polished draft over to the Economic and Social Council in June 1948. She remained engaged subsequently as head of the United States delegation in the Third Committee of the General Assembly and was present on 10 December 1948 when the Universal Declaration of Human Rights was adopted.

After some initial discussion, the Nuclear Commission quickly recognized that its task was not to draft a declaration or bill of rights. This was to be the priority of the full Commission, whose establishment was expected to follow the next session of the Economic and Social Council.⁴³ Only late in its proceedings, on 6 May 1946, with René Cassin in the chair, did the Nuclear Commission discuss how the International Bill of Rights was to be prepared.⁴⁴ Cassin noted that the draft declarations then on the table, from Panama and Cuba, had been produced in the western hemisphere, and he thought it might be useful to assemble regional meetings of European, African and Asian experts in order to pursue the discussion.

⁴¹ Henri Laugier (1888–1973), a French physiologist, was Rector of the University of Algiers from 1943. He was instrumental in establishing the World Health Organization and UNICEF. In 1952, he became a member of the executive council of UNESCO.

⁴² E/HR/6, pp. 2–3. ⁴³ E/HR/9, p. 3. ⁴⁴ E/HR/13.

In its report to the Economic and Social Council, the Nuclear Commission said:

The Commission felt that while it was within its competence to draft a bill of human rights, it was not as yet in a position to do so, but it would proceed with the preparatory work. The Commission agreed that the full Commission should determine the character of the bill which is to be drafted, as well as the content and the form of the bill (for instance, should it be a resolution by the Assembly of the United Nations or an appendix to the Charter, having to be integrated into the constitution of each Member Nation, or a convention between the States, or in any other form). Therefore, it was decided to recommend that the full Commission should draft an international bill of rights as soon as possible, and that this draft should be circulated among the United Nations governments for their comment.⁴⁵

The recommendation was formulated as follows:

The Commission recommends that:

1. The full Commission should draft an international bill of rights as soon as possible. The nuclear Commission should proceed with the preparations for such a bill. The draft of the international bill of rights, as completed by the full Commission should be circulated among the United Nations governments for their suggestions.
2. The detailed examination of the documents submitted by the delegations of Cuba and Panama (Documents E/HR/2 and E/HR/3) should be left to the full Commission or to a later session of the nuclear Commission.⁴⁶

Two years later, in an article published in the journal *Foreign Affairs*, Roosevelt said: "Many of us thought that lack of standards for human rights the world over was one of the greatest causes of friction among the nations, and that recognition of human rights might become one of the cornerstones on which peace could eventually be based."⁴⁷ Although uncertain at the time whether it would reconvene in a second session, this was in fact the final meeting of the Nuclear Commission.

The Economic and Social Council considered the report of the Nuclear Commission at its second session, in May and June 1946.⁴⁸ The Council formally established the Commission on Human Rights and determined its composition as a political body whose members would be States rather than individual experts. The mandate set out in the February resolution of the Council, listing the preparation of "proposals, recommendations and reports to the Council regarding: (a) an International bill of rights" was renewed. A paragraph in the initial draft resolution affirmed: "The Commission is requested to draft an international bill of rights as soon as possible. The draft of this bill shall be circulated to the Members of the United Nations for their suggestions."⁴⁹ But this paragraph disappeared from subsequent drafts.⁵⁰

⁴⁵ E/38, pp. 3–4. ⁴⁶ *Ibid.*, p. 6.

⁴⁷ Eleanor Roosevelt, "The Promise of Human Rights", (April 1948) 40 *Foreign Affairs*. ⁴⁸ E/SR.18–20.

⁴⁹ E/56, p. 3. ⁵⁰ E/56/Rev.1; E/56/Rev.2.

Before the full Commission on Human Rights was able to convene, in January 1947, debate about the bill of rights returned to the General Assembly. Although the first session had begun in January 1946, in London, it was continued later in the year in New York City. Panama asked that its draft declaration on fundamental rights and freedoms, together with a companion declaration on rights and duties of States, be placed on the agenda.⁵¹ Panama's request was referred to the First Committee of the General Assembly, known at the time as the Political and Security Committee, and to the Third Committee, known as the Social, Humanitarian and Cultural Committee.⁵² Panama's representative, Ricardo Alfaro, pleaded eloquently for the General Assembly to consider adoption of the draft that his delegation had submitted. But Eleanor Roosevelt contended that the matter should be referred to the Commission on Human Rights and her proposed resolution along these lines was successful.⁵³ John Humphrey,⁵⁴ who had only just begun his service as Secretary of the Commission on Human Rights, watched the debate between Alfaro and Roosevelt "from the sidelines". The final resolution was "a good decision", Humphrey recalled:

For while the adoption of the United Nations declaration of human rights was postponed for two years, the 1948 text was better than anything the Assembly would have adopted in 1946; and the long debates in the Human Rights Commission, to which much publicity was given, helped to educate both governments and world opinion. The longer process also gave the specialized agencies and non-governmental organizations an opportunity to contribute to the final result.⁵⁵

The General Assembly debate further clarified the responsibility of the Commission for the preparation of the draft bill or declaration.

⁵¹ A/101. ⁵² A/BUR/40; A/PV.46, p. 931. ⁵³ A/C.3/SR.33; A/PV.55; A/RES/43(I).

⁵⁴ Canadian legal academic John Peters Humphrey (1905–95) served as Director of the United Nations Division of Human Rights from 1946 to 1968. On several occasions, Humphrey wrote about the drafting of the Universal Declaration of Human Rights and its legal significance, most notably in his memoir: *Human Rights and the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984. For substantial excerpts from the memoirs, see: "Memoirs of John P. Humphrey, the First Director of the United Nations Division of Human Rights", (1983) 5 *Human Rights Quarterly* 387. Humphrey's diaries, on which the memoirs are based, have been published: A.J. Hobbins, ed., *On the Edge of Greatness: The Diaries of John Humphrey, First Director of the United Nations Division of Human Rights*, Vol. I, Montreal and Kingston: McGill-Queen's University Press, 1994 (covering 1948). See also: John P. Humphrey, "The Universal Declaration of Human Rights: Its History, Impact and Juridical Character", in B.G. Ramcharan, ed., *Human Rights, Thirty Years After the Universal Declaration: Commemorative Volume on the Occasion of the Thirtieth Anniversary of the Universal Declaration of Human Rights*, The Hague: Martinus Nijhoff, 1979, pp. 21–37; "International Bill of Rights: Scope and Implementation", (1975–6) 17 *William and Mary Law Review* 527; "The UN Charter and the Universal Declaration of Human Rights", in Evan Luard, ed., *The International Protection of Human Rights*, London: Thames & Hudson, 1967, pp. 30–58; "La nature juridique de la Déclaration universelle des droits de l'homme", (1981) 12 *Revue Générale de Droit* 397.

⁵⁵ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 14.

The first session of the Commission on Human Rights

The first United Nations Commission on Human Rights was composed of eighteen members. The compromise reached in the previous session of the Economic and Social Council attempted to balance two competing visions, one in which the members of the Commission were experts acting independently of governments, and the other in which the Commission was composed of Member States. The unrealistic and unworkable solution was to have individual representatives designated for their expertise but who were proposed by the Member States belonging to the Commission. Over the years, the Commission's membership was expanded, and rules adopted to ensure equitable representation of the regions of the world. By 2006, when it was dissolved and replaced by the Human Rights Council, which is directly subordinate to the General Assembly, the Commission had fifty-three members, larger than the General Assembly itself at its first session in 1946.

The Commission's first session took place from 27 January to 10 February 1947. The meetings were held at Lake Success, where the United Nations had established temporary premises in a factory that had been the home of the Sperry Gyroscope Company during the War. Just outside the border of New York City on Long Island, it is about 25 kilometres by road from the permanent United Nations headquarters located on First Avenue in Manhattan.

Besides Eleanor Roosevelt and René Cassin, who had already contributed to the progress of the project as members of the Nuclear Commission, there were other distinguished individuals, among them Charles Malik⁵⁶ of Lebanon and Carlos Romulo⁵⁷ of the Philippines, both of whom would become Presidents of the United Nations General Assembly.⁵⁸ The British sent Charles Dukes,⁵⁹ described by legal historian Brian Simpson as “a retired trade unionist whose mind was unencumbered by the least knowledge of international law . . . [a] gifted amateur”.⁶⁰ They passed over Hersch Lauterpacht on the recommendation of the Legal Adviser of the Foreign Office, who said he would be “a very bad candidate . . . Professor Lauterpacht, though a distinguished and industrious international lawyer is, when

⁵⁶ Charles Habib Malik (1906–87) was Lebanese representative and Rapporteur of the Commission on Human Rights. He later served as President of the Economic and Social Council, and Chairman of the Third Committee of the General Assembly in 1948 when the final draft of the Universal Declaration was being debated. Verbatim transcripts of some of Malik's more important statements during the negotiations are published in: Habib C. Malik, ed., *The Challenge of Human Rights, Charles Malik and the Universal Declaration*, Oxford: Centre for Lebanese Studies, 2000.

⁵⁷ Carlos P. Romulo (1901–85) of the Philippines held the rank of Brigadier-General. During the Second World War, he was General McArthur's aide-de-camp on Bataan, Corregidor and in Australia. In 1941 he won the Pulitzer Prize for journalism, and he published several books in the United States.

⁵⁸ Susan Waltz, “Universalizing Human Rights: The Role of Small States in the Construction of the Universal Declaration of Human Rights”, (2001) 23 *Human Rights Quarterly* 44.

⁵⁹ Charles Dukes (1880–1948), subsequently Lord Dukeston, was a British trade unionist and parliamentarian.

⁶⁰ A. W. Brian Simpson, *Human Rights and the End of Empire*, Oxford: Oxford University Press, 2001, pp. 350–2.

all is said and done, a Jew recently come from Vienna. I think the representative of HMG on human rights must be a very English Englishman . . .'⁶¹

Eleanor Roosevelt was confirmed as Chairman of the Commission. The Vice-Chairman was P. C. Chang⁶² of China. Humphrey said he was initially

put off by his somewhat gruff manner and his uninhibited criticisms of the Secretariat, but I soon learned to appreciate his great human qualities and we became friends. He was a master of the art of compromise and, under cover of a quotation from Confucius, would often provide the formula which made it possible for the Commission to escape from some impasse.⁶³

Humphrey described Chang and Malik as the intellectual heavyweights of the Commission, noting that "they were usually in disagreement".⁶⁴

Prior to the opening of the session, the Secretariat produced a substantial study of the question that reviewed the relevant provisions of the Charter of the United Nations and the place of human rights in international law, referring to the recent peace treaties as well as constitutional provisions of international organizations like UNESCO and the International Labour Organization. The document also discussed the form an international bill of rights might take, noting three general approaches: a declaration or other act of the General Assembly, a multilateral convention, or an amendment to the Charter. The first option would "undoubtedly be easier to achieve" but might not have "the binding character desirable for an International Bill of Rights", while the second would leave no doubt about its binding character but would take considerable time to accomplish. Amending the Charter was a difficult and complex proposition. The Secretariat noted that the three forms were not necessarily mutually exclusive: "Indeed, it is suggested that the Bill might first take the form of an act of the General Assembly pending the adoption and ratification of a convention and that, later, the Bill might be incorporated into the Charter as an integral part of the fundamental law of the United Nations."⁶⁵ The Secretariat also prepared documents analysing the drafts that had already been submitted, as well as unofficial proposals from scholars and public intellectuals like H. G. Wells and Hersch Lauterpacht.⁶⁶

⁶¹ *Ibid.*

⁶² Diplomat and educator, Peng-chun Chang (1892–1957) represented China as Vice-Chairman of the Commission on Human Rights. Chang's talent for resolving disagreements was said to have been instrumental in helping the Commission reach compromises during the negotiations that led to the adoption of the Universal Declaration of Human Rights. A great admirer of Chang, Eleanor Roosevelt wrote: "Dr. Chang was a pluralist and held forth in charming fashion on the proposition that there is more than one kind of ultimate reality. The Declaration, he said, should reflect more than simply Western ideas and Dr. Humphrey would have to be eclectic in his approach" (Eleanor Roosevelt, *On My Own*, New York: Harper, 1958, p. 77).

⁶³ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 23.

⁶⁴ *Ibid.* ⁶⁵ E/CN.4/W.4, pp. 10–11. ⁶⁶ E/CN.4/W.16.

At this first session, the Commission spent some time discussing the substance of human rights. Consideration was given to the general philosophy underpinning human rights,⁶⁷ the status of women⁶⁸ and the rights of minorities.⁶⁹ There was also considerable debate about the form that the bill should take, with the United States favouring a non-binding General Assembly resolution while India sought something far more imperative.⁷⁰ Australia launched its campaign for the establishment of an international human rights court.⁷¹ It soon became evident enough that, for progress to be made, the task of preparing a draft could not be completed in the Plenary Commission. One proposal was to assign this task to the Secretariat, which had already produced a great deal of background material. The other was to establish a small drafting committee. There were concerns about whether the Commission should delegate its authority, and whether outside experts ought to be consulted. Finally, it was agreed to constitute a drafting committee composed of the Chairman, the Vice-Chairman and the Rapporteur. Thereby, Roosevelt, Chang and Malik were charged “with the assistance of the Secretariat, the task of formulating a preliminary draft international bill of human rights, in accordance with the instructions and decisions of the first session of the Commission, to be submitted to the second session of the Commission for thorough examination”.⁷²

After the Commission adjourned, Eleanor Roosevelt invited her two colleagues, Chang and Malik, as well as John Humphrey, for a meeting in her Washington Square apartment. Humphrey said it became obvious that the committee could not draft a bill because “Chang and Malik were too far apart in their philosophical approaches to be able to work together on a text”.⁷³ Chang had suggested that, before attempting a draft, Humphrey should put his other duties aside for six months and study Chinese philosophy, which was “his way of saying that Western influences might be too great, and he was looking at Malik as he spoke”.⁷⁴ Malik, who was a devout Greek Orthodox Christian, retorted with a lengthy exposition on the philosophy of Thomas Aquinas.⁷⁵ Before the tea party had finished, it was agreed that Humphrey would prepare a preliminary draft. “I didn’t go to China nor did I study the writings of Confucius!” Humphrey recalled.⁷⁶ In a letter, Humphrey boasted to his sister that he had been asked to “play the role of a Jefferson”,⁷⁷

⁶⁷ E/CN.4/SR.7, pp. 4–5; E/CN.4/SR.8, pp. 1–3; E/CN.4/SR.9, pp. 1–6; E/CN.4/14, pp. 1–8.

⁶⁸ E/CN.4/SR.1, p. 6. ⁶⁹ E/CN.4/SR.2, pp. 3–4. ⁷⁰ E/CN.4/SR.15, pp. 2–4.

⁷¹ E/CN.4/15; E/CN.4/SR.15, pp. 2–3; E/CN.4/SR.16, pp. 1–5. ⁷² E/CN.4/SR.12, p. 5.

⁷³ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 29.

⁷⁴ *Ibid.* ⁷⁵ Eleanor Roosevelt, *On My Own*, New York: Harper, 1958, p. 77.

⁷⁶ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984.

⁷⁷ Mary Ann Glendon, *A World Made New, Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York: Random House, 2001, p. 47.

referring to the author of the American Declaration of Independence. But in his memoirs he wrote modestly: "I was no Thomas Jefferson."⁷⁸

The fourth session of the Economic and Social Council

The Soviet delegate had indicated his displeasure with the establishment of the drafting committee.⁷⁹ When the Commission's report was discussed at the fourth session of the Economic and Social Council, in March and April 1947, the debate on this procedural issue was renewed. Noting that the Commission's decision to establish the drafting committee had been made before any decisions had been taken on the substance of the rights themselves, the Soviet Union said this had considerably enlarged the scope of the work of the drafting committee. It was too small, and lacked geographic balance, particularly because of the absence of "representatives of the European countries".⁸⁰ The Rapporteur of the Commission, Charles Malik, conceded that the term "drafting group" was rather unfortunate, and had only been used because an equivalent to the French word *bureau* could not be found.⁸¹ Malik was implying that the drafting committee's role was more administrative in nature, one of coordinating the compilation of materials by the Secretariat rather than a truly creative function. Malik told the Economic and Social Council that "the entire Commission should be considered a drafting committee, which would eventually submit the draft to the Council. Consequently, the entire Commission should be considered a drafting committee, which would eventually submit the draft to the Council."⁸²

Czechoslovakia proposed that the drafting committee be enlarged by adding Australia, France, Chile and the Union of Soviet Socialist Republics. There was much debate in the Social Committee of the Economic and Social Council about the composition of the drafting body, which was then being designated a "temporary Sub-Commission" of the Commission on Human Rights. Eventually, Eleanor Roosevelt, who had not attended these sessions, broke the impasse with a letter indicating her willingness as Chairman of the Commission to establish a drafting committee composed of Australia, China, Chile, France, Lebanon, the United States, the United Kingdom and the Union of Soviet Socialist Republics.⁸³ The resolution of the Economic and Social Council "noted with approval" the letter from Roosevelt and decided that the drafting committee's text should be submitted to the next session of the Commission on Human Rights. The resolution provides the first indication that a timetable had been set. After the Commission had considered the

⁷⁸ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 31.

⁷⁹ E/CN.4/SR.16, p. 5. ⁸⁰ E/SR.68, p. 104. ⁸¹ E/SR.69, p. 4. ⁸² *Ibid.* ⁸³ E/383.

drafting committee version, the draft would then be examined by the Economic and Social Council “with a view to recommending an International Bill of Human Rights to the General Assembly in 1948”.⁸⁴

Debate on the Commission’s report also provided the Economic and Social Council with a forum to consider the substance of the declaration. Charles Malik said it offered the United Nations the opportunity to answer the question “What is man?” The declaration would provide meaning to the phrase “dignity and worth of the human person” in the preamble of the Charter of the United Nations.⁸⁵ Peng-chun Chang declared that “after the myopia of the last hundred and fifty years, nations were at last on the threshold of a new humanistic period. The bill envisaged should be based on the aspiration for a new humanism.”⁸⁶ The United States said the declaration “should be as bold and as broad as possible and, in addition to the traditional categories of rights, it should embrace social rights such as those of employment, social security and equal opportunity as well as minimum standards of economic, cultural and social wellbeing”.⁸⁷

The first session of the Drafting Committee of the Commission on Human Rights

On 8 April 1947, Eleanor Roosevelt formally appointed the eight-member Drafting Committee in accordance with the decision of the Economic and Social Council, proposing that it convene at Lake Success on 9 June for its first session.⁸⁸ The Economic and Social Council had also mandated the Secretariat “to prepare a documented outline concerning an International Bill of Human Rights”. In order to prepare the text, John Humphrey sequestered himself for a week at the Lido Beach Hotel, an elegant Moorish-themed resort on Long Island known as the “Pink Lady”.⁸⁹ The “draft outline” that emerged consisted of a preamble (or rather of ideas to be included in a preamble) and forty-eight articles. It was issued as an official document on 4 June 1947.⁹⁰ Eleanor Roosevelt explained that “the Secretariat Draft Outline was not a proposed Bill of Human Rights, but simply a working document on the basis of which the Drafting Committee hoped to prepare a preliminary draft bill for the consideration of the Commission on Human Rights”.⁹¹ Despite this caveat, the draft outline was of seminal importance in that it framed the debate.

⁸⁴ E/RES/46(IV). ⁸⁵ E/SR.69, p. 5. ⁸⁶ *Ibid.*, pp. 7–8. ⁸⁷ *Ibid.*, p. 5. ⁸⁸ E/CN.4/AC.1/2, para. 13.

⁸⁹ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 31.

⁹⁰ E/CN.4/AC.1/3. ⁹¹ E/CN.4/AC.1/SR.1, p. 5.

Humphrey's draft began with a reference to the "four freedoms", an allusion that remains in the final version of the Declaration.⁹² The text also made an important link between human rights and peace:

The Preamble shall refer to the four freedoms and to the provisions of the Charter relating to human rights and shall enunciate the following principles:

1. that there can be no peace unless human rights and freedoms are respected;
2. that man does not have rights only; he owes duties to the society of which he forms part;
3. that man is a citizen both of his State and of the world;
4. that there can be no human dignity unless war and the threat of war is abolished.⁹³

It did not contain any subheadings; these were added a few days later when the provisions were divided into three broad categories, Liberties, Social Rights and Equality.⁹⁴ In a general sense, this presaged the subsequent classification that has become entrenched in modern human rights law, with Liberties corresponding to civil and political rights, and Social Rights to economic, social and cultural rights. Equality rights resisted description under one or the other of these rubrics. In any case, there were only two articles dealing with Equality, the first entitled "No discrimination" and the second, "Right of minorities to maintain special institutions with State aid".

The Secretariat outline drew heavily upon the materials that had already been submitted to the United Nations, of which Humphrey said the best was that prepared by the American Law Institute: "I borrowed freely from it."⁹⁵ The Secretariat subsequently compiled a massive document, consisting of more than 400 pages, reproducing the various materials that it had consulted in preparing the draft.⁹⁶ For each provision in the Secretariat's draft outline, the sources were collated, according to the following structure: Observations by Members of the Commission on Human Rights at its First Session, drawn from the Verbatim Record of the meetings; Draft International Declarations or Proposals Submitted by Governments to the Commission on Human Rights (five documents were considered, from Chile, Cuba, Panama, India and the United States of America; proposals from France and the United Kingdom arrived too late to be included); National Constitutions

⁹² Johannes van Aggelen, "The Preamble of the United Nations Declaration of Human Rights", (2000) 28 *Denver Journal of International Law and Policy* 129; Martti Koskenniemi, "The Preamble of the Universal Declaration of Human Rights", in G. Alfredsson and A. Eide, eds., *The Universal Declaration of Human Rights*, The Hague, Boston, London: Martinus Nijhoff, 1999, pp. 27–39.

⁹³ For other references on the relationship between the Universal Declaration and peace, see: Robert Kolb, "The Relationship between International Humanitarian Law and Human Rights Law: A Brief History of the 1948 Universal Declaration of Human Rights and the 1949 Geneva Conventions", (1998) 324 *International Review of the Red Cross* 409.

⁹⁴ E/CN.4/AC.1/3/Add.2. For the Secretariat's explanation, see E/CN.4/AC.1/7, p. 6.

⁹⁵ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 32.

⁹⁶ E/CN.4/AC.1/3/Add.1.

(fifty constitutions were studied; with respect to Australia, Canada, New Zealand and the United Kingdom the document noted that there were “no written provisions”); and Draft Declarations from Non-Governmental Organizations, of which there was only one, from the American Federation of Labor. On occasion, the draft made explicit acknowledgement of the origin of a provision, for example noting that much of articles 2, 11 and 30 was derived from the Panamanian draft.⁹⁷ However, Humphrey had not used much of this material, and in particular the compilation of constitutions, in preparing the Secretariat outline.⁹⁸

Ironically, although the English common law is absent from the document in a technical sense, its impact was enormous on the earliest of the fundamental rights provisions in the written constitutions adopted at the time of the American and French revolutions, which were of course included in the compilation. In turn, the American Bill of Rights and the French *Déclaration des droits de l'homme et du citoyen* served as models for the constitutions adopted during the nineteenth and early twentieth centuries by independent States around the world, and these represent the vast majority of the constitutions referred to in the document. The list is very largely dominated by Europe and Latin America. Some eighteen European constitutions were considered, including four socialist constitutions, from Byelorussia, Soviet Union, Ukraine and Yugoslavia. Latin America accounted for eighteen constitutions. There were only five from Asia (Afghanistan, China, India, Philippines and Siam), with another five from the Middle East (Iran, Iraq, Lebanon, Saudi Arabia and Syria). Only four African constitutions were considered (Egypt, Ethiopia, Liberia and South Africa).

When the session began, Eleanor Roosevelt urged the Drafting Committee not to be too ambitious. The United States had decided not to propose its own draft, she explained, judging the Secretariat Outline to be a useful starting point for discussion. Roosevelt thought that the most the Committee could accomplish would be to agree upon the rights to be included in the draft bill.⁹⁹

At its second meeting, the Drafting Committee began studying the individual rights in detail. Roosevelt proposed that they begin with article 3 of the Secretariat draft (“Everyone has the right to life. This right can be denied only to persons who have been convicted under general law of some crime to which the death penalty is attached.”). She said that “she understood that there is a movement underway in some States to wipe out the death penalty completely. She suggested that it might be better not to use the phrase ‘death penalty’.”¹⁰⁰ René Cassin was cautious, stating

⁹⁷ *Ibid.*, pp. 12, 78, 256.

⁹⁸ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 32.

⁹⁹ E/CN.4/AC.1/SR.1, p. 2. See also the “Memorandum of Conversation with Eleanor Roosevelt”, 3 June 1947, of State Department official James P. Hendrick in Alinda Black, ed., *The Eleanor Roosevelt Papers*, Vol. I: *The Human Rights Years, 1945–1948*, Charlottesville, VA and London: University of Virginia Press, 2007, pp. 556–9.

¹⁰⁰ E/CN.4/AC.1/SR.2, p. 10.

“that if the principle of universal abolition of the death penalty could be adopted it should not impose a strict obligation on States which wished to maintain the death penalty”.¹⁰¹ The Soviet member, Professor Koretsky, said “that the United Nations should not in any way signify approval of the death penalty”, adding that it had been abolished in his country.¹⁰² Santa Cruz of Chile argued for recognition of the life of any being, born or unborn, and for the principle that those who are unable to support themselves have the right to be supported and protected. He suggested that it might be better to include the text of the Chilean draft on this subject.¹⁰³

Over the next few days, the Drafting Committee examined the provisions in the Secretariat draft, comparing them with the texts proposed by the United Kingdom and the United States, where applicable.¹⁰⁴ Then it turned its sights on the form that the bill of rights should take. Views were quite divergent on this issue, with strongly held opinions in favour of both a declaration or manifesto and a binding treaty or convention. At the end of its first week of meetings, the Drafting Committee decided to establish a “Temporary Working Group” consisting of René Cassin, Charles Malik and Geoffrey Wilson. Its tasks were to suggest a “logical rearrangement” of the Secretariat draft and a redraft of its provisions in light of the week’s discussions, and to recommend how the substance of the articles could be divided between a manifesto and a convention.¹⁰⁵

When the Drafting Committee resumed the following week, the Working Group had held two meetings. It had chosen to ask René Cassin to formulate a “rough-draft Declaration”. Cassin’s text consisted of a preamble and forty-four articles.¹⁰⁶ Explaining what he had done, Cassin said:

that he was conscious of the imperfection of his work. He explained that he had taken the liberty of drafting a Preamble to express the general principles. He agreed with the Chairman that the declaration should not be too wordy and too detailed, and cited as models the Declarations of Cuba and of the American Association of Human Rights and the Protection of Man. He invited his colleagues to propose abbreviations and deletions wherever necessary. The chapter indications had been inserted merely as a guide for his work, he explained, but he believed they should eventually be deleted.¹⁰⁷

This is the famous Cassin draft that has sometimes been described as the original version of the Universal Declaration. In an article in the *UNESCO Courier* published on the twentieth anniversary of the adoption of the Universal Declaration, Cassin was identified in the headline as “the author of the first draft of the Universal Declaration”.¹⁰⁸ In the article itself, Cassin explained: “An eight-member drafting committee then called on me to prepare a preliminary draft Declaration, on the basis

¹⁰¹ *Ibid.* ¹⁰² *Ibid.*, p. 11. ¹⁰³ *Ibid.* ¹⁰⁴ E/CN.4/AC.1/SR.2; E/CN.4/AC.1/SR.3; E/CN.4/AC.1/SR.4.

¹⁰⁵ E/CN.4/AC.1/SR.6, p. 8. ¹⁰⁶ E/CN.4/AC.1/W.2/Rev.1. ¹⁰⁷ E/CN.4/AC.1/SR.6, p. 2.

¹⁰⁸ The impression lingers in the literature. See Florence Benoît-Rohmer, “France: The Origins, with the Prospect of Increasing Effect”, in Vinodh Jaichand and Markku Suksi, eds., *60 Years of the Universal Declaration of Human Rights in Europe*, Antwerp, Oxford, Portland: Intersentia, 2009, pp. 19–26, at pp. 19–20.

of material assembled by Professors John P. Humphrey and Emile Giraud, and proposals submitted by certain governments (Panama and Cuba). This draft was presented to the Committee on June 3, 1947.¹⁰⁹ It is seriously understating the significance of the Humphrey draft to label it “material assembled”. The Working Group had asked Cassin for a “logical rearrangement” and “redraft” of the 48-article text prepared by John Humphrey, which it had already spent several days discussing. Mary Ann Glendon cites the verbatim transcript, where on 17 June 1947 Eleanor Roosevelt states: “Now we come to Mr. Cassin’s draft, which has based itself on the Secretariat’s comparative draft.”¹¹⁰

René Cassin’s draft was the basis for a new review of the substantive provisions of the draft declaration. Professor Glendon says the Cassin draft “preserved most of the substantive content of Humphrey’s draft, but under his hand the document acquired an internal logic and achieved greater unity”.¹¹¹ Cassin’s biographer acknowledges that he was not “le père exclusif de la Déclaration”, but insists that “en comparaison de ce que d’autres personnalités ont apporté au projet à titre individuel, il en est le principal inspirateur”.¹¹² Agi cites Cassin’s remarks at a press conference, held in early July 1949, when he recognized that the United Nations Secretariat had prepared “une documentation préparatoire remarquable” but then insisted that “une Déclaration internationale ne saurait être la photographie, même agrandie, des nombreuses déclarations des droits de l’homme nationales . . .”¹¹³

Late in the second week of its first session, the Drafting Committee devoted a meeting to consideration of the proposed convention, examining drafts proposed by the United States and the United Kingdom.¹¹⁴ This was the beginning of the bifurcation in the drafting process, with the declaration and the convention being treated as distinct texts. Although no formal decision had been taken by the Commission as a whole, already at this first session the Drafting Committee had begun to work on two separate documents. In addition, the question of implementation was increasingly treated as a third strand in the drafting of the international bill of rights.¹¹⁵ The discussion about the proposed court of human rights took place under this heading. It was nevertheless also relevant to discussion of the draft declaration to the extent that a right to a remedy was recognized.

By the close of the first session of the Drafting Committee, on 25 June 1947, the Committee had reduced Cassin’s draft to thirty-six articles. It did not adopt a complete text, however. Instead, where views of the Committee’s members were

¹⁰⁹ René Cassin, “How the Charter of Human Rights Was Born”, *UNESCO Courier*, January 1968, p. 4. Cassin was mistaken about the date: the “rough draft” he prepared was issued on 16 June 1947.

¹¹⁰ Mary Ann Glendon, *A World Made New, Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York: Random House, 2001, p. 65.

¹¹¹ *Ibid.*, p. 63. ¹¹² Marc Agi, *René Cassin, Prix Nobel de la Paix (1887–1976)*, Paris: Perrin, 1998, p. 229.

¹¹³ *Ibid.* ¹¹⁴ E/CN.4/AC.1/SR.11. ¹¹⁵ E/CN.4/AC.1/12.

not unanimous, the alternatives were set out. The Drafting Committee described the result, consisting of Annex F of its report, as “a working paper for a preliminary draft of an International Manifesto or Declaration on Human Rights”.¹¹⁶ The Drafting Committee also adopted elements of a draft convention and discussed the issue of implementation.

Freedom of association and trade union rights

In the months that followed the first session of the Drafting Committee, several distinct issues within the general field of human rights were addressed by specialized bodies and interest groups within the United Nations as a contribution to the process of drafting the Universal Declaration: trade union rights, discrimination and the rights of minorities, refugees, women’s rights, and freedom of expression and information. To some extent these activities reflected the emerging tensions of the Cold War, as one or the other bloc sought to advance its particular priorities. The first of these issues concerned freedom of association and trade union rights.

The initial draft declaration prepared by John Humphrey had no reference to trade unions, despite his socialist views. Cassin’s draft contained a more robust recognition of the rights of assembly and association, but still no reference to unions.¹¹⁷ The issue of trade union rights was simmering at the Economic and Social Council, however, where the World Federation of Trade Unions had been very actively campaigning. A resolution entitled “Trade Union Rights (Freedom of Association)” was adopted by the Economic and Social Council at its fifth session, in early August 1947. The resolution noted that the Council was awaiting reports on the issue from the International Labour Organization, adding that it was also awaiting “the report which it will receive in due course from the Commission on Human Rights on those aspects of the subject which might appropriately form part of the bill or declaration on human rights”.¹¹⁸

In October, the Dominican Republic invoked the ECOSOC resolution in support of a similar initiative in the General Assembly. The preamble of the draft resolution that it submitted said “the resolution adopted on 8 August 1947 by the Economic and Social Council aims at the establishment, as soon as possible, of international machinery for safeguarding the freedom of association of trade unions, citing this need as one of the essential features of the proposed Bill of Human Rights”.¹¹⁹ France followed shortly with its own draft resolution on the same subject, “Request[ing] the Secretary-General to arrange for the Commission on Human Rights to

¹¹⁶ E/CN.4/21, para. 17.

¹¹⁷ Johannes Morsink, *The Universal Declaration of Human Rights, Origins, Drafting, and Intent*, Philadelphia: Penn, 2000, p. 168.

¹¹⁸ E/RES/84(V). ¹¹⁹ A/C.3/166.

collaborate in the study of those aspects of trade union rights which would form part of the bill or declaration on human rights".¹²⁰ Chile followed with an amendment to the Dominican and French resolutions:

Recommends the Commission on Human Rights and the Economic and Social Council when drafting the Declaration on Human Rights prepared by the Drafting Committee, to include among the rights inherent in the human person social rights and liberties and a minimum of economic security for the worker against unemployment and social insecurity, in accordance with the principles of human dignity and of non-discrimination on grounds of race, sex, language or religion proclaimed in the Charter.¹²¹

The Secretariat's Division of Human Rights prepared a detailed memorandum for the Commission on Human Rights discussing the difficulties in formulating freedom of association in the context of trade union activities.¹²² It noted that the Commission would have to decide whether to make specific reference to trade union rights or to propose a more general formulation on freedom of association, something the Secretariat thought would be more difficult. "States may, for instance, be less prepared to undertake obligations on an international level concerning the right of association for political purposes, than in the matter of trade union rights", the Secretariat advised.¹²³ It noted that draft provisions had been suggested by the World Federation of Trade Unions, the American Federation of Labor and the International Labour Organization.

On 17 November 1947, the General Assembly adopted a resolution entitled "Trade Union Rights (Freedom of Association)". It officially approved of two Economic and Social Council resolutions adopted earlier that year, and made explicit reference to the drafting of the declaration of human rights. The resolution transmitted the report of the International Labour Organization to the Commission on Human Rights "with the same objects as those stated in resolution 52(IV) of the Economic and Social Council" – which was to say, to be considered in drafting the declaration.¹²⁴

The following year, when it adopted the final text of the Universal Declaration of Human Rights, the General Assembly opted for both a general recognition of freedom of association, in article 20,¹²⁵ and a separate reference to trade union rights in article 23.¹²⁶ A Swedish proposal submitted to the Third Committee of the General Assembly to include the right to strike in the Universal Declaration¹²⁷ was rejected on an exceedingly close vote of 15 against to 13 in favour, with 13 abstentions.¹²⁸

¹²⁰ A/C.3/167. ¹²¹ A/C.3/171. ¹²² E/CN.4/31, pp. 9–12. ¹²³ *Ibid.*, p. 24. ¹²⁴ A/RES/128(II).

¹²⁵ "(1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association."

¹²⁶ "(4) Everyone has the right to form and to join trade unions for the protection of his interests."

¹²⁷ A/C.3/252. It was withdrawn by Sweden and then reintroduced by Poland. ¹²⁸ A/C.3/SR.140, p. 534.

Non-discrimination and the rights of minorities

The Commission on Human Rights established two sub-commissions. The first to be created was the Sub-Commission on Freedom of Information and of the Press, although it was short-lived, holding its fifth and final session in 1952. The second was the Sub-Commission on Prevention of Discrimination and Protection of Minorities,¹²⁹ renamed the Sub-Commission on the Promotion and Protection of Human Rights in 1999. The second sub-commission functioned for many years as a think tank for the Commission on Human Rights. It was dissolved in 2006, when some of its functions devolved to a new body known as the Human Rights Council Advisory Committee. Both sub-commissions held rather lengthy deliberations about the provisions of the draft declaration relevant to their areas of expertise. Unlike the Commission itself, which was an overtly political body composed of Member States rather than individual experts, the members of the sub-commissions were, in principle, independent. Nominated for election by Member States, however, not all members operated at arm's length from the governments that supported them. In the early years of the Cold War, there was a sense that each of the two sub-commissions played to a strength of one of the major blocs. Accordingly, Western States tilted towards the Sub-Commission on Freedom of Information and of the Press, while the Soviet Union and its allies favoured the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities began its first session in November 1947. In its report to the Commission, the Drafting Committee had asked that the non-discrimination provision, article 6, as well as articles 13, 15, 28 and 36, be referred to the Sub-Commission "for thorough consideration".¹³⁰ But there had been no session of the Commission in the interim. At its first meeting, John Humphrey told the Sub-Commission that, although the relevant provisions were not legally before it, "he was confident that the Commission would be disappointed if the Sub-Commission did not discuss them".¹³¹

Article 6 of the Drafting Committee proposal stated: "Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction as to race, sex, language, or religion." Much of the debate in the Sub-Commission concerned whether the list of enumerated groups, which was drawn from article 1(3) of the Charter of the United Nations, could be enlarged by adding terms such as colour and political opinion,¹³² property status, and national and social origin.¹³³ The detailed

¹²⁹ See: John P. Humphrey, "The United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities", (1968) 62 *American Journal of International Law* 869.

¹³⁰ E/CN.4/21, pp. 74, 76, 78, 79, 81. ¹³¹ E/CN.4/Sub.2/SR.1, p. 10. ¹³² E/CN.4/Sub.2/SR.4.

¹³³ E/CN.4/Sub.2/SR.6.

enumeration of prohibited forms of discrimination set out in article 2 of the Universal Declaration of Human Rights traces its origins to the discussions in the first session of the Sub-Commission. The Sub-Commission agreed on the following provision: “Every one is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, sex, language, religion, political or other opinion, property status, or national or social origin.” The final version of article 2 of the Declaration is almost identical, the only modification being the addition of “birth or other” after “property” and an inconsequential change in the order of the enumerated categories.

The issue of incitement to racial hatred or discrimination proved to be quite controversial. It had not been addressed at all by the Drafting Committee or in any of the earlier work on the draft declaration. The Sub-Commission did not agree on a provision requiring the criminalization of such incitement. However, it recommended that the Commission on Human Rights include provisions in the declaration, as well as in the convention, “in the appropriate places, of clauses condemning incitement to violence against religious groups, nations, races, or minorities”.¹³⁴ The result appears in article 7 of the Universal Declaration of Human Rights and in article 20(2) of the International Covenant on Civil and Political Rights. The debate about criminalization lingers, as can be seen in the various reservations to article 20(2) of the Covenant.¹³⁵

The Sub-Commission revised the Drafting Committee’s provision dealing with freedom of movement, making it more absolute and unconditional. It declined to take a view on the provision dealing with the right to marry, leaving this for consideration by the Commission on the Status of Women. Great attention was also devoted to article 36 dealing with the rights of minorities. This is the first developed consideration of the definition of minority rights within the United Nations system. Ultimately, of course, the version proposed by the Sub-Commission was not retained and the Universal Declaration of Human Rights contains no explicit provision governing the rights of minorities.

The second session of the Commission on Human Rights

The second session of the Commission on Human Rights convened in Geneva, at the Palais des Nations, in December 1947. Initially, the Commission debated the report of the Drafting Committee. The Committee’s report had already oriented the work towards the preparation of two separate documents, a declaration and a convention, but the approach had not yet met with consensus. Probably, it was

¹³⁴ E/CN.4/52, p. 6.

¹³⁵ See the discussion by Judge Theodor Meron in *Nahimana et al. v. Prosecutor* (ICTR-99-52-A), Partly Dissenting Opinion of Judge Meron, 28 November 2007.

still widely believed that both texts could be finalized reasonably quickly with a view to their joint adoption, something that soon turned out to be completely unrealistic. For while the General Assembly was able to agree upon the text of a declaration, in December 1948, prompt adoption of a convention eluded the drafters. That work only concluded nearly twenty years later, with the completion of the two international covenants on human rights. Entry into force of the covenants took yet another decade.

Some members of the Commission, in December 1947, were concerned that a declaration with no corresponding treaty obligations would be an empty commitment, without legal authority. The proposed declaration was essentially preambular in nature, they believed. Taken alone, it would be sterile and insignificant. The passage of time has proven this to be a harsh and ultimately flawed assessment. Not only did the Universal Declaration stand alone as the normative basis for human rights within the United Nations system for many years, until subsequent treaties were adopted and entered into force, but also it remains to this day the paramount human rights instrument and an autonomous source of obligation. This is the fundamental ambiguity of the legal significance of the Universal Declaration of Human Rights. More than sixty years after its adoption, there is still no undisputed vision of its place in international law. The issue is discussed at greater depth later in this introductory chapter.

Without deciding whether a declaration could be adopted in the absence of a convention, the members of the Commission on Human Rights nevertheless agreed to continue with the bifurcated approach adopted in June 1947 by the Drafting Committee. Belgium proposed that three Working Parties be established, to deal with the declaration, the convention or conventions, and the subject of implementation.¹³⁶ In presenting the resolution, Professor Fernand Dehousse¹³⁷ explained that Belgium sought a compromise between those delegations that favoured proceeding with a declaration alone and those that insisted on a convention. The Soviets had objected that it was necessary to agree upon the substance of human rights before the form the bill would take could be resolved, but Dehousse contended this objection could be met by coordinating the discussions of the Working Groups. In this way, the Commission could proceed on both planes, in effect postponing any decision on whether to separate the two documents. Nevertheless, he hinted at the outcome: “Those members who were in favour of a Convention only were cherishing an illusion, as the Declaration was the most advanced of the three drafts and it was the

¹³⁶ E/CN.4/44.

¹³⁷ Fernand Dehousse (1906–76) was a Belgian politician and academic who represented Belgium at the United Nations General Assembly from 1946 to 1948. From 1951 to 1952, Dehousse was President of the Parliamentary Assembly of the Council of Europe. Later, he was a member of the European Assembly (which subsequently became the European Parliament).

wish of the majority of the Commission's members that the present discussions should at least produce a Declaration."¹³⁸ After much debate, the Commission voted to proceed along the lines suggested by Belgium.¹³⁹

Dehousse also spoke to the issue of terminology. He did not like the reference to a "bill" of human rights, which he said had no French translation. Until that point, the relevant resolutions of the General Assembly and the Economic and Social Council had spoken of the "international bill of human rights". But with the proposed division into two or more separate instruments, the nature of the "bill" had become unclear.¹⁴⁰ Nor did he approve of "convention" as this "designated international agreements of less importance than treaties".¹⁴¹ He thought the term "Charter" should be reserved exclusively for the basic instrument of the United Nations. The Commission should opt for the word "covenant", he said.¹⁴² This is the first such reference to use of the term "covenant" as a label for the draft convention anywhere in the *travaux préparatoires*. Before that morning's deliberations had concluded, several of the delegates had taken up the suggestion, describing the proposed convention as a "covenant", and the term quickly prevailed. The Commission confirmed the change in nomenclature at the conclusion of its second session. It also agreed to use the term "International Bill of Rights" (or, for brevity, "Bill of Rights") to describe the three documents being prepared, namely the declaration, the covenant and the measures of implementation.¹⁴³

There had been some question as to whether all three Working Groups could be established immediately, for technical reasons, as the Secretariat was not able to provide enough interpreters. When the Working Groups were formally established, the following day, Eleanor Roosevelt said the problem had been solved by establishing linguistically homogeneous groups. Thus, the three bodies could work simultaneously. She placed herself in the Working Group on the declaration, together with delegates from Byelorussia, the Soviet Union, the Philippines, Panama and China.¹⁴⁴ René Cassin asked, "in view of the part he had played over a long period in the work connected with the elaboration of an International Declaration of Rights, to be associated with the work of the Group on the declaration, rather than with that of the Group on the Convention", to which France had been assigned. It was agreed that France and China would swap places.¹⁴⁵ In this way, the language issue was adroitly finessed; the Working Group on the declaration would get the interpreters and could operate in both French and English, while the other Working Groups would use English only.

¹³⁸ E/CN.4/SR.28, p. 4. ¹³⁹ E/CN.4/SR.29, p. 14.

¹⁴⁰ See, e.g., the comments of Eleanor Roosevelt at E/CN.4/SR.29, pp. 4–5. ¹⁴¹ E/CN.4/SR.28, p. 5.

¹⁴² *Ibid.* See also: E/CN.4/SR.42, p. 9. ¹⁴³ E/CN.4/SR.42, p. 12. ¹⁴⁴ E/CN.4/SR.30, p. 2. ¹⁴⁵ *Ibid.*, p. 3.

The Plenary Commission adjourned and the Working Group on the declaration convened immediately. Eleanor Roosevelt was elected Chairman and René Cassin Rapporteur. In addition, the Group consisted of A. S. Stepanenko of Byelorussia, M. Amado of Panama, General Carlos P. Romulo of the Philippines and A. E. Bogomolov of the Soviet Union. But the room was more crowded. The United Kingdom sent an observer, and there were two representatives of the Commission on the Status of Women, and a representative from the International Labour Organization, as well as consultants from several non-governmental organizations: the Inter-Parliamentary Union, American Federation of Labor, International Federation of Christian Trade Unions, World Jewish Congress, International Committee of the Red Cross, International Council of Women, Commission of the Churches on International Affairs, International Union of Catholic Women's Leagues, Consultative Council of Jewish Organizations. Over the coming days, the Working Group held nine meetings during which it reviewed, article by article, the text adopted by the Drafting Committee in June. The Working Group also took into account the proposals adopted the previous week by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.¹⁴⁶ Whereas the Drafting Committee had produced a list of options rather than a more polished document, the Working Group was able to provide a full draft declaration. Many provisions were accompanied by explanatory comments.¹⁴⁷ Because it had been adopted at the European headquarters of the United Nations, the draft was often referred to subsequently as the "Geneva text".

The Plenary Commission on Human Rights reconvened to consider the report of the Working Group and proceeded to another article-by-article review. Frequently, it discussed the relevant texts of both the declaration and the convention together, thereby resolving any inconsistencies that might have arisen as a result of the separation of the two Working Groups. The Commission adopted a draft declaration on human rights accompanied by a range of comments, as well as proposals for some new provisions.¹⁴⁸ In what proved a precursor of its eventual abstention in the vote in the General Assembly the following year, the Soviet Union indicated its dissatisfaction with the text adopted by the Commission and said it reserved the right to present its own draft declaration.¹⁴⁹ The Commission projected a second meeting of the Drafting Committee, to be held in May 1948, followed by its own third session in June. This would complete its work on the declaration and enable adoption by the General Assembly by the end of 1948. The Commission asked the Secretary-General of the United Nations to transmit the report on its second session to governments, asking that they submit their comments by April.¹⁵⁰

¹⁴⁶ E/CN.4/AC.2/SR.9, pp. 5–21. ¹⁴⁷ E/CN.4/57. ¹⁴⁸ E/CN.4/77/Annex A; E/600, pp. 15–24.

¹⁴⁹ *Ibid.*, p. 1, fn. ¹⁵⁰ E/600, para. 13.

***Women's equality and the contribution of the Commission
on the Status of Women***

The Commission on the Status of Women was established by the Economic and Social Council in 1946, in accordance with article 68 of the Charter of the United Nations. Like the Commission on Human Rights, its creation was preceded by a “nuclear” body. It was originally designated as a Sub-Commission of the Commission on Human Rights.¹⁵¹ At the first session, the members requested the Economic and Social Council to upgrade the body to the status of a Commission, a demand that the Council accepted forthwith. The importance of involving the Commission on the Status of Women in the drafting of the Universal Declaration was raised by Hansa Mehta of India at the very first session of the Commission on Human Rights.¹⁵² In February 1947, the Commission on the Status of Women adopted a decision addressed to the Economic and Social Council requesting that it be represented by its officers at the Commission of Human Rights when the draft bill of rights was being considered. The Commission on the Status of Women also asked that the draft bill be circulated among its members.¹⁵³ The Economic and Social Council adopted a resolution declaring that “the Commission on the Status of Women be represented by its officers, the Chairman, Vice-Chairman and Rapporteur, at the sessions of the Commission on Human Rights when sections of the draft of the international bill of human rights concerning the particular rights of women are under consideration, to participate, without vote, in the deliberations thereon”. In addition, the preliminary draft of the international bill was to be circulated to the Commission on the Status of Women at the same time as it was made available to the members of the Commission on Human Rights.¹⁵⁴

At its first session in June 1947, the Drafting Committee of the Commission on Human Rights had decided to postpone consideration of article 15, on the right to marry, until recommendations made by the Commission on the Status of Women were discussed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.¹⁵⁵ Marie-Hélène Lefauchaux, President of the Commission on the Status of Women, attended meetings of the Sub-Commission in November and December 1947 when it was studying relevant provisions of the draft declaration. When it was debating a proposal from the Soviet Union to criminalize discrimination based on distinctions of race, nationality or religion, Mme Lefauchaux intervened to point out that omission of the word “sex” was surely an oversight.¹⁵⁶ When called upon to participate in a discussion of article 15 by the Sub-Commission, she explained that the Commission on the Status of Women would

¹⁵¹ E/27. ¹⁵² E/CN.4/SR.1, p. 6. ¹⁵³ E/CN.6/SR.12, p. 10; E/281, p. 10.

¹⁵⁴ E/RES/48(IV), paras. A.(3), (4). Also: E/RES/46(IV), para. A.(f). ¹⁵⁵ E/CN.4/21, p. 86.

¹⁵⁶ E/CN.4/Sub.2/SR.8, p. 12.

not in fact meet until January 1948.¹⁵⁷ As a result, the Sub-Commission did not pronounce itself on article 15, “since the Commission on the Status of Women, which was to meet in January next, was the proper body to make an exhaustive study of the Article, particularly from the point of view of marriage”.¹⁵⁸

At the December 1947 session of the Commission on Human Rights, the Chairman of the Commission on the Status of Women expressed surprise about this. Bodil Begtrup explained that the previous report of the Commission on the Status of Women had advocated full equality of civil rights.¹⁵⁹ A general statement saying “everyone has full equality of civil rights, irrespective of marriage, race, language or religion” might be included.¹⁶⁰ She also insisted that “as sex equality was a right which had been acquired but recently, it would be necessary to emphasize it explicitly in certain Articles, and, even, to make particular mention of certain rights guaranteed specially to women”. She proposed that the Preamble include the following sentence: “When a word indicating the masculine sex is used in connection with a provision contained in the following Bill of Human Rights, the provision in question is to be considered as applying without discrimination to women.”¹⁶¹ With respect to article 1, she said the word “men” should be replaced by “human beings”.¹⁶² When the prohibition of slavery was being discussed, Mrs Begtrup asked whether the words “in all its forms” were meant to cover the traffic in women, indicating that it might be preferable to mention the matter.¹⁶³ Concerning the right to a nationality, she said that many women forfeited their nationality on marriage; the issue should be made the subject of a separate convention.¹⁶⁴ Concerning social security, she preferred distinct references to “mothers’ rights” and “protection of children” over “protection of mothers and children”.¹⁶⁵ She also sought a reference to “motherhood” so as to cover the pre-natal state.¹⁶⁶ Begtrup’s colleague, Evdokia Uralova, who also attended the meetings of the Working Group as Rapporteur of the Commission on the Status of Women, intervened to argue for recognition that women should receive equal pay for equal work.¹⁶⁷

Concerning the right to life, Bodil Begtrup intervened during meetings of the Working Group on the declaration when a representative of the International Federation of Christian Trade Unions suggested the right should exist from the moment of conception, noting that this idea “could not be reconciled with the provisions of certain advanced legislation which in certain cases provided for

¹⁵⁷ E/CN.4/Sub.2/SR.9, p. 7. ¹⁵⁸ E/CN.4/52, p. 7.

¹⁵⁹ On Bodil Begtrup’s contribution, see: Eva Maria Lassen, “Denmark: A Document of Ideological Importance”, in Vinodh Jaichand and Markku Suksi, eds., *60 Years of the Universal Declaration of Human Rights in Europe*, Antwerp, Oxford, Portland: Intersentia, 2009, pp. 43–57.

¹⁶⁰ E/CN.4/AC.2/SR.5, p. 8. ¹⁶¹ E/CN.4/AC.2/SR.2, pp. 2–3. ¹⁶² *Ibid.*, p. 4.

¹⁶³ E/CN.4/AC.2/SR.4, pp. 2, 3. ¹⁶⁴ E/CN.4/AC.2/SR.5, p. 11. ¹⁶⁵ E/CN.4/AC.2/SR.6, pp. 2–3.

¹⁶⁶ E/CN.4/AC.2/SR.8, p. 12. ¹⁶⁷ E/CN.4/AC.2/SR.7, p. 13.

the right of abortion”.¹⁶⁸ She returned to the point in the Plenary, noting “that the laws of a large number of civilized countries allowed abortion, in cases clearly specified by the law, in order to preserve the life of the woman”.¹⁶⁹

The Commission on the Status of Women met in January 1948. Bodil Begtrup provided a detailed presentation on her participation in the previous session of the Commission on Human Rights, towards which her colleagues in the Commission on the Status of Women were generally very favourable. The Commission was unhappy with the reference in article 1 to “brothers”. The Chinese delegate suggested it be replaced with “members of the same family”, while the Indian member proposed “in a spirit of brotherhood”. There was also a suggestion to use “in a spirit of brotherhood and sisterhood”, but the Commission agreed on “spirit of brotherhood” as this “sufficiently expressed the idea advocated”.¹⁷⁰ Today, the reference to “brotherhood” in article 1 of the Universal Declaration is often mentioned as a regrettable manifestation of archaic and sexist language, and it is curious to observe that the term actually originated in the Commission on the Status of Women in an attempt to confront this very problem. The Commission on Human Rights reacted favourably to the proposal and, although the text it adopted was not identical, the representative of the Commission on the Status of Women confirmed that it “was in conformity with its wishes”.¹⁷¹ According to Johannes Morsink, “the lack of sexism in the Universal Declaration is primarily due to the aggressive lobbying of Begtrup and the steady pressure of the Soviet delegation”.¹⁷²

Monogamy was the only other issue considered by the Commission on the Status of Women with respect to the Universal Declaration of Human Rights. Although some members would have preferred an explicit endorsement of monogamy, the Commission agreed to leave the matter to implication and confine its proposal to the following text for article 13: “Men and women shall have equal rights to contract or dissolve marriage in accordance with the law.” At the same time, it agreed to include the following in its report to the Economic and Social Council:

1. *Monogamy.* The Commission emphasizes its belief in the principle of monogamy and urges the United Nations to work for the acceptance of this principle.
2. *Freedom of Choice.* This right cannot be fully guaranteed unless it is recognized that individuals have the right to leave their country on marriage and to reside with the other partner in any country from which they cannot lawfully be excluded. The Commission

¹⁶⁸ E/CN.4/AC.2/SR.2, p. 8. ¹⁶⁹ E/CN.4/SR.35, p. 13. ¹⁷⁰ E/CN.6/SR.28, p. 4.

¹⁷¹ E/CN.4/SR.50, p. 17.

¹⁷² Johannes Morsink, *The Universal Declaration of Human Rights, Origins, Drafting, and Intent*, Philadelphia: Penn, 2000, p. 117. For feminist perspectives on the Universal Declaration, see: Helen Bequaert-Holmes, “A Feminist Analysis of the Universal Declaration of Human Rights”, in Carol C. Gould, ed., *Beyond Domination: New Perspectives on Women and Philosophy*, Totowa, NJ: Rowman and Allanheld, 1983, pp. 250–71; Johannes Morsink, “Women’s Rights in the Universal Declaration”, (1991) 13 *Human Rights Quarterly* 229; Hilary Charlesworth, “The Mid-Life Crisis of the Universal Declaration of Human Rights”, (1998) 55 *Washington and Lee Law Review* 781.

therefore notes with satisfaction the terms of Article 10(2) of the Draft Declaration on Human Rights (E/600) as recognizing a right essential for safeguarding freedom of choice in marriage.¹⁷³

The reference to dissolution of marriage had been adopted without any debate in the Commission on the Status of Women. However, it raised objections elsewhere on religious grounds. Presenting the proposal to the Commission on Human Rights, the Vice-Chairman of the Commission on the Status of Women said that it was

aware that a certain section of public opinion had protested against that text on religious grounds, which the Commission understood and respected. But since the Commission had been appointed to safeguard their rights and protect the interests of woman throughout the world, it had been obliged to take account, not only of the views of groups that did not recognize divorce, but also of the existing situation in countries where, divorce being legally recognized, the relevant legislation usually placed women at a disadvantage.¹⁷⁴

The result can be seen in the reference to dissolution of marriage in article 16 of the Declaration.

Freedom of information and of the press

Both the Sub-Commission on Freedom of Information and of the Press and the Conference on Freedom of Information and of the Press considered relevant provisions of the draft declaration in early 1948, prior to the second session of the Drafting Committee and the third session of the Commission on Human Rights. The Sub-Commission on Freedom of Information and of the Press convened at Lake Success, New York, in January 1948 for its second session. The Commission on Human Rights had asked it to examine articles 17 and 18 of the draft text that had been adopted in December 1947, as well as the corresponding provision in the draft covenant. The debate was informed by what Humphrey later described as “[t]he deep incompatibilities between the communist and liberal approaches to the functions of the press”.¹⁷⁵

The Sub-Commission struck a drafting committee which prepared two versions, but it also considered a number of proposals. It decided to merge the two articles of the Commission’s December draft into a single provision that starts to resemble the final version of article 19 of the Universal Declaration of Human Rights: “Everyone shall have the right to freedom of thought and expression; this shall include freedom to hold opinions without interference; and to seek, receive and impart information and ideas by any means and regardless of frontiers.”¹⁷⁶ Given the ideological

¹⁷³ E/CN.6/74, pp. 13–14. ¹⁷⁴ E/CN.4/SR.58, p. 10.

¹⁷⁵ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 36.

¹⁷⁶ E/CN.4/80, para. 12.

tensions that were so present at the time, Humphrey considered that agreement on a definition of freedom of information was “a considerable achievement”.¹⁷⁷

The Conference on Freedom of Information and of the Press, which was held in Geneva at the Palais des Nations a few months later, adopted essentially the same provision.¹⁷⁸

The second session of the Drafting Committee

The Drafting Committee of the Commission on Human Rights reconvened for its second session in New York over three weeks in May 1948. The draft declaration had been considerably altered since it had first met a year earlier, the result of two sessions of the Commission on Human Rights. The discussions had been enriched by reports from the two Sub-Commissions, the Commission on the Status of Women and the United Nations Conference on Freedom of Information and of the Press. Moreover, as requested by the Commission in December 1947, several Member States had submitted observations: Pakistan, Canada, Netherlands, Australia, United States, Mexico, Brazil, United Kingdom, South Africa, Egypt and Norway.¹⁷⁹

The Drafting Committee produced a revised version of the declaration, drawing upon the previous work.¹⁸⁰ It focussed more attention on the draft covenant, however, and only managed to redraft parts of the declaration. The Committee had no time at all to consider implementation.

The third session of the Commission on Human Rights

The second session of the Drafting Committee was followed immediately by the third session of the Commission on Human Rights. A few days at the start of the meeting were lost due to the absence of the representatives of Byelorussia and Ukraine, who had not obtained visas to travel to the United States. The Commission protested to the Secretary-General, noting that this violated the arrangements between the United Nations and the host State.

Given that the Drafting Committee had devoted more attention to the covenant than the declaration, the Commission decided that it would concentrate on the draft declaration. It conducted an article-by-article examination of the draft, concluding

¹⁷⁷ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 36.

¹⁷⁸ E/CONF.6/C.4/71; E/CONF.6/65, p. 36; E/CN.4/84.

¹⁷⁹ E/CN.4/85. After the official deadline, the Secretary-General received observations from India (E/CN.4/82/Add.7), France (E/CN.4/82/Add.8), the United Kingdom (E/CN.4/82/Add.9), Sweden (E/CN.4/82/Add.11), New Zealand (E/CN.4/82/Add.12).

¹⁸⁰ E/CN.4/95.

its work with a further revised version, implementing many changes to the text. For the first time in the drafting of the declaration, great attention was devoted to the Preamble.

The seventh session of the Economic and Social Council

The final draft adopted by the Commission on Human Rights in June 1948 was only considered superficially by the Economic and Social Council at its seventh session, in July and August 1948. Perhaps this was a foreboding of the rather secondary role that the Council would play in the area of human rights within the United Nations. This is despite articles 55 and 60 of the Charter of the United Nations, as well as article 68, which confirm that the Commission on Human Rights is a body subsidiary to the Economic and Social Council. Instead, at this decisive moment in the development of the United Nations human rights regime, the Council played only the most perfunctory role.

The Council set up a Human Rights Committee and charged it with reviewing the draft declaration, as well as several other matters. It soon became apparent that the Committee was overwhelmed with work. In addition to the declaration, three draft conventions on freedom of information and the draft genocide convention were on the agenda. This was an impossible workload given the limited time and the pressure to deliver a draft declaration of human rights to the General Assembly for its third session later in the year. The Council decided to recall the draft declaration to the Plenary. According to a ruling by the President, the plenary sessions would provide “an opportunity for general statements of position by representatives, without other debate or decisions other than a decision to transmit the documents to the General Assembly together with the statement of position”.¹⁸¹

Many of the comments in the Plenary of the Economic and Social Council were critical of the draft, and several informal proposals were made indicating dissatisfaction with one provision or another. The summary of the discussion in the Council’s report to the General Assembly reads as follows:

It was generally recognized that a draft Declaration in the form in which it was presented to the Council was still imperfect. Criticisms were made that it was not sufficiently universal, or precise; that sufficient time should be allowed to produce a better draft having regard to the novel and difficult character of the task; that it did not give sufficient prominence to rights which could not be enumerated in national declarations, such as the rights of stateless persons; that it was inadequate in respect of the protection of and the promotion of respect of human rights, particularly rights of an economic and social character, as in respect of the proper emphasis on duties to the State.

¹⁸¹ E/SR.201.

Amendments and suggestions relating to specific articles were also put forward. All members stressed the importance of the draft Declaration.¹⁸²

The early part of the debate leaves the impression that there was widespread opposition to the submission of the draft to the General Assembly. For example, New Zealand said the declaration should be reconsidered in the light of detailed comments by governments on the Commission's most recent draft. Its delegate thought that an acceptable draft declaration might be ready for the 1949 General Assembly.¹⁸³ The Netherlands did not support a declaration in the absence of a corresponding covenant with provisions for implementation, which it said would "have little meaning". Its delegate said the declaration should be referred back to the Commission for further study.¹⁸⁴ Denmark also supported the deferral of the declaration, although it said it would not make a formal proposal to this effect.¹⁸⁵

The United States expressed determination that the declaration be adopted.¹⁸⁶ France took a similar position, with René Cassin insisting that the draft be transmitted to the General Assembly for prompt adoption. He devoted many of his remarks to the issue of adoption of a declaration while the covenant remained unfinished, arguing that a staged enactment of the International Bill of Rights was the preferred route.¹⁸⁷ As the debate continued, other delegations expressing strong support for immediate transmittal to the General Assembly included Venezuela,¹⁸⁸ Chile,¹⁸⁹ Australia,¹⁹⁰ Lebanon¹⁹¹ and the United Kingdom.¹⁹² Santa Cruz of Chile observed that in the discussion "practically all the Council members had expressed the desire that the General Assembly should adopt a Declaration".¹⁹³

After two three-hour sessions of discussion, the Economic and Social Council voted to transmit to the General Assembly the draft International Declaration of Human Rights submitted to the Council by the Commission on Human Rights in the report of its third session.¹⁹⁴ The final act was about to begin.

The third session of the General Assembly

Exceptionally, the General Assembly met in Paris in 1948. The sessions were held at the Palais de Chaillot, which is on a rise of land known as the Trocadéro located directly across the Seine from the Eiffel Tower. The Palais de Chaillot was built in 1937 for the Exposition internationale. This is where the famous photograph of a triumphant Hitler, with his back to the Eiffel Tower, was taken on 23 June 1940. Today, it contains plaques commemorating the adoption of the Universal

¹⁸² A/625, para. 131. ¹⁸³ E/SR.215, p. 652. ¹⁸⁴ *Ibid.*, p. 643. ¹⁸⁵ *Ibid.*, pp. 653–4.
¹⁸⁶ *Ibid.*, pp. 642–3. ¹⁸⁷ *Ibid.*, pp. 648–52. ¹⁸⁸ *Ibid.*, pp. 655–6. ¹⁸⁹ *Ibid.*, pp. 694–5.
¹⁹⁰ *Ibid.*, pp. 695–6. ¹⁹¹ *Ibid.*, p. 697. ¹⁹² *Ibid.*, pp. 697–8. ¹⁹³ *Ibid.*, p. 700.

¹⁹⁴ E/RES/151(VII). There is no record of a vote being taken, but adoption of the resolution is confirmed in the report of the Council to the General Assembly: A/625, para. 131.

Declaration of Human Rights. The passage facing the Palais is now known as the “esplanade des droits de l’homme”.

Apart from a few days at the beginning and the end of the process, in mid-December, the work of the General Assembly on the Universal Declaration of Human Rights was conducted not in the Plenary but by its Third Committee and the various subsidiary bodies that it set up. In parallel, the Sixth Committee was labouring over the other great document to emerge from the Third Session of the General Assembly, the Convention on the Prevention and Punishment of the Crime of Genocide. It was adopted unanimously on 9 December 1948, a day before the Universal Declaration of Human Rights.¹⁹⁵ Its guiding spirit, Raphael Lemkin, considered the Universal Declaration to be a distraction and did not support its adoption.¹⁹⁶

Suprisingly, during the general debate in the Plenary General Assembly, in late September, only a few speakers addressed themselves to the draft declaration. Important remarks were delivered by George Marshall on behalf of the United States,¹⁹⁷ and Charles Malik of Lebanon delivered an eloquent talk on the philosophical issues.¹⁹⁸ But for the most part, this high-level segment of the Assembly featuring ministers and similar officials showed the priorities to be elsewhere: Palestine and Israel, disarmament, Korea, and other matters.

The Third Committee began its work on 30 September 1948, and devoted virtually all of its time to the draft declaration over the next ten weeks, meeting in two, and sometimes three, sessions each day, and occasionally on a Saturday. Some 148 formal proposals of amendment to the provisions were submitted during this time. The proceedings were chaired by Charles Malik, the Lebanese intellectual who had participated in the first sessions of the Commission and who had been the Rapporteur of the Drafting Committee.

The first meeting was consumed by the issue of how to proceed, with China and the United States urging that the Committee begin examining the draft declaration adopted by the Commission in June 1948, while others sought that there be a more general discussion. The latter view prevailed, and the Committee decided that it would start with a general discussion of the entire report of the Commission on Human Rights. This meant that the covenant, implementation and the general philosophy of the International Bill of Rights could also be considered.¹⁹⁹

¹⁹⁵ On the relationship between the drafting of the two documents, see: Johannes Morsink, “Cultural Genocide, the Universal Declaration, and Minority Rights”, (1999) 21 *Human Rights Quarterly* 1009; William Schabas, “Les droits des minorités: Une déclaration inachevée”, in *Déclaration universelle des droits de l’homme 1948–98: Avenir d’un idéal commun*, Paris: La Documentation française, 1999, pp. 223–42.

¹⁹⁶ Samantha Power, “A Problem from Hell”, *America and the Age of Genocide*, New York: Basic Books, 2002, pp. 74–6; Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*, Princeton and Oxford: Princeton University Press, 2009, p. 131.

¹⁹⁷ A/PV.139, pp. 20–1. ¹⁹⁸ A/PV.145, pp. 41–6. ¹⁹⁹ A/C.3/SR.88, pp. 31–2.

Eleanor Roosevelt, who was head of the United States delegation, opened the debate with a presentation of the draft declaration. Reassuring those States that were uncomfortable with the idea of a declaration in the absence of a convention, she noted that this was only “the first step in the elaboration of the human rights programme called for by the Charter; it was essential that it should be followed by a covenant of human rights, drafted in the form of a treaty and containing provisions for implementation”. She said it was expected that the Commission would deal with the covenant at its next session with a view to approval of the text by the General Assembly in 1949.²⁰⁰ She continued:

The draft declaration was not a treaty or international agreement and did not impose legal obligations. It was rather a statement of basic principles of inalienable human rights, setting up a common standard of achievement for all peoples and all nations. Although it was not legally binding, the declaration would nevertheless, have considerable weight. Its adoption would commit Member States, in the words of the preamble, “to strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction”.²⁰¹

She warned the Committee of “the time which might be wasted if numerous amendments were to be considered. The declaration had already undergone minute scrutiny. Every Member State had had the opportunity to submit comments, and all comments received had been given careful attention, so that the document as it stood was widely representative of the views of Members of the United Nations.”²⁰²

When the general discussion had concluded, there was a new debate about how to proceed in the Third Committee. An Egyptian proposal whereby the Committee decided “to examine only the draft international declaration of human rights transmitted by the Economic and Social Council with a view to preparing a text for adoption by the General Assembly during the present session, without thereby ruling out statements of opinion on the other sections of the international bill of human rights” was adopted without significant opposition.²⁰³ Egypt had also urged the Committee to consider the issue of the rights and duties of States. It became clear, in the course of discussion, that it was better to proceed with a detailed review of the provisions in the draft unencumbered by other issues.²⁰⁴ The Soviet representative agreed to withdraw his insistence that the Preamble be discussed first. The Committee followed the Chairman’s lead and decided to begin by discussing the draft declaration article by article.²⁰⁵

²⁰⁰ A/C.3/SR.89, p. 32. ²⁰¹ *Ibid.*, pp. 32–3. ²⁰² *Ibid.*, p. 33. ²⁰³ A/C.3/SR.95, p. 81.
²⁰⁴ *Ibid.*, pp. 89–90. ²⁰⁵ *Ibid.*, p. 90.

Over the next two months, the Committee examined each article in the draft more or less consecutively, followed by the Preamble. It is impossible here to summarize the richness of the debate on the different provisions. Only one seemingly minor alteration will be mentioned: the change in nomenclature from “international declaration” to “universal declaration”. René Cassin first used the term in the general debate, at the beginning of October, saying that “[i]t was therefore essential that the declaration should be universal”.²⁰⁶ The proposal that the title become the “universal declaration of human rights” was made by the French delegation in mid-November.²⁰⁷ There was suspicion in some quarters; the Soviets charged that the French amendment “tended to make it binding upon all countries, whether they were Members of the United Nations or not”, an interesting allegation given that most delegates would not have described the declaration as “binding” in any event, whatever the title.²⁰⁸ Cassin’s amendment succeeded, but by an unimpressive margin: 17 to 11, with 10 abstentions.²⁰⁹

At the end of November, the Third Committee struck a sub-committee “to examine the totality of the declaration of human rights, i.e. the twenty-nine articles and the preamble, adopted by the Third Committee, solely from the standpoint of arrangement, consistency, uniformity and style and to submit proposals thereon to the Third Committee”. The Sub-Committee was tasked to “set up a language group of five members, one for each of the official languages, to check and secure the exact correspondence of the text in the five official languages”.²¹⁰ Composed of eleven Member States (Australia, Belgium, China, Cuba, Ecuador, France, Lebanon, Poland, the USSR, the United Kingdom and the United States), the Sub-Committee proposed a number of relatively minor changes to the text, of which the most important are the division of what had been a combined article dealing with both torture and slavery into two distinct provisions, and the division of another combined article dealing with equality before the law and the right to an effective remedy. The article dealing with rest and leisure was placed after the provision on the right to work.²¹¹

The report of the Sub-Committee was considered by the Plenary Third Committee over the course of four meetings, three of them convened on 6 December. Changes to the arrangement of the articles were agreed to, as well as some minor adjustments to the proposals of the Sub-Committee. For the last time, each article was reviewed and voted upon again. The evening session on 6 December went into the early hours of the following day. As a result, the Third Committee adopted the final text of the draft declaration on 7 December 1948. Chile requested a roll-call vote. The result was 29 in favour and none against. There were 8

²⁰⁶ A/C.3/SR.92, p. 61. Also: A/C.3/SR.163, p. 742; A/C.3/SR.165, p. 760. ²⁰⁷ A/C.3/339, A/C.3/381.

²⁰⁸ A/C.3/SR.166, p. 775. ²⁰⁹ A/C.3/SR.167, p. 786. ²¹⁰ A/C.3/SR.166, p. 781. ²¹¹ A/C.3/400/Rev.1.

abstentions, 6 of them from the Soviet bloc, which had been expected to vote against the draft.²¹² The seventh was from South Africa, and the eighth – a bit of a surprise – from Canada.²¹³ John Humphrey, a Canadian himself, wrote that the abstention by Canada “shocked everyone, including me . . . Although I knew that the international promotion of human rights had no priority in Canadian foreign policy, it had never occurred to me that the government would carry its indifference to the point of abstaining in such an important vote.”²¹⁴

The following day, the Soviets and their allies submitted a resolution calling for the debate to be postponed until the next session of the General Assembly, in 1949.²¹⁵ It was rejected by 26 votes to 6, with 1 abstention.²¹⁶ The Soviets also proposed a series of last-minute amendments, giving some indication of where their problems with the declaration lay. They sought recognition of a right to national self-determination, the protection of national minorities with respect to language and institutions and an affirmation of electoral rights without discrimination.²¹⁷ These were hardly irreconcilable differences, and the modest list of amendments tends to confirm that the Soviet Union and its associated powers did not quarrel fundamentally with the universal character of the declaration. Like many Member States, the Soviets had a rather long list of improvements that they favoured.²¹⁸

The report adopted by the Third Committee²¹⁹ was discussed over four meetings of the Plenary General Assembly on 9 and 10 December 1948, with Herbert Evatt of Australia presiding. Charles Malik, who had chaired the proceedings in the Third Committee, observed that of the twenty-nine articles in the draft declaration adopted by the Third Committee, eighteen had been accepted without any opposition. Of some 1,233 individual votes, 88.08 per cent had been affirmative, 3.73 per cent negative, and 8.19 per cent had been abstentions.²²⁰

The declaration “might well become the Magna Carta of all mankind”, said Eleanor Roosevelt during the debate in the General Assembly.²²¹ It was “inspired by a sincere desire for peace”, she added.²²² Charles Malik said the declaration “had been inspired by opposition to the barbarous doctrines of Nazism and fascism and, more directly, by President Roosevelt’s proclamation of the four essential freedoms, as well as by the affirmation of human rights and fundamental freedoms mentioned

²¹² John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 71.

²¹³ A/C.3/SR.178, pp. 879–80.

²¹⁴ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 71. Canadian Foreign Minister Lester B. Pearson offered an explanation of the Canadian abstention when he spoke in the General Assembly three days later: A/PV.182, pp. 898–900. Documents in the National Archives of Canada indicate a more complex story than what Pearson presented: William A. Schabas, “Canada and the Adoption of the *Universal Declaration of Human Rights*”, (1998) 43 *McGill Law Journal* 403; A. J. Hobbins, “Eleanor Roosevelt, John Humphrey and Canadian Opposition to the Universal Declaration of Human Rights: Looking Back on the 50th Anniversary of the UNDHR”, (1998) 52 *International Journal* 325.

²¹⁵ A/C.3/407. ²¹⁶ A/C.3/SR.179, p. 890. ²¹⁷ A/784. ²¹⁸ See, e.g., A/PV.180, pp. 854–7.

²¹⁹ A/777. ²²⁰ A/PV.180, p. 860. ²²¹ *Ibid.*, p. 862. ²²² *Ibid.*, p. 863.

on seven different occasions in the Charter”.²²³ Malik said that the document emphasized four principles: non-discrimination, improvement in the living conditions of the masses, the duties of the individual towards society, and the decisive role of the State in guaranteeing human rights and freedoms.²²⁴ René Cassin noted that “the declaration rested on four fundamental pillars: personal rights, relationships between man and his fellow men, public liberties and fundamental political rights, and economic and social rights”. Cassin observed: “The final texts of the declaration welded those elements together, for they implied ties between the individual and society and affirmed the need of an adequate social and international order capable of ensuring that rights were respected; they provided safeguards or hope of safeguards, while at the same time also imposing certain limitations upon mankind.”²²⁵ He explained that “the four pillars of the declaration were all of equal importance, and no hierarchy of rights could be established in the declaration”.²²⁶

Several speakers discussed the legal nature of the declaration. René Cassin linked it to the binding provisions of the Charter of the United Nations:

Furthermore, while it was less powerful and binding than a convention, it had no less legal value, for it was contained in a resolution of the Assembly which was empowered to make recommendations; it was a development of the Charter which had brought human rights within the scope of positive international law. That being so, it could not be said that the declaration was a purely theoretical instrument. It was only a potential instrument; but that fact in no way detracted from the binding force of the provisions of the Charter.²²⁷

Count Carton de Wiart, the Belgian delegate, spoke to the same point:

In certain circles, it had been said that the declaration of human rights was a purely academic document. That statement was erroneous, for the declaration not only had an unprecedented moral value, it had also the beginnings of a legal value. The man in the street who appealed to the declaration could support his protests with the authority of the unanimous decision of the peoples and Governments of the United Nations.²²⁸

Other delegates, many of them visibly uncomfortable with the approach of Cassin and Carton de Wiart, insisted upon describing the declaration as being without any “legally binding character”.²²⁹

Several Soviet amendments were put to the vote during the evening session of 10 December 1948. Essentially, they were the same proposals that had been defeated in the Third Committee, including the motion to postpone adoption of the declaration until the following year.²³⁰ There were 6 votes cast in favour, with 45 against and 3 abstentions.²³¹ The only change that was made to the draft adopted by the Third

²²³ *Ibid.*, p. 857. ²²⁴ *Ibid.*, pp. 859–60. ²²⁵ *Ibid.*, p. 865. ²²⁶ *Ibid.*, p. 866. ²²⁷ *Ibid.*, p. 866.

²²⁸ A/PV.181, p. 879.

²²⁹ Australia: A/PV.181, p. 876; Mexico: A/PV.181, p. 886; New Zealand: A/PV.181, p. 888.

²³⁰ A/784; A/785/Rev.2. ²³¹ A/PV.183, pp. 930–2.

Committee was deletion of an additional article, then referred to as article 3, concerning application of the declaration in trust and non-self-governing territories. On a proposal from the United Kingdom, the same idea was placed as the second paragraph of article 2: "Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, Trust, Non-Self-Governing or under any other limitation of sovereignty."²³² It was adopted by 29 votes to 17, with 10 abstentions.²³³ A convenient consequence was the elimination of one article, making the total a more elegant thirty and occasioning a renumbering of the entire document.

Poland insisted upon a separate vote on each paragraph in the Preamble and on each article. The results varied slightly, depending upon the provision in question, but there was always a large majority in favour.²³⁴ Finally, the President put the document as a whole to a vote by roll-call vote. The Universal Declaration of Human Rights was adopted by 48 votes, with 8 abstentions:

In favour: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, the Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam (Thailand), Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, Venezuela.

Abstaining: Byelorussian SSR, Czechoslovakia, Poland, Saudi Arabia, Ukrainian SSR, Union of South Africa, USSR, Yugoslavia.²³⁵

The vote was followed by adoption of four resolutions on related topics: the right of petition, the fate of minorities, publicity to be given to the Universal Declaration of Human Rights²³⁶ and preparation of a draft covenant on human rights and draft measures of implementation.

The head of the Soviet delegation, Andrei Vyshinsky, presented a lengthy explanation for the abstention by the Soviet Union.²³⁷ The allies of the Soviets formulated similar declarations in the General Assembly.²³⁸ South Africa had made the reasons for its opposition to the Declaration well known in the Third Committee, but went a step further when it expressed its concern about the binding nature of the instrument:

²³² A/778/Rev.1. ²³³ A/PV.183, p. 932. ²³⁴ *Ibid.*, pp. 932–3. ²³⁵ *Ibid.*, p. 933.

²³⁶ Daniel Helle and Maarit Kohonen, "Publicity for the Universal Declaration of Human Rights: General Assembly Resolution 217D(III)", in G. Alfredsson and A. Eide, eds., *The Universal Declaration of Human Rights*, The Hague, Boston, London: Martinus Nijhoff, 1999, pp. 725–41, 30–22.

²³⁷ A/PV.183, pp. 923–9.

²³⁸ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, pp. 72–3.

[T]he fact that the declaration, although it was not in the nature of an international convention, would none the less impose certain obligations on Member States if it were accepted by the General Assembly, as it would probably be interpreted as an authoritative definition of fundamental rights and freedoms which had been left undefined in the Charter. If such an interpretation were accepted, those Member States who voted for the draft declaration would be bound in the same manner as if they had signed a convention embodying those principles, with the difference however that, in the case of a convention, the obligations undertaken would be clearly defined, whereas in the declaration there were set out a number of human rights which were not only very loosely stated but which few States would be prepared to undertake as a legal obligation.²³⁹

Though opposed to the Declaration, South Africa was confirming the view taken by Cassin and rejecting the thesis of many others who dismissed the instrument as “non-binding”. Saudi Arabia offered no explanation for its abstention. Humphrey assumed this was because of concern about article 18, which recognized the right to change one’s religion.²⁴⁰

Two years later, on 4 December 1950, the United Nations General Assembly decided that 10 December should be celebrated as “Human Rights Day”.

The General Assembly

Considering that on 10 December 1948 the General Assembly proclaimed the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations,

Considering that the Declaration marks a distinct forward step in the march of human progress,

Considering that the anniversary of this event should be appropriately celebrated in all countries as part of a common effort to bring the Declaration to the attention of the peoples of the world,

Expressing its appreciation to all those countries Members or non members of the United Nations which have already celebrated this anniversary,

1. *Invites* all States and interested organizations to adopt 10 December of each year as Human Rights Day, to observe this day to celebrate the proclamation of the Universal Declaration of Human Rights by the General Assembly on 10 December 1948, and to exert increasing efforts in this field of human progress.
2. *Invites* all States to report annually through the Secretary-General concerning the observance of Human Rights Day.²⁴¹

This has been celebrated on 10 December ever since, with conferences, concerts, the award of prizes and the issuance of postage stamps.

²³⁹ A/PV.182, p. 910.

²⁴⁰ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 73. Also: Susan Waltz, “Universal Human Rights: The Contribution of Muslim States”, (2004) 26 *Human Rights Quarterly* 799, at pp. 814–17.

²⁴¹ GA Res. 423(V).

The legal significance of the Universal Declaration

In contrast with at the time of its adoption, few people now would contest the enormous importance of the Universal Declaration. Nevertheless, the precise legal significance of the Universal Declaration of Human Rights was uncertain on the day of its adoption and remains so today. John Humphrey had “always thought that the Declaration would be the most important part of the international bill of rights”. Although “not technically binding”, it “would apply to all states and would have the great authority of the United Nations behind it”, he wrote; “It would also be a catalyst of national and international legislation.”²⁴² Egon Schwelb explained that “a complete denial of the legal relevance of the Universal Declaration does not do justice to a document which was adopted – without a dissenting vote – by the governments forming the most representative body of the international community”.²⁴³

Other contemporary observers were less enthusiastic. Hersch Lauterpacht responded very harshly to the Declaration’s adoption, dismissing entirely its claim to any legal status: “Not being a legal instrument, the Declaration would appear to be outside international law. Its provisions cannot properly be the subject-matter of legal interpretation. There is little meaning in attempting to elucidate, by reference to accepted canons of construction and to preparatory work, the extent of an obligation which is binding only in the sphere of conscience.”²⁴⁴ Humphrey was so angry at Lauterpacht’s report to the International Law Association that he allowed his own membership in the organization to lapse. But he wrote much later that it was “only fair” to note that Lauterpacht’s comments were made “shortly after the adoption of the Declaration, before it began to have any real impact and before the subtle processes began to work which would make it part of the customary law of nations”.²⁴⁵ Whatever the view taken from the perspective of 1948, however, the legal significance of the Declaration cannot today be reduced to an analysis of the understanding of those who drafted it. The sixty-five years that have followed its adoption establish and confirm its role as a source of legal obligation.

From the time of its adoption, the Declaration was invoked together with the Charter of the United Nations as an authoritative statement of the purposes and principles of the organization. Even before the third session was completed, the General Assembly called upon South Africa to enter into discussions with India and

²⁴² John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 64.

²⁴³ Egon Schwelb, “The Influence of the Universal Declaration of Human Rights on International and National Law”, (1959) 53 *Proceedings of the American Society of International Law* 217, at p. 218.

²⁴⁴ Hersch Lauterpacht, “The Universal Declaration of Human Rights”, (1948) 25 *British Yearbook of International Law* 354, at p. 369. Along similar lines, Josef L. Kunz, “The United Nations Declaration of Human Rights”, (1949) 43 *American Journal of International Law* 316, at p. 321: “it is not law”.

²⁴⁵ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 74.

Pakistan about its treatment of persons of Indian origin, “taking into consideration the purposes and principles of the Charter of the United Nations and the Declaration of Human Rights”.²⁴⁶ In Resolution 290(IV), “Essentials of Peace”, adopted the following year, noting that the Charter “lays down basic principles for an enduring peace”, the General Assembly called upon all nations “[t]o promote, in recognition of the paramount importance of preserving the dignity and worth of the human person, full freedom for the peaceful expression of political opposition, full opportunity for the exercise of religious freedom and full respect for all the other fundamental rights expressed in the Universal Declaration of Human Rights”.²⁴⁷ In 1950, it was invoked in the first preambular paragraph of a resolution on freedom of information.²⁴⁸ By 1960, the language of the Assembly had become quite peremptory: “All States shall observe faithfully and strictly the provisions of the . . . Universal Declaration of Human Rights.”²⁴⁹ A 1969 study found the Declaration had been cited in seventy-five resolutions of the General Assembly, that it had been cited at least once in every session, and at least four times in every session from the fifteenth to the twenty-first, the only exception being the non-voting nineteenth session.²⁵⁰

The Proclamation of Tehran, adopted by the United Nations International Conference on Human Rights in 1968, said that the Universal Declaration “states a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community”.²⁵¹ The Vienna Declaration and Plan of Action, adopted in 1993, seems slightly more nuanced, saying the Declaration was “the source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments”. But it also reaffirms “commitment to the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights”.²⁵²

The Universal Declaration is also looked to as the authoritative statement of international standards by regional organizations. Adopted in November 1950, the European Convention on Human Rights acknowledges the significance of the Declaration in its preamble. It was invoked in the Final Communique of the Bandung Conference of 1955. The Universal Declaration is also cited in the principal treaties of the Inter-American and African human rights bodies. It is cited in the main instruments of the Conference on Security and Cooperation in

²⁴⁶ “Treatment of People of Indian Origin in the Union of South Africa”, GA Res. 265(III), OP 1.

²⁴⁷ “Essentials of Peace”, GA Res. 290(IV), OP 6.

²⁴⁸ “Freedom of Information: Interference with Radio Signals”, GA Res. 424(V), PP 1.

²⁴⁹ “Declaration on the Granting of Independence to Colonial Countries”, GA Res. 1514(XV), OP 7.

²⁵⁰ Samuel A. Bleicher, “The Legal Significance of Re-Citation of General Assembly Resolutions”, (1969) 63 *American Journal of International Law* 444, at p. 463.

²⁵¹ A/CONF.32/41, para. 2. ²⁵² A/CONF.157/23, Preamble.

Europe. Indeed, whether treaties fall inside or outside the United Nations system, if they concern human rights, it is almost inevitable that they refer to the Universal Declaration in the preamble.

“Binding” or “non-binding”?

It is today rather trite to state that the Universal Declaration is “not binding”, or that it is “non-binding law”. The idea that there is law that is not “binding” is a bit of a paradox. The *Shorter Oxford English Dictionary* defines law as a “rule of conduct imposed by security authority”, adding that it is a “body of rules, whether formally enacted or customary, which a particular State or community recognizes as governing the actions of its subjects or members and which it may enforce by imposing penalties”. Lexicographers would be puzzled at the suggestion that a distinction should be made between law that is binding and that which is not. Law is, by nature, “binding”. That which is not binding is not law. Probably, when reference is made to “non-binding law”, what is actually intended is an assessment of the *enforceability* of the law. From that perspective, it is not unreasonable to contend that the Universal Declaration of Human Rights consists of legal norms that are difficult to enforce, at least directly.

During the drafting of the Universal Declaration, several diplomats stated that it would not be a source of binding obligations. But contrary views were also expressed. René Cassin frequently linked the Declaration to the Charter of the United Nations, viewing its adoption as the completion of a project left unfinished at San Francisco. The special nature of the Declaration can be seen particularly in the discussions that took place in 1948, once it had been agreed to proceed with two or three distinct instruments, but not at the same pace. Over objections from some States, something that proves the salience of the issue, first the Commission on Human Rights, then the Economic and Social Council and finally the General Assembly agreed to go ahead with adoption of a declaration, although the draft covenant would wait for another day. It was widely believed that the covenant’s completion would take only another year. The result might have been different had the reality of a nearly twenty-year process been contemplated at the time. Still, if the Universal Declaration was without significance in the absence of a covenant, why did the Assembly proceed to its adoption? Surely it must have crossed the minds of those engaged in the process that the Declaration might be the end of the exercise, rather than the beginning.

Hersch Lauterpacht spoke directly to the point in an article in the 1948 *British Yearbook of International Law*. He lamented what he described as a “general repudiation of the idea that the Declaration imposed upon them a legal obligation to respect the human rights and fundamental freedoms which it

proclaimed”.²⁵³ Lauterpacht referred to statements in the General Assembly by France and Belgium, but noted that even these delegations had been equivocal in their assertions about the Declaration’s legally binding character. He also noted the position taken by Canada, which abstained in the final vote in the Third Committee out of concern that the national government was unable to bind the constituent provinces of the country because of a constitutional division of powers.²⁵⁴

Earlier, Lauterpacht had taken the position that the Charter of the United Nations itself imposed legal obligations in the area of human rights, but he was sceptical about proceeding with adoption of the Universal Declaration in the absence of a corresponding treaty. Commenting on the Universal Declaration after its adoption, he wrote:

The language of the Universal Declaration of Human Rights, the circumstances and the reasons of its adoption, and, above all, the clearly and emphatically expressed intention of the states Members of the United Nations who voted for the Resolution of the General Assembly, show clearly that the Declaration is not by its nature and by the intention of its parties a legal document imposing legal obligations.²⁵⁵

The corollary of the proposition that the Universal Declaration of Human Rights is “not binding” is the assertion that human rights treaties – the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and the various thematic treaties in the United Nations system dealing with racial discrimination, discrimination against women, torture, the rights of the child, migrant workers, the disabled and enforced disappearance – are, by contrast, “binding” legal instruments. The reality is more complex. The so-called “binding” treaties have modest enforcement mechanisms at best, although they are somewhat superior in this respect to the Universal Declaration. States Parties make broad reservations to the treaties. Very often, they fail to ensure direct application of the norms within their domestic legal order. They dispute the right of the “treaty bodies” charged with implementation to pronounce on the legality of such reservations. States also contest the authority of the treaty bodies to make enforceable orders. In theory, one State might sue another at the International Court of Justice for breach of one of these treaties. This has been tried rarely, with very limited results.²⁵⁶

²⁵³ Hersch Lauterpacht, “The Universal Declaration of Human Rights”, (1948) 25 *British Yearbook of International Law* 354, at p. 356. On Lauterpacht’s critique, see: Jochen von Bernstorff, “The Changing Fortunes of the Universal Declaration of Human Rights: Genesis and Symbolic Dimensions of the Turn to Rights in International Law”, (2008) 19 *European Journal of International Law* 903.

²⁵⁴ Hersch Lauterpacht, “The Universal Declaration of Human Rights”, (1948) 25 *British Yearbook of International Law* 354, at pp. 362–3.

²⁵⁵ *Ibid.*, at p. 365.

²⁵⁶ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, [2005] ICJ Reports 168, paras. 217–19. But see: *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Preliminary Objections, 1 April 2011.

In practice, the human rights treaties mainly play a declaratory and hortatory role. To that extent, they do not differ very much from the Universal Declaration of Human Rights. Perhaps the most significant distinction of the Declaration is the broad and vague scope of its provisions, in marked contrast with the much more detailed terms of the treaties. This is actually an advantage for the Universal Declaration, which can evolve and develop more easily. For example, in article 3, the Universal Declaration proclaims the right to life without exception, aside from the general limitation found in article 29(2). When the right to life is set out in the International Covenant on Civil and Political Rights, on the other hand, it is shrouded in the antiquated language of capital punishment, which is presented as an exception to the general principle. Some States that still apply the death penalty actually invoke the Covenant in claiming that capital punishment is not prohibited by international law. Along similar lines, the Convention Against Torture distinguishes between torture as such and its analogue, the phenomenon of cruel, inhuman and degrading treatment or punishment. States have exploited the distinctions between the two, to some success. Under the Convention Against Torture, the prohibition of *refoulement* applies only to torture and not to cruel, inhuman and degrading treatment or punishment. We have no such difficulties with the Universal Declaration.²⁵⁷

Historically, the strength of the conventions has been their mechanisms of implementation. Despite shortcomings, these provide some form of individual petition mechanism for victims, as well as a monitoring function when States Parties present their periodic reports. The advent of Universal Periodic Review by the Human Rights Council, in 2006, has established something rather similar in the case of the Universal Declaration of Human Rights. Indeed, the Universal Periodic Review is broader than the reporting scheme for the treaties precisely because of its universality. China, which has not ratified the International Covenant on Civil and Political Rights, must report to the Human Rights Council on its compliance with civil and political rights, including issues relating to capital punishment.²⁵⁸ The United States, which has not ratified the International Covenant on Economic, Social and Cultural Rights, accounts for its conduct in areas of health care, housing and education to the Human Rights Council.²⁵⁹ The legal foundation, in both cases, is the Universal Declaration of Human Rights.

A pedant might object that, whereas the presentation of reports under the human rights conventions is a legal obligation, this is not the case for Universal Periodic

²⁵⁷ Aoife Duffy, "Expulsion to Face Torture? *Non-refoulement* in International Law", (2008) 20 *International Journal of Refugee Law* 373, at p. 380.

²⁵⁸ "China, National Report to the Human Rights Council, Universal Periodic Review", UN Doc. A/HRC/WG.6/4/CHN/1 (10 November 2008).

²⁵⁹ "United States of America, National Report to the Human Rights Council, Universal Periodic Review", UN Doc. A/HRC/WG.6/9/USA/1.

Review, for which the requirement is set out in a resolution of the Human Rights Council. But, over the years 2008 to 2011, every Member State of the United Nations complied with the “non-binding” terms of the Human Rights Council resolution and participated in the Universal Periodic Review process. This is more than can be said for the reporting obligations imposed by the treaties, which have been frequently ignored, without apparent consequence other than some rather ephemeral and obscure public shame. The voluntary reporting to the Human Rights Council on compliance with the “non-binding” standard of the Declaration looks in some ways to be more robust and effective than the so-called “binding” obligations imposed by human rights treaties.

The debate about “binding” and “non-binding” highlights the fact that the conventions and covenants are addressed to States and to States alone. They can only be “binding” upon those who ratify them. The Universal Declaration, on the other hand, has a much broader audience. It is addressed not only to States but also to individuals, to organizations, to entities and to corporations. As the Preamble affirms, it is “a common standard of achievement for all peoples and all nations” that speaks to “every individual and every organ of society”. There is a useful, although admittedly isolated, reference in a Security Council resolution that highlights the point. In 1972, the Council referred to the Universal Declaration of Human Rights as a legal standard to be respected in the area of labour rights in South-West Africa. Condemning “the recent repressive measures against African labourers in Namibia”, Security Council resolution 310(1972) calls “upon all States whose nationals and corporations are operating in Namibia . . . to use all available means to ensure that such nationals and corporations conform in their policies of hiring Namibian workers to the basic provisions of the Universal Declaration of Human Rights”. States were asked to report to the Secretary-General, and with rare exceptions they said they had no involvement with the South African regime. The United States answer was as follows:

In March 1972, the Government of the United States of America sent to some 40 American business firms interested in Namibian affairs the text of Security Council resolution 310 (1972), as well as the text of the Universal Declaration of Human Rights specified in paragraph 5 of that resolution. The letter forwarding those documents stated that the United States supported resolution 310(1972) and requested the co-operation of the companies in doing everything possible to ensure that any operations in Namibia in which they had an interest were fully consonant with the Declaration.²⁶⁰

Individuals and corporations may not be “bound” by the Universal Declaration in the sense they are treaties, but we are obliged to employ it as a guide to our lives and our activities.

²⁶⁰ S/10752, Annex, p. 14. See also: Egon Schwelb, “An Instance of Enforcing the Universal Declaration of Human Rights: Action by the Security Council”, (1973) 22 *International and Comparative Law Quarterly* 161, at p. 162.

Asserting that there is no distinction in terms of legal effect between the Universal Declaration of Human Rights and the treaties is a heretical Rubicon that this essay does not propose to cross, although with some reluctance. Nevertheless, using the notions of “non-binding” and “binding” as the distinguishing criterion in assessments of the legal nature of the Universal Declaration and the human rights treaties misses all of the subtlety in the relationship. Above all, it understates the weakness of the treaty systems and the potency of the Universal Declaration.

Sources of the Declaration's legal force

In 1948, Cassin considered that the Universal Declaration should not be read in isolation but rather together with the human rights clauses of the Charter of the United Nations. Hersch Lauterpacht disagreed, stating: “It is unlikely that any tribunal or other authority administering international law would accept a suggestion of that kind.”²⁶¹ Yet, less than two decades later, in a legendary dissent in one of the South-West Africa cases before the International Court of Justice, Judge Tanaka spoke of the Universal Declaration which, “although not binding in itself, constitute[s] evidence of the interpretation and application of the relevant Charter provisions”.²⁶² Linking the Declaration to the Charter in this way has the effect of incorporating it within treaty law.

More common, however, is the theory that the Universal Declaration constitutes a codification of customary international law. John Humphrey claimed he subscribed to the view as early as the adoption of the Declaration, saying he could not “remember anyone in 1948 who shared my views”.²⁶³ There is today much authority for the proposition that much if not all of the Declaration constitutes a codification of customary international law.²⁶⁴ Indeed, it is a relatively uncontroversial proposition although there is little discussion about the provisions of the Declaration that are not to be considered customary. Vice-President Ammoun of the International Court of Justice wrote that, although “the affirmations of the Declaration are not binding qua international convention . . . , they can bind States on the basis of custom within the meaning of paragraph 1(b) of [Article 38 of the Statute of the Court] . . . because they constituted a codification of customary law . . .

²⁶¹ Hersch Lauterpacht, “The Universal Declaration of Human Rights”, (1948) 25 *British Yearbook of International Law* 354, at p. 365.

²⁶² *South West Africa (Second Phase)*, Judgment, [1966] ICJ Reports 6, p. 293 (Dissenting Opinion of Judge Tanaka).

²⁶³ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 65.

²⁶⁴ Hurst Hannum, “The Status of the Universal Declaration of Human Rights in National and International Law”, (1995) 25 *Georgia Journal of International and Comparative Law* 287, at p. 340.

or because they have acquired the force of custom through a general practice accepted as law”.²⁶⁵ Perhaps inspired by these remarks, the Court as a whole invoked the Universal Declaration as a normative standard in assessing Iran’s compliance with international law following the hostage-taking at the United States embassy: “Wrongfully to deprive human beings of their freedom and to subject them to physical constraint in conditions of hardship is in itself manifestly incompatible with the principles of the Charter of the United Nations, as well as with the fundamental principles enunciated in the Universal Declaration of Human Rights.”²⁶⁶

In addition to treaties and customary law, article 38(1)(c) of the Statute of the International Court of Justice lists “general principles of law recognized by civilized nations” as sources of international legal norms. The notion is often confused with custom but its meaning is distinct. There is some support for the view that the Universal Declaration, drafted with frequent reference to national constitutional provisions and then used as a basis for new texts of this nature, is a part of international law as a statement of “general principles”. Hersch Lauterpacht expressed such an assessment: “The Declaration gives expression to what, in the fullness of time, ought to become principles of law generally recognized and acted upon by states Members of the United Nations.”²⁶⁷ Theodor Meron has also supported the notion.²⁶⁸

Occasionally, the Universal Declaration of Human Rights has been dismissed on the grounds that, despite its name, it is not in fact universal. In 1997, Malaysian Prime Minister Mahathir Mohamad proposed that the Declaration be reviewed in light of the fact that the 1948 General Assembly was not representative.²⁶⁹ But when Malaysia submitted its report to the Council in 2008, it did not take issue with the Universal Declaration of Human Rights as a basis for the review.²⁷⁰ Some parts of the world – notably Africa with only four members, Egypt, Ethiopia, Liberia and South Africa – were grotesquely underrepresented when the Declaration was adopted.²⁷¹ Yet Africa affirmed the centrality of the Declaration in the preamble of the African Charter of Human and Peoples’ Rights, which was

²⁶⁵ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, [1971] ICJ Reports 16, p. 76 (Separate Opinion of Vice-President Ammoun).

²⁶⁶ *United States Diplomatic and Consular Staff in Tehran*, Judgment, [1980] ICJ Reports 3, para. 91.

²⁶⁷ Hersch Lauterpacht, “The Universal Declaration of Human Rights”, (1948) 25 *British Yearbook of International Law* 354, at p. 367.

²⁶⁸ Theodor Meron, *Human Rights and Humanitarian Norms as Customary Law*, Oxford: Clarendon Press, 1989, p. 88.

²⁶⁹ Karin Mickelson, “How Universal is the Universal Declaration?”, (1998) 47 *University of New Brunswick Law Journal* 19, at p. 21.

²⁷⁰ A/HRC/WG.6/4/MYS/1/Rev.1.

²⁷¹ Kéba M’baye, *Les droits de l’homme en Afrique*, Paris: Pedone, 1992, p. 41.

adopted in 1981 and entered into force in 1986, and which has been ratified by every State on the continent.²⁷²

One sceptic has cautioned that it is “easy to overstate the global and multicultural origins of the Universal Declaration”.²⁷³ The flaw in such critiques is a failure to consider the repeated affirmation of the universality of the Declaration since 1948. Thus, while the “second world” States abstained in 1948, they later endorsed the Universal Declaration in the Helsinki Final Act of 1975. Another abstainer in the 1948 vote, Saudi Arabia,²⁷⁴ boasted recently that it “was among the first States to participate in the drafting of the Universal Declaration of Human Rights”.²⁷⁵ The racist South Africa that abstained in 1948 is no longer the same country. Speaking to the United Nations General Assembly in 1998, then-President Nelson Mandela said:

Born in the aftermath of the defeat of the Nazi and fascist crime against humanity, this Declaration held high the hope that all our societies would, in future, be built on the foundations of the glorious vision spelt out in each of its clauses. For those who had to fight for their emancipation, such as ourselves who, with your help, had to free ourselves from the criminal apartheid system, the Universal Declaration of Human Rights served as the vindication of the justice of our cause.

An important dimension of the enforceability of human rights is a consequence of the direct implementation of the international instruments within domestic legislation. In some States, this is an automatic consequence of ratification of a treaty. Here, the pattern is very uneven. It does not seem that the Universal Declaration ever enjoys this sort of automatic incorporation into domestic law, precisely because it is not a treaty. However, there are some examples of the Universal Declaration being made part of national legislation by specific reference to it in a constitution or in legislation. The Special Statute for Trieste, adopted in 1954, directly incorporated the Universal Declaration into national law.²⁷⁶ The example was followed subsequently by many other countries, particularly in Africa. In many legal systems, the Universal Declaration is cited in legal proceedings as a persuasive guide to the interpretation and application of human rights norms and principles.

Finally, there are some parts of the planet that the human rights treaties of the United Nations cannot reach, as a consequence of political exigencies. The best example might be Taiwan, a territory that is essentially ignored by the United Nations human rights mechanisms. The Republic of China is not a United

²⁷² African Charter of Human and Peoples’ Rights, (1986) 1520 UNTS 217.

²⁷³ Samuel Moyn, *The Last Utopia, Human Rights in History*, Cambridge, MA and London: Belknap Press, 2010, p. 66.

²⁷⁴ A/PV.183, p. 933. ²⁷⁵ A/HRC/WG.6/4/SAU/1, para. 19.

²⁷⁶ Egon Schwelb, “The Influence of the Universal Declaration of Human Rights on International and National Law”, (1959) 53 *Proceedings of the American Society of International Law* 217, at p. 218

Nations Member State and cannot therefore ratify or accede to most of the major human rights treaties. But nobody would challenge the application of the Universal Declaration of Human Rights to its territory. Similar obligations can be made with respect to a number of quasi-States and analogous entities, such as Transnistria, Nagorno-Karabakh, Kosovo and Abkhazia.

As has already been noted, the Universal Declaration is listed as one of the main normative bases for the Universal Periodic Review conducted by the United Nations Human Rights Council since 2008. There have been only a limited number of references to provisions of the Universal Declaration of Human Rights in the course of the Universal Periodic Review, although in a very general sense the process does not focus on precise legal obligations set out in international instruments. Rather, it constitutes a general assessment of compliance with contemporary human rights standards, a function for which the Universal Declaration is especially well suited. The report of the United States to the Human Rights Council declares:

The fundamental truth which grounds the principles of government enshrined in our Constitution – that each person is created with equal value from which flows inalienable rights – is not an exclusively American truth; it is a universal one. It is the truth that anchors the Universal Declaration of Human Rights, it is the truth that underpins the legitimate purposes and obligations not just of our government, but of all governments.²⁷⁷

In its report to the Human Rights Council, Singapore stated that it “respect[s] the fundamental human rights enshrined in the Universal Declaration of Human Rights”²⁷⁸ and that it “fully subscribes to the principles enshrined in the Universal Declaration of Human Rights. We respect the principle of the universality of human rights and consider human rights to be indivisible, with economic, social and cultural rights as important as civil and political rights.”²⁷⁹ Of course, Singapore takes a narrow view of the scope of the Declaration, and more generally of international human rights law, something reflected in its exceedingly modest level of ratification of international treaties. According to Singapore, “[t]he manner in which all rights are attained and implemented must nevertheless take cognizance of specific national circumstances and aspirations”.²⁸⁰ Moreover, “[a]s recognized in the Universal Declaration of Human Rights, individual rights must be subject to legal limits in order to protect the rights of others, as well as to maintain public order and general welfare”.²⁸¹

Occasionally, the Universal Declaration of Human Rights has been invoked in the Human Rights Council by States as a normative standard that others are bound to apply. For example, during examination of the Universal Periodic Report of Saudi Arabia, Canada urged that it “cease application of torture, other cruel, inhuman or

²⁷⁷ A/HRC/WG.6/9/USA/1, para. 80. ²⁷⁸ A/HRC/WG.6/11/SGP/1, para. 20. ²⁷⁹ *Ibid.*, para. 33.

²⁸⁰ *Ibid.*, para. 33. ²⁸¹ *Ibid.*, para. 110.

degrading treatment or punishment, and corporal punishment of prisoners, in accordance with article 5 of the Universal Declaration of Human Rights and other international human rights treaties to which it is a party".²⁸² When it expressed concerns about treatment of participants in post-election protests, Germany spoke of Iran's "obligation to respect human rights, enshrined in the Universal Declaration".²⁸³

States have also invoked the Universal Declaration in defence against criticisms of their human rights performance, insisting that their policies are consistent with the Declaration. Cameroon rejected a recommendation concerning the decriminalization of homosexuality saying that this was not "contrary to the provisions of article 12 of the Universal Declaration of Human Rights",²⁸⁴ which protects the right to privacy. Cameroon also invoked article 26(2) as justification for limitations on human rights (this is a small error in the record; the reference should be to article 29(2)).²⁸⁵ In its report to the Human Rights Council, Russia said that it had "become a party to the following cardinal international human rights instruments: the Universal Declaration of Human Rights".²⁸⁶

Concluding remarks

Today, an instrument like the Universal Declaration of Human Rights would be negotiated differently. Greater flexibility and candour among delegates would be encouraged by a more minimalist documentary record. States often present their views in "non-papers", which do not require document numbers and leave a less visible trace. Moreover, there is little, if any, voting, as texts are negotiated. Little by little, through compromise and concession, a consensus emerges. Less time is spent on procedural matters, something that consumed a substantial amount of time and energy in 1947 and 1948. At that time, there were quarrels about the order in which amendments would be voted, for example. That would seem strange to a modern-day negotiator, as instruments are generally adopted "by general agreement" – which is to say, by consensus. At the present time, the conventional wisdom is that piecemeal voting leads to unpredictable and sometimes incoherent results. But if that is really the case, the Universal Declaration of Human Rights does not confirm such a thesis. Perhaps an experienced diplomat will review the documents in this collection and

²⁸² A/HRC/11/23, para. 44. ²⁸³ A/HRC/14/12, para. 33.

²⁸⁴ A/HRC/11/37, para. 382. According to the Human Rights Committee, interpreting provisions of the International Covenant on Civil and Political Rights that share a common ancestry with the Universal Declaration of Human Rights, the term "sex" as it appears in enumerations of grounds of prohibited discrimination is to include "sexual orientation": *Toonen v. Australia* UN Doc. CCPR/C/50/D/488/1992 (1994), para. 8.7. For a contrary view: Sharon Yecies, "Sexual Orientation, Discrimination, and the Universal Declaration of Human Rights", (2010–11) 11 *Chicago Journal of International Law* 789.

²⁸⁵ A/HRC/11/37, para 383. ²⁸⁶ A/HRC/WG.6/4/RUS/1, para. 6.

speculate on whether the result would have been different and improved had the more collegial consensus-based approach been adopted.

In 1948, the United Nations was probably more bilingual than it is today. When the Universal Declaration was being drafted, more attention was given to the French text than would be the case with similar negotiations held in modern times. In the twenty-first century, treaties that will have several official-language versions are negotiated essentially on the basis of English-language texts. Preparation of the versions in the other official languages is viewed as a technical matter, a problem of translation rather than an effort to develop a shared understanding in two or more languages. At many points in the debates in 1947 and 1948, delegates commented specifically upon the wording of the French version of a given provision. Both Eleanor Roosevelt and John Humphrey were comfortable in the French language. Mary Ann Glendon reports on a session of the Nuclear Commission on Human Rights where René Cassin spoke for fifteen or twenty minutes without a pause for translation. Apparently, “the interpreter broke down in tears and fled the room, leaving Mrs. Roosevelt, who fortunately was fluent in French, to summarize his remarks as best she could”.²⁸⁷ Humphrey wrote that “because I was a Canadian who spoke their language fluently, my relations with the French were always very close. I think they sometimes forgot that I was not French.”²⁸⁸

Roosevelt and Humphrey were not the only extraordinary individuals to work on the project. René Cassin later won the Nobel Peace Prize in acknowledgement of his important contribution. Chang, Malik and Romulo also belong among the Declaration’s primary architects. This collection of documents shows, however, that many other individuals participated in significant ways. As Humphrey was to write, there was no Jefferson. The Declaration’s great strength was the collective dimension of its authorship.

The Universal Declaration of Human Rights was not the only important document to emerge in this dynamic period of international lawmaking. The Convention on the Prevention and Punishment of the Crime of Genocide was also adopted at the Third Session of the General Assembly, along with a resolution calling for work to begin on the establishment of a permanent international criminal court.²⁸⁹ Eight months later saw the adoption of the four Geneva Conventions on the protection of victims of armed conflict. In 1951, the Convention on the Status of Refugees was completed. Then, the progress of human rights seemed to falter. Those who adopted the Declaration in 1948 believed that the covenant would soon be finalized,

²⁸⁷ Mary Ann Glendon, *A World Made New, Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York: Random House, 2001, p. 31.

²⁸⁸ John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 59.

²⁸⁹ Christopher C. Joyner, “Redressing Impunity for Human Rights Violations: The Universal Declaration and the Search for Accountability”, (1998) 26 *Denver Journal of International Law and Policy* 591.

probably at the 1949 session of the General Assembly. But its adoption took another seventeen years. Yet another decade passed for entry into force of what had become two covenants, a development that weakened the universality and indivisibility of the message given by the Universal Declaration. The momentum revived in the 1970s and 1980s, a fact that has led some historians to underestimate the seminal importance of the immediate post-War period.²⁹⁰

The Declaration was created by special individuals and at a special moment in history. It is difficult to imagine the document's success in the absence of Roosevelt, Cassin, Humphrey and the others. But this brilliant group would almost surely have failed were the exercise to have taken place a decade later. Even in 1948, the dark clouds of the Cold War had descended upon the United Nations after a brief period of euphoria following the defeat of Nazi Germany.²⁹¹ The changing dynamics, as nostalgia for wartime alliance was gradually replaced with East–West tension, can often be seen in the *travaux*. The agreement reached on 10 December is all the more remarkable considering the sharp differences in outlook and philosophy that already prevailed.

The legacy of those who drafted the Declaration is a document that speaks to us today with an eloquence that is undiminished by age. At the time of the thirtieth anniversary of the Universal Declaration, in 1978, Sean MacBride said that “the precepts of the [U]niversal Declaration are immutable and will remain valid forever: the right to life, freedom from torture, the right to be free from arbitrary arrest and detention and other such rights know no bounds of time”.²⁹² Perhaps – although it may not be the “last utopia”.²⁹³ At some point in time, new texts may replace it as the benchmark of universal values, although that is unlikely to occur for many decades. Even then, the Universal Declaration of Human Rights will remain a key indicator of humanity's “common standard of achievement” at a certain stage in history.

²⁹⁰ Samuel Moyn, *The Last Utopia, Human Rights in History*, Cambridge, MA and London: Belknap Press, 2010.

²⁹¹ Ashild Samnøy, “The Origins of the Universal Declaration of Human Rights”, in G. Alfredsson and A. Eide, eds., *The Universal Declaration of Human Rights*, The Hague, Boston, London: Martinus Nijhoff, 1999, pp. 3–22, at pp. 20–1.

²⁹² Cited in Hilary Charlesworth, “The Mid-Life Crisis of the Universal Declaration of Human Rights”, (1998) 55 *Washington and Lee Law Review* 781, at p. 796.

²⁹³ Samuel Moyn, *The Last Utopia, Human Rights in History*, Cambridge, MA and London: Belknap Press, 2010.

The Documents

PC/EX/113/Rev.1¹

12 November 1945

Report by the Executive Committee to the Preparatory Commission of the United Nations²

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[17]

Part III. Committee Reports and Supplementary Papers

...

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...

Chapter III. The Economic and Social Council

...

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Section 4. Organization of the Economic and Social Council

...

[51]

...

Commission on Human Rights

16. In general the functions of the Commission would be to assist the Council to carry out its responsibility under the Charter to promote human rights. The studies and recommendations of the Commission would encourage the acceptance of higher standards in this field and help to check and eliminate discrimination and other abuses.

[52]

¹ Published for the Preparatory Commission of the United Nations by His Majesty's Stationery Office, London, November 1945.

² The Preparatory Commission was established pursuant to Interim Arrangements adopted on 26 June 1945 at the same time as the Charter of the United Nations. It was composed of one representative of each signatory of the Charter. The Preparatory Commission was charged with making necessary arrangements between the signing of the Charter and the convening of the first sessions of the principal organs of the United Nations. Its first meeting was held on 27 June 1945, at which time responsibility was delegated to the Executive Committee. The full Preparatory Commission met again in London from 24 November to 24 December 1945.

17. In particular the work of the Commission might be directed towards the following objects:

- (a) formulation of an international bill of rights;
- (b) formulation of recommendations for an international declaration or convention on such matters as civil liberties, status of women, freedom of information;
- (c) protection of minorities;
- (d) prevention of discrimination on grounds of race, sex, language, or religion;
- (e) any matters within the field of human rights considered likely to impair the general welfare or friendly relations among nations.

18. Studies, recommendations and provision of information and other services would be made at the request of the General Assembly, or of the Economic and Social Council, whether on its own initiative or at the request of the Security Council or of the Trusteeship Council.

...

PC/20³

23 December 1945

Report of the Preparatory Commission of the United Nations

...

[28]

Chapter III. The Economic and Social Council

...

[28]

...

Section 4. Considerations and Recommendations Concerning the Organization of the Economic and Social Council

...

[36]

Commission on Human Rights

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...

A/3

5 January 1946

Supplementary List of Items for Inclusion in the Agenda of the First Part of the First Session of the General Assembly⁴

Memorandum by the Executive Secretary

1. Before the expiry of the time-limit laid down in Supplementary Rule E of the Supplementary Provisional Rules of Procedure for the First Session of the General Assembly (midnight on Friday, 4 January), I received three communications: one from the United Kingdom Delegation, one from the Cuban Delegation and one from His Majesty's Government in the United Kingdom acting on behalf of the Soviet Union, the United States, France, China and Canada.
2. The first communication enclosed a draft Resolution on the subject of UNRRA; the second, various amendments to the Report of the Preparatory Commission

⁴ See also A/BUR/1 of 11 January 1946, whose content is similar to that of this document.

on the subject of the constitution of the General Committee together with a proposal for the discussion by the General Assembly of a Declaration on the international duties and rights of man and of nations respectively; and the third a draft Resolution for the establishment by the General Assembly of a Commission to deal with the problem raised by the discovery of atomic energy and other related matters.

3. These four documents form parts A, B, C and D respectively of the attached "Supplementary List".

Gladwyn Jebb
Executive Secretary

...

[6]

Provisional Translation from the Spanish Text

The Cuban Delegation has the honour to propose to the General Assembly the inclusion, in its agenda, of the following two questions:

1. The Declaration of the International Duties and Rights of Man.
2. The Declaration of the Rights and Duties of Nations.

In the event of the inclusion in the Agenda of the subjects mentioned above, the Delegation of Cuba will, at the right time, present an appropriate draft text for each of these Declarations to serve as a basis for discussion by the Assembly.

...

A/BUR/6

14 January 1946

General Committee

Report to the General Assembly on the Supplementary List of Items to be Included on the Agenda of the First Part of the First Session

1. The General Committee met at 6 p.m. on Sunday, 13 January 1946, to consider the supplementary list of items which had been submitted for inclusion in the agenda of the first part of the first session of the General Assembly.

2. This supplementary list included the original four items circulated in document A/BUR/1, namely:

...

c) Resolution concerning a Declaration on the international duties and rights of man and a Declaration on the duties and rights of nations, presented by the delegation of Cuba.

...

[2]

...

4. After discussion the General Committee agreed:

...

[3]

(d) That the resolution by the Cuban delegation proposed in paragraph 2 (c) above, relating to the Declaration on the international duties and rights of man, and the Declaration on the duties and rights of nations respectively, while of great importance, could not appropriately be included in the supplementary list.

With regard to the first Declaration, there was ample provision for discussion of this matter in that part of chapter III of the Report of the Preparatory Commission which recommends the establishment of a Commission on Human Rights and outlines the functions and competence of that Commission (pages 28 and 36 of the Report).

...

A/PV.7⁵

14 January 1946⁶

Seventh Meeting [of the General Assembly]

Monday, 14 January 1946, at 3 p.m.

President: M. P.-H. SPAAK⁷ (Belgium)

18. Supplementary List of Items for Inclusion in the Agenda of the First Part of the First Session of the General Assembly: Report of the General Committee to the General Assembly

THE PRESIDENT (*Translation from the French*): The first item on the agenda is the General Committee's report on the supplementary list of items to be included.

⁵ The text of the document is taken from *Official Records of the First Part of the First Session of the General Assembly*, Plenary Meetings of the General Assembly, Verbatim Record, 10 January-February 1946, pp. 100 ff.

⁶ This is the date of the meeting, and not the date of publication of the document.

⁷ Paul-Henri Spaak (1899–1972), a Belgian statesman, presided over the first session of the United Nations General Assembly. He served in a variety of important functions in his own country as well as in international institutions such as the Council of Europe and the North Atlantic Treaty Organization.

The General Committee met on Sunday 13 January at 6 p.m. to consider the supplementary list of items, and its proposals are set out in paragraph 4 of A/BUR/6 distributed this morning.

...

[101]

...

THE PRESIDENT (*Translation from the French*): I now open the discussion on paragraph (d). It concerns the Cuban delegation's resolution regarding the declaration on the international duties and rights of man and the declaration on the duties and rights of nations. The General Committee considers that the subject of the rights and duties of man can be discussed in the course of the general debate, because it has a special bearing on certain matters connected with the Economic and Social Council. It is likewise of the opinion that the declaration on the duties and rights of nations can form the subject of a general debate, in view of the fact that the Charter itself is already an attempt to determine the rights and duties of nations.

I call upon Mr. Dihigo,⁸ representative of Cuba.

MR. DIHIGO (Cuba): The Cuban delegation presented a motion in order that in due time the Assembly may adopt a declaration on the rights of man and a declaration on the rights and duties of nations. In the Charter, we find the following. In the preamble:

"We the peoples of the United Nations, determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. . ."

And in Article 13 we find that:

"1. The General Assembly shall initiate studies and make recommendations for the purpose of:

- "a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;
- "b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental free- [102] doms for all without distinction as to race, sex, language, or religion."

Taking into consideration these articles, the Cuban delegation thought that, in order that these principles may become a reality, it was absolutely necessary for the General Assembly to initiate those studies, and to have adopted, in due time, as I said before, a declaration on fundamental human rights and a declaration on the rights and duties of nations. We thought that this was so obvious that it would not be

⁸ Ernesto Dihigo y Lopez Trigo (1896–1991) was a Cuban law professor who served as foreign minister and, following the overthrow of the Batista regime, as Ambassador to the United States.

necessary for us to take the floor to defend our motion, but the General Committee has recommended that these two new items need not be included in the agenda of this first part of the first session, and obliges me to take some of your time, a very short time, to defend our proposition.

...

As regards human rights, it is even more obvious in our view that, although the Charter establishes the general principles, it very wisely did not go into the details of what those rights are. It merely recognizes that human rights exist, and that these rights are likely to change in the course of time. It leaves to the Assembly the faculty of determining those rights, and that is what we have to do here. It has been said by the General Committee, regarding human rights, that there was ample provision for discussion of this matter in that part of chapter III of the Report of the Preparatory Commission which recommends the establishment of a Commission on human rights and outlines the functions and competence of that Commission.

We know that it is necessary to have a final draft of these two declarations and that careful consideration will be given to this subject, but we think that it is necessary to begin this task as soon as possible. All through the war that brought into existence the United Nations, it has been repeatedly said by our great leaders that victory would lead us into a new world organization based on justice and on law; and if that is true, now that victory has been won and the United Nations has come into existence, carrying the expectations of the whole world, we need to tell that world that we have not forgotten the promises that were made in San Francisco, and that though there are urgent matters that will require our attention in the days to come, from [103] the very beginning the United Nations stands by its obligations, and that we are going to establish those human rights and those rights of nations.

Why have we asked to have these matters included in the agenda at the very beginning of the General Assembly. We will not pretend that these declarations can be adopted today, tomorrow or next week, but if they are included in the agenda this will allow the Committees to take up the matter and begin their studies, and if these studies are ready by the end of this Assembly then the Assembly can deal with the matter and take a decision.

If these studies have not been finished by the time the first part of the first session of the Assembly comes to an end, then the matter will be taken up in the second part of the first session of the General Assembly; but this will show the peoples of the world, and especially the man in the street, whose faith we have to win if we wish to have a strong United Nations Organization, that from the very beginning the General Assembly has remembered the promises made to him in San Francisco, and that they are not simply beautiful words to be commented on by internationalists, but the basis of declarations that will encourage the peoples of the world to feel

that we will try to fulfil those promises, and that we are going to begin to deal with the big problem of improving the conditions of the common man.

The great, deep meaning of this Charter that we were granted in San Francisco is that the United Nations is not an organization that deals only with States as powerful allies; its deep, human meaning is that it has taken into consideration the man in the street, because we have realized that the happiness of the peoples of the nations ultimately depends on the happiness of all. We do not claim to take up time now, when we are faced with the consideration of more urgent problems, but we merely ask the Assembly to accept these two items in order to allow the Committee to begin its studies and to have the draft ready by the end of this Assembly, if possible; if not, in the second part of the first session of the Assembly.

It is true that the Economic and Social Council has to consider also the question of human rights, but I have read to you Article 13, which imposes on the Assembly itself the obligation of promoting international co-operation, and assisting in the realization of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion. If the Cuban motion is accepted, it will mean this – a message for all men in the whole world that the General Assembly of this new Organization, in which so many hopes have been placed, from the very beginning has decided that, after the urgent problem of the atomic bomb, no more urgent problems will be taken into consideration before the Assembly has dealt with this matter in regard to which man expects so much from us. I will not take up more of your time, but will just ask you to accept the motion of the Cuban delegation to have inserted, in our agenda, these two new items.

[104]

THE PRESIDENT (*Translation from the French*): Does anyone wish to speak on this subject?

As there is no other speaker, I am obliged to explain the position myself. The General Committee had before it a proposal of the Cuban delegation which merely asks that the two items, a declaration on international rights and duties of man, and a declaration on the rights and duties of nations, be included in the agenda of the General Assembly and especially in the general discussion. The Cuban delegation also stated that it would submit in due course a fuller explanation of its point of view.

The matter being thus brought before the General Committee, the latter does not object to including these questions in the general discussion, but it points out that the subject of the rights and duties of man is already referred to in that part of the Preparatory Commission's Report which deals with the Economic and Social Council, and that there is therefore no need to make special provision for it in the general discussion.

...

The only divergence between the views of the Cuban delegation and those of the General Committee is not whether these questions should be discussed – there is complete agreement as to that – but whether there is any need to make special provision for them in the agenda. The General Committee feels there is no need, as this question can be dealt with in the discussion of the Report of the Preparatory Commission.

I call upon Mr. Dihigo, representative of Cuba.

MR. DIHIGO (Cuba): Mr. President, I wish to thank you kindly for your explanation, but before this question is put to a vote I wish to draw attention to the following. As you have seen from Article 13, which I had the pleasure of reading to you a few moments ago, it is the General Assembly which has the duty to adopt the declaration on human rights. The General Committee has said in its report that this can be dealt with in the discussion of chapter III and has referred this problem to the Economic and Social Council. The Economic and Social Council has to look after the question of human rights, but it is the General Assembly, the constitutional organ, which has to adopt the general principles that will guide the work of the Economic and Social Council. If everybody agrees that this problem is to be discussed and debated in this Assembly, why not insert it in the agenda? To insert it in the general agenda will have this advantage: That we shall tell the whole world that we are taking care of this fundamental problem.

I realize that if there were any serious objections to having this problem studied by the Gen- [105] eral Assembly, we should vote against the Cuban amendment; but if we all agree that this subject is within the scope and the functions of the General Assembly why not admit it and, jointly with the material help that we are going to send through UNRRA⁹ to those peoples that are starving, send also the spiritual message that, at the same time that we are sending them food and clothes, we are trying to set up the rules that will define the rights of men everywhere in the world.

Again I thank the Chairman for his explanation, but it is for these reasons that the Cuban delegation respectfully insists on having this item included in the agenda of the General Assembly.

THE PRESIDENT (*Translation from the French*): I have explained the position to the Assembly. It is not for me to enter into a discussion with the delegate for Cuba on the merits of the arguments for or against his proposal.

If there are no other speakers on this subject, we will take a vote on the question. So far, no amendment to the report has been presented by the Cuban delegation. I think the best solution would be to take a vote on a text which might be worded as

⁹ The United Nations Relief and Rehabilitation Administration (UNRRA) was established in 1943 and became part of the United Nations in 1945. It was engaged in various forms of relief for war victims.

follows: “I suggest that the two questions regarding the declaration on the rights of man and the citizen and the declaration on the rights and duties of nations be placed as special items on the agenda of the General Assembly.”

I call upon Mr. Manuilsky,¹⁰ representative of the Ukrainian Soviet Socialist Republic.

MR. MANUILSKY (Ukrainian Soviet Socialist Republic) (*Translation from the French*): I felt very strongly in sympathy with the proposal of the Cuban delegation; but, nevertheless, to facilitate the progress of our work, I should prefer that the discussions of this question be postponed to a later date. I fear we shall encounter many difficulties if we attempt to discuss the subject now. There are many historical documents dealing with the rights of man. There is, for instance, the Magna Carta of English liberties.¹¹ There is in France, the Declaration of the Rights of Man and of the Citizen.¹² There is in the Soviet Union, the Declaration of the Rights of Nations of 1917,¹³ written by the great Head of our State, Stalin.¹⁴

Unfortunately, when we seek to determine the rights of nations, no text is to be found; legislation is silent on this point. Our own Charter lays down that the nations shall have the right to self-determination. But difficulties arise as to what is meant by the right of nations to self-determination.

In Spain, the people expressed their right in perfectly legal elections, but subsequently a General came along who challenged their right to express their will in that way.¹⁵ I do not know whether the Spanish question is ripe, but I foresee a good many difficulties. This question now is that of the right of nations. You are not unaware that, in 1848, another question, the right to work, was put forward at the time when Louis [106] Blanc was organizing the national workshops in order to provide work

¹⁰ Dmytro Zakharovych Manuilsky (1883–1959) was a prominent Bolshevik.

¹¹ Adopted in 1215 by King John of England, the Magna Carta provides a “freeman” with protection against arbitrary action by the state. It is generally acknowledged as the first legal instrument securing the rule of law.

¹² The *Déclaration des droits de l’homme et du citoyen* (Declaration of the Rights of Man and of the Citizen) was adopted on 26 August 1789 by the *Assemblée nationale constituante* at the height of the French revolution. It was influenced by the ideas of the Enlightenment as well as fundamental freedoms developed under the English common law and subsequently entrenched in the American constitution. A revised version of the *Déclaration* was adopted in 1793. See: Stéphane Rials, *La déclaration des droits de l’Homme et du citoyen*, Paris: Hachette, 1988. The English historian Lord Acton described the *Déclaration* as “a single confused page. . . that outweighed libraries and was stronger than all of the armies of Napoleon”. Cited in A. H. Robertson and J. G. Merrills, *Human Rights in the World, An Introduction to the Study of the International Protection of Human Rights*, Manchester: Manchester University Press, 1996, at p. 4.

¹³ The Declaration of the Rights of the Peoples of Russia was enacted on 15 November 1917 by the Bolshevik government. It recognized certain fundamental rights, including self-determination and secession for the peoples of Russia, the abolition of national and religious privileges and restrictions, and the rights of national minorities.

¹⁴ Joseph Vissarionovich Stalin (1878–1953) led the Soviet Union from the mid-1920s, following the death of Lenin, until his own death in 1953. Abuses carried out by his regime were condemned by his successor, Nikita Khrushchev.

¹⁵ The reference is to General Francisco Franco (1892–1975), a fascist autocrat who ruled Spain from the time of the 1936–1939 Civil War until his death.

for the workers.¹⁶ Are we going to take up that question as well? I think that the Economic and Social Council should make a very serious study of it.

You are also aware that in certain countries, for instance, in my own, not only is the right to work recognized, but the right to education as well. There are also countries in which the question of old age pensions for workers is very acute, and this is the object of legitimate claims. Shall we, at the beginning of our work, include all that in the debate? If so, I am ready to take part in the discussion, but I think that it would be better to let the Economic and Social Council work on the matter for the time being.

I would also point out, regarding the rights of nations, that certain constitutions, for instance, that of 1793,¹⁷ define the rights of peoples, and even recognize as sacred their right to overthrow the Government in the case of disagreement. There are possibilities of this kind which we should have to foresee and which we should be obliged to discuss. As you see, the question is a very complicated one. I greatly sympathize with the idea underlying the Cuban proposal and I am prepared to collaborate to the utmost of my power in seeking for a solution to these problems, but I think the question is not yet ripe. We are at the beginning of our organization. Let us get on with our work and, later, we shall find formulas upon which we can agree. For the time being, I think the Cuban proposal should be withdrawn.

THE PRESIDENT (*Translation from the French*): I call upon Mr. Dihigo, representative of Cuba.

MR. DIHIGO (Cuba) (*Translation from the French*): The Cuban delegation shares your view, Mr. President, that the Assembly should vote immediately, but it asks that the vote on the question of the rights of man should be taken by roll-call.

THE PRESIDENT (*Translation from the French*): A vote can only be taken if the Cuban delegation submits an amendment to the report of the General Committee. Otherwise, I am obliged to take a vote on that report.

I call upon Mr. Dihigo, representative of Cuba.

MR. DIHIGO (Cuba) (*Translation from the French*): The Cuban delegation merely asks that there should be a division, that is to say a vote, on the one hand, on the question of the rights of man, and, on the other hand, on the question of the rights and duties of nations.

THE PRESIDENT (*Translation from the French*): I request the Cuban delegation to read the text of its amendment.

¹⁶ Louis Jean Joseph Charles Blanc (1811–1882) was a French socialist politician and ideologue. He participated in the revolutionary provisional government of 1848.

¹⁷ The French Constitution of 24 June 1793, known as the “Montagnard Constitution”, was adopted by the National Convention and subsequently ratified by a referendum based on universal male suffrage, only to be set aside and eventually replaced by the 1795 Constitution. Strongly influenced by the *Déclaration des droits de l’homme et du citoyen*, it proclaimed economic and social rights, a right to rebel and the abolition of slavery.

MR. PÉREZ CISNEROS¹⁸ (Cuba) (*Translation from the French*): The Cuban delegation presents as an amendment the draft proposal that appears in the supplementary list of items to be placed on the agenda. In other words, the Cuban delegation has the honour to propose that the General Assembly place on its agenda the two following items: a declaration of the interna- [107] tional rights and duties of man and a declaration of the rights and duties of nations. As my colleague has stated, the Cuban delegation requests that these two points be voted separately, the division being in accordance with the rules of procedure, and that on the first point the vote be taken by roll-call.

THE PRESIDENT (*Translation from the French*): The amendment of the Cuban delegation consists in replacing sub-paragraph (d) of the report of the General Committee by a text couched in the following terms: "That the resolution regarding the declaration on the international rights and duties of man and the declaration on the rights and duties of nations be placed on the agenda of the first session of the General Assembly."

Is this amendment supported? The amendment is supported by the delegation of Lebanon. We must take a vote on it. The division requested by the Cuban delegation is perfectly in order. Further, the Cuban delegation proposes that the first part of the amendment be voted on by roll call. We will therefore take a vote by roll call as to whether a declaration on the rights and duties of man shall be placed on the agenda of the present General Assembly. Those who consider that this declaration should be made the subject of a special point in the agenda are asked to vote "Yes"; those who think that this question is covered by the discussion of the Report on the Economic and Social Council are asked to vote "No". We will now take a vote by roll call.

(A vote was taken by roll call).

Voted in favour: Australia, Chile, Cuba, Ecuador, Honduras, Lebanon, Iran, Mexico, Nicaragua, Peru, Philippine Commonwealth, Uruguay.

Voted against: Belgium, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Canada, China, Czechoslovakia, Denmark, France, Greece, Guatemala, India, Liberia, Luxembourg, Netherlands, New Zealand, Norway, Poland, Union of South Africa, Syria, Turkey, Ukrainian Soviet Socialist Republic, United Kingdom, United States of America, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Abstained: Argentina, Colombia, Dominican Republic, Egypt, El Salvador, Ethiopia, Iraq, Panama, Paraguay, Saudi Arabia.

Voted against: Costa Rica, Haiti.

¹⁸ Guy Pérez Cisneros (1915–1953) was a Cuban diplomat attached to the Washington embassy. He served as Vice-Secretary-General of the Inter-America Caribbean Union and was Secretary-General of the Cuban Delegation to the San Francisco Conference.

THE PRESIDENT (*Translation from the French*): The result of the voting is as follows:

Number of States voting	49
Voted against	27
Voted in favour	12
Abstained	10
Absent	2

The amendment is not carried.

Under these circumstances, does the Cuban delegate insist that the second part of his amendment should be voted upon?

I note that he does not. Therefore, I take it that paragraph (d) of the General Committee's report is adopted by the Assembly.

MR. PÉREZ CISNEROS (Cuba) (*Translation from the French*): There is one abstention to paragraph (d).

[108]

THE PRESIDENT (*Translation from the French*): I will put to the vote paragraph (d), as drafted in the General Committee's report.

(A vote was taken by a show of hands on the adoption or rejection of paragraph (d) in the form proposed in the General Committee's report.)

THE PRESIDENT (*Translation from the French*): Paragraph (d) is adopted by 21 votes with 2 abstentions.

...

E/ORG/3

30 January 1946¹⁹

Committee on the Organization of the Council First Meeting

Held on Wednesday, 30 January 1946 at 5 p.m.

...

[5]

...

The Committee proceeded to discuss the terms of reference of the Commission on Human Rights.*

...

[7]

...

¹⁹ This is the date of the meeting. The document was issued on 22 February 1946.

MR. NOEL-BAKER²⁰ (United Kingdom) thought the Preparatory Commission was right in calling attention to an international Bill of Rights. The Commission could be asked to make recommendations for a draft convention for submission to the General Assembly.

Decision: It was agreed that paragraph 16 should read:

“In particular the work of the Commission might be directed towards making proposals for the consideration of the Council on:

- (a) an international bill of rights;

...

[*] Chapter III, Section 4, paragraphs 15–17 of the Report of the Preparatory Commission.

E/ORG/1

2 February 1946

Committee on the Organization of the Economic and Social Council

Proposals Concerning Terms of Reference of Commissions to be Established by the Economic and Social Council for Consideration by the Drafting Sub-Committee

Commission on Human Rights: (Paragraphs 15–17, page 36)

Chairman’s proposal:

“Establishment of a subsidiary body on the status of women.”

THE CHAIRMAN suggested that when the Commission on Human Rights was established, the Committee’s recommendation should be communicated to it. The Commission could then propose terms of reference for the approval of the Council.

Representative of Czechoslovakia:

Paragraph 16 to read as follows:

“In particular, the work of the Commission might be directed towards *formulating proposals to the Council* on the following objects:

- (1) an international bill of rights

...

²⁰ Philip John Noel-Baker (1889–1982) was a British politician, diplomat and academic who received the Nobel Peace Prize in 1959 in recognition of his campaign for disarmament.

E/7

9 February 1946

**Communications of Interest to the Economic and Social Council
Received from Non-Governmental Organizations**

Requests for Consultation under Article 71 of the Charter.

...
[4]
...

International League for the Rights of Man²¹

Letter expressing the hope that the International League for the Rights of Man may be permitted to collaborate with the Commission on Human Rights in the preparation of a Draft Declaration of the International Rights and Duties of Man.

...

E/HR/1

12 February 1946²²

Original Text: Spanish

**Draft Declaration on Human Rights and Letter
of Transmittal**

**Cuban Legation
Great Britain**

London, 12th February 1946

To the President of the Economic and Social Council.

Dear Sir;

The Cuban Delegation to the General Assembly of the United Nations has the honour to present to the Economic and Social Council the attached draft

²¹ The International League for the Rights of Man (it changed its name to the International League for Human Rights in 1976) claimed to be the oldest human rights organization in the United States, tracing its origins to the French-based *Ligue des droits de l'homme et du citoyen*. Reconstituted in 1942 under the leadership of Roger Nash Baldwin, it obtained Category B consultative status as a non-governmental organization from the Economic and Social Council. See chapter 6, "An NGO Shifts Its Focus: The 'Pioneer' International League for Human Rights", in William Korey, *NGOs and the Universal Declaration of Human Rights*, New York: St. Martin's Press, 1998, pp. 139–158. Also: Roger N. Baldwin, *Human Rights: World Declaration and American Practice*, New York: Public Affairs Committee, 1950.

²² The document was issued on 22 April 1946.

“Declaration on Human Rights”, in order that it may be used as a working document by this body when it decides to discuss this matter.

My Delegation made the proposal that the question of Human Rights should be placed on the Agenda of the Assembly. In doing so, we did not intend that the contents thereof should be discussed in the course of this Session, as the question is one which requires careful study and wide discussion; but we merely had in mind that it should be decided to ask the Economic and Social Council to concern itself with this matter as soon as possible with a view to preparing the relative draft; thus the United Nations would have shown that at the very outset it was mindful of the affirmation in the Charter to defend the fundamental human rights, and the dignity and worth of men.

The motion was rejected as unnecessary in view of the fact that discussion of Chapter III of the Preparatory Commission’s Report offered ample opportunity for raising the problem. As this Chapter deals with the organization and duties of the Economic and Social Council and as the creation of a Commission on Human Rights is provided for therein, the Cuban Delegation, as a Member of the Council, has pleasure in offering the attached draft.

[2]

Much has already been written on this question and other Delegations will no doubt also put forward valuable drafts. The final work must be the product of a common effort and reflect the public opinion of the world; Cuba persuaded of the importance of this problem would like to make its modest contribution in the form of the enclosed draft which as already stated, is merely a working document which may come in useful for accomplishing the task which will shortly have to be begun.

I have the honour, *etc.* . . .

Felipe Pazos²³

For the Cuban Delegation.

[3]

Translation from Spanish.

The Cuban Delegation to the General Assembly of the United Nations

Draft Declaration on Human Rights

Every human being shall have the following rights:

1. The right to life, to liberty, to personal security and to respect of his dignity as a human being.

²³ Felipe Pazos (1912–2001) was a Cuban economist who worked as a diplomat during the 1940s, and was a member of the staff of the International Monetary Fund in its first years. He returned to Cuba in 1950 to head the National Bank of Cuba. He initially supported the revolution led by Fidel Castro, but later became disillusioned, leaving Cuba to work at the Alliance for Progress and the Inter-American Development Bank before retiring to Venezuela.

2. The right to shape his life according to his calling so as to enable him to develop his personality and to seek happiness within the limits of life in the community.
3. The right to free investigation to enable him to form his opinions, and to express these opinions freely, subject to his being held responsible for his actions.
4. The right to choose and profess freely his religion without any restriction other than that imposed by respect for morality and public order.
5. The right to equality before the law without distinction as to race, religion, colour, class or sex.
6. The right to protection from unjustified interferences with his person, family, home, reputation or private activities.
7. The right to equal opportunity with others in shaping his life, raising the standard of living, and fulfilling a useful function in society.
8. The right to education which will enable him to improve himself in every respect and will lead to his becoming a useful member of society and sharing in all the material and spiritual benefits of civilisation.
9. The right to work under conditions fitting to his status as a human being and to receive, in return, a remuneration in proportion to the value of his contribution to the community.

[4]

10. The right to receive adequate maintenance in the event of unemployment, sickness or chronic illness, to meet his own and his family's material and spiritual needs.
11. The right to adequate food.
12. The right to hygienic living conditions and to clothing suitable for the climate in which he lives.
13. The right to live in surroundings free from avoidable diseases.
14. The right to adequate medical assistance.
15. The right to meeting and associating with his fellow men for fostering the pursuit of permissible aims.
16. The right to immunity from expropriation other than in pursuance of legal proceedings or for the benefit of the community.
17. The right to protection from competent courts free from all influence contrary to justice.
18. The right to trial without undue delay, to self-defence, and to protection from sentences except in pursuance of laws in force prior to the act with which he is charged.
19. The right to immunity from arbitrary arrest and to a review of the regularity of his arrest by ordinary tribunals.
20. The right to resist any form of oppression.
21. The right to sanctuary in a foreign country when escaping from persecution of a political, religious or racial nature.

22. The right to choose his ruler and to share in the government of his country.

London, 12th February 1946.

E/ORG/2

14 February 1946

Draft Report of the Committee on the Organization of the Economic and Social Council

1. The Economic and Social Council, in its second meeting of 29 January 1946, appointed a Committee on the Organization of the Council composed of representatives of all the members of the Council to consider and report to the Council on the establishment of the Commissions enumerated in Chapter III.

...

[2]

...

Commission on Human Rights

Section A

1. The Economic and Social Council, being charged [3] under the Charter with the responsibility of promoting universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility,

Establishes a Commission on Human Rights.

2. The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) an International bill of rights;

...

E/20*

15 February 1946

Report of the Committee on the Organization of the Economic and Social Council

...

[2]

...

Resolutions
Commission on Human Rights
Section A

1. The Economic and Social Council, being charged under the Charter with the responsibility of promoting universal respect for, and observance of, human rights and fundamental freedoms for all [3] without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility,

Establishes a Commission on Human Rights.

2. The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) an International bill of rights;

...

6. Initially, the Commission shall consist of a nucleus of nine members appointed in their individual capacity for a term of office expiring on 31 March 1947. They are eligible for re-appointment. In addition to exercising the functions enumerated in paragraphs 2, 3 and 4, the Commission thus constituted shall make recommendations on the definitive composition of the Commission to the Second Session of the Council.

7. The Council hereby appoints the following persons as initial [4] members of the Commission:

...

[*] This document has been copied exactly from the original issued in London.

E/27

22 February 1946

**Commission on Human Rights and Sub-Commission on the
 Status of Women**

Resolution of the Economic and Social Council of 16 February 1946 (Document E/20 of 15 February 1946), on the establishment of a Commission on Human Rights and a Sub-commission on the Status of Women, supplemented by the action taken by the Council on 18 February 1946, completing paragraphs 6 and 7 of Section A and paragraphs 4 and 5 of Section B concerning the initial composition of these bodies.

[Resolution 5(I) of the Economic and Social Council]*Section A*

1. The Economic and Social Council, being charged under the Charter with the responsibility of promoting universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility,

Establishes a Commission on Human Rights.

2. The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) an International bill of rights;

...

[2]

...

6. Initially, the Commission shall consist of a nucleus of nine members appointed in their individual capacity for a term of office expiring on 31 March 1947. They are eligible for re-appointment. In addition to exercising the functions enumerated in paragraphs 2, 3 and 4, the Commission thus constituted shall make recommendations on the definitive composition of the Commission to the Second Session of the Council.

7. The Council hereby appoints the following persons as initial members of the Commission:

- (a) M. Paal Berg,²⁴ Norway
- (b) Professor René Cassin, France
- (c) M. Fernand Dehousse, Belgium
- (d) Mr. Victor Raúl Haya de la Torre,²⁵ Peru
- (e) Mr. K. C. Neogi,²⁶ India
- (f) Mrs. Franklin D. Roosevelt, USA
- (g) Dr. C. H. John Wu,²⁷ China

²⁴ Paal Olav Berg (1873–1968) was Chief Justice of the Supreme Court of Norway from 1929 to 1946. He was instrumental in the dismissal of the pro-Nazi puppet regime of Vidkun Quisling and its replacement by a council of Norwegian citizens that included himself.

²⁵ Victor Raúl Haya de la Torre (1895–1979) was a Peruvian political leader. He founded the Universidades Populares Gonzalez Prada, which were night schools for workers. Following a coup in Peru, he sought asylum in the Colombian embassy in Lima, where he remained for five years. His case was litigated before the International Court of Justice: *Asylum Case (Colombia v. Peru)*, [1950] ICJ Reports 266.

²⁶ K. C. Neogi represented India on the Nuclear Commission. Neogi was a member of the Central Assembly from 1921–1934 and 1942–1945, Chairman of the Railway Enquiry Committee in 1947 and the first Chairman of the Finance Commission in 1952.

²⁷ John Ching Hsiung Wu (1899–1986) was a lawyer and translator who assumed a leading role in drafting the Constitution of the Republic of China. He was a prominent cultural figure in Taiwan.

and, in addition, persons whose names will be transmitted to the Secretary-General not later than 31 March 1946 by the members of the Council for the USSR and Yugoslavia.

...

E/HR/3²⁸

26 April 1946

Statement of Essential Human Rights Presented by the Delegation of Panama

Preamble

Upon the freedom of the individual depends the welfare of the people, the safety of the state and the peace of the world.

In society complete freedom cannot be attained; the liberties of the one are limited by the liberties of others, and the preservation of freedom requires the fulfilment by individuals of their duties as members of society.

The function of the state is to promote conditions under which the individual can be most free.

To express those freedoms to which every human being is entitled and to assure that all shall live under a government of the people, by the people, for the people, this declaration is made.

Article 1. Freedom of Religion

Freedom of belief and of worship is the right of everyone.

The state has a duty to protect this freedom.

Comment

Provisions for establishing a right comparable to that in this Article are contained in the current or recent constitutions of fifty-two countries.

This Article on belief and worship covers not only organized religion but also individual religious opinions and philosophic systems.

²⁸ Also issued as A/148.

“Freedom of worship” covers religious services under the leadership of a minister or without it, and individual worship. It does not include all practices claimed to be of a religious nature – such, for example, as run counter to hygienic regulations. Article 5 expresses the right “to form with others associations [2] of a . . . religious . . . character.” Article 1 and 5 together, therefore, imply the right of the individual to join and leave religious organizations. Article 3 states the right to “freedom of expression.” Consequently, Articles 1 and 3 together imply the right of free communication among religious authorities, and between religious authorities and the faithful.

The duty of the State expressed in this Article and in succeeding articles involves some or all of the following steps:

- (1) to abstain from enacting laws which impair the right,
- (2) to prevent its governmental agencies and officials from performing acts which impair the right,
- (3) to enact laws and provide suitable procedures, if necessary, to prevent persons within its jurisdiction from impairing the right, and
- (4) to maintain such judicial, regulatory and operative agencies as may be necessary to give practical effect to the right.

With respect to this Article the duty of the state involves the protection, for example, of churches and other establishments devoted to religious purposes. It restrains the state from forcing the individual to participate in religious ceremonies or rites or to join any religious sect, communion, or organization.

Article 2. Freedom of Opinion

Freedom to form and hold opinions and to receive opinions and information is the right of everyone.

The state has a duty to protect this freedom.

Comment

Provisions for establishing freedom to hold opinions are contained in the current or recent constitutions of seven countries. Moreover this freedom is implied in the freedom of expression, for which see Article 3.

[3]

The term “opinion” is used in its widest sense. In order that the freedom to form and hold opinions may be enjoyed, the individual must be free to receive opinions expressed by others by any means of communication such as books, newspapers, pamphlets, or radio.

Article 3. Freedom of Speech

Freedom of expression is the right of everyone.

The state has a duty to refrain from arbitrary limitation of this freedom and to prevent denial of reasonable access to channels of communication.

Comment

Provisions for establishing a right comparable to that in this Article are contained in conjunction with the right to freedom of opinion in current or recent constitutions of fifty-five countries.

This Article protects freedom of expression, whatsoever may be the means employed. The term “expression” is used as of wider coverage than “speech.” It includes the freedom of the individual to speak, write, use the graphic arts, the theatre, or any other art form to present his ideas. In this sense freedom of expression embraces the basic “freedom of the press” in its classic meaning of the right of the individual to print and distribute his ideas.

In conjunction with Article 2, which protects the individual’s right to receive information and opinions, this Article protects the freedom of the press as an institution for gathering and disseminating information and opinions.

The duty of the state “to refrain from arbitrary limitation on this freedom” restrains the state from the use of arbitrary censorship on expression in any of the forms listed above. The duty of the state “to prevent denial of reasonable access to channels of communication” means that if, through physical limitations or other circumstances, the ordinary channels – such as the mails, the telephone, the telegraph, [4] the radio – are limited, the state where necessary must exercise its controlling or regulatory power to insure to the individual such opportunity of use as is practicable.

Article 4. Freedom of Assembly

Freedom to assemble peaceably with others is the right of everyone.

The state has a duty to protect this freedom.

Comment

Provisions for establishing a right comparable to that in this Article are contained in the current or recent constitutions of forty-seven countries.

This Article protects assemblies for political, economic, religious, social, cultural and other purposes. It includes indoor and outdoor private and public meetings, as well as parades and processions. In the interests of public safety and convenience, a state may make requirements as to time and place of meetings. In the fulfilment of its

duty the state may have to make provisions for police at meetings and against the breaking up of public meetings.

Article 5. Freedom to Form Associations

Freedom to form with others associations of a political, economic, religious, social, cultural, or any other character for purposes not inconsistent with these articles is the right of everyone.

The state has a duty to protect this freedom.

Comment

Provisions for establishing a right comparable to that in this Article are contained in the current or recent constitutions of thirty-nine countries.

This Article recognizes man's fundamental instinct for and protects his vital need for group activity. It expresses the right to exercise in association with others the essential freedoms stated in the other [5] articles and such other rights as are recognized by law.

Only such association as does not infringe the essential rights of others is "not inconsistent with these articles." Thus, political association that involves the attainment of ends by free elections and by the democratic principle of majority rule is protected, but political association that aims at totalitarianism and the destruction of the political rights of others is prohibited.

The state may prescribe reasonable requirements governing the establishment and supervision of associations. Thus it may require associations to be registered, to declare their purposes, and to register the names of their members and responsible officers.

Article 6. Freedom from Wrongful Interference

Freedom from unreasonable interference with his person, home, reputation, privacy, activities, and property is the right of everyone.

The state has a duty to protect this freedom.

Comment

Provisions for establishing elements of the right defined in this Article are contained in the current or recent constitutions of forty-nine countries.

This Article imposes a duty upon the state to take measures to prevent the use of force and falsehoods by individuals or groups of individuals which would interfere with the safety, honour, and welfare of others. It sanctions and requires the state to organize such police force and to impose such criminal or civil liability or both,

against the offenders, as may be necessary to give to the people within the borders of the state a reasonable degree of security against the aggressions and frauds of others. [6]

Article 7. Fair Trial

Everyone has the right to have his criminal and civil liabilities and his rights determined without undue delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing.

The state has a duty to maintain adequate tribunals and procedures to make this right effective.

Comment

Provisions, in varying degrees of fullness, for establishing a right comparable to that in this Article are contained in the current or recent constitutions of fifty countries.

The Article states the basic requirements for orderly and just procedure not only for the protection of individuals against arbitrary action by government or by public officials but also for the settlement of disputes among individuals themselves. It implies that in all matters which affect him, any human being is entitled to access to a competent tribunal and a procedure which will insure fairness of determination.

“Public trial” means that there shall be an opportunity for some members of the public to be present and that the proceedings can properly be reported by those who have witnessed them.

A “competent tribunal” is one which, whether a court or an administrative agency, is empowered by the law of the state to entertain an action.

The requirement of a “fair trial” provides protection against trial which, although public and before an otherwise competent tribunal, may proceed under such pressures that justice cannot be done. This would be true for example where public opinion is so hostile that a local tribunal would be unduly affected by the hostility, or where the tribunal itself, although competent, is unduly biased or has been corrupted. It also protects against improper methods of trial, as where rational [7] procedures are not used or where obvious errors have led to an improper result. Customary trial procedures of civilized communities must be used as a standard to discover whether, in view of all the circumstances of the particular case, a fair trial is accorded. No displacement of traditional methods of punishment for contempt is intended.

The requirement for a “full hearing” makes certain that the person whose rights or liabilities are being determined shall have a reasonable opportunity to present his side of the case. It does not mean that a hearing, formal or informal, must necessarily be had; it does mean that either party on demand may have one, the extent of which

will depend upon the sound discretion of the tribunal. In a criminal proceeding, a “full hearing” implies that a person must be informed in advance of the charge against him, be permitted the assistance of counsel, and be given a reasonable time to prepare for the hearing.

Article 8. Freedom from Arbitrary Detention

Everyone who is detained has the right to immediate judicial determination of the legality of his detention.

The state has a duty to provide adequate procedures to make this right effective.

Comment

Provisions, in varying degrees of fullness, for establishing a right comparable to that in this Article are contained in the current or recent constitutions of thirty-four countries.

This Article implies that no one can be detained except pursuant to law, and provides a check on arbitrary arrest as well as a release from unlawful detention.

“Immediate” determination means not only that he shall have access without delay to a competent tribunal but also that the tribunal shall promptly decide the question. Whatever the character of the tribunal may be, it is indispensable that the determination be “judicial” in the [8] sense of the judicial tradition of responsibility, independence, and impartiality.

The statement of the right does not include a statement of the grounds on which a person may be taken into custody and held for trial; that will depend upon the laws and legal system in the particular state.

Article 9. Retroactive Laws

No one shall be convicted of crime except for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

Comment

Provisions, in varying degrees of fullness, for establishing a right comparable to that in this Article are contained in the current or recent constitutions of thirty countries.

This Article assumes that the law has defined certain acts of omissions to be crimes with sufficient particularity so that the definition can be used as a standard to determine guilt. The Article prohibits *ex post facto* or retroactive laws.

Article 10. Property Rights

Everyone has the right to own property under general law. The state shall not deprive anyone of his property except for a public purpose and with just compensation.

Comment

Provisions, in varying degrees of fullness, for establishing a right comparable to that in this article are contained in the current or recent constitutions of fifty countries.

This Article recognizes that to be free, man must have the right to acquire, use, and dispose of a large variety of things. It would violate the Article for the state to curtail unreasonably, in view of conditions [9] existing at any given time, the number and variety of things which could be the subject of private ownership.

The second sentence preserves the protections traditionally granted to rights in specific property in connection with the state's exercise of its power of eminent domain.

Article 11. Education

Everyone has the right to education.

The state has a duty to require that every child within its jurisdiction receive education of the primary standard; to maintain or insure that there are maintained facilities for such education which are adequate and free; and to promote the development of facilities for further education which are adequate and effectively available to all its residents.

Comment

Provisions, in varying degrees of fullness, for establishing a right comparable to that in this Article are contained in the current or recent constitutions of forty countries.

This Article makes primary education compulsory for "every child" within the jurisdiction of a state. The age limits within which the individual is to be considered a "child" are left to reasonable interpretation in the light of local physiological and other conditions. Existing constitutions usually fix the lower limits at six or seven, and the upper limits variously at twelve, fourteen, sixteen, and eighteen. The Article does not make attendance at school compulsory although the great majority of children will be able to meet the requirements only by attendance at a public or private school.

The phrase "to maintain or insure that there are maintained facilities for such (primary) education which are adequate and free" does not prohibit education at

home and permits special arrangements necessary to meet special conditions, as for the mentally and physically [10] incapacitated. The expression “adequate and free” does not prohibit private schools from charging tuition or other fees. It does, however, impose upon the state the duty of insuring that there are maintained schools at which each child has the opportunity to receive a primary education free.

The Article does not prescribe the extent to which schools and other educational facilities for “further education” may be provided by the state or by churches, endowed institutions, or other voluntary bodies; the nature of the public control, if any, exercised over privately provided schools; the conditions under which privately provided schools may receive financial assistance from the state; or the status of universities. It does impose on the state the responsibility of insuring that adequate educational facilities are provided by either public or private action, a responsibility which would include the duty of providing such facilities itself whenever they are not effectively provided in some other manner. Thus the Article, while affirming the responsibility of the state, allows unlimited variety in the means by which the responsibility is discharged.

The phrase “to promote the development of facilities” recognizes the inevitability of gradualness in the implementation of the right to education; the interpretation of the phrase “adequate and effectively available” will vary with local conditions from either a quantitative or qualitative standpoint. Facilities adequate at one stage of social and economic development will cease to be adequate as further progress becomes possible.

Article 12. Work

Everyone has the right to work.

The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity for useful work.

Comment

Provisions for establishing this right are contained in current or [11] recent constitutions of nine countries.

This Article does not require the state to furnish work to the individual unless private enterprise fails to provide him the opportunity to work and unless he has no opportunity to earn a living as an independent worker, for example, an artisan, farmer, shopkeeper, or member of a profession.

The phrase “useful work” excludes mere relief work which has no positive social value from being regarded as an adequate fulfilment of the duty of the state.

Article 13. Conditions of Work

Everyone has the right to reasonable conditions of work.

The state has a duty to take such measures as may be necessary to insure reasonable wages, hours, and other conditions of work.

Comment

Provisions for establishing a right comparable to that in this Article are found in the current or recent constitutions of eighteen countries. Comprehensive international labour standards have been evolved by representatives of governments, management and labour at the annual meetings of the International Labour Conference²⁹ and are contained in the 67 international Conventions and 66 Recommendations embodied in the International Labour Code.³⁰

This Article applies particularly, though not exclusively, to persons employed by others. Standards to determine what are “reasonable wages, hours, and other conditions” necessarily depend on prevailing economic conditions. Wages to an adult insufficient to maintain a family of average size at a level essential to health as determined by objective statistical studies are not reasonable.

The phrase “other conditions of work” includes such matters as rest periods, holidays, and protection against accident and disease incidental to the work.

[12]

Article 14. Food and Housing

Everyone has the right to adequate food and housing.

The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity to obtain these essentials.

Comment

Food has not been dealt with in constitutional instruments hitherto. Nutrition policies have developed very rapidly since 1936. The United Nations Conference on Food and

²⁹ The annual International Labour Conference, held in Geneva, comprises delegates from Member States of the International Labour Organization. Each delegation consists of two government delegates, a worker delegate and an employer delegate. The main tasks of the Conference include the shaping of international labour standards through Conventions and Recommendations, supervision of their application, and examination of the Global Report of the International Labour Organization, current labour issues in the world and the general policy and activity of the International Labour Organization.

³⁰ The international labour standards set by the International Labour Organization through the mechanisms of Conventions and Recommendations have been referred to as the International Labour Code.

Nutrition [sic],³¹ at which 44 States were represented, recommended that governments should recognize and embody in a formal declaration or agreement their obligation to their respective peoples and to one another to raise levels of nutrition and standards of living to improve the efficiency of agricultural production and distribution, and to co-operate, so far as may be possible, with other nations for the achievement of these ends. An Interim Commission of representatives of 44 nations,³² meeting at Washington, D.C., has been entrusted with the preparation of a plan for a permanent international organization for the furtherance of these objects.

The current or recent constitutional instruments of eleven countries state or imply a right to adequate housing.

This Article insures the individual the “opportunity to obtain” food and housing. The state is not required to provide food or housing unless the individual cannot under existing conditions obtain them by his own efforts.

It may be sufficient for the state to protect its residents against diseased or unwholesome food and to insure a continuous flow of food at prices within his reach. With respect to housing, it may be sufficient for the state by the exercise of its regulatory power to insure that adequate housing shall be available at prices within the reach of all its residents.

[13]

What is “adequate food and housing” must be determined at any given time in the light of developing knowledge and of the material and technical resources within a country. Like Article 11 on education, this Article recognizes the inevitability of gradualness in the implementation of the right to adequate food and housing.

Should conditions make it physically impossible for the time being for an individual to be insured or supplied with adequate food and housing, he would be entitled only to what is reasonable under the circumstances.

³¹ United States President Franklin D. Roosevelt convened the United Nations Conference on Food and Agriculture, which took place on 18 May 1943 at the Homestead Hotel in Hot Springs, Virginia, to discuss possible solutions to the worldwide food shortage that had arisen during World War II. See: “United Nations Conference on Food and Agriculture: Text of the Final Act”, (1943) 37 *American Journal of International Law Supplement* 159.

³² On 15 July 1943, an Interim Commission on Food and Agriculture was created to carry out the recommendations decided on during the United Nations Conference on Food and Agriculture. The Interim Commission was entrusted with drafting a constitution for the Food and Agriculture Organization of the United Nations, which had yet to be established, and determining the primary functions this organization would serve. Only nations with representation at the United Nations Conference on Food and Agriculture were eligible to become original members of the Food and Agriculture Organization of the United Nations, contingent on their acceptance of the Constitution. Lester B. Pearson of Canada served as Chairman of the Interim Commission until the formal establishment of the Food and Agriculture Organization.

Article 15. Social Security

Everyone has the right to social security.

The state has a duty to maintain or insure that there are maintained comprehensive arrangements for the promotion of health, for the prevention of sickness and accident, and for the provision of medical care and of compensation for loss of livelihood.

Comment

Provisions concerning social security are contained, generally in the form of provisions concerning social insurance, in the current or recent constitutions of twenty-seven countries. A further precedent for the provisions of this Article is afforded by the Declaration of Santiago de Chile, 1942, adopted by representatives of the twenty-one American Republics and of Canada at an official conference organized by co-operation between the Chilean Government and the International Organization.³³

The duties imposed upon the state by this Article are to see that resources of society are organized:

- (1) to raise standards of health
 - (2) to prevent sickness and accident
 - (3) to provide medical care wherever needed, including maternity cases
- [14]
- (4) to provide for the financial support of persons deprived of earnings who lack means of livelihood, including the involuntarily unemployed and their dependents, the aged, widows and orphans.

The wording of the Article leaves full scope to private initiative, in countries where this is considered desirable, to accept as much of the responsibility as it can and will. The Article allows diversity of types of organization and of standards of protection provided the essential right stated in the Article is reasonably secured.

Article 16. Participation in Government

Everyone has the right to take part in the government of his state.

The state has a duty to conform to the will of the people as manifested by democratic elections.

³³ The Declaration of Santiago de Chile was adopted during the first Inter-American Conference on Social Security on 10–16 September 1942. The Declaration “affirms the continental solidarity of the Americas in pursuit of social security, fourteen technical resolutions regarding social insurance questions and that Statute of the Inter-American Conference on Social Security, a newly created agency which is to act in concert with the International Labour Office”. See: Wilfred C. Jenks, “The First Inter-American Conference on Social Security”, (1943) 37 *American Journal of International Law* 120.

Comment

The right stated in this Article is embodied in the constitutions of all countries having a democratic constitutional form of government. All such constitutions provide for an elected representative body to determine national policies.

This Article requires the government of the state to be a government of the people, by the people, for the people. It defines one procedure as indispensable to secure such government, namely “democratic elections.” Except for requiring this procedure, the Article leaves the state free to mould its political order in conformity with such standards, techniques, or institutions as may correspond with its national traditions and requirements. Every known variety of democratic government satisfies the requirements of this Article. No authoritarian or dictatorial form of government does satisfy them.

“The right to take part in the government” includes specifically the right to vote in “democratic elections” and by implication the right [15] to be a candidate for and to hold office. The exercise of the right is, therefore, limited to “his state” – the state of which the individual is a citizen. However, the experience of all organized communities and particularly of free self-governing communities shows that the right to take part in government includes the right to express support of and opposition to office holders and policies, and to form political associations. These rights are guaranteed by Articles 3 and 5 to everyone, alien as well as citizen. The use of the word “his” state in this Article does not by implication deny these rights to anyone.

“Democratic elections” means electoral procedures and practices that guarantee the honest translation of “the will of the people” into representative institutions. Since the will of the people changes and evolves, elections must be recurrent. The specification of elections does not exclude the use of supplementary means of determining the will of the people such as the initiative, recall and referendum, town meetings, and popular polls.

Article 17. Equal Protection

Everyone has the right to protection against arbitrary discrimination in the provisions and application of the law because of race, religion, sex, or any other reason.

Comment

Provisions for establishing a right comparable to that in this Article are contained in the current or recent constitutions of forty-seven countries. This Article protects the

right of everyone to equal treatment by the state. The protection from “arbitrary discrimination” applies to the substantive provisions of the law and also to their administration by executive or judicial authority. The Article accomplishes what is partially achieved in the United States³⁴ by the statement that no person shall be denied “the equal protection of the laws.”

[16]

The determination of what is “arbitrary discrimination” depends to some extent on the national traditions and the sense of justice of the public in the particular country. Barring an individual or group from the exercise of any right stated in the preceding articles on the grounds of who they are (*e.g.* women, negroes, Catholics) as distinguished from what they have done (*e.g.* criminals or mental incompetents), would constitute “arbitrary discrimination.”

Article 18. Limitations on Exercise of Rights

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic state.

Comment

No general article in this form is contained in existing constitutions. Limitations on the exercise of rights are included in the statement of each right in practically all constitutions except that of the United States. The limitations on all rights granted in the preceding articles are expressed in this supplementary Article.

The Article forbids any person from abusing his rights, whether because of hereditary status, official position, economic power, or other condition.

The Article recognizes the general relativity of rights. Any right can be abused by so exercising it that it deprives another individual or the state of important rights. Thus, freedom of religion does not permit practices such as human sacrifice, nor in countries where the prevailing standards profoundly disapprove, of practices such as polygamy. Freedom of speech does not forbid the state from adopting reasonable laws forbidding libel and slander; nor does it permit blasphemy or utterances tending to promote panic, mob violence, insurrection, or war. The organization of parties seeking to establish a dictatorship is not consistent with freedom of assembly or association because it would tend to destroy the rights of others.

³⁴ The fourteenth amendment to the United States Constitution was adopted on 9 July 1868. One of its components, the Equal Protection Clause, prohibits states from denying the right to equal protection under the law.

E/HR/5

26 April 1946

Provisional Agenda [of the “Nuclear” Commission on Human Rights]

1. Opening of the Session by the Assistant Secretary-General for Social Affairs.
2. Election of Chairman.
3. Adoption of Rules of Procedure.
4. Election of Vice-Chairman.
5. Adoption of the Provisional Agenda.
6. Appointment of three members to serve as *ex-officio* members of the Sub-Commission on the Status of Women³⁵ (Document E/27).
7. Review of terms of reference of the Commission (Document E/27).
8. Examination of documents submitted by members of the United Nations.
 - (a) Draft declaration on Human Rights submitted by the Cuban Delegation to the General Assembly – Doc. E/HR/1
 - (b) Communications concerning freedom of information and freedom of the press, submitted by the United States Delegation to the General Assembly – Doc. E/HR/2
 - (c) Statement on essential human rights submitted by the Delegation of Panama to the General Assembly – Doc. E/HR/3
9. Definitive composition of the Commission: type of membership (Governmental representatives or individual experts), number of members, term of office, re-eligibility, frequency of meetings, corresponding members, reciprocal representation between Commissions. (Report of the Preparatory Commission, Chapter III, Section 4, paragraphs 36–41; Summary Records of the Committee on the Organization of the Council; Documents E/ORG 3,4,5,6,7,8,9)
10. Suggestions concerning the establishment of Sub-Commissions.
- [2]
11. Consideration of the Report of the Sub-Commission on the Status of Women.
12. Programme of future work.
13. Adoption of the Report of the Commission to the Economic and Social Council.

³⁵ The Sub-Commission on the Status of Women, subordinate to the Commission on Human Rights, was established in February 1946 by the Economic and Social Council. On 21 June 1946, the Economic and Social Council transformed it into the Commission on the Status of Women (ECOSOC resolution 11(II)). The Commission met for the first time in February 1947.

E/HR/6
29 April 1946

Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]

First meeting held on Monday, 29 April 1946, at 3 p.m.

Members of the Commission on Human Rights

1. Mr. Paal Berg (Norway) Unable to attend first session; 2. Prof. René Cassin (France); 3. M. Fernand Dehousse (Belgium) Unable to attend first session; 4. Mr. Victor Raúl Haya de la Torre (Peru) Unable to attend first session; 5. Dr. C. L. Hsia³⁶ (China); 6. Mr. K. C. Neogi (India); 7. Mr. Dusan Brkish³⁷ (Yugoslavia); 8. Mrs. Franklin D. Roosevelt (United States); 9. Mr. Nicolai Kriukov (USSR).

1. Mr. Henri Laugier, Assistant Secretary-General in charge of Social Affairs, opened the first meeting

M. LAUGIER: Ladies and gentlemen, it is a new thing and it is a great thing in the history of humanity that the international community organized after a war which destroyed material wealth and spiritual wealth accumulated by human effort during centuries has constituted an international mechanism to defend the human rights in the world. I will not take a long time to greet you here. You know that the United Nations organization is happy to see you here and you know also that all men of all the free peoples and of all the people liberated from slavery, put in you their confidence and their hope, so that everywhere the authority of these rights, respect of which is the essential condition of the dignity of the human person, be respected. And, if we close our eyes, we can also imagine a welcome, grave and serious, from the other side, where the shadows of all the soldiers, sailors, and aviators, all the fighters for the civilian resistance who died on all the battlefields of the [2] world, hoping that right and liberty be re-established all over the world. Do not measure the importance of your commission on the basis of its present dimensions. We are only at the starting point of a very great enterprise, the volume of which and the action of which will have to grow, day after day. You are the seed out of which great and

³⁶ Chin-Lin Hsia, a Chinese scholar and diplomat, was the author of *Studies in Chinese Diplomatic History*. He chaired the committee on war criminals of the Far Eastern Commission, the inter-allied body responsible for oversight of the occupation of Japan.

³⁷ Dušan Brkić Duško (1913–2000) was a Yugoslav communist who was later punished for his support of the Soviet Union.

beautiful harvests must come. When you will have elected your president and set up the rules for your work – you will first have to look for the methods to complete the commission and make proposals for the constitution of a final commission sufficiently numerous, so that all the views of the thought of free men will be represented, but small enough so that its work will be quick and truthful – and then you will also have to define and determine the study programme of the commission and start the action of the Organization of the United Nations on the road which the Charter has set for it.

In the reconstruction of the world, the material tasks are most important, but the effort of all town planners, of architects, or doctors, will only assume its real significance if humanity starts again to have confidence in its destiny, if the human community gets together around a minimum of common principles.

You will have to study all the declarations of rights which were born in the spirit of man and people on the march toward their liberation. You will have to show that the political rights are the first condition of liberty but that today the progress of scientific and industrial civilization has created economic organizations which are inflicting on politically free men intolerable servitude, and that therefore, in the future, the declaration of the rights of man must be extended to the economic and social fields. You will have to look for a basis for a fundamental declaration on human rights, acceptable to all the United Nations, the acceptance of which will become the essential condition of the admission in the international [3] community. You will have before you the difficult but essential problem to define the violation of human rights within a nation, which would constitute a menace to the security and peace of the world and the existence of which is sufficient to put in movement the mechanism of the United Nations for the maintenance of peace and security. You will have to suggest the establishment of machinery of observation which will find and denounce the violations of the rights of man all over the world. Let us remember that if this machinery had existed a few years ago, if it had been powerful and if the universal support of public opinion had given it authority, international action would have been mobilized immediately against the first authors and supporters of fascism and nazism. The human community would have been able to stop those who started the war at the moment when they were still weak and the world catastrophe would have been avoided.

Ladies and gentlemen, I am sure that you will not hesitate before the tremendous scope of our task which the confidence of the people has put on our shoulders. I pray that your actions and work may be a permanent guide for men of good will, who are looking toward a better future, and that they will show them the way, like a guiding star.

2. Election of Chairman

DR. HSIA nominated Mrs. Roosevelt, who was elected Chairman by acclamation.

MRS. ROOSEVELT: Thank you very much. I shall do my best, although my knowledge of parliamentary law is somewhat limited. I know we are all conscious of the great responsibility which rests upon us. I know we are all confident that we shall be able to do much to help the United Nations achieve its primary objective of keeping the peace of the world by helping human beings to live together happily and contentedly.

...

E/HR/8

30 April 1946

Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]

Second meeting held on Tuesday, 30 April 1946 at 10:30 a.m.

Chairman: MRS. FRANKLIN D. ROOSEVELT

At its first meeting, the Commission on Human Rights considered items 1–6 of the Provisional Agenda (Document E/HR/5), which were adopted *in toto*.

MRS. ROOSEVELT opened the second meeting by pointing out that the work of the nuclear Commission could be divided into two parts:

1. The task that must be accomplished before the second session of the Economic and Social Council;
2. Reports and Recommendations which the Commission may wish to make.

Item 7 of the Agenda (Document E/HR/5)

Review of Terms of Reference of the Commission (Document E/27)

THE CHAIRMAN read the terms of reference and suggested that Section A, Paragraph 2 (a), (b), (c), (d), did not establish a priority for the study and recommendations of the Commission, but could be taken up in any order in which the Commission might wish to consider them. She also pointed out that in Section A, Paragraph 4, the Economic and Social Council left it open to the members of the Commission to change the terms of reference if they so wished.

Concerning Section A, Paragraph 5 (Document E/27), the Chairman stressed that the nuclear Commission has no authority to establish sub-commissions, but could recommend to the full Commission [2] that such sub-commissions should be established by the full Commission.

With regard to Section A, Paragraph 6, the Chairman suggested that the most immediate task for the Commission should be to work out recommendations on the definitive composition of the Commission for submission to the second session of the Economic and Social Council.

DR. HSIA asked the Chairman to elucidate the terms of reference of the Commission, as described in Section A, Paragraph 2 (E/27), as he did not understand whether the nuclear Commission has the right to submit a draft of an international bill of rights, or whether it should prepare proposals which might be incorporated into a bill of rights, or simply submit a report stating that such an international bill of rights is feasible.

THE CHAIRMAN explained that the Commission could decide to recommend to the full Commission the establishment of sub-commissions for the study of problems involved in the drafting of a bill of rights. These sub-commissions would report to the full Commission, which would then present its proposals to the Economic and Social Council. Such a bill of rights would have to cover all points mentioned under Section A, Paragraphs 2 (a), (b), (c), (d).

MR. NEOGI referred to the statement made by Sir Ramaswami Mudaliar³⁸ at the fourth meeting of the Committee on the Organization of the Council (E/ORG/6, Page 4), in which he says that the nuclear commissions would “take up any urgent problems of a substantive nature, and would also be invited to make proposals to the Council regarding the personnel of experts required to complete the composition of their Commissions”. Mr. Neogi wished for a clarification of the terms “report”, “recommendations”, and “proposals”. He suggested that not all the members of the Commission have probably had a chance to acquaint themselves with the contents of the literature concerning human rights and he mentioned in particular:

[3]

1. A document prepared by a committee of the London *Daily Herald* under the chairmanship of Lord Sankey.³⁹

³⁸ Ramaswami Mudaliar (1887–1976) was an Indian lawyer and statesman associated with the Justice Party. Mudaliar was a delegate to the San Francisco Conference, chairing the committee on economic and social problems. He served as first president of the Economic and Social Council.

³⁹ John Sankey (1866–1948) was a prominent member of the Labour Party who, as a judge in the House of Lords, issued many seminal legal rulings.

2. The issue on essential human rights of the *Annals of the American Academy of Political and Social Science* (January, 1946).⁴⁰

It is his opinion that thorough study of these and other documents should be made before any international bill of rights could be drafted, or even recommendations for such a bill could be worked out.

M. LAUGIER stated that the nuclear Commission has no authority to draft an international bill of rights of man, but that the full Commission is expected to draft such a bill.

THE CHAIRMAN then defined “report” as a statement of facts without recommendations, made after certain ideas or problems have been studied. She defined “recommendation” as a statement submitted for consideration, but not necessarily for action, and “proposal” as a statement submitted after due study, with a request for action.

The Commission passed the following resolution proposed by Mr. Neogi:

Resolved that

The Secretariat is requested to make a collection – as full as possible – of the literature bearing upon the questions referred to in the terms of reference for the Commission on Human Rights, to circulate full texts where possible, or otherwise summaries of such literature, among members of the nuclear and of the full Commission, once it is constituted.

In answer to Mr. Neogi’s question, the Chairman stated that acceptance of the terms of reference would not mean that the Commission could not suggest changes later on.

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E/HR/9

30 April 1946

Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]

Third meeting held on Tuesday, 30 April 1946 at 3 p.m.

Chairman: MRS. FRANKLIN D. ROOSEVELT

The Chairman opened the meeting by announcing that in considering Item 9 of the agenda (Document E/HR/5) the Commission would discuss each point separately and defer decisions until all points had been discussed.

⁴⁰ Issue 243(1) of the *Annals of the American Academy of Political and Social Science*, edited by William Draper Lewis and John R. Ellingston, was devoted to “Essential Human Rights”. It contained more than 20 articles on various aspects of the codification of human rights, including contributions by Carlos P. Romulo, Wilfred Jenks, Charles E. Merriam, William E. Rappard, Pablo de Azcarate and Georges S. Kaeckenbeek.

Item 9 of the Agenda (Document E/ER/5)***Definitive Composition of the Commission***Type of Membership (*governmental or individual*)

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M. LAUGIER, Assistant Secretary-General, explained that the Commission on Human Rights would be expected to finish its job of writing an international bill of rights as quickly as possible, but that the Commission itself was to be a permanent commission, with perhaps two, three, or four sessions annually, with enough time between sessions to make it possible for members to do their study of problems and drafting work. The spacing of sessions would, in his opinion, make it possible for individual experts to serve.

THE CHAIRMAN added that it was her understanding that the Commission on Human Rights should not only draw up a full bill of rights, or any other documents, but should watch their observance by the United Nations, while the enforcement would not be within the province of the Commission. M. Laugier agreed, stressing, however, that the nuclear Commission should not draft a bill of rights, but that the complete Commission must draft such a bill and should ask the Economic and Social Council for authority to supervise its observance by the nations of the world. It should, in other words, be a “watch dog” over human rights.

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E/HR/12**6 May 1946*****Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]***

Sixth meeting held on 6 May 1946 at 10:30 a.m.

Chairman: MRS. FRANKLIN D. ROOSEVELT

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M. CASSIN added that it might be most advisable to have an informal exchange of views among the members, in an effort to determine methods of drafting an international bill of rights.

The Commission decided to hold a closed drafting session for that purpose.

The meeting was adjourned at 12:30 p.m.

E/HR/13
6 May 1946

Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]

First Drafting Session Held on 6 May 1946 at 3:00 p.m.

Chairman: M. CASSIN (in Mrs. Roosevelt’s absence)

THE CHAIRMAN pointed out that the Commission had agreed at their previous meeting to discuss the Draft Declaration on Human Rights submitted by the Cuban Delegation (Document E/HR/1) and the Statement on Essential Human Rights submitted by the Delegation of Panama (Document E/HR/3). He emphasized that these documents would not be discussed in detail but rather in order to find methods by which the work of drafting an International Bill of Rights could proceed. Mr. Hsia agreed that the two documents would form a good basis for discussion, but suggested that the Commission should first decide whether it would recommend the drafting of an International Bill of Rights. He favoured such a recommendation. Mr. Neogi suggested that the nuclear Commission should not undertake to draft an International Bill of Rights but to study all available documents and to prepare the ground for the work of the full commission.

The Chairman proposed that the nuclear Commission might consider three specific recommendations.

1. It might ask the Economic and Social Council to instruct the Secretariat to publish each year a collection of texts pertaining to the Rights of Man – including the Constitutions of various countries – which contains provisions for Human Rights. While these texts exist they are too scattered to be available to the Members of the Commission.

2. He stressed particularly, that it was necessary for the [2] nuclear Commission to act quickly and not to leave all substantive work to the full Commission. One of its recommendations might be that a clause on the observance of Human Rights should be included in all peace treaties. Also it seemed important that a Declaration on Human Rights should be accepted by all who want to become members of the United Nations. As preliminary peace treaties might be agreed upon soon and as a number of countries will ask for admittance into the United Nations in the near future, the Commission will have to work fast. The Commission might want to consider whether an International Bill of Rights should be drafted or a Convention which would become an appendix to the Charter of the United Nations. The Commission might further consider whether it would not be necessary to create an Organ which would study violations of human rights and inform the Commission of those violations.

3. The Chairman stressed the fact that both documents before the Commission now had been produced in the Western Hemisphere where representatives of the American Nations had had a chance to meet at Mexico City.⁴¹ He suggested that a Conference of European experts in London, Geneva or some other place in Europe might be arranged while a similar Conference could be held in Africa and Asia to discuss the basic documents concerning human rights. In August the nuclear Commission might meet again to receive their reports and to prepare a preliminary draft on human rights.

MR. NEOGI warned the Commission that it might be difficult to set up a controlling agency as the Member countries might feel that it would interfere with their sovereignty. He suggested that it might be wise to study existing constitutions many of whom have human rights provisions and to find out whether these provisions have been adhered to. He felt very strongly that it would be important to write a Declaration on Human Rights which any nation who might want to join the United Nations would have to accept. He questioned however, [3] the authority of the nuclear Commission to draft such a Declaration.

THE SECRETARY pointed out that the terms of reference for the nuclear Commission on Human Rights (E/27) established beyond a doubt the right of the Commission to discuss and draft a Declaration or Convention.

THE CHAIRMAN repeated that the first task before the Commission was to devise a method on how to proceed with the work.

MR. HSIA felt that the Commission could not draft any document at its present session and that therefore it might be best to appoint sub-commissions who would consider problems like a Bill of Rights or Freedom of the Press and make recommendations to the Commission at its next session.

THE CHAIRMAN agreed that the Commission could nominate *sub-committees* without reference to the Economic and Social Council and could, of course, decide to hold another session.

The Commission agreed that another session would be advisable.

MR. NEOGI questioned the wisdom of splitting up the six members of the nuclear Commission into sub-committees.

THE SECRETARY explained that the nuclear Commission had no authority to appoint permanent sub-commissions to study substantive matters but could name sub-committees for the organization of the work. Mr. Hsia then stated that he had meant to suggest that perhaps one member of the Commission might study and digest a number of documents available on human rights and make a preliminary

⁴¹ The Inter-American Conference on the Problems of War and Peace, convened in Mexico City during February and March 1945, was held in order to discuss the post-war world order. The Inter-American Reciprocal Assistance and Solidarity Act (Act of Chapultepec) was produced, which dealt primarily with reciprocal assistance and American solidarity as mechanisms for achieving a lasting world peace. The Act entered into force on 8 March 1945.

draft which he would then discuss with two or three others. This draft signed by two or three members would then be presented to the nuclear Commission.

THE CHAIRMAN felt that it was important to discuss further the problem of a control agency. He pointed out that the Charter provides for action on the part of the United Nations in “situations which menace peace”. There may be cases where the violation of human rights [4] principles may be so serious that the right of the United Nations to discuss them must be stressed. The control agency would naturally have to distinguish between problems which are of national competence and those which transcend national concern.

The Chairman stressed the importance of the International Trials at Nuremberg and Tokyo⁴² in which the United Nations have created a precedent for putting on trial those who violate the rights of man. He recommended that the principles dealing with the rights of man which were developed by these international tribunals should be closely studied by the Commission.

The Chairman then suggested that the Secretariat should prepare a memorandum to aid the Commission in the further discussion of these problems.

The meeting adjourned at 4:20 p.m.

E/HR/15

8 May 1946

Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]

Seventh meeting held on Wednesday, 8 May 1946 at 10:30 a.m.

Chairman: MRS. FRANKLIN D. ROOSEVELT

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Documentation

THE CHAIRMAN pointed out that the Commission might recommend that the Economic and Social Council instruct the Secretariat to compile a yearbook including all declarations on human rights now in force in the various countries.

⁴² The International Military Tribunal prosecuted 22 Nazi leaders at Nuremberg in 1945 and 1946. A similar institution, the International Military Tribunal for the Far East, conducted a trial of Japanese leaders in Tokyo from 1946 to 1948. The accused were charged with crimes against peace, war crimes and crimes against humanity. Each of these categories of crimes had affinities with concepts of human rights as they were evolving at the time.

M. LAUGIER suggested that the documentation collected by the Secretariat should include not only declarations of human rights which are in force now, but the history of human rights, declarations by non-governmental organizations and international societies, as well as all actions taken by the organs of the United Nations – the General Assembly, the Economic and Social Council, and the Commission on Human Rights itself. Mr. Brkish felt that while the Declarations by the Delegation of Cuba (E/HR/1) and the Delegation of Panama (E/HR/3) should prove very useful to the Commission in its effort to draft an international bill of rights, much more documentation would be necessary before such a tremendous task could be completed. He suggested, therefore, that all Member governments of the United Nations be asked to submit to the Commission on Human Rights those parts of their constitutions which deal with human rights.

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Draft Declarations

The Commission then discussed the suggestion that the fifty-one Members of the United Nations might be asked to submit draft declarations of human rights.

DR. HSIA thought that such a request might cause difficulties, as governments might feel that by submitting such drafts, they committed themselves to put these declarations into effect in their own countries. While they might be entirely in favour of doing so, they might not be able to undertake such a step in the immediate future. He, therefore, suggested that it might be better for the full Commission to prepare a draft and then to circulate it among the governments.

THE CHAIRMAN pointed out that Mr. Brkish had suggested that the governments be asked only to send in provisions for human rights which were already part of their constitution or their national laws. She stressed, however, that governments must accept certain basic human rights, even if, for economic reasons, they may not as yet be able to put them into effect.

MR. NEOGI felt that the governments should not be asked for draft declarations, as the United Nations had, through the Economic and Social Council, created the Commission on Human Rights for the definite purpose of drafting an international bill of rights. This task should, therefore, not be turned back to the Member governments. He suggested that the [5] Cuban and Panamanian documents might be circulated to the national delegations with an invitation that their views on these documents would be welcomed.

M. CASSIN agreed and suggested that the Commission should, at the earliest opportunity, consult individual experts of international renown, as well as

non-governmental organizations, who are deeply concerned with basic human rights. A draft Bill of Rights should be prepared by the Commission and then sent to all the United Nations. M. Cassin, however, supported the proposal by Mr. Brkish that the Member Nations be asked to submit those provisions of their constitution or legal system which deal with human rights.

DR. HSIA pointed out that the document submitted by Panama had been prepared by the American Law Institute⁴³ – a non-governmental organization – and the Chairman explained that the American Law Institute had collected the declarations on human rights now in force in various countries and had offered to put all its information at the disposal of the Commission.

Decision: The Commission agreed that, while the nuclear Commission has the right to draft a Bill of Rights, it is not as yet in a position to do so, but will proceed with the preparation for such a bill; that the full Commission itself should draft an international Bill of Rights, and should establish sub-commissions for that purpose, if necessary. This draft should be circulated among United Nations governments for their suggestions.

THE CHAIRMAN did not consider it necessary or advisable to circulate the Cuban or Panamanian declarations with the draft bill of the Commission.

Regional Conferences

The members then discussed the suggestion of recommending to the Economic and Social Council the organization of conferences to ascertain [6] the views of different regions, especially those regions which had suffered most from the war. M. CASSIN suggested that the Commission might recommend to the Economic and Social Council two conferences of experts – (1) representing the European and Mediterranean countries, and (2) Far Eastern regions. The views and recommendations of those experts should be transmitted to the Commission on Human Rights, thereby enabling it to proceed more quickly with the drafting of an international bill of rights.

As to the Cuban and Panamanian documents, M. Cassin felt that while the Commission might not want to circulate them itself, it should make sure that they are circulated.

DR. HSIA pointed out that those documents have been submitted to the General Assembly, and therefore, had, in all probability, been circulated among all Member Nations.

⁴³ The American Law Institute, established in 1923, is a professional organization composed of judges, lawyers and academics dedicated to clarification, modernization and improvement of the law.

MR. NEOGI agreed that the draft of an international Bill of Rights which was to be written by the Commission on Human Rights, should be circulated alone, and not with any other documents. The Chairman then asked the members whether it was their agreement that the Commission on Human Rights should recommend to the Economic and Social Council that two regional conferences of experts should be held similar to the conference which had been held in the Western Hemisphere.

M. CASSIN suggested that those conferences would be somewhat different from the Pan-American conference. As the Pan-American conference had been held before the Commission on Human Rights existed, their resolutions and recommendations were submitted to governments. Future conferences, however, should submit their recommendations to the Commission on Human Rights.

Answering Mr. Neogi's question as to who would take the initiative in setting up these conferences, THE CHAIRMAN explained that the Economic and Social Council would take the initiative.

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DR. HSIA felt that it might not be easy to organize such conferences, as the expense would be extremely high and the conditions, especially in the Far East, are not favourable for such meetings. Moreover, the recommendations would only provide the Commission on Human Rights with reference material. He, therefore, felt that the proposal to set up conferences should not be pressed.

The Commission agreed that it would recommend to the Economic and Social Council that:

The organization of regional conferences of experts should be taken under consideration. If such conferences should prove impracticable, the advice and co-operation of individual experts from different regions should be sought.

DR. HSIA then referred to the terms of reference for the Commission on Human Rights (E/27) and noted that the terms of reference suggested by the Report of the Preparatory Commission (Page 36, Paragraph 16) had been changed by the Committee on the Organization of the Economic and Social Council, and that point (e) of Paragraph 16 had been left out. The Secretary pointed out that while point (c) had been left out, the general clause covering (e) had been included in Paragraph (b) (E/27, 2 (b)).

THE CHAIRMAN suggested that the Commission could, if desired, recommend to the Economic and Social Council changes in its terms of reference (Item 7, Agenda).

The meeting was adjourned at 12:20 p.m.

E/HR/16
8 May 1946

Summary Record of Meetings [of the “Nuclear” Commission on Human Rights]

Eighth meeting held on Wednesday, 8 May 1946 at 3:00 p.m.

Chairman: MRS. FRANKLIN D. ROOSEVELT

The Commission continued the discussion of the points on the Agenda prepared by the Secretariat.

Human Rights in International Treaties

The question next raised was whether the nuclear Commission should recommend to the Council the acceptance of the general principle that basic human rights should be included in international treaties and should be accepted by all states who are members or who want to become members of the United Nations. Such a step might be advisable as the nuclear Commission would not be able to draft, in the very near future, an International Bill of Rights.

M. CASSIN strongly supported these recommendations.

MR. NEOGI asked whether the nuclear Commission might not be able to draw up a tentative International Bill of Rights, but the Chairman suggested that it might be more important to prepare the groundwork for the full Commission as a great deal of preliminary work needed to be done before the drafting of a Bill of Rights could begin. It was important however, that the nuclear Commission should not feel limited in its work and should carry on until the full Commission was constituted and could meet.

The Commission agreed to recommend to the Economic and Social Council that:

General provisions for basic human rights be included in international treaties and that similar provisions be accepted by [2] all States, Members of the United Nations.

Organ of Inquiry

The Commission then discussed the desirability of setting up an Agency for inquiring into the observance and violation of basic human rights in countries all over the world.

While all members agreed that some provisions for supervision would be necessary MR. NEOGI suggested that the first task of the Commission was to formulate

basic human rights and that it might best be left to the full Commission to decide on ways of supervision.

M. CASSIN pointed out that a great many experts felt that it was more important to assure the observance of existing Bills of Rights than to draft immediately a world Bill of Rights. He pointed out that the Charter of the United Nations provided for control and supervision and that Mr. Stettinius⁴⁴ in commenting on the Commission on Human Rights had stated, "Through the work of this Commission the Human Rights provisions of the Charter can be implemented." As to questions of national or international concern Chapter 7 of the Charter clearly indicates which problems are to be left to the individual nations and which should be taken up by the United Nations.

In order to accomplish its task properly the Commission should therefore ask the Economic and Social Council to provide the necessary means for supervision and control. MR. BRKISH and MR. KRIUKOV agreed that the Commission should make such a recommendation to the Council.

MR. HSIA who also stated his agreement, further pointed out that all authorities who had discussed the work of the Commission on Human Rights had expressed themselves strongly in favour of some kind of enforcement agency, that one group of experts had suggested that the Commission should have the right to: "Inquiry, investigation and advice".

THE CHAIRMAN suggested that this question was closely connected with problems which the Commission would have to take up later on. If, for instance a sub-commission on Freedom of Information and of the Press were [3] established and the Commission succeeded in securing the adherence of all the United Nations to the principles of freedom of information and the press, freedom of inquiry and investigation would be assured.

M. CASSIN pointed out that it would not be possible to give an exact blueprint of the kind of agency that should be set up, but suggested that the Commission might recommend to the Economic and Social Council that – pending the establishment of such an agency the mission of the Commission on Human Rights should be: to aid qualified organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13 and 62 of the Charter concerning the promotion and observance of human rights and fundamental freedoms for all; and to aid the Security Council in the task entrusted to it by Article 39 of the Charter by pointing to cases where violations of human rights, committed, in one

⁴⁴ Edward Reilly Stettinius, Jr. (1900–1949) was Secretary of State under Presidents Roosevelt and Truman, during 1944 and 1945. He played a central role in the establishment of the United Nations. Stettinius took up the post of United States Ambassador to the United Nations, from which he resigned in June 1946. He later became critical of what he saw as Truman's refusal to use the United Nations as a tool to resolve tensions with the Soviet Union.

country may, by their gravity, their frequency and their systematic nature constitute a threat to the peace.

THE CHAIRMAN agreed that the Commission should recommend to the Economic and Social Council that:

The purposes of the United Nations with regard to the promotion and observance of human rights as defined in the Charter of the United Nations would only be fulfilled if provisions were made for the implementation of an International Bill of Rights.

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E/HR/19

15 May 1946

Draft Report of the Commission on Human Rights to the Second Session of the Economic and Social Council

Rapporteur: MR. K. C. NEOGI (India)

In accordance with the resolution of the Economic and Social Council of 16 February 1946 (E/27 of 22 February 1946) on the establishment of a Commission on Human Rights and a Sub-Commission on the Status of Women, the nuclear Commission on Human Rights met at Hunter College, New York City, from 29 April to May 1946, to consider its terms of reference, the definitive composition of the Commission, and various documents referred to the Commission concerning human rights, and to report thereon to the Second Session of the Economic and Social Council.

The Commission consisted of the following nine members: Mr. Paal Berg (Norway); Mr. Dusan Brkish (Yugoslavia)*; Mr. Alexander Borisov (USSR)*; Prof. René Cassin (France); M. Fernand Dehousse (Belgium); Mr. Victor Raúl Haya de la Torre; Dr. C. L. Hsia*; Mr. K. C. Neogi; Mrs. Franklin D. Roosevelt (United States).

Mr. Paal Berg (Norway), M. Fernand Dehousse (Belgium) and Mr. Victor Raúl Haya de la Torre (Peru) were unable to attend the first session of the Commission. The Commission held meetings and one drafting session. Mrs. Franklin D. Roosevelt (USA) was elected Chairman, M. René Cassin (France), Vice-Chairman, and Mr. K. C. Neogi (India), Rapporteur.

After the adoption of the Rules of Procedure for the first session of the Commission of the Economic and Social Council (E/Commissions/1), Mrs. Roosevelt, Mr. Brkish, and M. Cassin were appointed *ex-officio*

[*] Dr. C. L. Hsia had been nominated in place of Dr. John C. E. Wu, and Mr. Dusan Brkish in place of Dr. Jerko Radmilovic. Mr. Alexander Borisov was nominated in place of Mr. Nikolai Kriukov, who served on the Commission until 13 May.

[2]

members of the Sub-Commission on the Status of Women, in accordance with Section B, Paragraph 5, of the Council Resolution on the establishment of the Commission on Human Rights (E/27).

Terms of Reference

The terms of reference contained in Paragraph 2 of the Council Resolution (E/27) were reviewed and accepted by the Commission. It was generally felt that Item (a), namely, an international bill of rights might be found to cover substantially Items (b), (c), and (d). Attention was drawn to the fact that Item (c) of the terms of reference recommended in the Report of the Preparatory Commission (Page 36, Paragraph 16) – “any matters within the field of human rights considered likely to impair the general welfare or friendly relations among nations” – was not included in the terms of reference drawn up by the Council. The Commission agreed to request the Council to consider the desirability of adding a clause substantially on the lines of the original Item (c), so as to be able to deal with any matter not covered by Items (a), (b), (c), and (d).

Programme of Work

The Commission discussed in detail Item 8 of the agenda (E/HR/3), concerning the scope of work of the Commission and the examination of documents submitted by Members of the United Nations (E/HR/1, E/HR/2, E/HR/3).

The members agreed that the fullest possible documentation and information concerning the whole field of human rights was of the utmost importance for the drafting of an international bill of rights, and the Secretariat was requested to collect all available material on the subject.

The Commission felt that while it was within its competence to draft a bill of human rights, it was not as yet in a position to do so, but it would proceed with the preparatory work. It was decided to recommend that the full Commission should draft an international bill of rights as soon as possible, and that this draft should be circulated [3] among the United Nations governments for their comment.

The importance of regional conferences of experts was emphasized, and in this connection, reference was made to the Inter-American Conference of War and Peace Problems at Mexico City (Act of Chapultepec) in March 1945. Some members pointed out that it might be difficult, at present, to arrange for similar conferences in other parts of the world, particularly in Europe and the Far East. The Commission decided to recommend that if such conferences should prove impracticable, the advice of individual experts from various regions should be sought.

As the drafting of a bill of rights might take considerable time, members unanimously stressed the importance of the acceptance of the principle of including

provisions for basic human rights in international treaties, particularly peace treaties. It was also agreed that such provisions should be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

With regard to the promotion and observance of human rights, the Commission felt that the need for an “agency of implementation” should be emphasized. It was also pointed out that, pending the eventual establishment of such an agency, the Commission on Human Rights might assist the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, and that it might aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights may constitute a threat to peace.

The Commission recognized that when the Economic and Social Council comes to consider the question of how to implement an international bill of human rights or how to afford protection to national minorities, it may find that political actions are necessary. The Commission, therefore, requests the Economic and Social Council to take this problem into consideration in determining the status and powers of the Commission on Human Rights and its Sub-Commissions.

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The Commission considered that the number of sub-commissions, for the time being, should be limited, and that in addition to the existing Sub-Commission on the Status of Women, a Sub-Commission on Freedom of Information should be established.

It was agreed that the Secretariat should be instructed to collect all documentation concerning Items (c) and (d) of the terms of reference – protection of minorities and prevention of discrimination on grounds of race, sex, language, or religion – as a preliminary step to future consideration of the question of establishment of the Sub-Commission on this subject.

Finally, the Commission agreed to express the view that public discussion of human rights should be stimulated and encouraged throughout the world.

The recommendations to the Economic and Social Council with regard to the programme of work of the Commission on Human Rights were unanimously formulated as follows:

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II. Draft Declarations

The Commission recommends that:

1. The full Commission should draft an international bill of rights as soon as possible. The nuclear Commission should proceed with the preparations for

such a bill. The draft of the international bill of rights, as completed by the full Commission, should be circulated among the United Nations governments for their suggestions.

2. The detailed examinations of the documents submitted by the Delegation of Cuba and Panama (Documents E/HR/1 and E/HR/3) should be left to the full Commission or to a later session of the nuclear Commission.
3. The organization of regional conferences of experts should be taken under consideration. If such conferences should prove impracticable, the advice of individual experts from different regions should be sought.

III. Human Rights in International Treaties

The Commission recommends that:

without waiting for an international bill of rights to be written, the general principle should be accepted that provision for basic human rights be included in international treaties, particularly peace treaties, that similar provisions be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

IV. Agency of Implementation

The Commission recommends that:

1. It shall be considered that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, could only be fulfilled if provisions were made for the implementation of the observance of human rights and of an international bill of rights.
2. Pending the eventual establishment of an agency of implementation, the Commission on Human Rights might be recognized as qualified to aid the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, concerning the protection and observance of human rights and fundamental freedom for all, and to aid the Security Council in the task entrusted to it by Article 62 of the Charter, by pointing to the cases where violation of human rights committed in one country may, by its gravity, its frequency, or its systematic nature, constitute a threat to peace.

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E/38⁴⁵

17 May 1946

Report of the Commission on Human Rights to the Second Session of the Economic and Social Council

In accordance with the resolution of the Economic and Social Council of 16 February 1946 (E/27 of 22 February 1946) on the establishment of a Commission on Human Rights and a Sub-Commission on the Status of Women, the nuclear Commission on Human Rights met at Hunter College, New York City, from 29 April to 20 May 1946, to consider its terms of reference, the definitive composition of the Commission, and various documents referred to the Commission concerning human rights, and to report thereon to the Second Session of the Economic and Social Council.

The Commission consisted of the following nine members: Mr. Paal Berg (Norway); Mr. Alexander Borisov (USSR)*; Mr. Dusan Brkish (Yugoslavia)*; Prof. René Cassin (France); M. Fernand Dehousse (Belgium); Mr. Victor Raúl Haya de la Torre (Peru); Dr. C. L. Hsia (China)*; Mr. K. C. Neogi (India); Mrs. Franklin D. Roosevelt (United States).

Mr. Paal Berg (Norway), M. Fernand Dehousse (Belgium) and Mr. Victor Raúl Haya de la Torre (Peru) were unable to attend the first

[*] Dr. C. L. Hsia had been nominated in place of Dr. C. H. John Wu, and Mr. Dusan Brkish in place of Dr. Jerko Radmilovic. Mr. Alexander Borisov replaced Mr. Nikolai Kriukov. Mr. Borisov took part in the meetings of the Commission from 13 May 1946. On his arrival Mr. Borisov stated that the former representative had been only an observer. Owing to a misapprehension on the part of the Commission as well as on the part of the Member from the USSR first attending the Commission meetings this representative took part in all of the discussions and in the votes of the Commission up to the time Mr. Borisov arrived on 13 May 1946. As a result, Mr. Borisov took exception to certain agreements that had been reached, and in this report and in the Summary Records of the meetings of the Commission, his objections and dissents are recorded.

[2]

session of the Commission. The Commission held 18 meetings and one drafting session. Mrs. Franklin D. Roosevelt (USA) was elected Chairman, M. René Cassin (France), Vice-Chairman, and Mr. K. C. Neogi (India), Rapporteur.

After the adoption of the Rules of Procedure for the first session of the Commissions of the Economic and Social Council (E/Commissions/1), Mrs. Roosevelt, Mr. Brkish, and M. Cassin were appointed *ex-officio* members of the Sub-Commission on the Status of Women, in accordance with Section B, Paragraph 5, of the Council Resolution on the establishment of the Commission on Human Rights (E/27).

⁴⁵ E/38/Rev.1 was issued on 21 May 1946. In addition to the draft report itself, which is not changed, the revised document contains as Appendices the Report from the Sub-Commission on the Status of Women, a Memorandum to the Commission from the Sub-Commission and a list of documents distributed.

1. Terms of Reference

The terms of reference contained in Paragraph 2 of the Council Resolution (E/27) were reviewed and accepted by the Commission. It was generally felt that item (a), namely, an international bill of rights, might be found to cover substantially items (b), (c) and (d). Attention was drawn to the fact that item (e) of the terms of reference recommended in the Report of the Preparatory Commission (Page 36, Paragraph 16) – “any matters within the field of human rights considered likely to impair the general welfare or friendly relations among nations” – was not included in the terms of reference drawn up by the Council. The Commission agreed to request the Council to consider the desirability of adding a clause substantially on the lines of the original item (e), so as to be able to deal with any matter not covered by items (a), (b), (c), and (d), such as the eventual punishment of certain crimes which must be considered as international, as they constitute an offence against all mankind.

I. Programme of Work

The Commission discussed in detail Item 8 of the agenda (E/HR/5), concerning the scope of work of the Commission and the examination of documents submitted by Members of the United Nations (E/HR/1, E/HR/2, E/HR/3).

[3]

The Commission proceeded with this examination in full realization of the grave importance of the task entrusted to it by the Charter of the United Nations. It fully realized the importance of achieving and promoting the recognition and observance of human rights and fundamental freedoms for all, in the hope of drawing from the last world war which demanded the sacrifice of so many lives, the lessons which will aid us to achieve the highest aspirations of mankind. In addition, the Commission paid particular attention to well-considered plans and suggestions which were presented to it through hearings by qualified representatives of national and international organizations, well known for the importance of their work.

The members agreed that the fullest possible documentation and information concerning the whole field of human rights was of the utmost importance first for the drafting of an international bill of rights, and the Secretariat was requested to collect all available material on the subject, and to publish periodically the most important information. But the Commission is confident that the Member countries will make regularly and on their own initiative, either themselves or by an organ entrusted with this task, contributions for the information of the Commission, as they primarily will have to bear the responsibility for developing human rights and for assuring their observance.

The Commission felt that while it was within its competence to draft a bill of human rights, it was not as yet in a position to do so, but it would proceed with the preparatory work.

The Commission agreed that the full Commission should determine the character of the bill which is to be drafted, as well as the content and the form of the bill (for instance, should it be a resolution by the Assembly of the United Nations or an appendix to the Charter, having to be integrated into the constitution of each Member Nation, or a convention [4] between the States, or in any other form). Therefore, it was decided to recommend that the full Commission should draft an international bill of rights as soon as possible, and that this draft should be circulated among the United Nations governments for their comment.

The importance of regional conferences of experts was emphasized, and in this connection, reference was made to the Inter-American Conference of War and Peace Problems at Mexico City (Act of Chapultepec) in March 1945. Some members pointed out that it might be difficult, at present, to arrange for similar conferences in other parts of the world, such as the Far East.*

The Commission decided to recommend that if such conferences should prove impracticable in the very near future or before the convening of the full Commission, the advice of individual experts from various regions should be sought. It was considered most important that within the next weeks, the procedure for initial consultations should be started, in accordance with the decisions of the Economic and Social Council, so that their results may immediately aid the Commission in its work.

As the drafting of a bill of rights might take a certain time in spite of every effort at speed in its preparation, members of the Commission unanimously stressed the importance of the acceptance of the principle of including provisions for basic human rights in international treaties, particularly peace treaties. It was also agreed that such provisions should be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

With regard to the promotion and observance of human rights and fundamental freedoms, the Commission felt that practical and effective measures must be taken. Each Member State must feel bound to adopt, in accordance, with its system of government, measures to safeguard the

[*] Mr. Borisov (USSR) wished it to be recorded that he had not yet been able to study sufficiently the records of the meetings of the Commission and the various documents and preferred, therefore, to abstain from voting on the question of regional conferences.

[5]

observance and to provide against the violation of those rights and freedoms that are proclaimed in an international bill. But the Commission also felt the need for an international agency of implementation, entrusted with the task of watching over the

general observance of human rights, in order to prevent the recurrence of acts as monstrous as those which formed the prelude of the Second World War.*

It was also pointed out that, pending the eventual establishment of such an agency, the Commission on Human Rights might assist the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, and that it might aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights may constitute a threat to the peace.

The Commission recognized that when the Economic and Social Council comes to consider the question of how to implement an international bill of rights, it may find that political actions are necessary. This may also be the case where protection of national minorities is concerned. The Commission, therefore, requests the Economic and Social Council to take this problem into consideration in determining the status and power of the Commission on Human Rights, of its Sub-Commissions, or of any other agency established to safeguard the observance of human rights.

The Commission considered that the number of sub-commissions, for the time being, should be limited, and that in addition to the existing Sub-Commission on the Status of Women, a Sub-Commission on Freedom [sic] Information should be established.

It was agreed that the Secretariat should be instructed to collect all documentation concerning items (c) and (d) of the terms of reference [sic] protection of minorities and prevention of discrimination on grounds of

[*] Mr. Borisov (USSR) wished it to be recorded that he had not yet been able to study sufficiently the records of the meetings of the Commission and the various documents and preferred, therefore, to abstain from voting on the question of the provisions for implementation.

[6] race, sex, language, or religion – as a preliminary step to future consideration of the question of establishment of Sub-Commissions on these subjects.

Finally, the Commission agreed to express the view that public discussion of human rights should be stimulated and encouraged throughout the world.

The recommendations to the Economic and Social Council with regard to the programme of work of the Commission on Human Rights were unanimously formulated as follows:

...

B. Draft Declarations

The Commission recommends that:

1. The full Commission should draft an international bill of rights as soon as possible. The nuclear Commission should proceed with the preparations for such a bill. The

draft of the international bill of rights, as completed by the full Commission should be circulated among the United Nations governments for their suggestions.

2. The detailed examination of the documents submitted by the delegations of Cuba and Panama (Documents E/HR/2 and E/HR/3) should be left to the full Commission or to a later session of the nuclear Commission.

[7]

3. The organization of regional conferences of experts should be taken under consideration. If such conferences should prove impracticable before the full Commission is convened, the advice of individual experts from different regions should be sought.*

C. Human Human Rights in International Treaties

The Commission recommends that:

without waiting for an international bill of rights to be written, the general principle should be accepted that provisions for basic human rights be included in international treaties, particularly peace treaties, that similar provisions be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

D. Provisions for Implementation

The Commission recommends that:

1. It shall be considered that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, could only be fulfilled if provisions were made for the implementation of the observance of human rights and of an international bill of rights.
2. Pending the eventual establishment of an agency of implementation the Commission on Human Rights might be recognized as qualified to aid the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, concerning the promotion and observance of human rights and fundamental freedoms for all, and to aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights committed in one country may, by its gravity, its frequency, or its systematic nature, constitute a threat to the peace.**

...

[*] Mr. Borisov (USSR) wished it to be recorded that he had not yet been able to study sufficiently the records of the meetings of the Commission and the various documents and preferred, therefore, to abstain from voting on the question of regional conferences.

[**] Mr. Borisov (USSR) wished it to be recorded that he had not yet been able to study sufficiently the records of the meetings of the Commission and the various documents and preferred, therefore, to abstain from voting on the question of the provisions for implementation.

E/SR.18⁴⁶

28 May 1946

Summary Record of the Fourth Meeting, Second Session [of the Economic and Social Council]

Tuesday, 28 May 1946 at 10:30 a.m.

President: SIR RAMASWAMI MUDALIAR (India).

12. *Presentation of the Report of the Commission on Human Rights* (document E/38)

THE PRESIDENT invited Mrs. Roosevelt to present the report of the Commission on Human Rights.

MRS. ROOSEVELT (United States of America), Chairman of the Commission on Human Rights, pointed out that the Commission had been handicapped by the absence of three of its nine members, but had nevertheless been able to proceed with its important work and to formulate [28] recommendations to the Economic and Social Council which would make it possible for the Council to decide on the future tasks of the Commission. The Commission had decided to limit itself to recommendations concerning the immediate problems which would have to be undertaken to prepare the work of the full Commission. She pointed out that the nuclear Commission recommended the establishment of the full Commission at the earliest date, if possible before the one-year term of the members of the nuclear Commission ended, in which case the members of the nuclear Commission would be willing to resign to facilitate the Council's task of nominating the full Commission.

Mrs. Roosevelt explained that the representative of the USSR had only attended the last meetings of the Commission. He had reserved his vote on several recommendations, and had stated that the representative of the Soviet Union who had taken part and voted in the early meetings was to be considered only as an observer.

With regard to the type of membership of the full Commission, Mrs. Roosevelt stated that there had been two different opinions, one advocating Government representatives as members, and the other advocating individual experts who would not only represent their own countries but people all over the world. The Commission felt that its recommendation to the Economic and Social Council represented a reasonable compromise: namely that Member countries of the United Nations should each nominate two people, one of them not necessarily of their own nationality, and that the Economic and Social Council should appoint, from this panel, the members of the Commission, with due regard to geographic distribution and the ability of the individual.

⁴⁶ The text of this document is taken from *Official Records of the Economic and Social Council*, First Year, Second Session, 25 May 1946–21 June 1946, pp. 27–34.

Mrs. Roosevelt particularly stressed that the Secretariat had been instructed by the Commission to collect material primarily in preparation for an international bill of human rights and also concerning other problems within the terms of reference of the Commission. As this work had to be done immediately, it was important to provide the necessary expert staff at the earliest possible moment.

Mrs. Roosevelt explained that the Commission recommended the creation of only one additional sub-commission, a Sub-Commission on Freedom of Information and of the Press. It had felt that the work of this Sub-Commission would be absolutely necessary in the preparation of an international bill of rights, as free information formed the basis for public opinion and any bill of human rights could be enforced only by informed public opinion and would be worthless without such enforcement.

Mrs. Roosevelt stated that the Commission had realized that political questions might arise [29] in connexion with its work, and expressed the hope that the Economic and Social Council would keep these problems in view.

Concerning the report of the Sub-Commission on the Status of Women, presented to the Economic and Social Council through the Commission on Human Rights, Mrs. Roosevelt pointed out that the Commission had chosen the most important recommendations of the Sub-Commission's report and incorporated them in its own report.

THE PRESIDENT thanked Mrs. Roosevelt and stated that the Economic and Social Council realized that the problem concerning the type of membership of the commissions would have to be solved by the Council and that the different views would be taken into consideration. He expressed the hope that most of the members of the nuclear Commission on Human Rights would continue to serve whatever type of membership the Council decided to establish. He stated that the problem of freedom of information and of the press had been considered in San Francisco, and the Council fully realized its importance.

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E/SR.19⁴⁷

31 May 1946

***Summary Record of the Fifth Meeting, Second Session [of the
Economic and Social Council]***

Friday, 31 May 1946 at 10:30 a.m.

President: SIR RAMASWAMI MUDALIAR (India).

⁴⁷ The text of this document is taken from *Official Records of the Economic and Social Council*, First Year, Second Session, 25 May 1946–21 June 1946, pp. 34–41.

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...

18. *Consideration of the Report of the Commission on Human Rights* (document E/38)

THE PRESIDENT opened the discussion on the report of the Commission on Human Rights (annex 4, page 224).

MR. FEONOV (Union of Soviet Socialist Republics) stated that the establishment and observance of human rights was, with justification, placed first in the Charter among the objectives of the United Nations. He pointed out that in the Soviet Union human rights were not only provided for in the Constitution, but that violation against the observance of human rights was punishable by law. All citizens of the Soviet Union enjoyed all the basic freedoms of citizenship, regardless of race, sex or nationality. He then read the articles of the Soviet Constitution dealing with basic human rights: article 118 dealing with the right to work; article 119 on the right to rest and leisure; article 120 on the right to old age and sickness insurance; article 121 on the right to education; article 122 on equal rights of women and the protection of mother and child; article 123 on equal rights of all citizens, regardless of race and nationality.

Mr. Feonov pointed out that the Economic and Social Council, in determining the terms of reference of the Commission on Human Rights, had established four large fields in which the Commission should work:

(a) Preparation of an international bill of rights;

[36]

(b) Freedom of information;

(c) Protection of minorities;

(d) Elimination of discrimination based on race, sex, language or religion.

While the nuclear Commission had, in its report, touched upon all four of these, it had recommended the creation of only one sub-commission, namely, a Sub-Commission on Freedom of Information and of the Press. Where protection of minorities and elimination of discrimination were concerned, it had simply directed the Secretariat to collect material preliminary to the creation of a sub-commission in the future. Mr. Feonov felt that these fields were as important as others, as, even in some of the most highly developed countries, rights of minorities were not respected, and elimination of discrimination was a very important problem.

Regarding the composition of the full Commission, Mr. Feonov agreed as to the number of members, but advocated that they should all be representatives of their Governments as they would be more qualified to develop practical solutions of the problems with which they had to deal.

As to regional conferences of experts, which the Commission had recommended, Mr. Feonov saw certain financial and organizational difficulties and suggested that the Commission might instead invite from time to time individual experts or ask them for their written advice.

He felt that too little was known about the character of the proposed international agency of implementation and further explanation would be necessary before a decision could be taken. The same was true of provisions for human rights in international agreements and, in particular, in peace treaties.

MR. WINANT⁴⁸ (United States of America) announced that the United States delegation agreed with the recommendations made by all nuclear commissions concerning the composition of the full commissions, with the exception of the Temporary Social Commission and the Sub-Commission on the Status of Women. It did, however, agree with the recommendations of the Commission on Human Rights regarding the membership of the Sub-Commission on the Status of Women. As to the Temporary Social Commission, the United States delegation preferred the suggestion which had been discussed, but not accepted, by the Commission that members should be appointed by the Economic and Social Council. If the recommendations of the Temporary Social Commission were followed, it would be the only commission in which a part of the members would be appointed directly by Governments.

The United States delegation had hoped that the nuclear commissions would present panels [37] of candidates for the full commissions. As this had not been the case, Mr. Winant suggested that the Economic and Social Council should decide, at its present session, which countries should be represented on the commissions, so that at its next session it could establish them from the nominations offered by the countries which were to be represented. He proposed that any member of the nuclear Commission who might not be elected to the full Commission should continue to serve until 31 March 1947, but that this should not count against the total number of members decided upon by the Economic and Social Council. Members of commissions should not be appointed only from among the countries represented on the Economic and Social Council.

Mr. Winant reported that the United States Government attached special importance to the creation of a Sub-Commission on freedom of information and the press, and recommended that this Sub-Commission should co-operate closely with UNESCO. He questioned the practicability or desirability of establishing information groups or local human rights committees, as the information they might provide

⁴⁸ John Gilbert Winant (1889–1947) was an American politician associated with the Republican Party. He served as United States Ambassador to the United Kingdom from 1941 to 1946 and was United States representative to UNESCO.

could more easily be provided by the Member Governments of the United Nations themselves, and pointed out that the Member nations had pledged themselves to promote universal respect for and observance of human rights and fundamental freedoms for all. Mr. Winant stressed that the problems of implementation were much broader than the establishment of an agency of implementation, but would call for the development of procedures which would involve different organs of the United Nations and would require action by the Member States.

He then expressed the appreciation of the United States delegation for the report of the Sub-Commission on the Status of Women, and stated that his delegation endorsed the recommendation of the Commission on Human Rights concerning the Sub-Commission.

MR. DEHOUSSE (Belgium) compared the provisions for respect of and observance of human rights in the Covenant of the League⁴⁹ with those of the Charter of the United Nations. He pointed out that the League had provided for the protection of minorities, a protection which had territorial limitations and which could be watched only in specific countries, while the Charter was valid all over the world. This provision in the League Covenant had created discontent and made any real protection impossible. On the other hand, the League Covenant provided for a system of control and guarantees, while the Charter did not include methods of supervision.

Mr. Dehousse stated that his Government would at the appropriate time ask for consideration of this grave omission in the Charter. The Belgian Government, therefore, felt that the recommendation for “provisions for implement- [38] tation” contained in the report of the Commission on Human Rights was of capital importance. He pointed out that an organ of implementation would not be enough and that, in all probability, the Economic and Social Council and the Security Council would have to cooperate to secure respect for human rights. He considered the yearbook provided for in the recommendations of the Commission as an important contribution towards the implementation of a bill of rights.

Mr. Dehousse suggested that the Commission would have to take up other problems later on, and stated that his Government would, at a later stage, recommend that the right to work should be included in an international bill of human rights and should also be incorporated in the constitutions of Member countries. He suggested that the Commission on Human Rights, or its Sub-Commission, should prepare an international convention concerning freedom of information and the press, as this freedom had been abused too often. Decisions of the League had been

⁴⁹ The Covenant of the League of Nations was adopted in 1919 at the Paris Peace Conference and entered into force in January 1920. It made no explicit reference either to human rights or to minorities. Dehousse was referring to the system of protection of minorities that developed under the aegis of the League through a variety of multilateral and bilateral agreements and unilateral declarations.

systematically distorted, and the proposed convention would ensure that the press and radio published and disseminated correct information about the United Nations. Such a convention should, naturally, not interfere with national freedom of the press.

Mr. Dehousse recalled that his Government had made reservations concerning government representation on the commissions of the Economic and Social Council, and felt strongly that the members of the commissions should be non-governmental experts.

MR. NOEL-BAKER (United Kingdom) agreed with Mr. Feonov that the Soviet Union had made great progress in social legislation; he emphasized, however, that there was still much to be done and that the Charter of the United Nations provided a good foundation for further progress. He stressed that the establishment of human rights all over the world was essential to democracy in all its forms if peace were to be maintained. He hoped that the statement of fundamental freedoms could be contained in an international bill of rights to be drawn up before the next session of the General Assembly.

Mr. Noel-Baker stated that the Government of the United Kingdom agreed with Mr. Winant's suggestion concerning the establishment of the commissions, and proposed that a sub-committee of the Council be set up to consider their composition. He felt that the members, especially the Commission on Human Rights, must feel free to raise questions which might embarrass Governments, and they could hardly do so if they represented Governments.

Concerning the Sub-Commission on Freedom of Information and of the Press, he recalled that the delegation of the Philippines had proposed an international press conference to the General Assembly and that the proposal had been ruled [39] out of order at that time. He suggested that such a conference was of vital importance. Mr. Noel-Baker agreed with Mr. Dehousse that provisions must be found to prevent distortion of the truth and irresponsibility in the use of information. He suggested that the idea of regional conferences and *ad hoc* working committees could be worked out in greater detail by the Commission on Human Rights and should be presented to the next session of the Economic and Social Council. The Council should not, however, reject the idea, as such groups might ultimately be valuable to the Commission and might make it possible for the Commission to help different countries.

He agreed that basic provisions for the basic principles of human rights and fundamental freedoms should be contained in treaties and that, therefore, the Commission should draw up such basic principles before the next session of the General Assembly.

Mr. Noel-Baker felt that the provisions for implementation should be carefully considered and worked out. Ultimately, action by the Member Governments themselves would be required. The Commission on Human Rights might, by its world

prestige, itself become an agency of implementation. He suggested that the yearbook which was to be published would contribute towards implementation and proposed that a clause might be included in the terms of reference for the International Court of Justice, concerning the implementation of human rights. The most important step, however, would be if each nation considered such a bill of rights as part of its own national law.

MR. MALIK (Lebanon) pointed out that his country was deeply interested in the fight for freedom of thought and conscience, and had always been a haven for persecuted minorities. He, therefore, welcomed the creation and effective implementation of an international bill of rights. He suggested that such a bill must provide not only for freedom of thought and conscience, but for the freedom of being and of becoming what one's conscience required one to become, that is to say, freedom to change.

While he felt that provisions for basic human freedoms in peace treaties were important, he pointed out that not all countries were signatories to peace treaties. All countries should, therefore, be bound by treaties to accept an international bill of rights, and no country should be admitted to membership of the United Nations without accepting it. Provisions for implementation would have to be found, as without them all discussions of human rights would be futile. He favoured individuals as members of the Commission on Human Rights.

[40]

MR. ARCA PARRÓ (Peru) felt that the Commission on Human Rights should have provided for corresponding members as they would be invaluable in its work and especially for contributions to the yearbook. He suggested that a decision about information groups or local human rights committees should be postponed until the full Commission was established and it was known what additional sub-commissions would have to be created. He expressed his sympathy with the recommendations of the Sub-Commission on the Status of Women, but felt that the Sub-Commission should not be given independent status.

MR. ARGYROPOULOS⁵⁰ (Greece) pointed out that the Greek people had always fought for human rights at all times and had made their contribution to the development of those rights. He agreed that it was absolutely necessary to find practical means to influence the attitude of the peoples towards the United Nations, but he questioned the desirability of adopting a step which would force the press to publish information emanating from the United Nations and which might mean a revision of the constitutions of many countries. He did not think it would be possible to insert

⁵⁰ Alexandre J. Argyropoulos was born in Athens in 1894 and served in various posts for the Greek Ministry of Foreign Affairs from 1919–1932. In 1932, he was appointed head of the Economic and Commercial Division of the Ministry of Foreign Affairs in Athens and served on the Economic and Social Council in 1946.

such a restriction in the Greek Constitution. He therefore suggested that other means be found to reach the same goal without limiting freedom of the press in the different countries.

The continuation of the discussion was adjourned to the next meeting.

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E/SR.20⁵¹

31 May 1946

***Summary Record of the Sixth Meeting, Second Session [of the
Economic and Social Council]***

Friday, 31 May 1946 at 2:45 p.m.

President: SIR RAMASWAMI MUDALIAR (India).

20. *Consideration of the Report of the Commission on Human Rights* (continuation) (document E/38, annex A, page 224)

MR. COLBJOERNSEN (Norway) supported the proposal of the Soviet Union that members of all the Commissions should be government representatives, as, in his view, they could work more efficiently and would be in a better position to get decisions accepted by their respective Governments. He drew attention to the Report of the Preparatory Commission (chapter III, section 4, paragraph 37) which suggested that “most commissions should contain a majority of responsible highly qualified governmental representatives.” He felt that Governments should appoint the most qualified people and that the responsibility ought to be placed directly on the Governments. He considered it premature to approve *en bloc* the recommendations of the commissions concerning membership and felt that the question should be left open and a compromise reached later. He agreed with Mr. Noel-Baker that a sub-committee on the membership of the commissions would be useful.

MR. CHANG (China) congratulated the Commission on Human Rights on behalf of the Chinese delegation, and especially its Chairman, for the results achieved. He suggested that it was important, during the discussion on human rights, not only to consider details of immediate work, but to keep in mind the larger issues which were involved. He pointed out that human rights were too large a concept for one [42] commission and that all other organs of the United Nations were concerned with the carrying out of this concept. He recalled the development of human rights during the

⁵¹ The text of this document is taken from *Official Records of the Economic and Social Council*, First Year, Second Session, 25 May 1946–21 June 1946, pp. 41–49.

last one hundred and fifty years and felt that there existed now a new humanism, as otherwise there would be no incentive for the efforts that were made. Those incentives must be the ideals of human freedom and human dignity.

MR. MATTES (Yugoslavia) announced that the Government of Yugoslavia approved the recommendation of the Commission on Human Rights concerning an international bill of rights. He pointed out that provisions for human rights were contained in many constitutions, but that different countries were at different stages of development and therefore had varying provisions for human rights and different measures for implementation. Every bill represented a crystallization of existing achievement in legal form. He, therefore, felt that those who would be responsible for an international bill of rights should be representatives of their Governments and speak in the name of their respective countries. He suggested that item (e) of paragraph 16 in chapter III, section 4, of the Report of the Preparatory Commission, which had been left out of the terms of reference given to the Commission by the Economic and Social Council, should be included again. As the achievements were not the same in all countries, it would be necessary for the Commission to agree on basic principles which were common to all. One of the principles which the Yugoslav Government considered basic was the principle of social and economic security.

He pointed out that the Sub-Commission on Freedom of Information and of the Press would have to develop safeguards against misuse of information, as those safeguards were necessary to provide organized implementation. As to the agency of implementation suggested by the Commission, he felt that further information would be necessary before that question could be decided.

THE PRESIDENT pronounced closed the discussion on the report of the Commission on Human Rights.

...

E/56

5 June 1946

Draft Resolution of the Economic and Social Council

Commission on Human Rights

(Working draft prepared by the Secretariat on the basis of the Report of the nuclear Commission)

The Economic and Social Council, having considered the Report of the nuclear Commission on Human Rights of 21 May 1946 (E/38/Rev.1)

Decides as Follows:

1. *Functions*

The functions of the Commission on Human Rights shall be those set forth in the terms of reference of the Commission approved by the Economic and Social Council in its Resolution of 16 February 1946, with the addition to paragraph 2 of that Resolution of a new sub-paragraph (e) as follows:

“(e) any other matter concerning human rights not covered by items (a), (b), (c), and (d).”.

...

[3]

...

6. *Declarations*

The Commission is requested to draft an international bill of rights as soon as possible. The draft of this bill shall be circulated to the Members of the United Nations for their suggestions.

(No adequate draft on the following two points can be proposed until there has been further discussion and clarification).

7. *Human Rights in International Treaties*

Pending the writing of an international bill of rights, the general principle shall be accepted that provisions for basic human rights be included in international treaties, particularly peace treaties, and that similar provisions be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

8. *Provisions for Implementation*

Considering that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of the observance of human rights and of an international bill of rights, the Council decides that, pending the eventual establishment of an agency of implementation, the Commission of Human Rights shall be recognized as qualified to aid the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, concerning the promotion and observance of human rights and fundamental freedoms for all, and to aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights committed in one country may, by its gravity, its frequency, or its systematic nature, constitute a threat to the peace.

...

E/56/Rev.1**19 June 1946**

Draft Resolution Concerning the Report of the Commission on Human Rights

Submitted by the Drafting Committee on the Social Commissions

The Economic and Social Council, having considered the Report of the nuclear Commission on Human Rights of 21 May 1946 (E/38/Rev.1)

Decides as Follows:

1. *Functions*

The functions of the Commission on Human Rights shall be those set forth in the terms of reference of the Commission approved by the Economic and Social Council in its Resolution of 16 February 1946, with the addition to paragraph 2 of that Resolution of a new sub-paragraph (e) as follows:

“(e) any other matter concerning human rights not covered by items (a), (b), (c), and (d).”.

...

[2]

...

[Paragraph 5 of E/38 entitled “*Declarations*” does not appear in E/38/Rev.1].

...

6. *Human Rights in International Treaties*

Pending the adoption of an international bill of rights, the general principle shall be accepted that international treaties involving basic human rights, including to the fullest extent practicable treaties of peace, shall conform to the fundamental standards relative to such rights set forth in the Charter.

7. *Provisions for Implementation*

Considering that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of human rights and of an international bill of rights, the Council requests the Commission of Human Rights to submit at an early date suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms, with a view to assisting the Economic and Social Council in

working out arrangements for such implementation with other appropriate organs of the United Nations.

...

E/SR.29⁵²

21 June 1946

Summary Record of the Twenty-Ninth Meeting
[of the Economic and Social Council]

Friday, 21 June 1946, at 3 p.m.

...

[133]

...

*46. Draft Resolution concerning the Report of the Commission on Human Rights: Text proposed by the Drafting Committee (document E/56/Rev.1)*²

MR. FEONOV (Union of Soviet Socialist Republics) referred to the discussions in Committee on article 6 regarding the recognition in the peace treaties of the principle of human rights, and repeated his reasons for wishing the article to be suppressed.

After some discussion, in which several members of the Council spoke in favour of retaining the text, Mr. Feonov said that he would not press his objections.

MR. WINANT (United States of America), in thanking his Soviet colleague for this action, said that the United States delegation had tried to find a formula satisfactory to all, as it felt it most necessary to make some provision for the respect of human rights in the interim period before the international bill of rights could be drawn up. He believed that nothing but good would come from the inclusion of this paragraph.

THE PRESIDENT said that when the resolution had been adopted, clause 8 on the Sub-Commission on the Status of Women would form a separate resolution.

Decision: The Resolution was adopted unanimously.

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^[2] *Ibid.*, page 400.

[134]

...

⁵² The text of the document is taken from *Official Records of the Economic and Social Council, First Year, Second Session*, pp. 115–139.

E/RES/9(II)⁵³

21 June 1946

**Commission on Human Rights
Resolution Adopted 21 June 1946
[Resolution 9(II) of the Economic and Social Council]**

The Economic and Social Council, having considered the Report of the nuclear Commission on Human Rights of 21 May 1946 (E/38/Rev.1)

Decides as Follows:

1. *Functions*

The functions of the Commission on Human Rights shall be those set forth in the terms of reference of the Commission approved by the Economic and Social Council in its Resolution of 16 February 1946, with the addition to paragraph 2 of that Resolution of a new sub-paragraph (e) as follows:

“(e) any other matter concerning human rights not covered by items (a), (b), (c), and (d).”.

...

[2]

...

6. *Human Rights in International Treaties*

Pending the adoption of an international bill of rights, the general principle shall be accepted that international treaties involving basic human rights, including to the fullest extent practicable treaties of peace, shall conform to the fundamental standards relative to such rights set forth in the Charter.

[3]

7. *Provisions for Implementation*

Considering that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of human rights and of an international bill of rights, the Council requests the Commission on Human Rights to submit at an early date suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms, with a view to assisting the Economic and Social Council in working out arrangements for such implementation with other appropriate organs of the United Nations.

...

⁵³ Also issued as E/56/Rev.2.

A/65

30 June 1946

Report of the Secretary-General on the Work of the Organization

...

[18]

4. *Commission on Human Rights*

In setting up the Commission on Human Rights, the Council decided, at its first session in February 1946, that in view of its responsibilities under the Charter for promoting universal respect for, and observance of, human rights and fundamental freedoms, the work of the Commission should consist of the preparation of proposals, reports and recommendations on an international bill of rights, international declarations or conventions on civil liberties, the status of women, freedom of information, the protection of minorities and the prevention of discrimination on grounds of race, sex, language, or religion.

...

The Council further decided that pending the adoption of an international bill of rights, the general principle shall be accepted that international treaties involving basic human rights, including to the fullest extent practicable treaties of peace, shall conform to the fundamental standards relative to such rights set forth in the Charter.

E/CT.2/2

20 August 1946

Committee on Arrangements for Consultation with Non-Governmental Organizations

Letter from Mr. Matthew Woll⁵⁴ and Mr. David Dubinsky,⁵⁵ Consultants representing the American Federation of Labor⁵⁶ to Mr. Trygve Lie, Secretary-General of the United Nations.

(Circulated for the information of the Members of the Council in accordance with Part IV, paragraph 2 of the Report of the Committee on Arrangements for

⁵⁴ Matthew Woll (1880–1956) was a vice president of the American Federation of Labor from 1919 to 1955.

⁵⁵ David Dubinsky (1892–1982) was president of the International Ladies' Garment Workers Union from 1932 to 1966.

⁵⁶ The American Federation of Labor was established in 1886 as an association of craft unions. In 1955, it amalgamated with industrial unions to form the AFL-CIO.

Consultation with Non-Governmental Organizations (E/43/Rev.2 of 1 July 1946).

American Federation of Labor

New York, New York
August 9, 1946

Hon. Trygve Lie, Secretary-General
United Nations Organization
Box #63 Hunter College, New York

Dear Mr. Lie:

Acting under principles approved and as noted in the Revised Report of the Committee on Arrangements and as applied to organizations in Category A, the undersigned are the consultants selected by and representative of the American Federation of Labor for consideration and approval by the appropriate committee having this subject in hand.

We are prompted in submitting this statement of an International Bill of Rights under Section 4, Paragraph 2, entitled – “Arrangements for Consultation With the Council”, and will appreciate your circulating this statement and suggestion to members of the Council in addition to its reference to a committee competent to deal with the subject embraced.

We will likewise appreciate being advised to which Committee this proposed International Bill of Rights may be submitted, and we do hope an opportunity will be accorded the undersigned to consult, with regard to subjects in this proposed International Bill of Rights, with the committee to which this statement has been referred.

Appreciative of your early and favourable response,

Respectfully yours,

Matthew Woll
David Dubinsky
Consultants representing the American
Federation of Labor

[2]

**International Bill of Rights Proposal Submitted by American
Federation of Labor**

For consideration and action by United Nations – Social and Economic Council.

[3]

I Preamble

Although first responsibility for the maintenance of human rights and freedom rests with the local community of the nation, we now live in an interdependent world in which these basic rights and freedoms can be effectively guaranteed and expanded only on an international scale. We must not only make nations safe for freedom, but we must also make freedom safe for the individuals who constitute the various nations. Otherwise, the peoples will be helpless and unable to prevent aggressor governments from launching wars. A nation under the heel of a despotic government inevitably tends to be despotic in its relations with other nations. Despotism in any nation menaces the peace of every nation.

The dynamic motive of a truly democratic society is to foster and enhance the worth and dignity of the individual human being – the basic unit of human society. Hence, the first pre-occupation of every democratic and progressive state is the welfare of the individual. The state has no good other than the good of its individual members, present and prospective – its supreme test is the way in which it provides for the full and free development of each individual. The more rights enjoyed by individuals and the more individuals for whom these rights of free development are safeguarded, the more democratic will any society be.

II War and Peace

Mankind is developing towards an international order. That order can be one of two kinds. There can be a community of nations in which military power is completely subordinated to the public welfare. In such an order, military preparedness and armaments are systematically reduced as instruments of national defence or offence in international relations. But there can also be an international order in which the economic welfare of the people is subordinated to military order and to the preparations for waging warfare.

To help avoid the renewal of an international armament race which would absorb the best energies, devour the greatest wealth of the contestants, and [4] inevitably lead to another global war is the paramount task of the United Nations. This task is urgent. It cannot be postponed to some future indefinite date. The time to reduce the staggering and crushing burden of armaments is now. The United Nations should, therefore, do everything in its power to have particularly the leading countries jointly adopt a policy of positive, gradual, and systematic reduction of armaments of all categories, descriptions and services.

Total preparedness and total war are incompatible with the welfare and liberties of the people of all countries. Total preparedness and total war doom freedom and genuine prosperity and breed poverty and tyranny. Hence, without an effective system of international security to prevent economic aggrandizement and preclude

territorial and military aggression the possibility for protecting human rights and expanding human welfare on a firm foundation is doomed to failure.

Humanity has reached a stage of development in which the efforts, actions and struggles of all peoples against poverty and tyranny must be coordinated – if progress and prosperity are to be assured. Only a world peace settlement in which the preservation and promotion of the human rights and welfare of all peoples are primary objectives can be just and enduring.

III Democracy and Dictatorship⁵⁷

Mankind's paramount need is the preservation and expansion of human rights through the strengthening of democracy everywhere. Although the military struggle against Nazi-Fascist aggression has been victoriously concluded, the people in many parts of the world – in the victorious as well as the defeated lands – are still denied those basic rights which are the essence of freedom and the web and woof of the democratic way of life.

Every victorious nation – no less than the vanquished – must, within its own borders, place in the forefront of its tasks the advancement of democracy and the standards of social wellbeing.

[5]

No peaceful, democratic, world order can be built on a foundation of fear and famine, on a basis of poverty and pestilence. The introduction and expansion of democratic rights for the people of every nation are, therefore, imperative in the interest of international security. Equally vital to world peace and prosperity is the energetic resistance to all encroachments on the existing democratic liberties and social economic rights of the people.

Democracy may vary in particulars in one country from another. But certain conditions must exist for its realization or democracy becomes a sham and disappears altogether. There must be a certain minimum of civil liberties, the rule of law, freedom from arbitrary arrest, detention, search and seizure, prompt judicial determination of arrest and charges against the individual detained, a fair public trial by jury or competent and unprejudiced court constituted in accordance with normal judicial procedure, the right of *habeas corpus*, freedom from arbitrary imposition of penalties, freedom of access to information and freedom of association and organization – cultural, political, religious, economic. There must be universal and secret balloting. There must be no one-party system or any compulsory combination of parties or merging of election lists under terroristic coercion or indirect duress. There must be unrestricted participation by all parties in public life.

⁵⁷ This is listed erroneously as 'II' in the original.

In a truly democratic society certain rights are sacred and inalienable and should not be abrogated by decree of law. Such rights must be recognized as the rights of all men. They transcend even the strongest strategic frontiers and boundaries fixed by states. Democracy is the antithesis of dictatorship or totalitarianism one-party rule in any guise. Democracy and dictatorship are incompatible. Democracy is conducive to peaceful international relations, while dictatorship breeds war. Nor is there any such thing as dictatorial democracy. Democracy is representative; dictatorship is repressive. The fact that one dictatorship may be less barbarous in certain [6] respects than another totalitarian regime does not make it democratic.

IV Basic Human Rights

Without freedom from fear of tyranny by abolitionist bureaucrats or dictators and without freedom from want, there can be no political or industrial democracy within nations or just relations and enduring peace between nations.

Only by removing the political, economic, and social ills and maladjustments afflicting humanity, will mankind be able to reach that long hoped for stage of civilization in which peace and plenty shall truly prevail.

In this spirit, the American Federation of Labor proposes to the Economic and Social Council of the United Nations that it draft an International Bill of Rights which shall be part of the general peace treaty and be binding on all its signatories. We propose that this International Bill of Rights shall include the following provisions:

1. Every human being – irrespective of race, colour, creed, sex or national origin – has the right to pursue his or her work and spiritual development in conditions of freedom and dignity.
2. Freedom of expression and association is vital to the preservation of the basic liberties and the enhancement of the spiritual and material progress of the human race. These rights must be inviolate for those who oppose, no less than for those who support, a ruling party or a regime at any specific moment.

Genuine freedom means the right of association and organization into various, into differing, educational, religious, economic, political and trade union organizations, without fear of the threat of direct or indirect control and compulsion by governmental or any other agencies.

3. The right to organize and work for a constantly more equitable distribution of the national income and wealth and the right to strive for the enhancement of the moral and material wellbeing of the people [7] for better health and security against the ravages of unemployment, accidents, sickness and old age – are to be considered inalienable.

The conditions of work under modern large-scale industry make it especially necessary for the working people to have an effective system of social legislation which will provide minimum wages; maximum working hours; guarantee

against the employment of child labour; adequate medical care; accident, unemployment and old-age insurance and other such vital measures making for effective social security of the population.

4. Raise labour standards throughout the world. There is no more effective way of stimulating the revival of production and the international expansion of markets than by increasing the purchasing power of the great mass of people in every country.
5. Freedom of religion and right to religious worship are indispensable to a truly democratic society.
6. The right of asylum is to be guaranteed by all nations. No human being who is a refugee from any political regime he disapproves is to be forced to return to territory under the sovereignty of that regime.
7. The right to migrate or leave temporarily or permanently a country in which a citizen does not want to remain must be assured, limited only by the laws of immigration of the country which he may wish to visit.
8. There must be freedom of opinion and expression and full access to the opinions of others.
9. The more full and complete knowledge of the world is extended and realized by the peoples of all nations, the less will be the distance and misunderstandings between nations and people. Therefore, the right of the free access to, and exchange of information, scientific, economic, social, religious and political, the promotion of knowledge and of cultural relations, the full and free dissemination of news by radio and press must be assured.

[8]

10. Involuntary servitude in any shape, manner or form or under any guise shall be outlawed and discontinued by all nations and all peoples.
11. Freedom from arbitrary arrest, detention, search and seizure; proper judicial determination of arrest and charges; a fair public trial by jury or competent and unprejudiced court constituted in accordance with normal judicial procedure, right of *habeas corpus* and freedom from arbitrary imposition of penalties.
12. The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if -
 - a. All human beings have real security and are free from discrimination on account of race, colour, creed or difference of political belief from the government in control or the party in power.
 - b. There is to be no peacetime conscription or militarization of workers protesting or striking against conditions of labour which they consider as unfair or unsatisfactory.
 - c. All economic or political discrimination and punishment for differences of political opinion or religious belief and practices are to be eliminated.

The threat of being sent to concentration or labour camps as a punishment for difference of opinion with any government authority or dominant political party must be completely removed.

- d. Freedom from censorship of books, press, radio and art, having due regard to the requirements of morals and decency.
- e. Freedom from the terror of secret police surveillance, arrest or torture. This can be assured only through the abolition of all political police and concentration camps in every country.

[9]

V Conclusion

The foregoing shall constitute our International Bill of Rights which shall be fully observed and safeguarded in every country. Toward the attainment of these ends, there should be established an International Commission charged with the task of facilitation and coordinating the promotion and protection of the basic provisions of the International Bill of Rights.

A/101

10 October 1946

Draft Declarations on Fundamental Human Rights and Freedoms and on Rights and Duties of States

The following cable has been received by the Secretary-General from His Excellency Mr. R. J. Alfaro,⁵⁸ Minister of Foreign Affairs of Panama:

ON BEHALF OF THE GOVERNMENT OF PANAMA, I HAVE THE HONOUR TO REQUEST THAT THE PROVISIONAL AGENDA OF THE SECOND PART OF THE FIRST SESSION OF THE GENERAL ASSEMBLY TO COMMENCE ON 23 SEPTEMBER NEXT SHOULD INCLUDE CONSIDERATION OF THE DRAFTS SUBMITTED BY THE DELEGATION OF PANAMA AT THE FIRST PART OF THE FIRST SESSION HELD IN LONDON, NAMELY; A DECLARATION ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS, AND A DECLARATION ON THE RIGHTS AND DUTIES OF STATES.

⁵⁸ Ricardo Joaquín Alfaro Jované (1882–1971) was President of Panama from 1931–1932. He led the United Nations Relief and Recovery Administration in Latin America in 1945. He served on the International Law Commission from 1949 to 1953.

A/118**16 October 1946**

**Provisional Agenda for the Second Part of the First Session of the
General Assembly**

Supplementary List of Items

...

6. Draft declaration on fundamental human rights and freedoms and on the rights and duties of states. (Item proposed by Panama)

...

[2]

...

12. Matters referred to the General Assembly by the Economic and Social Council at its third session:

(a) Report of the Economic and Social Council

...

A/125**21 October 1946**

**Report by the Economic and Social Council
to the General Assembly
Covering period 23 January 1946 – 3 October 1946**

...

[42]

Commission on Human Rights

46. At its first Session, the Council established a commission on Human Rights in “nuclear” form, to report on the functions and scope of work of the Permanent Commission on Human Rights. The “nuclear” Commission fully realized the great importance of the task entrusted to it under the Charter of the United Nations. The examination of documents submitted by Members of the United Nations led to a general discussion on the necessity of achieving and promoting the recognition of human rights and fundamental freedoms for all, in the hope of drawing from the last World War the lessons which would aid the peoples to achieve the highest

aspirations of mankind. Moreover, the Commission paid special attention to plans and suggestions presented to it through hearings by qualified representatives of national and international organizations. The Commission recommended that the full Commission should draft an international bill of rights and that the draft, as completed by the full Commission, should be circulated among the Governments of the United Nations for their suggestions.

47. The Council considered the recommendations of the “nuclear” Commission during its Second Session, and adopted for the Permanent Commission the terms of reference of the “nuclear” Commission with the addition of paragraph (e) below, as follows:

“The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) an international bill of rights;

...”

[43]

48. ...

Human Rights in International Treaties. The Council decided as follows:

“Pending the adoption of an international bill of rights, the general principle shall be accepted that international treaties involving basic human rights, including to the fullest extent practicable treaties of peace, shall conform to the fundamental standards relative to such rights set forth in the Charter”.

Provisions for Implementation. The “nuclear” Commission felt that the [44] promotion and observance of human rights, as defined in the Charter of the United Nations, could only be fulfilled if provisions were made for the implementation of the observance of human rights and of an international bill of rights.

...

A/148

24 October 1946

**Statement of Essential Human Rights Presented by the Delegation
of Panama
(Provisional Agenda for the Second Part of the First Session)
Item 6 of the Supplementary List**

[The text is identical to that of E/HR/3, reproduced above.]

A/C.3/W.2

26 October 1946

**Data Paper Prepared by the Secretariat on Draft Declarations
Submitted by the Government of Panama on Fundamental
Human Rights and Freedoms and on the Rights and Duties of
States**

Two draft declarations on Fundamental Rights and Freedoms and on the Rights and Duties of States (Document 2.G/7(g)2)) were brought before the San Francisco Conference on International organization by the Government of Panama, as suggested amendments to Chapter I of the Dumbarton Oaks Proposals. They were considered in Committee I, Commission I, which dealt with general provisions. This Committee also considered two draft declarations on the same subjects that had been submitted by the Government of Cuba (Document 2.G/14/g), as suggested amendments to Chapter II of the Dumbarton Oaks Proposals.

The Government of Cuba proposed that these latter drafts be given first consideration in the discussions of the Committee; but this proposal was ruled out by the Chairman (Document 382, J/1/9). As a result, the Committee took no action in respect of either the Cuban or the Panamanian drafts.

The Government of Cuba asked that a resolution concerning the two Cuban drafts be included on the agenda of the First Part of the First Session of the Assembly in London; but the General Committee of the Assembly decided that this was not appropriate. "With regard to the Declaration of International Duties and Rights of Man", the General Committee said, "there was ample provision for discussion of this matter in that part of Chapter III of the Report of the Preparatory Commission which recommends the establishment of a Commission of Human Rights and outlines the functions and competence of that Commission" (A/BUR/6, p. 3). The proposal was later brought to the floor of the Assembly but was again defeated (Journal of the General Assembly, First Session, No. 5, pp. 95–100).

[2]

At the same First Part of the First Session of the Assembly, the Government of Panama submitted the draft declaration on the Essential Rights of Man that had already been submitted to the San Francisco Conference and a revised draft of its Declaration of Rights and Duties of States (A§19); but the General Assembly did not discuss the drafts.

The Cuban and Panamanian drafts were mentioned on the agenda of the Nuclear Commission on Human Rights (E/HR/5) and were distributed to the members of the Commission (E/HR/1) and (E/HR/3).

In its report to the Second Session of the Economic and Social Council, the Nuclear Commission recommended that “the detailed examination of the documents submitted by the delegations of Cuba and Panama (Documents E/HR/1 and E/HR/3) should be left to the full Commission or to a later session of the Nuclear Commission.” (Journal of the Economic and Social Council, No. 14, pp. 163–4)

The Nuclear Commission also agreed “that, while the Nuclear Commission has the right to draft a Bill of Rights, it is not as yet in a position to do so but will proceed with the preparation for such a bill; that the full Commission itself should draft an international Bill of Rights, and should establish sub-commissions for that purpose, if necessary. This draft should be circulated among United Nations governments for their suggestions.”

“The Chairman did not consider it necessary or advisable to circulate the Cuban or Panamanian declarations with the draft bill of the Commission.” (E/HR/15)

Reference must also be made to the fact that, on 9 August 1946, the American Federation of Labor, which is a non-governmental organization possessing consultative status, category A, transmitted to the Secretary-General a draft International Bill of Rights (Document E/CT.2/2).

A/140

29 October 1946

Draft Agenda for the Second Part of the First Session Report of the General Committee to the General Assembly

The General Committee, in accordance with Rule 33 of the Provisional Rules of Procedure, considered at its 19th and 20th meetings on 24 and 25 October 1946 the Provisional Agenda and the Supplementary List, and reports thereon to the General Assembly as follows:

1. The General Committee recommends that the items which appear on the Provisional Agenda (document A/46) and the Supplementary List (document A/118) be placed on the Agenda of the General Assembly.

...

4. The Agenda recommended by the General Committee for adoption by the General Assembly is, therefore, as follows:

Agenda for the Second Part of the First Session of the General Assembly

...

[4]

...

40. Draft declaration on fundamental human rights and freedoms and on the rights and duties of states. (Item proposed by Panama)

...

A/PV.46⁵⁹

31 October 1946

Forty-Fifth Meeting [of the General Assembly]

Held on Wednesday, 31 October 1946, 4 p.m.

...

[931]

THE PRESIDENT (*translated from French*): The second matter concerns item 40 on the agenda, the draft declaration on fundamental human rights and freedoms and on the rights and duties of States, concerning which the Panamanian delegation has submitted a proposal (documents A/19, A/101 and A/148).

The General Committee recommends that this proposal be sent simultaneously to the First and Third Committees for general discussion; the Chairmen of these Committees will have to arrange the procedure for joint discussion of that part of the proposal.

Adopted.

...

A/BUR/40

2 November 1946

Report on consultation between the Secretary-General and the Chairman of the First and Third Committees concerning item 6 on the supplementary list

**Draft Declaration on Fundamental Human Rights and Freedoms and on the Rights and Duties of States
(Item Proposed by Panama)**

At the twentieth meeting of the General Committee the Secretary-General was requested to consult with the Chairmen of the First and the Third Committees with

⁵⁹ The text of this document is taken from *Official Records of the Second Part of the First Session of the General Assembly*, Plenary Meetings of the General Assembly, Verbatim Record, 23 October-16 December 1946, pp. 924 ff.

regard to item 6 on the supplementary list entitled “Draft declaration on fundamental rights and freedoms and on the rights and duties of States” (item proposed by Panama). The Secretary-General held consultations with the Chairmen of the two Committees on 28 October and it was agreed that that part of the item concerning the rights and duties of States (Draft declaration of the rights of duties of States, document A/19) should be referred to the First Committee. It was further agreed that that part of the item concerning fundamental human rights and freedoms (Statement of essential human rights presented by the delegation of Panama, document A/148) should be referred to both the First and Third Committees for general discussion, the Chairmen of the Committee determining the method of joint consideration of that part of the item.

A/C.1/38

6 November 1946

Original Text: Spanish

**Letter from the Representative of Chile to the Secretary-General
Dated 3 November 1946**

Chilean Delegation to the United Nations General Assembly

No 166/16

New York, 3 November 1946

Sir,

The Chilean Delegation to the Second Part of the First Session of the General Assembly of the United Nations has the honour to request that the ‘Draft Declaration on human rights and duties and accompanying report’ drawn up by the Inter-American Juridical Committee be taken into account when item 10⁶⁰ of the First Committee’s agenda (Document A/C.1/21, draft declaration on fundamental human rights and freedoms) is being considered. The Draft Declaration in question was drawn up in accordance with resolution XL of the Inter-American Conference on Problems of Peace and War held at Mexico City, and was published by the Inter-American Juridical Committee on 31 December 1945.

In order that delegations may take note of the said Draft Declaration and accompanying report,⁶¹ I have the honour to attach one copy in English and one in Spanish and should be glad if you would arrange to have mimeographed copies distributed.*

⁶⁰ In the original, “10” is crossed out and the number “11” written in manuscript.

⁶¹ The Declaration itself was issued on 8 January 1947 under document number E/CN.4/2.

[*] Note: The Draft Declaration and accompanying report are available for consultation in the United Nations Library. Copies may be obtained from the Pan American Union in Washington, D.C.

[2]

The examination of the attached document will undoubtedly facilitate the work of the First Committee when it comes to consider the proposal of the Panamanian Delegation.

I have the honour to be, etc.

F. Nieto del Rio
Head of the Chilean Delegation

Mr. Trygve Lie,
Secretary-General of the United Nations

A/C.3/SR.33⁶²

26 November 1946

Summary Record of the Thirty-Third Meeting
[of the Third Committee]

Held at Lake Success, New York, on Tuesday 26 November 1946 at 3:15 p.m.

Chairman: SIR CARL BERENDSEN (New Zealand).

[A/C.3/101]

51. Statement of essential human rights presented by the delegation of Panama (document A/148)

THE CHAIRMAN announced that the draft submitted by the delegation of Panama had been referred to the Commission on Human Rights after having been studied at the San Francisco Conference and in London without positive results.

The Third Committee now had to decide whether the matter should be referred to the Economic and Social Council or to a sub-committee of the Third Committee.

The Chairman also recalled that drafts had been submitted by the Cuban delegation and by the American Federation of Labor, a non-governmental organization belonging to category A.

⁶² The text of A/C.3/SR.33 is taken from *Official Records of the Second Part of the First Session of the Third Committee of General Assembly*; Summary Record of Meetings, 24 October-12 December 1946, pp. 189 ff. It is also available in Journal No. 44: Supplement No. 3 – A/C.3/101.

MR. ALFARO (Panama) gave an historical account of the draft submitted to the Committee, and pointed out the evolution of the principle of human rights. He recalled that the various declarations concerned first individual rights and then constitutional rights of human beings.

The principle of international human rights was first expressed in 1917 in the “Declaration of Fundamental Notions and Basic Principles of International Law” by Alejandro Alvarez.⁶³

Thereafter, the concept of international human rights was universally developed; it was recognized that the rights of an individual were not based upon his citizenship of a given State, but upon his membership in the human family.

Mr. Alfaro went on to discuss the draft declaration composed of eighteen articles submitted by the delegation of Panama, and pointed out that this draft actually offered the only basis of discussion for elaborating an international convention as technically perfect as possible.

MRS. ROOSEVELT (United States of America), after having paid tribute to Mr. Alfaro, proposed that this vast and complicated problem should be referred to the Economic and Social Council. Mrs. Roosevelt specified that her proposal had been presented as a formal motion.

MR. ALFARO (Panama) stated that he could not agree with the representative of the United States, and quoted a letter from Mr. Spaak dated 31 October 1946, which instructed the Chairmen of the First and Third Committees jointly to study the question of a declaration of human rights. The General Assembly had referred the matter to the Third Committee which was therefore the only competent body to undertake that study. Consequently, Mr. Alfaro requested that a joint sub-committee of the First and Third Committees should be established to examine the Panamanian draft declaration.

THE CHAIRMAN proposed to put to the vote first the proposal of the United States to refer the question to the Economic and Social Council. If that first motion were defeated, a vote would be taken on the proposal of Panama to establish a joint sub-committee. If both proposals were rejected, the Committee would then proceed to study the question.

Decision: The United States Proposal to recommend to the General Assembly to refer the question to the Economic and Social Council was adopted by twenty-seven votes to ten.

...

⁶³ Alejandro Álvarez Jofré (1868–1960) of Chile was one of Latin America’s greatest international legal scholars. He served as a judge at the International Court of Justice from 1946 to 1955. A special issue of the *Leiden Journal of International Law* (Vol. 19(4), 2006) is devoted to his work.

A/C.3/126

3 December 1946

Draft Report Concerning a Draft Declaration on Fundamental Human Rights and Freedom

Rapporteur: Mrs. Aase Lionaes (Norway)

1. The Delegations of Cuba and Panama submitted draft declarations concerning fundamental human rights to the San Francisco Conference and to the first part of the first session of the General Assembly. These were later distributed to members of the nuclear Commission on Human Rights. (Documents A/148, E/HR/1, E/HR/3, E/HR/5)
2. In its report to the second session of the Economic and Social Council, the nuclear Commission recommended that the detailed examination of the documents submitted by the delegations of Cuba and Panama should be left to a later session of the nuclear Commission or to the full Commission.
3. The General Assembly, at its forty-sixth plenary meeting on 31 October 1946, referred the Panamanian draft resolution to the First and Third Committees, the Chairmen to determine the method of joint consideration; the Chairman of the Third Committee wrote therefore to the Chairman of the First Committee on this matter.
4. At its meeting on 15 November the Third Committee discussed the draft declaration.

The representative of Panama emphasized the necessity of an international bill of human rights which would guarantee rights to all individuals throughout the world.

A discussion followed as to whether the draft declaration should be referred to a Sub-Committee of the Third Committee or to a joint Sub-Committee of the First and Third Committees or whether a recommendation [2] be made to the General Assembly that it be referred to the Economic and Social Council. By twenty-seven votes to ten it was decided to recommend that it be referred to the Economic and Social Council for submission to the Commission on Human Rights.

The Chairman duly informed the Chairman of the First Committee of this decision:

Whereas

The Economic and Social Council has established a Commission on Human Rights and resolved that the work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council concerning an international bill of rights,

The General Assembly

Resolves, therefore, to refer the draft declaration on fundamental Human Rights and Freedoms to the Economic and Social Council for reference to the Commission on

Human Rights for consideration by the Commission in its preparation of an international bill of rights.

A/C.3/SR.42⁶⁴

5 December 1946

Summary Record of the Forty-Second Meeting [of the Third Committee of the General Assembly]

Held at Lake Success, New York, on Thursday 5 December 1946,
at 3.15 p.m.

...

[257]

...

64. Approval of four draft reports

MRS. LIONAES (Rapporteur) submitted for the approval of the members of the Committee draft reports on:

...

(b) Draft declaration on fundamental human rights and freedom (document A/C.3/126);

...

[259]

...

67. Discussion of the draft report concerning a draft declaration on fundamental human rights and freedoms (document A/C.3/126)

MR. SAPRU (India), although he approved the proposals made by the delegations of Cuba and Panama, remarked on the difficulty of specifying the aims which were to be attained. He considered that a simple declaration would not suffice. He stressed that it was necessary not only to make a declaration, but to ensure that the countries which had adopted it would put it into practice. The Charter of the United Nations affirmed this principle of human rights and freedom, but it seemed that certain countries did not yet conform to it.

⁶⁴ The text of A/C.3/SR.42 is taken from *Official Records of the Second Part of the First Session of the Third Committee of General Assembly*, Summary Record of Meetings, 24 October-12 December 1946, pp. 255 ff.

THE CHAIRMAN submitted to the approval of the Committee the draft report concerning a draft declaration on fundamental human rights and freedoms.

Decision: The report was accepted.

...

E/248

5 December 1946

Consolidated Terms of Reference of the Commission on Human Rights and its Sub-Commissions

1. The Economic and Social Council, being charged under the Charter with the responsibility of promoting universal respect for and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility,

Establishes a Commission on Human Rights.

2. The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) an international bill of rights;

...

A/C.1/SR.41⁶⁵

6 December 1946

Summary Record of the Forty-First Meeting **[of the First Committee of the General Assembly]**

Held at Lake Success, New York, on Friday, 6 December 1946 at 3 p.m.

...

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...

⁶⁵ The text of A/C.1/SR.41 is taken from *Official Records of the Second Part of the First Session of the General Assembly*, First Committee, Political and Security Questions, including Regulation of Armaments, Summary Record of Meetings, 2 November-13 December 1946, pp. 278 ff.

37. Discussion of the draft declaration on fundamental rights and freedoms (documents A/148, A/BUR/40 and A/C.1/38)

MR. PROTITCH (Secretary of the Committee) read a letter from Sir Carl Berendsen.

THE CHAIRMAN asked the Committee whether it agreed to take a vote on a resolution similar to that of the Third Committee.

MR. ALFARO (Panama) thought that the Third Committee had acted rather hastily in referring the matter to the Commission on Human Rights without a time limit and without instructions. Panama had opposed that decision,

Since there were already many proposals, it was inadvisable for the Committee to draw up a new text to be referred to Governments and not to the United Nations; this would lead to a deadlock. The First Committee should avoid the course of inaction followed by the Third Committee and should draw up a proposal on the rights and duties of States similar to that submitted by the United States delegation.

MR. GROMYKO⁶⁶ (Union of Soviet Socialist Republics) thought that the proposal of Panama deserved full attention, but that it could not be conveniently considered at the present session.

The Commission on Human Rights of the Economic and Social Council was the proper organ to undertake the necessary preparatory work and therefore the Third Committee's decision was acceptable.

SIR HARTLEY SHAWCROSS⁶⁷ (United Kingdom) once again stressed the very great importance of this question to which reference is made in seven passages of the Charter. True, the Charter also forbade any interference in the internal affairs of a State. By drawing up a declaration of rights, they would have some standards to go by. The Economic and Social Council's Commission on Human Rights was the proper organ. It should extract the best part of each proposal and submit a draft to the next session of the Assembly.

MR. CUENCO (Philippine Republic) outlined the slow stages by which the rights of man had come to be recognized since the beginning of the Christian era. Most democratic constitutions contained a Bill of Rights; nevertheless the United Nations should formulate a declaration of rights to counteract the doctrine that the State was omnipotent.

A decision had to be taken on the proposal of Panama, either by the First Committee or by the Third Committee.

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⁶⁶ Andrei Andreyevich Gromyko (1909–1989) was Permanent Representative of the Soviet Union in 1946. He served as Minister of Foreign Affairs for much of the Cold War, ending his career as Chairman of the Presidium of the Supreme Soviet in 1987.

⁶⁷ Hartley Shawcross (1902–2003) was the British Prosecutor before the International Military Tribunal. He served as the country's Attorney-General from 1945 to 1951 and represented the United Kingdom at the United Nations during that period.

MR. HARRY⁶⁸ (Australia) hoped that Mr. Alfaro would one day see his work crowned by the establishment of a Court of the Rights of Man.

MR. ALFARO (Panama) did not wish to link the definition to its practical application.

The Charter mentioned human rights in seven different passages: Preamble; Article 1, paragraph 3; Article 13(b); Article 55(c); Article 62, paragraph 2; Articles 68 and 76(c).

Panama's proposal contained eighteen articles. The human race had been fighting for seven centuries to secure the rights specified in the first articles. The last five were social rights without which man could not be truly free. The following three points were of paramount importance:

- (1) Essential rights had to be defined.
- (2) Their application or execution was not involved.
- (3) Only the minimum was asked for.

MR. SANDERS (United States of America) supported the proposal of Panama since those rights formed the very basis of life in the United States.

However, would not the Committee be prejudging the decision of the Commission on Human Rights and of the Economic and Social Council by singling out one text for special treatment, however excellent its technical and intrinsic merits? The Committee should be careful to avoid partiality.

MR. LAFRONTE (Ecuador) drew attention to the contrast between the slow evolution of human rights and the speed with which these rights had been violated at various times in history, particularly during the last few years. He recalled that France had been one of the first to promulgate a declaration of the rights of man and citizen; its influence had been felt throughout the world, especially in America.

In view of the onslaughts against the rights of man launched by the fascist-totalitarian regimes, the United Nations ought to take an active and practical interest in defining human rights so as to include all the rights recognized in the present-day world. But such a charter of human rights should not be of a restrictive nature for the life of peoples was constantly evolving. The charter would merely be a factual statement of the present position and would be subject to later improvements.

The representative of Ecuador was prepared to agree to whatever decision the Committee might take regarding the procedure to be adopted for considering this question.

⁶⁸ Ralph Lindsay Harry (1917–2002) represented Australia at the San Francisco Conference and took part in negotiating the United Nations Charter. He later represented William Hodgson as the Australian delegate at several meetings of the Drafting Committee of the Commission on Human Rights.

SIR HARTLEY SHAWCROSS (United Kingdom) suggested that the matter be referred for examination to the Commission on Human Rights together with the summary records of the First Committee's discussions. These documents would provide the groundwork for the proposal to be drawn up by that Commission, and it would decide whether the proposals submitted to it should be communicated to the Member States.

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The Commission on Human Rights might be requested to report to the First Committee next year and to submit a draft declaration of human rights.

MR. SARA (Egypt) heartily joined in the tribute which many delegates had paid to Mr. Alfaro, the author of the proposal under consideration. He recalled that at the San Francisco Conference, Egypt had asked for the inclusion of a declaration of human rights in the Charter; he approved of the draft proposal submitted by the representative of Panama.

THE CHAIRMAN said that the Committee had two alternatives:

- (1) to adopt a resolution identical with that adopted by the Third Committee, referring the matter to the Commission on Human Rights;
- (2) to adopt the draft resolution submitted by the representatives of Panama.

He drew Mr. Alfaro's attention to the fact that the second paragraph of his proposal would have to be redrafted, since the Commission on Human Rights could not be asked to report directly to the Assembly; therefore, it should first be decided to which organ the Commission should make its report.

MR. PEZET (France) pointed out that France had just adopted a new constitution which was preceded by a preamble confirming, renewing and modernizing the Declaration of the rights of man and of the citizen.

The Assembly which had adopted that constitution comprised not only citizens of metropolitan France but also the citizens of the French Union. Thus a declaration of the rights of man amplified to the scale of continents had been proclaimed. It was imperative for the United Nations to concern themselves with human rights. Actually, when a modern people became conscious of its personality and organized its society, it established the standards of its new life. The United Nations had taken the first step towards a new life which embraced the whole world. Therefore the United Nations had to declare to the knowledge of all men what would be the standards of their future civil, social and economic life.

There was another compelling reason for the United Nations to take action in this matter. The human person and human rights had been the first victims of the fascist regimes. The triumph over nazi totalitarianism would not be complete without a declaration that fundamental human rights would be codified and carried into effect,

first under the moral protection of the United Nations and at a later stage of their evolution, under their effective guarantee.

As regards the procedure to be followed, Mr. Pezet agreed that this question should be referred to the Commission on Human Rights, with instructions to report to the organ to be determined later.

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SIR HARTLEY SHAWCROSS (United Kingdom) pointed out that the declaration of human rights had primarily a political aspect, whatever might be its social and economic aspects. He was inclined to think that it might be possible for the First Committee to co-operate to some extent with the Commission on Human Rights.

MR. MIRANDA (Chile) said that his country's constitution recognized all the rights specified in the declaration submitted by Mr. Alfaro and was based on the principles of an equalitarian democracy. He supported Mr. Alfaro's draft declaration and said that the Inter-Parliamentary Union would accept the Committee's decision regarding the procedure to be adopted.

MR. CASSELL (Liberia) thought that it was not enough to draw up a declaration of human rights; the action to be taken to give effect to these rights should also be considered. He suggested that once the declaration had been formulated, Member States should be obliged to conform to it within a certain time limit; in the event of their failure to do so, they should be excluded from the Organization.

MR. FRISCH (Denmark) drew the Committee's and the Secretariat's attention to the forthcoming meeting of the Inter-Parliamentary Union⁶⁹ in Cairo in 1947. That conference would undoubtedly be very glad to be apprised of the various draft declarations of human rights now being considered by the United Nations.

THE CHAIRMAN asked the Committee whether it wished first to vote on the adoption of a declaration identical with that of the Third Committee, and then, if necessary, on the draft resolution submitted by the representative of Panama.

MR. ALFARO (Panama) said that what most concerned him was that the question should not be allowed to remain before the Commission on Human Rights indefinitely. It should also be made quite clear that the Commission would merely report on the proposals submitted by the representatives of Cuba

⁶⁹ Established in 1889, the Inter-Parliamentary Union was initially a body of parliamentarians devoted to the promotion of peace and international arbitration. It has since become a body composed of parliaments from around the world.

and Panama as those were the only ones which, strictly speaking, were being legally referred to it. It would, of course, be open to the Commission to take into account any other proposals, studies, or memoranda that might be drawn up on this matter.

As to the procedural point made by the Chairman, Mr. Alfaro was quite willing to give him a free hand to modify the text. He also added that he did not, in principle, object to the adoption of a resolution identical with that of the Third Committee provided a time limit was stipulated for the submission of the report.

THE CHAIRMAN thought that normally the Commission on Human Rights should report to the Economic and Social Council of which it was a subsidiary organ; the Council in turn should report to the General Assembly. The First Committee should therefore add the following sentence to the text of the Third Committee's resolution: "The First Committee expresses the hope that the question will be referred back to it for inclusion in the agenda of the second session of the Assembly."

Decision: In the absence of any objection, a resolution identical with that approved by the Third Committee was unanimously adopted with the above-mentioned addition suggested by the Chairman.

A/C.3/135

7 December 1946

Addendum to Report on Draft Declaration on Human Rights and Freedoms

In order to present a common text to the General Assembly to which the Third and the First Committees are reporting on item 40, the approval of the Third Committee is requested for the following amendment unanimously adopted by the First Committee on 6 December 1946.

Amendment:

After the last paragraph of the Resolution ending with the words "preparation of an international bill of rights",

Add

"and expresses the hope that the question will be referred back to it in order that it may be included in the Agenda of the Second Session of the General Assembly".

A/C.3/SR.45⁷⁰

9 December 1946

***Forty-Fifth Meeting* [of the Third Committee of the General Assembly]**

Held at Lake Success, New York, on Monday, 9 December 1946,
at 3:30 p.m.

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74. Continuation of the discussion of the draft report concerning a draft declaration on fundamental human rights and freedoms

THE CHAIRMAN stated that the Third Committee should now consider the addition of an amendment to the report on the draft declaration on human rights and freedoms.

The amendment, contained in document A/C.3/135, had been unanimously adopted by [282] the First Committee on 6 December 1946. It proposed, that after the last paragraph of the resolution, ending with the words “preparation of an international bill of rights”, the following text should be added: “and expresses the hope that the question will be referred back to it in order that it may be included in the agenda of the second session of the General Assembly”.

Decision: The amendment was unanimously adopted.

In reply to an observation made by the representative of France concerning a discrepancy in the French text at the end of the last paragraph preceding the resolution, the Chairman suggested that the Rapporteur, with the assistance of the Secretariat, should correct the text appropriately, and add the amendment which the Committee had just adopted.

This procedure was adopted by the Committee.

...

A/234

10 December 1946

**Draft declaration on fundamental human rights and freedoms
Report of the First and Third Committees**

Rapporteurs: Mr. H. VITERE LAFRONTE (Ecuador); Mrs. A. LIONAES (Norway).

⁷⁰ The text of A/C.3/SR.42 is taken from *Official Records of the Second Part of the First Session of the Third Committee of General Assembly*; Summary Record of Meetings, 24 October-12 December 1946, pp. 281–282. It is also available at Journal No. 57: Supplement No. 3 – A/C.3/141.

1. The General Assembly, at its forty-sixth plenary meeting, held on 31 October 1946, referred simultaneously to the First and Third Committees the draft declaration submitted by the delegation of Panama on fundamental human rights and freedoms (documents A/148 and A/BUR/40). In a letter addressed to the chairmen of the two Committees, the President of the General Assembly suggested that they determine the procedure for the examination of the question by the Committees.
2. At its meeting on 25 November the Third Committee discussed the draft declaration.
3. It was recalled that the delegations of Cuba and Panama had submitted draft declarations concerning fundamental human rights to the San Francisco Conference and to the first part of the first session of the General Assembly. These were later distributed to the members of the nuclear Commission on Human Rights (documents E/HR/1, E/HR/3, E/HR/5).

In its report to the second session of the Economic and Social Council, the nuclear Commission recommended that the detailed examination of the documents submitted by the delegations of Cuba and Panama should be left to a later session of the nuclear Commission or to the full Commission.

[2]

4. The representative of Panama emphasized, in the Third Committee, the necessity of an international bill of human rights which would guarantee rights to all individuals throughout the world.

A discussion followed on the question whether the draft declaration should be referred to a sub-committee of the Third Committee or to a joint sub-committee of the First and Third Committees or whether a recommendation should be made to the General Assembly that the matter be referred to the Economic and Social Council. By twenty-seven votes to ten the Third Committee decided to recommend that it be referred to the Economic and Social Council for submission to the Commission on Human Rights.

The Chairman duly informed the Chairman of the First Committee of this decision.

5. At its forty-first meeting, in 6 December 1946, the First Committee discussed the report of the Third Committee (document A/C.3/126).

The delegation of Panama proposed that there should be added to this recommendation of the Third Committee an expression of the hope that the question would be referred back to the General Assembly for inclusion in the agenda of its second regular session. With this addition, the recommendation

proposed by the Third Committee was unanimously adopted by the First Committee.

6. The Third Committee, at its meeting on 9 December, agreed to make an addition to the last paragraph of the resolution in order that its recommendation to the General Assembly might conform to that of the First Committee.
7. The First and Third Committees therefore recommend to the General Assembly the adoption of the following resolution:

[3]

[For the text of the resolution, which is omitted here, see A/RES/43(I).]

A/PV.55⁷¹

11 December 1946

Fifty-fifth Plenary Meeting [of the General Assembly]

Held on Wednesday, 11 December 1946, at 4 p.m.

...

[1139]

159. Draft Declaration on fundamental human rights and freedoms: report of the Joint First and Third Committee: resolution (document A/234)

THE PRESIDENT (*translated from French*): The next item is the report of the Joint First and Third Committee concerning a draft Declaration on fundamental human rights and freedoms.

[1140]

I call upon Mr. Viteri Lafronte, Rapporteur.

MR. VITERI LAFRONTE (Ecuador), Rapporteur : At the very beginning of the San Francisco Conference, the delegations of Panama and Cuba submitted draft resolutions concerning fundamental human rights. The same was done at the first part of the first session of the General Assembly in London.

At the present second part of the first session, the General Assembly referred simultaneously to the Joint First and Third Committee, the draft Declaration submitted by the delegation of Panama on Fundamental Human Rights and Freedoms.

⁷¹ The text of A/PV.55 is taken from *Official Records of the Second Part of the First Session of the General Assembly*, Plenary Meetings of the General Assembly, Verbatim Record, 23 October-16 December 1946, pp. 1118 ff.

It was decided that the question should be discussed by the two Committees separately. After several discussions, and an interchange of agreements, the First and Third Committees recommended to the General Assembly the adoption of the following resolution:

“The General Assembly,

“Whereas the Economic and Social Council has established a Commission on Human Rights and has resolved that the work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council concerning an international bill of rights,

“Resolves therefore to refer the draft Declaration on Fundamental Human Rights and Freedoms to the Economic and Social Council for reference to the Commission on Human Rights for consideration by the Commission in its preparation of an international bill of rights; and

“Expresses the hope that the question will be referred back to it in order that it may be included in the agenda of the second regular session of the General Assembly.”

THE PRESIDENT (*translated from French*): If no one wishes to speak, I shall consider the resolution as adopted unanimously.

Decision: The resolution was adopted unanimously.

A/RES/43(I)

11 December 1946

Draft Declaration on Fundamental Human Rights and Freedoms

The General Assembly,

Whereas the Economic and Social Council has established a Commission on Human Rights and has resolved that the work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council concerning an international bill of rights,

Resolves therefore to refer the draft Declaration on Fundamental Human Rights and Freedoms¹ to the Economic and Social Council for reference to the Commission on Human Rights for consideration by the Commission in its preparation of an international bill of rights; and

Expresses the hope that the question will be referred back to it in order that it may be included in the agenda of the second regular session of the General Assembly.

[1] Document A/234.

E/CN.4/2

8 January 1947

Draft Declaration of the International Rights and Duties of Man

Formulated by the Inter-American Juridical Committee

In accordance with Resolutions IX and XL of the Inter-American Conference on Problems of War and Peace held at Mexico City, February 21-March 8, 1945, and submitted by the Delegation of Chile to the second part of the First Session of the General Assembly (cf. Document A/C.1/38).

[2]

Article 1 *Right to Life*

Every person has the right to life. This right extends to the right to life from the moment of conception; to the right to life of incurables, imbeciles and the insane. It includes the right to sustenance and support in the case of those unable to support themselves by their own efforts; and it implies a duty of the state to see to it that such support is made available.

The right to life may be denied by the state only on the ground of conviction of the gravest of crimes, to which the death penalty has been attached.

Article 2 *Right to Personal Liberty*

Every person has the right to personal liberty.

The right to personal liberty includes the right to freedom of movement from one part of the territory of the state to another, and the right to leave the state itself. It includes also freedom to establish a residence in any part of the territory, subject only to the restrictions that may be imposed by general laws looking to the public order and security of the state.

The right to personal liberty includes the inviolability of the domicile of the individual and of his personal correspondence.

The state may restrict this right only to the extent necessary to protect the public health, safety, morals and general welfare, in accordance with subsequent provisions of this Declaration.

The right of the state to call upon the services of the individual in time of emergency or to meet the necessities of national defence shall not be regarded as

a limitation upon the fundamental right to personal liberty, but merely as a temporary restriction operating during the existence of the national need.

[3]

No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.

Article 3

Right to Freedom of Speech and of Expression

Every person has the right to freedom of speech and of expression.

This right includes freedom to form and to hold opinions and to give expression to them in private and in public, and to publish them in written or printed form.

The right to freedom of speech and of expression extends to the use of whatever means of communication are available: freedom to use the postal service, the public utilities of telegraph, telephone and radio communication; freedom to use the graphic arts, the theatre, the cinema and other agencies for the dissemination of ideas.

The right to freedom of speech and of expression includes freedom of access to the sources of information, both domestic and foreign.

The right to freedom of speech and of expression includes the special and highly privileged right to freedom of the press.

The only limitations which the state may impose upon this freedom are those prescribed by general laws looking to the protection of the public peace against slanderous or libellous defamation of others, and against indecent language or publications, and language or publications directly provocative of violence among the people.

Censorship of the press is prohibited, whether by direct or indirect means, and all limitations imposed in the interest of public order shall only be applied subsequently to the publication of the material alleged to be of the offensive character described in the law. Censorship of the cinema may be in advance of publication, taking into account the particular form of publication and the necessity of protecting the public against matters offensive to accepted standards of conduct. The state may not retain a monopoly of radio broadcasting so as to deny [4] to the individual the opportunity for the free expression of opinion through that instrumentality of communication.

Article 4

Right to Freedom of Religious Worship

Every person has the right to freedom of religious belief and worship.

This right includes freedom of religious worship in public as well as in private; freedom of religious worship by groups as well as by individuals;

freedom to maintain churches and other places of public worship and to assemble in them without restraint; freedom of parents to educate children in their particular religious belief; freedom of religious propaganda in spoken or written form.

The only restrictions which the state may place upon the right of freedom of religious worship are those called for by the requirements of public health, safety and good morals; and all such restrictions must be in accordance with general laws and administered without discrimination.

A distinction is recognized between strictly religious activities and other activities of an economic or financial character associated with the maintenance of religious worship but not forming an essential part of it. These economic or financial activities may be regulated by the state in accordance with the general laws governing such activities.

Article 5

Right to Freedom of Assembly

Every person has the right to assemble peaceably with others as a means of giving expression to views upon matters of common interest.

The state has the duty to permit the use of public places for purposes of general assembly. It has the right to be informed of meetings to be held in public places, to designate convenient localities, and to impose conditions upon the use of such places in the interest of the public order and safety. Similar conditions may be imposed upon [5] assemblies in public and in private buildings. But the conditions imposed by the state upon the holding of public meetings must not be such as to impair substantially the right itself to hold such meetings; and no conditions shall be required for the assembly of small groups of persons whether in public or in private places.

The right of assembly includes the right to hold public parades, subject to the same restrictions to which assemblies are subject.

Article 6

Right to Freedom of Association

Every person has the right to associate with other persons for the protection and promotion of legitimate interests.

The state has the right to adopt regulations governing the activities of associations, provided they are applied without discrimination against a particular group, and provided they do not impair substantially the right of association.

Article 7***Right to Petition the Government***

Every person has the right, whether exercised by individual action or in conjunction with others, to petition the government for redress of grievances or to petition in respect to any other matter of public or private interest.

The publication of such petitions shall not be made a ground for penalizing in any way, directly or indirectly, the person or persons making the petition.

Article 8***Right to Own Property***

Every person has the right to own property.

The state has the duty to cooperate in assisting the individual to attain a minimum standard of private ownership of property based upon the essential material needs of a decent life, looking to the [6] maintenance of the dignity of the human person and the sanctity of home life.

The state may determine by general laws the limitations which may be placed upon the ownership of property, looking to the maintenance of social justice and to the promotion of the common interest of the community.

The right of private property includes the right to the free disposal of property, subject, however, to limitations imposed by the state in the interest of maintaining the family patrimony.

The right of private property is subject to the right of the state to expropriate property in pursuance of public policy, just compensation being made to the owner.

Article 9***Right to a Nationality***

Every person has the right to a nationality.

No state may refuse to grant its nationality to persons born upon its soil of parents who are legitimately present in the country.

No person may be deprived of his nationality of birth unless by his free choice he acquires another nationality.

Every person has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another state.

Article 10***Right to Freedom of Family Relations***

Every person has the right to be free from interference in his family relations.

It is the duty of the state to respect and to protect the reciprocal rights of husband and wife in their mutual relations.

Parents have a primary right of control over their children during minority, and they have a primary obligation to maintain and support them.

[7]

It is the duty of the state to assist parents in the maintenance of adequate standards of child welfare within the family circle, and to promote as far as possible the ownership of individual homes as a means of fostering better family relations.

The state may restrict the control of parents over their children only to the extent that the parents themselves are unable to perform their duties towards their children or actually fail to do so. Where necessary, the state must itself provide for their protection and support.

Article 11

Right to be Free from Arbitrary Arrest

Every person accused of crime shall have the right not to be arrested except upon warrant duly issued in accordance with the law, unless the person is arrested *flagrante delicto*. He shall have the right to a prompt trial and to proper treatment during the time he is in custody.

Article 12

Right to a Fair Trial

Every person accused of crime shall have the right to a fair public hearing of the case, to be confronted with witnesses, and to be judged by established tribunals and according to the law in force at the time the act was committed. No fines shall be imposed except in accordance with the provisions of general laws; and no cruel or unusual punishments.

Article 13

Right to Participate in Elections

Every person, national of the state, has the right to participate in the election of the legislative and executive officers of the government in accordance with the provisions of the national constitution. The practical exercise of this right may, however, be conditioned by the duty of the person to show that he is competent to understand the principles upon which the constitution is based. The constitution of [8] the state shall provide for a government of the people, by the people and for the people.

This right presupposes the right to form political parties.

No person shall be denied the right to hold public office, or to be appointed to any of the public services of the state of which he is a national, upon grounds of race or religion or sex or any other arbitrary discrimination; and the administration of the public services of the state shall, in respect to appointments and terms and conditions of service, be without favour or discrimination.

Article 14
Right to Work

Every person has the right to work as a means of supporting himself and of contributing to the support of his family.

This right includes the right to choose freely a vocation, in so far as the opportunities of work available make this possible, as well as the right to transfer from one employment to another and to move from one place of employment to another. Associated with the right to work is the right to form labour and professional unions.

Every person has the duty to work as a contribution to the general welfare of the state.

The state has the duty to assist the individual in the exercise of his right to work when his own efforts are not adequate to secure employment; it must make every effort to promote stability of employment and to insure proper conditions of labour, and it must fix minimum standards of just compensation.

The state has the right, in time of emergency, to call upon the services of the individual in cases where such services are necessary to meet an urgent public need.
[9]

Article 15
Right to Share in Benefits of Science

Every person has the right to share in the benefits accruing from the discoveries and inventions of science, under conditions which permit a fair return to the industry and skill of those responsible for the discovery or invention.

The state has the duty to encourage the development of the arts and sciences, but it must see to it that the laws for the protection of trademarks, patents and copyrights are not used for the establishment of monopolies which might prevent all persons from sharing in the benefits of science. It is the duty of the state to protect the citizen against the use of scientific discoveries in a manner to create fear and unrest among the people.

Article 16
Right to Social Security

Every person has the right to social security.

The state has the duty to assist all persons to attain social security. To this end the state must promote measures of public health and safety and must establish systems of social insurance and agencies of social cooperation in accordance with which all persons may be assured an adequate standard of living and may be protected against the contingencies of unemployment, accident, disability and ill-health and the eventuality of old age.

Every person has the duty to cooperate with the state according to his powers in the maintenance and administration of the measures taken to promote his own social security.

Article 17
Right to Education

Every person has the right to education.

The right of children to education is paramount.

The state has the duty to assist the individual in the exercise of [10] the right to education, in accordance with the resources of the state. The opportunities of education must be open to all upon equal terms in accordance with their natural capacities and their desires to take advantage of the facilities available.

The state has the right to fix general standards to which educational institutions must conform, provided that these standards are in accord with other fundamental rights and are the same for public and for private schools.

The right to education involves the right to teach, subject to the restrictions which accompany the right to education.

Article 18
Right to Equality before the Law

All persons shall be equal before the law in respect to the enjoyment of their fundamental rights. There shall be no privileged classes of any kind whatsoever.

It is the duty of the state to respect the fundamental rights of all persons within its jurisdiction and to protect them in the enjoyment of their rights against interference by other persons.

In all proceedings in relation to fundamental rights the state must act in accordance with due process of law and must assure to every person the equal protection of the law.

All restrictions imposed upon fundamental rights must be such only as are required by the maintenance of public order; and they must be general in character and applicable to all persons within the same class.

Article 19
Rights and Duties Correlative

Rights and duties are correlative; and the duty to respect the rights of others operates at all times as a restriction upon the arbitrary [11] exercise of rights.

Article 20
Incorporation of Declaration into Municipal Law

The provisions of this Declaration shall be a part of the law of each individual state, to be respected and enforced by the administrative and judicial authorities in the same manner as all other laws of the state.

The provisions of this Declaration shall not be abrogated or modified except in accordance with the terms of an inter-American agreement or an agreement of the United Nations binding upon the American States.

Article 21
Procedure in Cases Involving Aliens

In the case of aliens alleging violation of the foregoing fundamental rights by the state in which they are resident, the complaint shall be decided first by the courts of the state itself; and in cases in which a denial of justice is alleged by the state of which the alien is a national, the case, failing diplomatic settlement, shall be submitted to an International Court, the statute of which shall be included as an integral part of the instrument in which the present Declaration is to be adopted.

Rio de Janeiro, December 31, 1945

S) Francisco Campos

S) F. Nieto del Rio⁷²

S) Charles G. Fenwick⁷³

S) A. Gomez Robledo

⁷² Félix Nieto del Rio (1888–1953) was a Chilean diplomat who served as Ambassador to Brazil and his country's representative on the Inter-American Juridical Committee.

⁷³ Charles G. Fenwick (1880–1973) was Director of Legal Affairs for the Organization of American States.

E/CN.4/W.4

13 January 1947

Working Paper on an International Bill of Rights

According to its terms of reference, the Commission on Human Rights is to submit proposals, recommendations and reports to the Economic and Social Council regarding, *inter alia*, “an International Bill of Rights”. This question was considered by the Nuclear Commission during its meetings in May 1946. The Nuclear Commission felt, however, that it was not yet in a position to draft a Bill and recommended that this be done by the full Commission (E/HR/15).

The question was also considered by the second part of the first session of the General Assembly which had before it a draft Statement of Essential Human Rights, presented by the delegation of Panama (A/148). The General Assembly, after referring to the establishment of the Commission on Human Rights and its terms of reference, decided to refer this draft to the Economic and Social Council “for reference to the Commission on Human Rights for consideration by the Commission in its preparation of an international bill of rights” (A/234, page 3). At the same time, the General Assembly expressed the hope that the question would be referred back to it “in order that it might be included in the Agenda of the second regular session of the General Assembly”.

In addition to the Panamanian draft, three other draft international bills of rights are before the United Nations: viz, a draft submitted by the delegation of Cuba (E/HR/1), a draft prepared by the Inter-American Juridical Committee and submitted by the delegation of Chile (A/C.1/38) and a draft submitted by the American Federation of Labor (E/CT.2/2). A number of other drafts prepared by various organizations and individuals have been collected by the [2] Secretariat. These drafts have been tabulated and analysed by the Secretariat.

In the course of discussions in the General Assembly on the Panamanian draft, the hope was expressed by certain delegates that the next session of the General Assembly would be in a position to take definite action on an International Bill of Rights. A similar hope was expressed during discussions on the Egyptian resolution on “religious and so-called racial persecution and discrimination” and during the discussions of the resolution on the treatment of Indians in South Africa.

Provisions Relating to Human Rights in the Charter of the United Nations

The first reference will be found in the preamble which states:

“We, the peoples of the United Nations, determined...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women...have resolved to combine our efforts to accomplish these aims.

Chapter I, dealing with the purposes and principles of the United Nations, declares, in Article 1, paragraph 3, one of the purposes of the United Nations to be:

“to achieve international cooperation. . .in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.

Chapter IX, Article 55, provides that:

“With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations. . .the United Nations shall promote:

(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

It may be noted that, according to Article 60, “responsibility for the discharge of the functions of the Organization set forth in this Chapter shall [3] be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.” In partial implementation of the responsibilities assigned to it by this Article, the Economic and Social Council has established, in accordance with Article 68, a Commission on Human Rights.

The powers of the various organs mentioned above are stated first in Article 13 which provides that:

“The General Assembly shall initiate studies and make recommendations for the purpose of:

(b) . . .assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

On the other hand, the Economic and Social Council may, according to Article 62, paragraph 2, “. . .make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all”. Under the same Article, paragraph 3, the Economic and Social Council may “prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence”. It may also, according to paragraph 4, “call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence”.

The Charter also stipulates the obligations of Member States in the matter by stating, in Article 56, that:

“All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.”

In addition, Article 2, paragraph 2, provides as follows:

“All Members. . .shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.”

Reference should also be made to Article 76 which states:

The basic objectives of the trusteeship system. . .shall be:

...

(c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. . .

Provisions Relating to Human Rights in Recent International Agreements

The five draft peace treaties with the ex-enemy States all contain provisions relating to human rights. The following texts are taken from the Roumanian draft treaty:

Art. 3: “Roumania shall take all measures necessary to secure to all persons under Roumanian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.”

Art. 4: “Roumania, which in accordance with the Armistice Agreement has taken measures to set free, irrespective of citizenship and nationality, all persons held in confinement on account of their activities in favour of⁷⁴ the United Nations, or because of their racial origin, and to repeal discriminatory legislation and restrictions imposed hereunder, undertakes to complete these measures and in future not to take any measures or enact any laws which would be incompatible with the objects and purposes mentioned in this Article.”⁷⁵

Art. 5. “Roumania, which in accordance with the Armistice Agreement has taken measures for dissolving all organizations of a Fascist type on Roumanian territory, whether political, military or paramilitary, as well as other organizations conducting propaganda hostile to the Soviet Union or to any of the other United Nations, undertakes not to permit⁷⁶ in future the existence and activities of organizations of that nature which have as their aim denial to the people of their democratic rights”.

⁷⁴ The working paper was prepared prior to the publication of the official text of the peace treaty with Romania on 18 January 1947. In the official text, the phrase “, or because of their sympathies with,” is added after “in favour of”. See E/CN.4/W.4/Corr.2 of 21 January 1947, which cites the texts published in the *New York Times* of 18 January 1947.

⁷⁵ Beginning with the word “hereunder”, the remainder of the official text of article 4 reads: “thereunder, shall complete these measures and shall in future not take any measures or enact any laws which would be incompatible with the purposes set forth in this Article”. See E/CN.4/W.4/Corr.2 of 21 January 1947.

⁷⁶ The words “undertakes not to permit” are replaced by “shall not permit” in the official text. See E/CN.4/W.4/Corr.2 of 21 January 1947.

Identical provisions will be found in the draft peace treaties with Italy, Hungary, Bulgaria and Finland.

The draft treaties with Roumania and Hungary also contain the following additional provision on the status of equality:

“Roumania (Hungary) further undertakes that the laws in force in Roumania (Hungary) shall not, either in their content or in their application discriminate or entail any discrimination between persons of Roumanian (Hungarian) nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civic rights or any other matters.”⁷⁷ (Art. 3bis in the Roumanian treaty and Article 2bis in the Hungarian treaty.)

These provisions refer to the territories only of the ex-enemy States; but the Italian treaty contains a special provision relating to human rights and freedoms in ceded territories.

[5]

Reference should also be made to the recently concluded treaty between the Netherlands and the Indonesian Republic which contains provisions safeguarding in both parts of the Netherlands Indonesian Union “the fundamental human rights and liberties referred to in the Charter of the United Nations Organization”.

References to Human Rights in Constitutions of Specialized Agencies

International Labour Organization

On 17 May 1944, the International Labour Organization restated its aims and purposes in the so-called Declaration of Philadelphia. This Declaration contains various references to the status of security and also to the status of liberty. Chapters I, II and III of the Declaration read as follows:

I

“The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that:

- a) labour is not a commodity;
- b) freedom of expression and of association are essential to sustained progress;
- c) poverty anywhere constitutes a danger to prosperity everywhere;
- d) the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

⁷⁷ The words “political or civic rights or any other matters” are replaced by “political or civil rights or any other matter” in the official text. See E/CN.4/W.4/Corr.2 of 21 January 1947.

II

“Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organisation that lasting peace can be established only if it is based on social justice, the Conference affirms that:

- a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
- [6]
- b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
 - c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
 - d) it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;
 - e) in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

III

“The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve:

- a) full employment and the raising of standards of living;
- b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- e) the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- g) adequate protection for the life and health of workers in all occupations;
- h) provision for child welfare and maternity protection;
- i) the provision of adequate nutrition, housing and facilities for recreation and culture;
- j) the assurance of equality of educational and vocational opportunity.”

The United Nations Educational, Scientific and Cultural Organization

The preamble to the Constitution of UNESCO states:

“That since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed; . . . that the great and terrible war which has now ended was a war made possible by the denial of the [7] democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races; that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern; . . .”

It was for these reasons, the preamble says, that “the States Parties to this Constitution, believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other’s lives”.

Article I of the Constitution, which deals with the purposes and functions of the Organization, provides:

“The purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

“To realize this purpose the Organization will:

- a) Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image;
- b) Give fresh impulse to popular education and to the spread of culture: by collaborating with Members, at their request, in the development of educational activities; by instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social; by suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom.”

The International Refugee Organization

The Constitution of this organization reaffirms the right of asylum for political dissidents and victims of racial persecution. Part I, Section C of Annex 7 (Definitions) declares:

“The following shall be considered as valid objections (to repatriation):

[8]

1. persecution, or fear, based on reasonable grounds, or persecution because of race, religion, nationality or political opinions, provided these opinions are not in conflict with the principles of the United Nations as laid down in the preamble of the Charter of the United Nations”.

The World Health Organization

The Constitution of this organization states in the preamble that:

“The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”

Resolutions of the Second Part of the First Session of the General Assembly

The General Assembly adopted certain resolutions having a bearing on human rights, to wit:

- the resolution on “religious and so-called racial persecution and discrimination (A/187)”
- the resolution on genocide (A/231)
- the resolution on the treatment of Indians (A/205)

The resolution on “religious and so-called racial persecution and discrimination” reads as follows:

“The General Assembly of the United Nations declares that it is in the higher interests of Humanity to put an immediate end to religious and so-called racial persecution and discrimination, and calls on the Governments and responsible authorities to conform both to the letter and to the spirit of the Charter of the United Nations, and to take the most prompt and energetic steps to that end.”

Provisions in Trusteeship Agreements Relating to Human Rights

The seven⁷⁸ Trusteeship Agreements adopted in the second part of the first session of the General Assembly contain specific provisions relating to human rights.

[9]

⁷⁸ The word “seven” is changed to “eight” by E/CN.4/W.4/Corr.1 of 22 January 1947.

Definition of Human Rights

It will be noted that, while the expression “human rights and fundamental freedoms” is used in the Charter, no attempt is made to define what is meant by the expression. It might be suggested that no such definition is necessary, that the purpose of the Charter was merely to establish equal treatment; whatever human rights and fundamental freedoms may exist in a particular country, these rights and freedoms should be respected without distinction as to race, sex, language or religion. In view, however, of the attitudes already adopted by Member Governments, it seems that such a restricted interpretation of the Charter is unlikely to be adopted. The purpose of the proposed International Bill of Rights should be to give meaning to the general terms of the Charter and to establish minimum international standards of human freedoms and security. This does not, however, necessarily involve the formulation of a definition that will hold in all places and for all times. What is needed at the present time is rather the cataloguing in an international instrument of those human rights and freedoms which are of international concern and the establishment of an appropriate machinery for their international supervision and enforcement. Some of these rights and freedoms have already been catalogued in the peace treaties with Italy and the European satellites of the Axis where, as it has been indicated above, the following freedoms are enunciated: freedom of expression, of the press and of publication, of religious worship, of political opinion and of public meeting. These treaties also make detailed provision for equality of treatment.

Relation of an International Bill of Rights to National Law

It is conceivable, but hardly probable, that the international community as manifested in the international legal order might be given [10] exclusive jurisdiction in the matter of human rights and freedoms. This would involve the creation of a direct relationship between individual men and women and the international order in the matter but the rupture of existing legal relationships between individuals and their national orders. Because it would involve the abandonment of age-old guarantees and traditions in favour of a new and untested system, such a rupture would be fraught with danger. It is, therefore, unlikely, to say the least, that States will abandon jurisdiction in the matter of human rights and freedoms to the exclusive competence of the international community. The only possible alternative, if the international community is to have some competence in the matter, is to recognize the existence of concurrent jurisdiction, that is to say, both in the international community and in the various State orders. There are many examples of such parallelism in modern government. Thus, many federal unions have both federal and state or provision bills of rights that are not necessarily

identical. In more concrete terms, it is suggested that the Commission on Human Rights should formulate an International Bill of Rights which will supplement, but not replace, existing national Bills of Rights. In this way, the Commission will contribute towards the achievement of one of the purposes of the United Nations which is:

“To achieve international cooperation. . .in promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion.”

Form of the International Bill of Rights

The International Bill of Rights might take one of three forms, viz. a declaration or other act of the General Assembly, a multilateral convention, or an amendment to the Charter.

While it would undoubtedly be easier to achieve adoption of a Bill of Rights in the form of a resolution or other act of the General Assembly, the [11] question arises whether such an act would have the binding character desirable for an International Bill of Rights. If the bill takes the form of a multilateral convention, there would be no doubt regarding its binding character. Such a procedure, however, might involve delays and there is the problem of ratification. On the other hand, this procedure has the advantage that the convention should be left open for subsequent accession by States that are not ready to accept it immediately. This would also give Governments an opportunity to adjust their national legislation to the requirements of the Bill of Rights before accepting the convention. This procedure would also make it possible to extend the International Bill of Rights to non-member States.

The advantage of an amendment to the Charter as a means of enacting the Bill of Rights is that this would integrate the Bill of Rights into the fundamental law of the United Nations. It would also mean that Members of the United Nations could not denounce the Bill and retain membership in the United Nations which might be possible if the Bill took the form of a convention. The disadvantage is, of course, the complicated nature of the amendment procedure. It may be noted that there are two methods provided in the Charter for its amendment, viz. the normal method under Article 108 and the method provided by Article 109.

The three forms that the Bill of Rights might take are not necessarily mutually exclusive. Indeed, it is suggested that the Bill might first take the form of an act of the General Assembly pending the adoption and ratification of a convention and that, later, the Bill might be incorporated into the Charter as an integral part of the fundamental law of the United Nations.

Geographical Area of the Bill of Rights

The Commission will have to decide whether the Bill should apply in the metropolitan areas of Member States only or whether it should also apply to non-self-governing territories and trust areas. It may [12] be noted that the various trusteeship agreements approved at the second part of the first session of the General Assembly contain provisions regarding the application of United Nations conventions and recommendations in trust territories.

The Contents of the Bill

It is obviously impossible in a paper of this nature to enter into any detailed discussion regarding the contents of the International Bill of Rights. It may be suggested, however, that the Bill should include a preamble propounding the philosophy on which the Bill is based. Copies of various draft Bills of Rights, including the four drafts now before the United Nations, are available for distribution to Members of the Commission.

It is also suggested that the catalogue of rights might be divided into three parts: one dealing with the status of liberty, another with the status of equality and another with the status of security. In the first part would be included such rights as the right of personal freedom, freedom of worship, freedom of opinion, freedom of expression, freedom of assembly and association, etc. This part might also contain provisions regarding the right of individuals to petition the United Nations and the right to communicate with the United Nations without danger of reprisal. The part dealing with the status of equality would elaborate the principles already contained in the Charter concerning non-discrimination for reasons of race, sex, language or religion. The Commission may wish to consider the advisability of extending the criteria of discrimination beyond those enumerated in the Charter. Other possible criteria are, for example, nationality and political belief. The part dealing with the status of security would include the right to work, the right to education, the right to social security, etc.

The Commission will also have to consider the problem of admissible restrictions, both general and particular, to rights established by the Bill. It is a general recognized principle of law that, in the exercise [13] of rights, everyone is limited by the rights of others and by the just requirements of the State.

The Commission may also want to discuss the question whether the Bill should establish duties of the individual in addition to rights. Recent developments indicate a trend towards the establishment of duties of the individual not only towards his own State but also towards the international community.

The Commission may also want to consider the problem of the suspension of the International Bill of Rights, in whole or in part, by national governments and possibly by the United Nations.

Implementation of the International Bill of Rights

In its resolution of 21 June 1946, the Economic and Social Council stated that “the purpose of the United Nations, with regard to the promotion and observance of human rights as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of human rights and of an International Bill of Rights”; and the Council requested the Commission “to submit at an early date suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms with a view to assisting the Economic and Social Council in working out arrangements for such implementation with other appropriate organs of the United Nations”. Consideration has been given to the problem in Professor Lauterpacht’s book *An International Bill of the Rights of Man*.

The Secretariat feels that consideration might be given to the following questions:

- a) whether or not the Bill should contain a provision to the effect that it cannot be unilaterally abrogated or modified;
 - b) whether or not the Bill should include an express statement to the effect that the matters dealt with in it are of international concern;
 - c) whether or not the Bill should become part of the fundamental law of States accepting it; and
- [14]
- d) whether or not the provisions of the Bill should be declared to be directly applicable in the various countries without further implementation by national legislation or transformation into national law.

It would seem that provisions of the nature mentioned in c) and d) are necessary if the Bill is to be enforceable as part of the national law of the various countries accepting it. In so far as implementation on the international plane is concerned, it is suggested that the Commission might consider the possibility of providing in successive stages for international supervision and enforcement. The following stages are suggested:

- a) the establishment of the right of the General Assembly and other organs of the United Nations, including possibly the Commission on Human Rights, to discuss and make recommendations in regard to violations of the Bill;
- b) the establishment of the right of individuals to petition the United Nations, as a means of initiating procedure for enforcement of human rights;

- c) the establishment of a special organ of the United Nations with jurisdiction and the duty to supervise and enforce human rights *motu proprio*;
- d) the establishment of jurisdiction in this organ to consider cases of suspension of the Bill of Rights, either in whole or in part;
- e) the establishment of local agencies of the United Nations in the various countries with jurisdiction to supervise and enforce human rights therein. The Commission might find it useful, in this connection, to study the precedents established, for example, by the Convention between Germany and Poland on Upper Silesia of 15 May 1922.

The Commission may want also to discuss the role that the Security Council might play in the implementation of the Bill. According to Article 2, paragraph 7, of the Charter, the exception of domestic jurisdiction cannot be invoked in cases where enforcement measures are being taken by the Security Council under Chapter VII. The Commission may want to consider the question whether the Security Council should not be given a more extended jurisdiction in the matter.

[15]

The Drafting and Acceptance of the International Bill of Rights

The Commission may not want to attempt to draft the International Bill of Rights itself. In that event, it is suggested that it might confine itself to a discussion of general principles. Thus, it would discuss the form of the Bill, the general areas of its application and, in broad outline, the rights and freedoms to be defined and, finally, methods of implementation. Responsibility for the actual drafting of the Bill might then be assigned to a drafting committee. If this procedure is adopted, the Commission will have not only to set up the drafting committee but to fix its terms of reference. It should be recalled in this connection that, by its resolution of 21 June 1946, the Economic and Social Council authorized the Commission "to call in *ad hoc* working groups of non-governmental experts in specialized fields or individual experts without further reference to the Council, but with the approval of the President of the Council and the Secretary-General". The drafting committee might be instructed to bring in a report before the second session of the Commission. At its second session, the Commission would consider the draft Bill, as prepared by the drafting committee, and, after such modifications as might be thought advisable, submit its recommendations to the fifth regular session of the Economic and Social Council. It would thus be possible for the General Assembly to consider the recommendations of the Council at the next regular session of the Assembly in September 1947.

E/CN.4/W.4/Add.1

20 January 1947

Addendum to Working Paper on an International Bill of Rights (Item 8 on Provisional Agenda)

(Addendum 1: Dealing with Provisions in the Permanent Statute for the free Territory of Trieste Concerning Human Rights and Fundamental Freedoms)

The Permanent Statute for the free Territory of Trieste sets a precedent in conferring upon the Security Council responsibility to “ensure. . . the *protection* of the basic human rights of the inhabitants”. (Article 2a)

The Governor of the Free Territory, as the representative of the Security Council in Trieste, is responsible, according to Article 17 of the Statute “for supervising the observance of the Statute including the protection of the basic human rights of the inhabitants. . .”

The Statute also provides by Article 4:

“The Constitution of the Free Territory shall ensure to all persons under the jurisdiction of the Free Territory, without distinction as to ethnic origin, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of religious worship, language, speech and publication, education, assembly and association. Citizens of the Free Territory shall be assured of equality of eligibility for public office.”

Article 7 of the Statute provides that:

“The official languages of the Free Territory shall be Italian and Slovene”,
and leaves it to the Constitution to

“determine in what circumstances Croat may be used as a third official language.”

Finally, it is provided by Article 5 that:

“no person who has acquired the citizenship of the Free Territory shall be deprived of his civil or political rights except as judicial punishment for the infraction of the penal laws of the Free Territory.”

E/CN.4/W.8

20 January 1947

Textual Comparison of the Proposed Drafts of an International Bill of Rights (Item 8 on Provisional Agenda)

(Prepared by the Division of Human Rights)

[2]	Draft Submitted by the Delegation of Panama (Prepared by the American Law Institute) E/HR/3	Draft Submitted by the Delegation of Cuba E/HR/1	Draft Submitted by the Delegation of Chile (Prepared by the Inter-American Juridical Committee) E/CN.4/2	Draft Submitted by the American Federation of Labor (E/CT.2/2)
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1. Preamble Upon the freedom of the individual depends the welfare of the people, the safety of the state and the peace of the world.

In society complete freedom cannot be attained; the liberties of the one are limited by the liberties of others, and the preservation of freedom requires the fulfilment by individuals of their duties as members of society.

The function of the state is to promote conditions under which the individual can be most free.

To express those freedoms to which every

Every human being shall have the following rights:

Although first responsibility for the maintenance of human rights and freedom rests with the local community of the nation, we now live in an interdependent world in which these basic rights and freedoms can be effectively guaranteed and expanded only on an international scale. We must not only make nations safe for freedom, but we must also make freedom safe for the individuals who constitute the various nations. Otherwise, the peoples will be helpless and unable to prevent aggressor governments from launching wars. A nation under the heel of a despotic government inevitably tends to be despotic in its relations with other nations. Despotism in any nation menaces the peace of every nation.

The dynamic motive of a truly democratic society is to foster and enhance the worth and dignity of the individual human being – the basic unit of human society. Hence, the first pre-occupation of every democratic and

1. Preamble (Cont.) human being is entitled and to assure that all shall live under a government of the people, by the people, for the people, this declaration is made.

progressive state is the welfare of the individual. The state has no good other than the good of its individual members, present and prospective – its supreme test [3] is the way in which it provides for the full and free development of each individual. The more rights enjoyed by individuals and the more individuals for whom these rights of free development are safeguarded, the more democratic will any society be.

...

Without freedom from fear of tyranny by abolitionist bureaucrats or dictators and without freedom from want, there can be no political or industrial democracy within nations or just relations and enduring peace between nations.

Only by removing the political, economic, and social ills and maladjustments afflicting humanity, will mankind be able to reach that long hoped for stage of civilization in which peace and plenty shall truly prevail.

In this spirit, the American Federation of Labor proposes to the Economic and Social Council of the United Nations that it draft an International Bill of Rights which shall be part of the general peace [4] treaty and be binding on all its signatories. We propose that this International Bill of Rights shall include the following provisions:

2. Life and Liberty (including asylum)

1. The right to life, to liberty, to personal security and to respect of his dignity as a human being.

2. The right to shape his life according to his calling so as to enable him to develop his personality and to seek happiness within the limits of life in the community.

21. The right to sanctuary in a foreign country when escaping from persecution of a political, religious or racial nature.

*Article 1
Right to Life*

Every person has the right to life. This right extends to the right to life from the moment of conception; to the right to life of incurables, imbeciles and the insane. It includes the right to sustenance and support in the case of those unable to support themselves by their own efforts; and it implies a duty of the state to see to it that such support is made available.

The right to life may be denied by the state only on the ground of conviction of the gravest of crimes, to which the death penalty has been attached.

1. Every human being – irrespective of race, colour, creed, sex or national origin – has the right to pursue his or her work and spiritual development in conditions of freedom and dignity.

10. Involuntary servitude in any shape, manner or form or under any guise shall be outlawed and discontinued by all nations and all peoples.

6. The right of asylum is to be guaranteed by all nations. No human being who is a refugee from any political regime he disapproves is to be forced to return to territory under the sovereignty of that regime.

[5]
2. Life and
Liberty
(including
asylum)
(Cont.)

Article II

*Right to Personal
Liberty*

Every person has the right to personal liberty.

The right to personal liberty includes the right to freedom of movement from one part of the territory of the state to another, and the right to leave the state itself. It includes also freedom to establish a residence in any part of the territory, subject only to the restrictions that may be imposed by general laws looking to the public order and security of the state.

The right to personal liberty includes the inviolability of the domicile of the individual and of his personal correspondence.

The state may restrict this right only to the extent necessary to protect the public health, safety, morals and general welfare, in accordance with subsequent provisions of this Declaration.

The right of the state to call upon the services of the individual in time of emergency or to meet the necessities of national defence shall not be regarded as a limitation upon the fundamental right to personal liberty, [6] but merely as a temporary restriction operating during the existence of the national need.

No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.

3. Family
Relations

Article X

*Right to Freedom of
Family Relations*

Every person has the right to be free from interference in his family relations.

It is the duty of the state to respect and to protect the reciprocal rights of husband and wife in their mutual relations.

Parents have a primary right of control over their children during minority, and they have a primary obligation to maintain and support them.

It is the duty of the [7] state to assist parents in the maintenance of adequate standards of child welfare within the family circle, and to promote as far as

possible the ownership of individual homes as a means of fostering better family relations.

The state may restrict the control of parents over their children only to the extent that the parents themselves are unable to perform their duties towards their children or actually fail to do so. Where necessary, the state must itself provide for their protection and support.

4. Freedom from Wrong Interference

Article 6.

Freedom from Wrongful Interference

Freedom from unreasonable interference with his person, home, reputation, privacy, activities, and property is the right of everyone.[8]

The state has a duty to protect this freedom.

6. The right to protection from unjustified interferences with his person, family, home, reputation or private activities.

e. Freedom from the terror of secret police surveillance, arrest or torture. This can be assured only through the abolition of all political police and concentration camps in every country.

5. Right to Resist Oppression

20. The right to resist any form of oppression.

6. Freedom of Religion

Article 1.

Freedom of Religion

Freedom of belief and of worship is the right of everyone. [8] The state has a duty to protect this freedom.

4. The right to choose and profess freely his religion without any restriction other than that imposed by respect for morality and public order.

Article 4

Right to Freedom of Religious Worship

Every person has the right to freedom of religious belief and worship.

This right includes freedom of religious worship in public as well as in private; freedom of religious worship by groups as well as by individuals; freedom to maintain churches and other places of public worship and to assemble in them without restraint; freedom of parents to educate children in their particular religious belief; freedom of religious propaganda in spoken or written form. [9]

The only restrictions which the state may place upon the right of freedom of religious

5. Freedom of religion and right to religious worship are indispensable to a truly democratic society.

worship are those called for by the requirements of public health, safety and good morals; and all such restrictions must be in accordance with general laws and administered without discrimination.

A distinction is recognized between strictly religious activities and other activities of an economic or financial character associated with the maintenance of religious worship but not forming an essential part of it. These economic or financial activities may be regulated by the state in accordance with the general laws governing such activities. [10]

7. Freedom of Opinion and Speech	<p>Article 2.</p> <p><i>Freedom of Opinion</i></p> <p>Freedom to form and hold opinions and to receive opinions and information is the right of everyone.</p>	<p>3. The right to free investigation to enable him to form his opinions, and to express these opinions freely, subject to his being held responsible for his actions.</p>	<p><i>Article III</i></p> <p><i>Right to Freedom of Speech and of Expression</i></p> <p>Every person has the right to freedom of</p>	<p>8. There must be freedom of opinion and expression and full access to the opinions of others.</p> <p>9. The more full and complete knowledge of the world is extended and realized by the peoples of all nations, the less will be the distance and misunderstandings between nations and people. Therefore, the right of the</p>
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7. Freedom
of
Opinion
and
Speech
(Cont.)

The state has a duty to protect this freedom.

Article 3.

Freedom of Speech

Freedom of expression is the right of everyone.

The state has a duty to refrain from arbitrary limitation of this freedom and to prevent denial of reasonable access to channels of communication.

speech and of expression.

This right includes freedom to form and to hold opinions and to give expression to them in private and in public, and to publish them in written or printed form.

The right to freedom of speech and of expression extends to the use of whatever means of communication are available: freedom to use the postal service, the public utilities of telegraph, telephone and radio communication; freedom to use the graphic arts, the theatre, the cinema and other agencies for the dissemination of ideas.

The right to freedom of speech and of expression includes freedom of access to the sources of information, both domestic and foreign. [11]

free access to, and exchange of information, scientific, economic, social, religious and political, the promotion of knowledge and of cultural relations, the full and free dissemination of news by radio and press must be assured.

12. (d) Freedom from censorship of books, press, radio and art, having due regard to the requirements of morals and decency.

The right to freedom of speech and of expression includes the special and highly privileged right to freedom of the press.

The only limitations which the state may impose upon this freedom are those prescribed by general laws looking to the protection of the public peace against slanderous or libellous defamation of others, and against indecent language or publications, provocative of violence among the people.

Censorship of the press is prohibited, whether by direct or indirect means, and all limitations imposed in the interest of public order shall only be applied subsequently to the publication of the material alleged to be of the offensive character

7. Freedom
of
Opinion
and
Speech
(Cont.)

described in the law.
Censorship of the
cinema may be in
advance of publication,
taking into account the
particular form of
publication and the
necessity of protecting
the public against
matters offensive to
accepted standards of
conduct. The state may
not retain a monopoly of
radio broadcasting so
[12] as to deny to the
individual the
opportunity for the free
expression of opinion
through that
instrumentality of
communication.

8. Freedom
of
Assembly
and
Association

Article 4.
Freedom of Assembly
Freedom to assemble
peaceably with others is the
right of everyone.
The state has a duty to
protect this freedom.

15. The right to meeting
and associating with his
fellow men for fostering
the pursuit of
permissible aims.

Article V
*Right to Freedom of
Assembly*
Every person has the
right to assemble
peaceably with others as
a means of giving
expression to views

2. Freedom of expression and association is
vital to the preservation of the basic liberties
and the enhancement of the spiritual and
material progress of the human race. These
rights must be inviolate for those who oppose,
no less than for those who support, a ruling
party or a regime at any specific moment.
Genuine freedom means the right of
association and organization into various, into

Article 5.

*Freedom to Form
Associations*

Freedom to form with others associations of a political, economic, religious, social, cultural, or any other character for purposes not inconsistent with these articles is the right of everyone.

The state has a duty to protect this freedom.

upon matters of common interest.

The state has the duty to permit the use of public places for purposes of general assembly. It has the right to be informed of meetings to be held in public places, to designate convenient localities, and to impose conditions upon the use of such places in the interest of the public order and safety. Similar conditions may be imposed upon assemblies in public and in private buildings. But the conditions imposed by the state upon the holding of public meetings must not be such as to impair substantially the right itself [13] to hold such meetings; and no conditions shall be required for the assembly of small groups of persons whether in public or in private places.

differing, educational, religious, economic, political and trade union organizations, without fear of the threat of direct or indirect control and compulsion by governmental or any other agencies.

8. Freedom
of
Assembly
and
Association
(Cont.)

The right of assembly
includes the right to
hold public parades,
subject to the same
restrictions to which
assemblies are subject.

Article VI

*Right to Freedom of
Association*

Every person has the
right to associate with
other persons for the
protection and
promotion of legitimate
interests.

The state has the right
to adopt regulations
governing the activities
of associations,
provided they are
applied without
discrimination against a
particular group, and
provided they do not
impair substantially the
right of association. [14]

9. Fair Trial
and Non-
retroactivity
of Laws

Article 7.
Fair Trial

Everyone has the right to
have his criminal and civil
liabilities and his rights
determined without undue

17. The right to
protection from
competent courts free
from all influence
contrary to justice.

Article XII
Right to a Fair Trial

Every person accused
of crime shall have the
right to a fair public
hearing of the case, to be

11. Freedom from arbitrary arrest,
detention, search and seizure; proper judicial
determination of arrest and charges; a fair
public trial by jury or competent and
unprejudiced court constituted in accordance
with normal judicial procedure, right of

delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing.

The state has a duty to maintain adequate tribunals and procedures to make this right effective.

Article 9.

Retroactive Laws

No one shall be convicted of crime except for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence. [15]

18. The right to trial without undue delay, to self-defence, and to protection from sentences except in pursuance of laws in force prior to the act with which he is charged.

confronted with witnesses, and to be judged by established tribunals and according to the law in force at the time the act was committed. No fines shall be imposed except in accordance with the provisions of general laws; and no cruel or unusual punishments.

habeas corpus and freedom from arbitrary imposition of penalties.

10.
Freedom
from
Arbitrary
Detention

Article 8.

Freedom from Arbitrary Detention

Everyone who is detained has the right to immediate judicial

19. The right to immunity from arbitrary arrest and to a review of the regularity of his arrest by ordinary tribunals.

Article XI

Right to be Free from Arbitrary Arrest

Every person accused of crime shall have the right not to be arrested except upon warrant

See 11
Column above

10.
Freedom
from
Arbitrary
Detention
(Cont.)

determination of the
legality of his detention.

The state has a duty to
provide adequate
procedures to make this
right effective.

duly issued in
accordance with the law,
unless the person is
arrested *flagrante
delicto*. He shall have
the right to a prompt
trial and to proper
treatment during the
time he is in custody.

11.
Property
Rights

Article 10.
Property Rights

Everyone has the right to
own property under general
law. The state shall not
deprive anyone of his
property except for a public
purpose and with just
compensation.

16. The right to
immunity from
expropriation other than
in pursuance of legal
proceedings or for the
benefit of the
community.

Article XIII
Right to Own Property

Every person has the
right to own property.
The state has the duty
to cooperate in assisting
the individual to attain in
minimum standard of
private ownership of
property based upon the
essential material
needs of a decent life,
looking to the
maintenance
of the dignity of [16]
the human person and
the sanctity of home
life.

The state may
determine by general
laws the limitations

3. The right to organize and work for a
constantly more equitable distribution of the
national income and wealth.

which may be placed upon the ownership of property, looking to the maintenance of social justice and to the promotion of the common interest of the community.

The right of private property includes the right to the free disposal of property, subject, however, to limitations imposed by the state in the interest of maintaining the family patrimony.

The right of private property is subject to the right of the state to expropriate property in pursuance of public policy, just compensation being made to the owner.

12.
Education

Article 11.
Education

Everyone has the right to education.

8. The right to education which will enable him to improve himself in every respect and will lead to his becoming a useful member of [17]

Article XVII
Right to Education

Every person has the right to education.

12.
Education
(Cont.)

The state has a duty to require that every child within its jurisdiction receive education of the primary standard; to maintain or insure that there are maintained facilities for such education which are adequate and free; and to promote the development of facilities for further education which are adequate and effectively available to all its residents.

society and sharing in all the material and spiritual benefits of civilisation.

The right of children to education is paramount.

The state has the duty to assist the individual in the exercise of the right to education, in accordance with the resources of the state. The opportunities of education must be open to all upon equal terms in accordance with their natural capacities and their desires to take advantage of the facilities available.

The state has the right to fix general standards to which educational institutions must conform, provided that these standards are in accord with other fundamental rights and are the same for public and for private schools.

The right to education involves the right to teach, subject to the restrictions which accompany the right to education. [18]

13. Work
and
Conditions
of Work

Article 12.
Work

Everyone has the right to work.

The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity for useful work.

Article 13.

Conditions of Work

Everyone has the right to reasonable conditions of work.

The state has a duty to take such measures as may be necessary to insure reasonable wages, hours, and other conditions of work.

9. The right to work under conditions fitting to his status as a human being and to receive, in return, a remuneration in proportion to the value of his contribution to the community.

Article XIV
Right to Work

Every person has the right to work as a means of supporting himself and of contributing to the support of his family.

This right includes the right to choose freely a vocation, in so far as the opportunities of work available make this possible, as well as the right to transfer from one employment to another and to move from one place of employment to another. Associated with the right to work is the right to form labour and professional unions.

Every person has the duty to work as a contribution to the general welfare of the state.

The state has the duty to assist the individual in the exercise of his right to work when his own efforts are not adequate to secure [19]

4. Raise labour standards throughout the world. There is no more effective way of stimulating the revival of production and the international expansion of markets than by increasing the purchasing power of the great mass of people in every country.

12. (b) There is to be no peacetime conscription or militarization of workers protesting or striking against conditions of labour which they consider as unfair or unsatisfactory.

13. Work
and
Conditions
of Work
(Cont.)

employment; it must
make every effort to
promote stability of
employment and to
insure proper conditions
of labour, and it must fix
minimum standards of
just compensation.

The state has the
right, in time of
emergency, to call upon
the services of the
individual in cases
where such services are
necessary to meet an
urgent public need.

14. Food
and
Housing

Article 14.

Food and Housing

Everyone has the right to
adequate food and housing.

The state has a duty to
take such measures as may
be necessary to insure that
all its residents have an
opportunity to obtain these
essentials. [20]

11. The right to
adequate food.

12. The right to
hygienic living
conditions and to
clothing suitable for the
climate in which he lives.

13. The right to live in
surroundings free from
avoidable diseases.

15. Social
Security

Article 15.

Social Security

Everyone has the right to
social security.

10. The right to
receive adequate
maintenance in the
event of unemployment,
sickness or chronic
illness, to meet his own

Article XVI

Right to Social Security

Every person has the
right to social security.

3. . . . and the right to strive for the
enhancement of the moral and material
wellbeing of the people for better health and
security against the ravages of
unemployment, accidents, sickness and old
age – are to be considered inalienable.

The state has a duty to maintain or insure that there are maintained comprehensive arrangements for the promotion of health, for the prevention of sickness and accident, and for the provision of medical care and of compensation for loss of livelihood.

and his family's material and spiritual needs.

14. The right to adequate medical assistance.

The state has the duty to assist all persons to attain social security. To this end the state must promote measures of public health and safety and must establish systems of social insurance and agencies of social cooperation in accordance with which all persons may be assured an adequate standard of living and may be protected against the contingencies of unemployment, accident, disability and ill-health and the eventuality of old age.

Every person has the duty to cooperate with the state according to his powers in the maintenance and administration of the measures taken to promote his own social security. [21]

The conditions of work under modern large-scale industry make it especially necessary for the working people to have an effective system of social legislation which will provide minimum wages; maximum working hours; guarantee against the employment of child labour; adequate medical care; accident, unemployment and old-age insurance and other such vital measures making for effective social security of the population.

16. Right to Nationality

Article IX

Right to a Nationality

Every person has the right to a nationality.

16. Right to
Nationality
(Cont.)

No state may refuse to grant its nationality to persons born upon its soil of parents who are legitimately present in the country.

No person may be deprived of his nationality of birth unless by his free choice he acquires another nationality.

Every person has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another state.

Every person has the duty to cooperate with the state according to his powers in the maintenance and administration of the measures taken to promote his own social security.

17.
Participa-
tion in
Govern-
ment

Article 16.
*Participation in
Government*

22. The right to
choose his ruler and to
share in the government
of his country.

Article XIII
*Right to Participate in
Elections*

Every person,
national of the state, has

Everyone has the right to take part in the government of his state.

The state has a duty to conform to the will of the people as manifested by democratic elections.

the right to participate in the election of the legislative [22] and executive officers of the government in accordance with the provisions of the national constitution. The practical exercise of this right may, however, be conditioned by the duty of the person to show that he is competent to understand the principles upon which the constitution is based. The constitution of the state shall provide for a government of the people, by the people and for the people.

This right presupposes the right to form political parties.

No person shall be denied the right to hold public office, or to be appointed to any of the public services of the state of which he is a national, upon grounds of race or religion or sex or any other arbitrary discrimination; and the

17.
Participa-
tion in
Govern-
ment
(Cont.)

administration of the
public services of the
state shall, in respect to
appointments and terms
and conditions of
service, be [23] without
favour or discrimination.

18. Right to
Petition
Govern-
ment

Article VII

*Right to Petition the
Government*

Every person has the
right, whether exercised
by individual action or
in conjunction with
others, to petition the
government for redress
of grievances or to
petition in respect to any
other matter of public or
private interest.

The publication of
such petitions shall not
be made a ground for
penalizing in any way,
directly or indirectly, the
person or persons
making the petition.

19. Equal
Protection
and Equal
Opportunity

Article 17.

Equal Protection

Everyone has the
right to protection against
arbitrary discrimination

5. The right to
equality before the law
without distinction as to
race, religion, colour,
class or sex.

Article XV

*Right to Share in
Benefits of Science*

Every person has the
right to share in the
benefits [24]

a. All human beings have real security and
are free from discrimination on account of
race, colour, creed or difference of political
belief from the government in control or the
party in power.

in the provisions and application of the law because of race, religion, sex, or any other reason.

7. The right to equal opportunity with others in shaping his life, raising the standard of living, and fulfilling a useful function in society.

accruing from the discoveries and inventions of science, under conditions which permit a fair return to the industry and skill of those responsible for the discovery or invention.

c. All economic or political discrimination and punishment for differences of political opinion or religious belief and practices are to be eliminated. The threat of being sent to concentration or labour camps as a punishment for difference of opinion with any government authority or dominant political party must be completely removed.

The state has the duty to encourage the development of the arts and sciences, but it must see to it that the laws for the protection of trademarks, patents and copyrights are not used for the establishment of monopolies which might prevent all persons from sharing in the benefits of science. It is the duty of the state to protect the citizen against the use of scientific discoveries in a manner to create fear and unrest among the people.

Article XVIII

Right to Equality before the Law

All persons shall be equal before the law in respect to the enjoyment

19. Equal
Protection
and Equal
Opportunity
(Cont.)

of their fundamental rights. There shall be no [25] privileged classes of any kind whatsoever.

It is the duty of the state to respect the fundamental rights of all persons within its jurisdiction and to protect them in the enjoyment of their rights against interference by other persons.

In all proceedings in relation to fundamental rights the state must act in accordance with due process of law and must assure to every person the equal protection of the law.

All restrictions imposed upon fundamental rights must be such only as are required by the maintenance of public order; and they must be general in character and applicable to all persons within the same class.

20. Right to Migrate

7. The right to migrate or leave temporarily or permanently a country in which a citizen does not [26] want to remain must be assured, limited only by the laws of immigration of the country which he may wish to visit.

21. Limitation of Exercise of Right

Article 18.
Limitations on Exercise of Rights
In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic state.

Article XIX
Rights and Duties Correlative
Rights and duties are correlative; and the duty to respect the rights of others operates at all times as a restriction upon the arbitrary exercise of rights.

22. Implementation (a) General (b) In regard to Aliens

(a) *Article 20*
Incorporation of Declaration into Municipal Law
The provisions of this Declaration shall be a part of the law of each individual state, to be respected and enforced by the administrative and judicial authorities in the same manner as all other laws of the state.
The provisions of this [27] Declaration shall not be abrogated or modified

V
Conclusion
The foregoing shall constitute our International Bill of Rights which shall be fully observed and safeguarded in every country. Toward the attainment of these ends, there should be established an International Commission charged with the task of facilitation and coordinating the promotion and protection of the basic provisions of the International Bill of Rights.

22.
Implemen-
tation
(Cont.)

except in accordance with the terms of an inter-American agreement or an agreement of the United Nations binding upon the American States.

(b)

Article XXI

*Procedure in Cases
Involving Aliens*

In the case of aliens alleging violation of the foregoing fundamental rights by the state in which they are resident, the complaint shall be decided first by the courts of the state itself; and in cases in which a denial of justice is alleged by the state of which the alien is a national, the case, failing diplomatic settlement, shall be submitted to an International Court, the statute of which shall be included as an integral part of the instrument in which the present Declaration is to be adopted.

E/CN.4/W.16
23 January 1947

Analysis of Various Draft International Bills of Rights (Item 8 on the Agenda)

(Memorandum by the Division of Human Rights)

The present paper deals with eighteen draft International Bills of Rights and comments thereon that have come to the attention of the Division of Human Rights. These drafts are listed in the chronological order of their publication in the Annex which also provides bibliographical details.

The paper is divided into three parts:

general observations (Section 1);
a discussion of those elements of an International Bill of Rights which are substantially the same as those of national Bill (Sections II – III);
and, finally, a more elaborate discussion of those elements which are special or particular to an International Bill of Rights (Sections IV – VI).

I. General Observations

The various drafts differ in many respects. The great majority of them were written during World War II and in the period following the war; but some of them date back to the pre-war era. Two of the Bills were written in the United Kingdom, fifteen in the Western Hemisphere and one was adopted by the Institut de Droit International at its session of October 1929 in New York.⁷⁹ One of them originated with a Government (Cuba), one with an inter-governmental organization (the Inter-American Juridical Committee), some with private international or national organizations, some were drafted by [2] international lawyers, and some by internationally-minded writers. The draft prepared by the American Law Institute was sponsored, at the last meeting of the General Assembly, by the Government of Panama; and the draft prepared by the Inter-American Juridical Committee has been brought to the attention of the United Nations by the Government of Chile.

Some of the drafts are very short, others, including commentaries, cover many pages. Dr. Alvarez' draft contains only two articles whereas the draft prepared by the Commission to Study the Organization of Peace contains twenty-two articles.

⁷⁹ The *Institut de droit international* (Institute of International Law), founded on 8 September 1873, is an organization committed to the development of international law. The *Institut* is comprised of the world's leading public international lawyers, and holds biannual congresses to study international law and pass resolutions proposing modifications to the law as it currently exists. It received the Nobel Peace Prize in 1904 for its work with respect to human rights law and peaceful conflict resolution.

As already indicated, some of the drafts are accompanied by commentaries whereas others are limited to texts of proposed articles. Some of the drafts also include elaborate introductory notes and explanations. Some of the drafts include preambles outlining the philosophy on which the draft is based whereas others do not. Some contain lists of rights only while others describe these rights in a variety of different ways.

The scope of the drafts naturally reflects the philosophy and general approach of the authors. All of them contain provisions defining the status of equality and certain elements of the status of liberty; but only the drafts written during and after World War II deal with the problem of social security.

For the most part, the drafts are formulated as catalogues of the rights of individuals but a few also enunciate the duties of the State towards individuals. Some also stress the duty of the State to protect the rights of individuals. Some of them are formulated in absolute terms, without restriction or reservation of the rights enunciated, whereas others contain general qualifications in favour of the State and the rights of others, and still others contain specific restrictions with or without reference to national law. Only two of the drafts deal with the duties of individuals as distinguished from their rights. In Professor Lauterpacht's draft,⁸⁰ the substantive provisions are divided into two categories; one [3] of which is to be enforced by both national and international law and the other by national law only. The other drafts make no such distinctions. None of the drafts contain provisions relating to the possible suspension of the Bill. Finally, the great majority of the drafts do not attempt to deal with the problem of implementation.

II. The Preamble of the Bill

Some of the drafts open with preambles. The principal elements of these preambles are as follows:

1. Metaphysical: In the preamble to the draft of the late Mr. H. G. Wells,⁸¹ it is stated that "a man comes into this world through no fault of his own" and also that "he is manifestly a joint inheritor of the accumulations of the past".

⁸⁰ Hersch Lauterpacht's *An International Bill of the Rights of Man* provides a survey of the legal and philosophical discourse on the history of human rights, argues that respect for human rights is essential to achieving world peace and presents arguments for enforcing adherence to human rights under an International Bill of Human Rights at national and international levels. Commissioned by the American Jewish Committee, it was published by Columbia University Press in New York in 1945. See "Chapter 8. Human Rights", in Elihu Lauterpacht, *The Life of Sir Hersch Lauterpacht, QC, FBA, LL.D.*, Cambridge: Cambridge University Press, 2010, pp. 251–264. Lauterpacht (1897–1960) later served as a member of the International Law Commission from 1952 to 1954 and as a judge at the International Court of Justice from 1955 to 1960.

⁸¹ Herbert George Wells (1866–1946) was a British historian, journalist, teacher and novelist who supported the formation of a "World State" and led the collaborative publication of *The Idea of the League of Nations*. The League of Free Nations Association was subsequently founded under his Chairmanship. In 1940, Wells published *The Rights of Man or What We Are Fighting For*, Harmondsworth, UK: Penguin, 1940.

2. Legal-philosophical: The draft of the Institut de Droit International states that “the juridical conscience of the civilized world demands the recognition for the individual of rights preserved from all infringement on the part of the State”.
3. Political-philosophical: The draft of the American Law Institute refers to democracy as a means of reconciling the interests of society and the individual.

References to national and international precedents.

4. Professor Lauterpacht’s draft refers to the peace aims of the United Nations.
5. Professor Lauterpacht’s draft also states that the denial of the rights of man has proved to be a danger to the peace of the world.
6. The draft of the World Government Association contains quotations from Abraham Lincoln, Woodrow Wilson and Franklin D. Roosevelt.

III. The Substantive Provisions of the Bill

1. The Status of Equality

Practically all the drafts define the status of equality either in a clause dealing with the persons to whom the Bill shall apply, as a specific right, or as a combination of both. Some of the drafts deal with the status of equality by prohibiting discrimination, but in most [4] cases the right is defined in positive terms. While some of the drafts only proclaim the principle, others prohibit in elaborate terms the practice of discrimination in specific fields of human activity, *e.g.* education. Some of them, in an effort to make the principle effective, also deal with indirect discrimination.

Grounds for discrimination are usually listed as race, sex, language and religion, but some of the drafts also list nationality, national origin, professed belief, colour, class, citizenship, civil status, wealth, birth, and culture. Some also refer to “other reasons”. Some state the principle that all nationals of a State shall enjoy equality before the law and equal treatment in all respects by the authorities of the State, but none contain any reference to the duty of private persons or corporations to refrain from discrimination. However, one of the drafts stresses the principle of equality of opportunity in various activities and provides for national sanctions in the event of violations of this principle.

2. The Status of Liberty

The major part of the various drafts deals with the status of liberty. The rights listed are: life, personal liberty and its corollaries (prohibition of slavery and compulsory labour, sanctity of the home and secrecy of correspondence), freedom from

wrongful interference, freedom of association and of assembly, freedom of speech and of opinion, freedom of information and of the press (sometimes qualified in the interests of responsibility), religious worship and nationality. Certain drafts also provide for a right to petition national authorities for redress of grievances. Three of the drafts mention a right of petition to the United Nations. Special mention is often made of such corollaries of personal liberty as fair trial, freedom from arbitrary detention and the principle of the non-retroactivity of penal laws. A few of the drafts mention the right of asylum either generally or in foreign legations. The draft of the Inter-American Juridical Committee refers to the freedom of [5] family relations. Many of the drafts stress, in various ways, the right of individuals to choose their rulers and to participate in Government. A majority of the drafts refer to the right to property, either in positive language or by prohibiting unlawful expropriation. Three drafts mention freedom of commerce, navigation and industry, while some also refer to the freedom of migration. Two drafts mention the duty to resist oppression. Finally, the draft of the American Bar Association mentions “freedom to teach and to receive instruction without governmental censorship, control of propaganda.”

3. The Status of Social Security

Many of the drafts prepared during and after World War II devote considerable attention to the question of social security. The catalogue is a large one and mentions such rights as those to food and housing, work under suitable conditions (sometimes coupled with the duty to work), security against unemployment, disease and old age, the right to medical care, to education, to recreation and rest, and to share in the benefits of science.

IV. Implementation and Enforcement of the International Bill of Rights

The great majority of the drafts fail to deal, probably intentionally, with the problem of implementation and enforcement. The draft of the Commission to Study the Organization of Peace says that the provisions of the International Bill of Rights “shall be deemed fundamental principles of international law and of national law of each of the signatory States to be realized by appropriate action of international and national agencies”. The same draft also provides that “every State has the duty to provide effective measures for the enforcement within its jurisdiction of the rights and freedoms herein declared, and the United Nations shall take measures to carry out the provisions of the Charter to safeguard these rights and freedoms throughout the world”. Similar provisions will be found in the

draft of the American Association for the United Nations.⁸² The draft of the American Jewish Committee⁸³ includes a clause to the effect that “no plea of sovereignty shall [6] ever again be allowed to permit any nation to deprive those within its borders of these fundamental rights on the claim that those are matters of national concern”; but the draft says nothing about the supervision or enforcement of the Bill. Article 20 of the draft of the Inter-American Juridical Committee states that the Bill is to be respected and enforced as part of national law by the administrative and judicial authorities in the same manner as all other laws of the State. In Article 15 of Professor Lauterpacht’s draft, it is provided that “every State shall, by appropriate and constitutional means, adopt Part I of this International Bill of Rights as part of its domestic law and constitution”. Two of the drafts expressly state that signatories shall not have the right unilaterally to abrogate or modify the International Bill of Rights.

The American Federation of Labor advocates the creation of an “International Commission charged with the task of facilitation and co-ordinating the promotion and protection of the basic provisions of the International Bill of Rights.” Free World, on the other hand, favours the creation of a permanent Committee on the Rights of Every Man which would be established by the General Assembly and instructed to draft an International Bill of Rights and also to assume responsibility for the supervision and enforcement of the Bill.

Professor Lauterpacht suggests that the International Bill of Rights be made “an integral part of the law of nations”. The International Bill of Rights would be “placed under the guarantee of the United Nations” and its observance should “be a matter of concern to all the United Nations”. He also suggests the creation of an organ to be called the High Commission for the Supervision of the International Bill of Rights. This organ would consist of “independent persons of the highest distinction”. Enforcement of the Bill would, however, be a responsibility of the Council of the United Nations. It is to be noted that [7] Professor Lauterpacht’s book was written before the adoption of the Charter. The American Association for the United Nations, on the other hand, suggests that the International Court of Justice be given jurisdiction in cases of violations of the International Bill of Rights.

⁸² Founded in 1943, the United Nations Association was established to create awareness among Americans about the functions and purpose of the United Nations and encourage public involvement. Renamed the American Association for the United Nations in 1945, the organization is now known as the United Nations Association of the United States of America after having merged with the U.S. Committee for the United Nations in 1964.

⁸³ Established in 1906, the American Jewish Committee is an advocacy organization whose mission is to “enhance the well-being of Israel and the Jewish people worldwide, and to advance human rights and democratic values in the United States and around the World”. Its key areas of focus are “combating anti-Semitism and all forms of bigotry; promoting pluralism and shared democratic values; supporting Israel’s quest for peace and security; advocating for energy independence; [and] strengthening Jewish life”.

V. The International Bill of Rights and the Protection of Minorities

Only four of the drafts studied contain express provisions for the protection of minorities. Parson's draft⁸⁴ refers briefly to "the right of ethnic and religious minorities to enjoy equal opportunity for the development of their common humanity". A similar provision will be found in the draft of the American Association for the United Nations. The declaration of the Institut de Droit International states that "it is the duty of every State to recognize the right of every individual both to the free use of the language of his choice and to the teaching of such language". Professor Lauterpacht goes further. Article 12 (Part II) of his draft reads as follows:

"In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right to establish and maintain, out of an equitable proportion of the available public funds, their schools and cultural and religious institutions and to use their own language before the courts and other authorities and organs of the State."

The avowed purpose of the declaration of the Institut de Droit International was to replace the then existing Minorities Treaties by an instrument of general application. In this connection, reference may also be made to Professor Lauterpacht's remark that "the abandonment of the present system of protection of minorities, without an alternative and compensating international arrangement, would mean a disservice to the minorities, to the cause of the international protection of human rights and to international peace and progress."

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VI. International Bill of Rights and the Diplomatic Protection of Citizens Abroad

Not all the drafts make it clear how far their provisions apply to aliens as well as to nationals. Professor Lauterpacht provides for the protection of aliens as follows:

"Aliens shall not be denied the full and equal protection of the preceding articles of this Bill of Rights and of other rights granted to them by the law of the State in which they reside. No alien legally admitted may be expelled except in pursuance of a judicial decision or recommendation as a punishment for offences laid down by law as warranting expulsion." (Article 7, paragraph 2).

None of the drafts attempt to deal with the problem of statelessness, but four of them forbid the arbitrary withdrawal of nationality. The fact that all the drafts use the

⁸⁴ Reverend Wilfred Parsons (1887–1958) was a Jesuit professor of political science who taught at Georgetown University in Washington, D.C., from 1938. He served the Catholic Association for International Peace from 1945 to 1946.

expression “man”, “individual”, or “person”, (and not “national” or “citizen”) would suggest that, in principle, all the rights and freedoms listed therein apply both to nationals and foreigners. It is interesting to note, however, that certain Latin American authors and also the Inter-American Juridical Committee emphasize the principle that an alien enjoys the same civil rights as nationals. This is obviously a reflection of the Calvo doctrine.⁸⁵ Alvarez suggests that, in no case, should a non-national “seek to obtain rights differing from those granted to nationals, or to exercise them in a manner other than that provided for by the Constitution and the law”. As a reaction to the misuse of diplomatic protection, Gutiérrez suggests that “every individual has the right to be assisted and protected by the State to which he belongs in forms established by treaties and International Law. A person making claims against a State of which he is deemed to be a member according to its laws shall not have this protection.” In addition, Gutiérrez says that aliens should not interfere in the political life of the countries of their residence. The draft of the Inter-American Juridical Committee is also concerned with the same problem. Any violation of the International Bill of Rights, affecting a resident alien, shall, it says, first be “decided by the courts of the State itself”. Diplomatic intervention is admitted only in cases “in which a denial of justice is alleged by the States of which the alien is a national”.

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Annex

Chronological List of International Bill of Rights

1. Dr. Alejandro Alvarez: Sixth Section of a Draft on the “Fundamental Bases of Future International Laws” entitled “International Rights of the Individual and of International Associations”, submitted to the Second Session of the American Institute of International Law in Havana, January 1917. (Source: Jose Matos: *La segunda session del Instituto Americano de Derecho International*, Habana, p. 25 ff; English translation by the Secretariat.)

2. Declaration of the International Rights of Man, adopted by the Institut de Droit International at its session of 12 October 1921, Briarcliff Lodge, Briarcliff Manor, New York. (Source: *Annuaire de Droit International*, Session de New-York 1929, pp. 298–300; English version in *The American Journal of International Law* 1941 – vol. 35 – pp. 663–664.)

This Declaration was incorporated by Dr. Alejandro Alvarez (see No. 1) in Section VI of his “*Projèt de Déclaration sur les données fondamentales et les grands principes du droit international*”, being a report submitted to the Institut de Droit

⁸⁵ Named for the Argentinian jurist Carlos Calvo, the doctrine maintains that non-nationals must exhaust domestic remedies before the courts of the territorial state before their own governments may resort to international remedies.

International, International Law Association, Union Juridique Internationale, and Academie Diplomatique Internationale, and published in Paris 1931.

3. Declaration of the Rights of Man by H. G. Wells (Source: *The New World Order*, London 1940, pp. 139–145.)

4. An International Bill of Rights by the Reverend Wilfred Parsons S. J., presented at the Fifteenth Annual Conference of the Catholic Association for International Peace, 14 April 1941. (Source: *America's Peace Aims, A Committee Report*. The Catholic Association for International Peace, 1312 Massachusetts Avenue, N. W., Washington D.C., p. 23.)

5. International Bill of Rights suggested by Rollin McNitt, Dean Emeritus of the School of Law of Southwestern University, Los Angeles, vice-president and member of the board of governors of the Lawyers Club. (Source: *The Los Angeles Daily Journal*, 3 June 1942.)

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6. International Bill of Rights. Principles of the Rights and Duties of Individuals by Irving A. Issacs. (Source: *The International Bill of Rights and Permanent Peace Concordance* by Irving A. Issacs, Boston 1943.)

7. Statement of Essential Human Rights by the American Law Institute. This draft has been submitted to the United Nations by the Government of Panama. (Source: *The American Law Institute. Report to the Council of the Institute and Statement of Essential Human Rights by a Committee of Advisers, Representing the Principal Cultures of the World*, February 1944. See also doc. 20/7(2) of the San Francisco Conference, and doc. E/HR/3.)

8. Declaration of Human Rights submitted by the American Jewish Committee, January 1945. (Source: *The Committee Reporter*, January 1945.)

9. An International Bill of the Rights of Man by H. Lauterpacht, New York, Columbia University Press, 1945, pp. 67–214.

10. Declaration of the International Rights and Duties of the Individual by Gustavo Gutiérrez. (Source: Gustavo Gutiérrez, *La Carta Magna de la Comunidad de las Naciones*, Editorial Lex, La Habana, 1945, pp. 484–489 : English translation by the Secretariat.)

11. A Charter for the United Nations. Chapter I – The Rights of Every Man, recommended by Free World. (Source: *Free World*, May 1945, pp. 78–80.)

12. Draft Declaration of the International Rights and Duties of Man and accompanying Report, formulated by the Inter-American Juridical Committee in accordance with Resolutions IX and XL of the Inter-American Conference on Problems of War and Peace held at Mexico City, 21 February – 8 March 1945, dated 31 December 1945 (published by the Committee to Study the Organization of Peace, New York 21, N. Y.). This draft has been drawn to the attention of the United Nations by the Government of Chile.

13. Draft Declaration of Human Rights submitted by the Delegation of Cuba to the General Assembly of the United Nations with covering letter of 12 February 1946, addressed to the President of the Economic and Social Council (E/HR/1, 22 April 1946). (This is a different version from that submitted by the Delegation of Cuba on 2 May 1945 to the San Francisco Conference. doc 2G/14/(g) – pp. 2–10.) [11]

14. Enumeration of subjects for Consideration as to an International Bill of Rights by the American Bar Association (Chicago, Summer, 1945).

15. Bill of Rights submitted to the United Nations by World Government Association (July 1946).

16. Draft of an International Bill of Rights by the American Association for the United Nations and the American Jewish Conference (1946).

17. International Bill of Rights. Proposal submitted by the American Federation of Labor to the Secretary-General of the United Nations on 9 August 1946 (E/CT.2/2).

18. Bill of Human Rights. Text prepared by the Executive Committee of the Committee on Human Rights of the Commission to Study the Organization of Peace (published by International Conciliation, December 1946, No. 426, pp. 562–564 and Introduction, pp. 558–561). (In the same issue (pp. 551–557), an article by James T. Shotwell: “The Idea of Human Rights” reprinted from the Survey Graphic of December 1946. Cf. also two earlier studies published by the same Commission: “Human Rights and the World Order” by Quincy Wright, 1943, and Fourth Report of the Commission, Part III: International Safeguard of Human Rights, May 1944.)

E/CN.4/SR.1*

27 January 1947

Summary Record of the First Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Monday,
27 January 1947 at 11:00 a.m.

Present: Mr. J. C. Moore (Australia); Mr. Roland Lebeau⁸⁶ (Belgium); Mr. L. Kaminsky⁸⁷ (Byelorussian Soviet Socialist Republic); Mr. P. C. Chang (China); Mr. Osman Ebeid⁸⁸

⁸⁶ Roland Lebeau (1887–1965) of Belgium attended the Commission’s first and third sessions as an observer.

⁸⁷ Born in Moghilev in 1907, Leonid Kaminsky represented the Byelorussian Soviet Socialist Republic on the United Nations Relief and Rehabilitation Administration.

⁸⁸ Osman Ebeid (born 1901) represented Egypt on a number of international bodies including the Committee on the Progressive Development of International Law and its Codification.

(Egypt); Mrs. Hansa Mehta⁸⁹ (India); Dr. Ghassame Ghani⁹⁰ (Iran); Mr. Charles Malik (Lebanon); General Carlos P. Romulo (Philippine Republic); Mr. Charles Dukes (United Kingdom); Mrs. Eleanor Roosevelt (United States of America); Mr. V. F. Tepliakov (Union of Soviet Socialist Republics); Mr. José A. Mora (Uruguay); Representatives of Specialized Agencies: Mr. Eric W. Hutchison (International Labour Organization); Mr. Valère Darchambeau (UNESCO); Representatives of Non-governmental Agencies: Miss Lena Spiegel (WFTU⁹¹); Mr. Wallace Campbell (International Cooperative Alliance); Secretariat: Mr. Henri Laugier; Mr. J. P. Humphrey.

1. Opening Remarks

The meeting was called to order by MR. LAUGIER who, in emphasizing the significance of this first session of the full Human Rights Commission, stated that no one part of the action undertaken by the United Nations to make peace secure had more power or a wider scope than this. The task of the Human Rights Commission amounted to following up in the field of peace the fight

^[*] Cancel and destroy Document E/CN.4/SR.1–18 (7 January 1947) concerning number of meetings.

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which free humanity had waged in the fields of war, defending against all offensive attacks the rights and dignity of man, and establishing, upon the principles of the United Nations Charter a powerful international recognition of rights. The General Assembly of the United Nations had never lost sight of these principles, as witness the strongly worded resolution which proclaimed genocide to be an international crime; the resolution calling upon Member States to put an end to religious and racial persecution and discrimination; and the resolution dealing with the treatment of Indians in the Union of South Africa. The action taken in the case of South Africa established a precedent of fundamental significance in the field of international action. The General Assembly had also passed the Danish resolution calling upon Member States to grant equal political rights to women, a resolution the moral force of which would be of inestimable value to the Commission on the Status of Women. A further resolution instructed the Economic and Social Council to call a conference of all members of the United Nations on Freedom of Information which, the resolution stated, was “an

⁸⁹ Hansa Manubhai Mehta (1897–1995) served on the Commission of Human Rights and Sub-Commission on the Status of Women and United Nations Educational, Scientific and Cultural Organization as a representative of India and actively campaigned for the inclusion of equal rights for men and women. She was previously a member of the Bombay Legislative Council as Parliamentary Secretary to the Minister of Education and Health and the Constituent Assembly of India.

⁹⁰ Ghassame Ghani (born 1895) was a professor of medicine and Iranian parliamentarian.

⁹¹ The World Federation of Trade Unions, established in 1945, was an international body that comprised mainly pro-Soviet or pro-communist labour unions.

essential factor in any serious effort to promote the peace and progress of the world.” It should be remembered, moreover, that out of these debates the general impression had arisen that no violation of human rights should be covered up by the principle of national sovereignty, and that violations of the Charter in one State constituted a threat to all, and should set in motion the defence mechanisms of the international community.

Included on the Commission’s agenda were the tasks of drafting an International Bill of Rights, and establishing Sub-Commissions on Freedom of Information, on Prevention of Discrimination, and on Protection of Minorities. The Commission would be faced also with the problem of considering a large number of appeals and communications addressed to the United Nations from groups and individuals who considered themselves to be victims of violations of their rights. Whether this right of appeal did actually exist in the texts or not (and he himself inclined [3] to doubt it), it was important to acknowledge that the right was alive in the hearts and minds of men and that these appeals established a direct link between the United Nations and men in quest of justice. The problem for the Commission lay in discovering and defining its competence, its procedure, its means of action and its peaceful weapons for the defence of justice. If the Commission decided, as seemed likely, that it was not competent to conduct inquiries and hold hearings concerning violations of human rights, it could still, however, submit proposals as to the setting up of machinery for the hearing of such appeals.

Mr. Laugier added that, owing to transport difficulties, the Representative of Chile would arrive in New York on 1 February, and the Representative of Yugoslavia, Mr. Ribnikar,⁹² was also delayed. Colonel Hodgson,⁹³ the Representative of Australia, had also been delayed and would be replaced temporarily by Mr. Moore. Professor Cassin of France hoped to arrive in New York on 30 January. Mr. Neogi of India had resigned and would be replaced by Mrs. Hansa Mehta who would have full powers pending the confirmation of her nomination by the Economic and Social Council at its next meeting. The same applied to the Representative of Iran, Dr. Ghani, and to the Representative of Egypt, Mr. Ebeid, who is replacing Mr. Saad Kamel. The Belgian

⁹² Vladislav Ribnikar was a partisan during the Second World War. He was the son of the owners of the important Yugoslav newspaper *Politika*. John Humphrey described him as “one of the most interesting people on the commission” (John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 24). Ribnikar’s friend C.L. Sulzberger of the *New York Times* described him as being “as far left as an editor of a moderately liberal newspaper in the United States” (Mary Ann Glendon, *A World Made New, Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York: Random House, 2001, p. 39).

⁹³ Col. William Roy Hodgson (1892–1958), an Australian diplomat and war veteran, strongly supported the development of a convention on human rights and the establishment of an international court to enforce compliance with the convention.

Government had informed the Secretary-General that Mr. Dehousse was unable to attend, and would be replaced by Mr. Roland Lebeau who would act as a temporary deputy without the right to vote, until the Economic and Social Council had examined this question of deputies at its next meeting. This also applied to Mr. Ribnikar, the Yugoslav Representative replacing Dr. Stilinovic. The International Labour Office would be represented by Mr. Eric Hutchison, and the United Nations Educational, Scientific, and Cultural Organization by Mr. Valère Darchambeau. Non-governmental Organizations would participate in an advisory capacity. They were the American Federation of Labor,⁹⁴ the International Cooperative Alliance,⁹⁵ the International Chamber of Commerce,⁹⁶ World Federation of Trade Unions, and the International Labour Organization.⁹⁷

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2. Election of Chairman

MRS. HANSA MEHTA (India) proposed Mrs. Roosevelt as Chairman, paying tribute to her work as Chairman of the nuclear Commission on Human Rights.

GENERAL ROMULO (Philippine Republic) moved that nominations be closed and Mrs. Roosevelt was unanimously elected Chairman.

MR. LAUGIER, in handing over the chairmanship, also paid tribute to Mrs. Roosevelt.

THE CHAIRMAN referred to the high standards of achievement which had been set by Mr. Laugier and emphasized the importance of the work which faced the Commission. It had a mandate to write a Bill of Human Rights and had not as yet any way of enforcing its decision. She felt, however, that the Commission was so constituted that it would meet the problems adequately.

3. Election of Vice-Chairman

MR. DUKES (United Kingdom) proposed Dr. P. C. Chang, mentioning the quality of his work in the field of Human Rights. Dr. Chang was unanimously elected.

⁹⁴ The American Federation of Labor, founded in 1886, was one of the first federations of labour unions in the United States. The Federation works to provide guidance and funding to ensure that unions can form, as well as advocating for fair and equal working conditions for labourers.

⁹⁵ The International Cooperative Alliance, founded in 1895, is a non-governmental organization devoted to representing co-operatives worldwide. Its activities include raising awareness about cooperatives, advocating for policy changes with regard to cooperatives, and providing information and support for its members.

⁹⁶ The International Chamber of Commerce is a global business organization which works with governments to set economic rules and standards, promote growth in trade and increased communication between entities worldwide, and advocate for world business in questions of policy.

⁹⁷ Pursuant to Document E/CN.4/SR.1/Corr.1, the words "and the International Labour Organization" on the bottom of page 3 should be deleted.

4. Election of the Rapporteur

GENERAL ROMULO (Philippine Republic) nominated Dr. Charles Malik, as Rapporteur, referring to his participation in the work of the United Nations at San Francisco, London, and in the General Assembly of 1946. Dr. Malik was unanimously elected.

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7. Review of Terms of Reference

THE CHAIRMAN read document E/248 "The Consolidated Terms of Reference of the Commission on Human Rights and its Sub-Commissions". She drew members' attention to paragraph 2, sub-paragraph (b) which mentioned the Commission's interest in the status of women. The Chairman thought that, in view of the fact that there was now a Commission on the Status of Women, there might be some duplication.

MR. LEBEAU (Belgium) said the question was pertinent but explained that the document had been drawn up when the organ concerned with the status of women was a Sub-Commission of the Commission on Human Rights. The position was different now. He considered the Commission on the Status of Women should report directly to the Economic and Social Council, and not to the Commission on Human Rights.

MR. TEPLIAKOV (USSR) said he was against striking out the words "status of women". When it came to discussion on the International Bill of Rights, the Commission was entitled to deal with all questions within the field of Human Rights.

MRS. HANSA MEHTA (India) agreed with Mr. Tepliakov. When discussing the Bill of Rights, the status of women would have to be considered in co-operation with the Commission on the Status of Women.

GENERAL ROMULO (Philippine Republic) also agreed with the Soviet Representative that the status of women was an integral part of whatever Bill of Rights would be discussed.

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THE CHAIRMAN, in summing up the opinions expressed, observed that the Commission would have to evolve a basis of co-operation with the Commission on the Status of Women lest they find themselves at odds with that Commission's recommendations.

MR. LEBEAU (Belgium) said the Commission could not approve or disapprove the Terms of Reference, which were formal instructions from the Economic and

Social Council. The Commission could later, if necessary, present observations to the Economic and Social Council.

THE CHAIRMAN drew Members' attention to paragraph 4 of the document which stated that the Commission might propose to the Council any changes in its Terms of Reference. She suggested that Members might like to study the document during the luncheon adjournment.

The meeting adjourned at 1:00 p.m.

E/CN.4/SR.2

27 January 1947

***Summary Record of the Second Meeting [of the Commission
on Human Rights]***

Held at Lake Success, New York, on Monday,
27 January 1947 at 3:00 p.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Vice-Chairman: Mr. Chang (China); Rapporteur: Mr. Malik (Lebanon). Representatives of Specialized Agencies: Mr. Hutchison (International Labour Organization); Mr. Darchambeau (UNESCO); Representatives of Non-Governmental Organizations: Miss Spiegel (WFTU); Miss Sender (AF of L); Mr. Campbell (International Cooperative Alliance); Secretariat: Mr. Humphrey (Secretariat); Col. Hodgson (Australia); Mr. Lebeau (Belgium); Mr. Kaminsky (Byelorussian Soviet Socialist Republic) Mr. Ebeid (Egypt); Mrs. Mehta (India); Mr. Ghani (Iran); General Romulo (Philippine Republic); Mr. Dukes (United Kingdom); Mr. Tepliakov (Union of Soviet Socialist Republics); Mr. Mora (Uruguay).⁹⁸

THE CHAIRMAN called the meeting to order.

THE RAPPOREUR moved that verbatim records of all meetings of the Commission be provided by the Secretariat, owing to the highly important nature of the problems to be discussed by the Commission. This was supported by MRS. MEHTA (India) and agreed to unanimously.

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⁹⁸ The list of members present should have appeared before the Representatives of Specialized Agencies. This was corrected by Document E/CN.4/SR.2/Corr.1.

2. General Discussion of Item 8: International Bill of Rights

Order of the Agenda with Reference to that Item

MRS. MEHTA (India) declared that the Government and people of India attached the greatest importance to the Human Rights Commission and considered that its work would profoundly influence the future of the United Nations. She recalled that the Government of South Africa had maintained the position during recent discussions that there had been no violation of human rights in South Africa since there existed no written definition of human rights as such within the framework of the United Nations. The Government of the United Kingdom had taken a similar attitude by suggesting that the dispute between India and South Africa might be referred to the International Court of Justice. Mrs. Mehta considered it the justification of the Commission that pleas of this nature should not be allowed to be advanced within the forum of the United Nations in the future.

She considered, however, that the bill should be a simple and forthright document which could be easily understood, with the assurance that there would be adequate machinery for its enforcement whenever human rights were violated in States Members of the United Nations.

Mrs. Mehta went on to suggest that the work of the drafting committee and sub-commissions to be appointed by the Commission on Human Rights should be planned with a view to preventing any confusion and rush; she hoped that all members would have sufficient opportunity to refer to their respective Government on the highly important and intricate questions involved. This was a vital point of procedure involving a certain consumption of time.

The Representative of India pointed out that her country faced a problem of exceptional magnitude for reasons beyond its control: during the past one hundred years, four million Indians had been transplanted to various parts of the world under the aegis of the colonial governments concerned, and were now residing abroad in special communities, created at the request and for the benefit of those governments. As a result of this transplantation, numerous cases of denials of rights in law and equality and complicated questions of nationality and citizenship had arisen, due to certain administrative practices on the part of the governments concerned. Such problems had to be solved within the meaning of the terms of reference of the Commission on Human Rights and the principles of the Charter.

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The representative of India considered that an effort should be made to define in precise legal terminology the terms "discrimination" and "minority". It was also necessary to define what specific safeguards should be incorporated in the

proposed bill of rights against the dangers of assimilation. Moreover, the Commission on Human Rights should compile a list from every country in the world of legal and administrative measures tending to decrease human rights within the meaning of the principles of the Charter. The most important consideration before the Commission should not be merely the enunciation of principles in terms of a bill of human rights, but the improvisation of adequate machinery to implement those principles. In fact, the proposed bill of human rights would be meaningless unless an unequivocal definition were given of the relationship which ought to exist between the individual, the community, the state, and the international organization.

THE CHAIRMAN recalled that certain reservations had been made by the Australian delegation at the previous meeting with reference to the order of the agenda.

COL. HODGSON (Australia) explained that he did not desire an alteration of the order of the agenda as adopted during the first meeting of the Commission, but wished to propose an amalgamation of certain items to be considered together as part of one topic. He recalled that, during the Paris Conference, the Australian Government had tried to implement with adequate machinery that portion of the Charter referring to human rights and fundamental freedoms. The efforts of the Australian Government in that respect had failed, and a special legal committee, to which the question had been referred, had taken the view that this was not a matter for incorporation in individual peace treaties, but for the United Nations.

The representative of Australia considered that questions of minority, nationality, statelessness, rights of option, rights of property, and discrimination, were all integrally related to the general problem of human rights. He suggested, therefore, that the Commission should not consider Items 11, 12 and 15 separately but together in connection with Item No. 8, and should submit one single report covering all related problems.

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THE CHAIRMAN announced that the Secretariat had suggested that the Commission should begin with discussion of item 9, since it constituted an entirely separate topic, and should then continue with items 8, 10, 11, 12, 13, 14 and 15 in that order.

In reply to a question from Mr. Tepliakov (Union of Soviet Socialist Republics), regarding the exact meaning of the Australian suggestion COL. HODGSON (Australia) explained that the problems raised by items 11, 12, and 15, were so closely related to item 8 that they could not be discussed separately. The suggestion to amalgamate them had been made with a view to facilitating the debate. Col. Hodgson agreed that items 9 and 10 could be discussed

separately, inasmuch as the latter was the object of a special conference to be held later during the year.

GEN. ROMULO (Philippine Republic) felt that the Commission, before discussing the contemplated bill of rights, should first consider its component parts. He suggested that the Commission could begin with items 10, 11 and 12, then turn to item 8, and finally discuss item 15 which implemented the previous item.

MR. DUKES (United Kingdom) considered that the Commission should discuss item 8 separately. However, greater progress could be made in the subsequent discussion if the Commission defined the meaning of individual rights, before proceeding to deal with the other subjects.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) pointed out that items 10, 11 and 12 involved technical and organizational problems and not questions of substance. He suggested that the Commission could first examine item 9, then turn to items 10, 11 and 12, and deal with items 8 and 15 after disposing of item 19.

MR. MALIK (Lebanon) considered that the Commission was dealing with three different problems. It was required to draw up an international bill of rights, a process which belonged to the theoretical order. It also had to determine ways and means for the effective implementation of that particular bill. In addition, the Commission faced distinct problems of practical organization raised by items 10, 11 and 12. All those questions were inter-related in a general sense, but were quite distinct in function and priority.

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MR. MALIK (Lebanon) concluded by proposing that the Commission should dispose of item 9, then deal with items 10, 11 and 12 together, item 8, and finally item 15, in that order.

THE CHAIRMAN suggested that, in the absence of other formal proposals, the proposal of Mr. Malik should be put to the vote. He emphasized that the Commission was empowered to set up the sub-commissions contemplated in items 10, 11, and 12, and state their terms of reference, and should consider the form in which to present its recommendations on items 8 and 15 to the Economic and Social Council, before attempting to enter into the substance of the question.

COL. HODGSON (Australia) stated that he would vote in favour of this proposal with the understanding that members of the Commission would have the opportunity of discussing the general principles of the establishment of the sub-commissions contemplated under items 10, 11 and 12.

Decision: The Commission unanimously adopted the proposal of Mr. Malik.

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MISS SENDER (AF of L) introduced a request, addressed to the Commission by the American Federation of Labor, that the latter organization should be given the opportunity of defending its views on the question of an international bill of rights.

[8]

THE SECRETARY explained that the communication received from the AF of L could be considered either under items 8 or 16, rather than in connection with item 9.

The Commission agreed to meet from 11 a.m. to 1 p.m., and from 2.30 p.m. to 5 p.m.
The meeting rose at 5:30 p.m.

E/CN.4/4

28 January 1947

United States Proposals Regarding an International Bill of Rights

I. Proposals

The United States proposes:

1. That the Commission on Human Rights should consider the following questions at its present session before proceeding with the drafting of an international bill of rights:
 - (a) the legal form of the bill;
 - (b) the subject matter to be dealt with in the bill;
 - (c) the implementation of the bill;
2. That the Commission should, before adjourning,
 - (a) appoint a working group to draft an international bill of rights for submission to the Commission at its next session, following closely the Commission's decisions on the points listed in paragraph 1 above;
 - (b) suggest methods of consulting with interested agencies, commissions, and sub-commissions in the drafting of an international bill of rights.

II. Specific Suggestions

1. With regard to the legal form of an international bill of rights, the United States suggests that the Commission should first prepare it in the form of a Declaration on Human Rights and Fundamental Freedoms to be adopted as a General Assembly Resolution. This Declaration should be of such a character

as to command the respect of people throughout the world and should be framed with a view to speedy adoption by the General [2] Assembly. The resolution containing this Declaration should make provision for the subsequent preparation by the Commission on Human Rights of one or more conventions on human rights and fundamental freedoms. This course, it is thought, would permit prompt adoption of a broad statement of human rights and allow time for the working out of detailed treaty provisions on specific matters.

2. Among the categories of rights which, the United States suggests should be considered are the following:

- (a) personal rights, such as freedom of speech, information, religion and rights of property;
- (b) procedural rights, such as safeguards for persons accused of crime;
- (c) social rights such as the right to employment and social security and the right to enjoy minimum standards of economic, social and cultural wellbeing.
- (d) political rights, such as the right to citizenship and the right of citizens to participate in their government.

It is recognized that the definition of rights within these categories is a task of great difficulty, which cannot be performed by the Commission at its present session, but it is submitted that these categories taken together include the rights which persons of differing national, legal, economic, and social systems would regard as the human rights and fundamental freedoms to be promoted and respected by the United Nations.

3. With regard to implementation, the United States suggests that the General Assembly resolution setting forth the Declaration on Human Rights and Fundamental Freedoms should recommend the Declaration as a standard to be observed by Members. It might also recommend that these rights be incorporated in constitutions and in legislation, to be observed and enforced by administrative and judicial authorities.

The conventions suggested earlier might contain provisions for reporting by the signatories on the application of the convention and on [3] the position of their law and practice regarding the rights stipulated in the convention. They might also, if feasible, empower the Commission on Human Rights to recommend to states measures to give effect to the convention.

4. The United States proposes the appointment of a working group to draft the Declaration since the Commission's agenda for the forthcoming meeting is long and the decisions to be reached with respect to the foregoing questions will require more extended consideration than will be possible at the present session of the Commission. The decisions with regard to subject matter to be included would

furnish leads to the drafting group to guide it in formulating specific provisions or in evaluating proposals which may be made or referred to it.

All bills which have been submitted to the Commission should be referred to the working group for study in the light of the decisions of principle reached by the Commission.

The subsequent drafting of conventions for submission by the Economic and Social Council to the General Assembly and adoption by Members might be performed by the same working group, or one or more new ones might be formed.

5. The Commission may consider it desirable to consult with organs, commissions, or specialized agencies of the United Nations with regard to the drafting of certain provisions. It might, therefore, suggest to the Working group methods of consultation with these bodies.

6. In order to submit the Declaration on Human Rights, if possible, to the Second Session of the General Assembly, it is suggested that the working group complete its work in time for consideration by the Commission (possibly in June) and the Fifth Session of the Economic and Social Council (Summer 1947).

A/CN.4/W.18

31 January 1947

List of Types of Rights Contained in Drafts of Proposed International Bills of Rights

(Memorandum by the Division of Human Rights)

The types of rights that have been used in the draft bills of rights that have come to the attention of the Division of Human Rights to date are as follows:

1. Status of equality without distinction as to:
 - (a) race,
 - (b) sex,
 - (c) language,
 - (d) religion,
 - (e) professed belief,
 - (f) colour,
 - (g) class,

- (h) citizenship,
 - (i) civil status,
 - (j) wealth,
 - (k) birth,
 - (l) culture,
 - (m) other reasons
- and prohibition of discrimination on the above-mentioned grounds.

2. Status of Liberty:

- (a) life,
- (b) personal liberty,

[2]

- (c) prohibition of slavery and compulsory labour,
- (d) sanctity of home,
- (e) secrecy of correspondence,
- (f) freedom from wrongful interference,
- (g) freedom of association and assembly,
- (h) freedom of speech and opinion,
- (i) freedom of information and the press,
- (j) freedom of religious worship,
- (k) right to a nationality,
- (l) right to petition national governments and the United Nations,
- (m) fair trial,
- (n) freedom from arbitrary detention,
- (o) non-retroactivity of penal laws,
- (p) rights of asylum,
- (q) freedom of family relations,
- (r) right to participate in Government,
- (s) right of property and prohibition of unlawful expropriation,
- (t) freedom of movement (migration),
- (u) freedom to resist oppression.

3. Status of Social Security:

- (a) food,
- (b) housing,
- (c) work under suitable conditions,
- (d) security against unemployment disease and old age,
- (e) right to medical care,
- (f) right to, and freedom of, education,
- (g) right to recreation and rest,
- (h) right to share in the benefits of science.

E/CN.4/SR.7

31 January 1947

***Summary Record of the Seventh Meeting [of the Commission
on Human Rights]***

Held at Lake Success, New York, on Friday,
31 January 1947, at 11:00 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States of America); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon); Members: Col. William Roy Hodgson (Australia); Mr. L. Kaminsky (Byelorussian Soviet Socialist Republic); Dr. P. C. Chang (China); Mr. Osman Ebeid (Egypt); Mr. Cassin (France); Mrs. Hansa Mehta (India); Mr. Ghassame Ghani (Iran); Dr. Charles Malik (Lebanon); General Carlos P. Romulo (Philippine Republic); Mr. Charles Dukes (United Kingdom); Mrs. Eleanor Roosevelt (United States of America); Mr. V. F. Tepliakov (Union of Soviet Socialist Republics); Mr. José A. Mora (Uruguay); Mr. Ribnikar (Yugoslavia); Substitutes: Mr. Lebeau (Belgium); Mr. Guardia⁹⁹ (Panama); Representatives of Specialized Agencies: Mr. Eric W. Hutchison (International Labour Organization); Mr. Valère Darchambeau (UNESCO); Consultants: Non-governmental Organizations: Miss Sender (AF of L); Miss Lena Spiegel (WFTU); Mr. Wallace Campbell (International Cooperative Alliance); Secretary of the Commission: Prof. J. P. Humphrey (Director, Human Rights Division); Mr. Jan Stanczyk.

[2]

**Discussion of Item 2 of the Agenda: International Bill of Rights
(E/CN.4/4, E/CN.4/W.4)**

THE CHAIRMAN called the attention of the Commission to the working paper on an International Bill of Rights prepared by the Secretariat (E/CN.4/W.4) and to the United States proposals contained in document E/CN.4/4. Both papers brought up the same points, except that the Secretariat document suggested a third alternative whereby the bill might take the form of an amendment to the Charter.

MRS. ROOSEVELT, speaking as United States representative, considered that the Charter should be kept flexible and general in order to meet new problems and situations. She hoped that the Commission would first discuss the other two alternatives (a declaration or other act of the General Assembly, or a multilateral convention), and that it might not be necessary to consider the third suggestion.

THE CHAIRMAN proposed that the Commission should examine the form of the proposed bill before going into its substance, and called the attention of the

⁹⁹ German Gil Guardia represented Panama as an observer during the first session of the Commission on Human Rights. Ricardo Alfaro was the official representative of Panama but he apparently never attended meetings of the Commission.

Commission to paragraph II(1) of the United States proposals, which expressed the views of the United States delegation in that respect.

MRS. MEHTA (India) supported the United States proposal to prepare the bill in the form of a declaration on human rights and fundamental freedoms to be adopted as a General Assembly resolution. She considered, moreover, that this bill should eventually become an integral part of the Charter and a fundamental law of the United Nations.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) believed that the Commission should not vote on any definite points until all aspects of the bill had been examined. A decision as to the legal form of the bill would be premature at the present stage of discussion.

MR. DUKES (United Kingdom) felt that the Commission should first proceed with a general *ad hoc* discussion covering the entire bill and then deal with specific points, with a view to reaching an agreement on those questions before the end of the present session. He doubted, however, that the Commission could take a decision on the legal form of the bill during this session.

[3]

GENERAL ROMULO (Philippine Republic) agreed with the representative of the United Kingdom that the Commission should begin with a general debate and decide subsequently on specific points.

MR. LEBEAU (Belgium), supported by MRS. MEHTA (India), considered that the legal form of the bill would determine to a large degree its substance. The representative of Belgium agreed with the view taken by Mrs. Roosevelt that the Commission should not proceed with a general debate until an agreement had been reached on the legal form of the bill.

MR. CASSIN (France) suggested that the Commission should proceed with a general debate based on the proposals submitted by the United States, and then discuss in greater detail the contents of the bill, taking no vote until all aspects of the question had been examined.

MR. CHANG (China) considered that the Commission should take no vote at the present stage of discussion; he suggested, however, that it should proceed on the assumption that the bill would be drafted as a General Assembly resolution, and discuss the substance of the bill on that basis.

The Commission agreed to follow the procedure proposed by the representative of China.

THE CHAIRMAN suggested that the Commission should proceed to examine paragraph II(2) of the United States proposals, which listed different categories of rights to be taken into consideration. She remarked the paper prepared by the Secretariat also contained suggestions as to the contents of the bill, but proposed that the Commission should be guided by the United States document which gave a

brief description of the matter. In reply to a question from the representative of the United Kingdom whether the United States document should be regarded as a form of agenda, Mrs. Roosevelt explained that this document has been prepared purely for convenience of discussion.

MR. CHANG (China) pointed out that the preamble suggested in the document prepared by the Secretariat appeared to have been omitted from [4] the United States proposals. He emphasized that the bill should include a preamble propounding the philosophy on which the bill was based.

At the present time it was necessary to affirm and enlarge the difference existing between man and animal. A standard should be established with a view to elevating the concept of man's dignity and emphasizing the respect of man: that principle should be embodied in a preamble to the International Bill of Rights.

In reply to a question from the representative of Australia regarding the nature of the standard envisaged for the application of human rights, Mr. Chang went on to explain that the principle of human rights should be given universal application regardless of human level. He had referred to a minimum standard as a means of increasing the stature of man as opposed to animal.

In conclusion, the representative of China urged the Commission to bear in mind the historical background of human rights, particularly the emphasis placed on human values by the 16th century thinkers, in elaborating a preamble propounding the philosophy on which the future International Bill of Rights would be based.

MR. CASSIN (France) pointed out that two general ideas emanated from the statement made by the Chinese representative: the bill should include a preamble emphasizing the permanency of the qualities common to mankind. Moreover, that bill was bound to create a certain influence upon our time.

Mr. Cassin considered that the preambles to the Charter of the United Nations and other international organizations such as UNESCO constituted a useful basis and form of universal philosophy from which to seek inspiration.

The representative of France stated that the concepts of man as a community and man as an individual should become fused, and that human rights should be respected by every State in the world. A significant example in that respect was the meeting of the ideas of France and the Union of Soviet Socialist Republics: the philosophical conception of the [5] Union of Soviet Socialist Republics showed, indeed, that there was no incompatibility between the rights of man within the framework of the State and the possibility to assert himself outside the State.

In conclusion, Mr. Cassin stated that the Commission was bound to emphasize in the proposed preamble the rights of man as an individual as opposed to the universal rights of nations.

THE CHAIRMAN stated the general opinion of the Commission that a preamble should be included in the International Bill of Rights, containing the ideas expressed during the previous discussion.

GENERAL ROMULO (Philippine Republic) pointed out that the power of might to rule over weaker nations had succeeded the divine right of kings to rule over individuals; he called upon the Commission to take that factor into consideration during the discussion of the universal standards to be written into the Preamble.

MRS. MEHTA (India) thought that the Commission should define human rights before attempting to discuss the preamble.

THE CHAIRMAN pointed out that the question of a preamble had been brought up as part of the general discussion, but would be given final consideration after the other clauses of the bill had been discussed.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) believed that the Commission should first discuss the preamble thoroughly, in order to determine the objectives of the bill, and then proceed to examine and formulate particular points with the guidance of the Preamble.

COLONEL HODGSON (Australia) pointed out that the preamble would indicate and govern the substance of the bill. The Commission might discuss the preamble from a general point of view, but was not in a position to vote on its terms before determining the contents of the bill itself.

During the ensuing discussion, the Commission agreed to consider the preamble from a general point of view, and examine the separate points to be included in the bill before voting on the contents of the bill itself.

The meeting rose at 1:10 p.m.

E/CN.4/SR.8

31 January 1947

Original Text: French

***Summary Record of the Eighth Meeting [of the Commission
on Human Rights]***

Held at Lake Success, New York, on Friday,
31 January 1947 at 2:45 p.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Vice-Chairman: Mr. Chang (China); Rapporteur: Mr. Malik (Lebanon); Members: Colonel Hodgson (Australia); Mr. Ebeid (Egypt); Professor Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); General Romulo (Philippine Republic); Mr. Dukes (United Kingdom); Mr. Tepliakov (Union of

Soviet Socialist Republics); Mr. Mora (Uruguay); Mr. Ribnikar (Yugoslavia); Observers: Mr. Lebeau (Belgium); Mr. Guardia (Panama); Representatives of Specialized Agencies: Mr. Hutchison (ILO); Mr. Carnes (UNESCO) Consultants: Non-governmental Organizations; Adviser: Miss Sender (AF of L).

General Discussion on Drafting the Draft International Bill of Human Rights (continued)

MR. DUKES (United Kingdom) said that the United Kingdom attached the utmost importance to the principles of the rights and dignity of the human person which were mentioned in the preamble to the Charter and in eight other places in that document, and was prepared to work for the application of those principles throughout the world.

[2]

The United Kingdom had always been in the forefront of the fight for human rights. The British Government had always, everywhere, fostered the emancipation of the human person, along with the promotion of education and of social and economic progress. The United Kingdom which, in 1940, had been the sole champion of freedom against tyranny, would remain faithful to that ideal. Amongst the values to which the Government of the United Kingdom attached the greatest importance was tolerance, which was the essence of democracy and civilization. Each individual ought to be in a position to form opinions, to express his views and to communicate freely. This ideal implied the recognition of the freedom of information, which was the touchstone of all the freedoms to which the United Nations was consecrated.

Mr. Dukes then stressed the fact that many years of hard work would be required to achieve the universal application of a Bill of Human Rights. The drafting of such a bill would constitute only the first step. The Commission's task was to define fundamental rights and set up machinery for their universal application. Each State was, at present, free to interpret for itself the principles to which it had subscribed in acceding to the Charter of the United Nations. The United Kingdom hoped that an international body would be set up to which appeals could be made in the event of any violation of human rights.

The Commission should not take upon itself to examine measures to ensure freedom from want, as that question was within the competence of other organs of the United Nations and specialized agencies such as the ILO and FAO.

MR. GHANI (Iran) suggested that the Commission should begin by examining the draft bill submitted by the representative of Panama. He hoped however, that the Commission would bear in mind the difficulties with which certain countries would

have to cope in giving such a bill [3] effective application. In certain cases, it would be necessary for that to be done gradually, in the interest of social peace. He declared, in conclusion, that any attempt to set up a Court of Appeal to pass judgment on violations of human rights would constitute an infringement of the sovereignty of States.

MR. EBEID (Egypt) recalled the disillusionments and conflicts which had followed the proclamation of President Wilson's fourteen points,¹⁰⁰ after the first world war. The principles of human rights should be set forth in clear terms. The peoples of the world would greet with enthusiasm the first action taken by the United Nations to enforce redressment of wrongs.

MR. GUARDIA (Panama) submitted his country's draft, which contained the minimum essential stipulations and would, by practical measures, promote true respect for human rights.

MR. MORA (Uruguay) stressed the international character of the proposed bill. Hitherto, only States had been subject to international law, but now the individual should have access to international tribunals which would pass judgment on individuals as well as States. Freedom of movement ought to be included among the fundamental freedoms of the individual. Each person should be free to move about within a country and to leave that country, subject to the limitations imposed by the immigration laws of other countries.

MRS. MEHTA (India) asked that the general debate be brought to a close and that the Commission undertake, without further delay, consideration of the draft resolution which she had submitted.

MR. HUTCHISON (ILO) then drew attention to the work of the ILO in the field of economic freedom for the individual and especially to the Declaration of Philadelphia,¹⁰¹ which had been drawn up by the ILO after a quarter of a century's experience of work in the social field, and which had been approved of by the Governments [4] and representatives of forty States. He gave a rapid analysis of that document to show its scope. In conclusion, he proposed that the Commission should consider the possibility of recommending the Declaration of Philadelphia to the sub-committee drafting the Bill of Human Rights, as a basis for its work in the economic and social field.

¹⁰⁰ In an address to Congress on 8 January 1918, United States President Woodrow Wilson outlined Fourteen Points that were to provide the basis for the post-war world order. They included freedom of the seas, and a reduction in armaments, as well as guarantees for minorities.

¹⁰¹ Adopted at the 26th conference of the International Labour Organization in Philadelphia on 10 May 1944 under the Direction of Director Edward J. Phelan and C. Wilfred Jenks, the Declaration of Philadelphia reaffirmed the leading principles of the International Labour Organization and underscores the need for integrating human rights into social policy and strategic financial planning nationally and internationally.

MR. RIBNIKAR (Yugoslavia) stressed the far-reaching effects which the Bill of Human Rights would have throughout the world: it would establish new bonds of solidarity, and would be an expression of the social realities of our time, defining the relations between the individual and society.

He outlined the history of liberalism. New economic conditions in the twentieth century had given birth to a collective spirit, a consciousness of solidarity. Personal freedom could only be attained through perfect harmony between the individual and the community. The social ideal lay in the interests of society and of the individual being identical.

We were at present in a transitional period. The Commission should regard the social and political ideals of the middle classes as those of another age, and not look on certain principles as eternal. That was the mistake in the draft submitted by Panama and Cuba, and, more especially, in that of the American Federation of Labor. The International Bill of Human Rights should be in conformity with the aspirations of the popular masses of the world.

As for the form which the bill should take, he advocated a General Assembly Resolution of a universal nature rather than a Convention or an annex to the Charter formulating obligations for all Member States.

PROFESSOR CASSIN (France) referring to a point he had made in the morning, explained that the text itself, as well as the [5] preamble to the Bill of Human Rights, ought to take account of present conditions, and of the political and social evolution undergone in the course of two centuries.

He approved of the attempts which had been made to classify the rights according to their nature, or according to the ideas of liberty, equality and security to which they correspond. He wished to see the Commission draw up an international Bill which would be the counterpart of the present national declarations, rather than a detailed code.

The drafting sub-committee should also bear in mind this duty of the community of nations to safeguard the individual's right to belong to a national or territorial group.

MISS SENDER (AF of L) felt it her duty to reply to the Yugoslav representative's accusation against the draft bill submitted by the American Federation of Labor. He placed greater importance upon common interest than upon that of the individual and considered the idea of individual liberty obsolete. The American Federation of Labor was convinced, on the contrary, that the idea of individual liberty was not outmoded and that it was perfectly compatible with the interests of the community.

The meeting rose at 5 p.m.

E/CN.4/11

31 January 1947

Draft of a Resolution for the General Assembly Submitted by the Representative of India

The General Assembly

Recognizing the fact that the United Nations has been established for the specific purpose of enthroning the natural rights of man to freedom and equality before the law, and for upholding the worth and dignity of human personality;

Having taken note of the Preamble and the relevant clauses of the United Nations Charter; the resolutions of the Economic and Social Council; the Human Rights Clauses of the Trusteeship Agreements as approved by the First Assembly of the United Nations; and the Human Rights Clauses of the European Treaties

Resolves that the following be incorporated into a General Act of the United Nations Assembly:

- I. (a) Every human being is entitled to the right of liberty, including the right to personal freedom; freedom of worship; freedom of opinion; freedom of assembly and association; and the right to access to the United Nations, without risk of reprisal, whenever there is an actual or threatened infringement of human rights.
 - (b) Every human being has the right of equality, without distinction of race, sex, language, religion, nationality or political belief.
 - (c) Every human being has the right of security, including the right to work, the right to education, the right to health, the [2] right to participate in government, and the right to property, subject only to the over-riding consideration of public weal when the State or its appropriate organs acquire it after paying equitable compensation.
- II. (a) This General Act is an obligation undertaken by Member States of the United Nations, and comes into force within twelve calendar months from the date on which it is passed by the United Nations Assembly.
 - (b) Non-self-governing areas and areas under the trusteeship of the United Nations automatically come under the regime of this Act.
 - (c) Non-member States are eligible to adhere to this Act.
- III. Nothing mentioned in this Act shall be construed as not obligating the individual to his corresponding duties to his own State and to the international community under the United Nations.
- IV. No state Member of the United Nations, non-self-governing territory, trusteeship area or non-member of the United Nations which has adhered

to this Act, shall have the right to suspend it in whole or in part once it was adhered to in due form.

- V. The Security Council of the United Nations shall be seized of all alleged violations of human rights, investigate them and enforce redress within the framework of the United Nations.

E/CN.4/12

1 February 1947

**Draft Resolution Regarding Composition of a Drafting
Committee of the Commission on Human Rights Submitted
by the Representative of India**

Resolution:

“The Representatives of the following countries be appointed to the Drafting Committee:

USA (Chairman) *Ex. Officio*

China

Egypt

France

India

Iran

Lebanon

Panama

Philippine Republic

United Kingdom

USSR

Uruguay

E/CN.4/13

1 February 1947

**Draft Proposal Regarding the Composition of a Drafting
Committee of the Commission on Human Rights Submitted by
the Representative of the Union of Soviet Socialist Republics**

United States of America

China

Egypt

India
 France
 USSR
 Panama
 Philippine Republic
 United Kingdom
 Yugoslavia
 Lebanon

E/CN.4/SR.9

1 February 1947

Original Text: French

***Summary Record of the Ninth Meeting [of the Commission
 on Human Rights]***

Held at Lake Success, New York, on Saturday,
 1 February 1947 at 11:00 a.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Rapporteur: Mr. Malik (Lebanon). Members: Colonel Hodgson (Australia); Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Ebeid (Egypt); Mr. Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); General Romulo (Philippine Republic); Mr. Dukes (United Kingdom); Mr. Tepliakov (Union of Soviet Socialist Republics); Mr. Mora (Uruguay); Mr. Ribnikar (Yugoslavia); Alternates: Mr. Lebeau (Belgium); Mr. Wu (China); Mr. Guardia (Panama); Representatives of Specialized Agencies: Mr. Hutchison (International Labour Organization); Mr. Carnes (UNESCO); Non-governmental Organizations: Consultant: Miss Sender (AF of L); Secretariat: Mr. Stanczyk (Director of the Department of Social Affairs); Mr. Humphrey (Director of the Division of Human Rights, Secretary of the Commission).

[2]

I. General Discussion

THE CHAIRMAN announced that Mr. Ribnikar, the representative of Yugoslavia, had received his credentials that day, and could in the future take part in the voting.

GENERAL ROMULO (Philippine Republic) stated that the Commission had to draw up an international bill of human rights which could be accepted by all Members of the United Nations and which should also be binding on all these

States. This declaration should take the different cultural systems of the world into account.

The United Nations Charter, speaking of the fundamental human rights and freedoms, indicated what these were. The international bill of human rights should establish a balance between political and economic rights, thus creating a system of government which would not only be a government of the people by the people, but also for the people.

The Commission could limit itself to following the counsels of practical wisdom and demanding only that which was attainable, rather than ideal solutions. It could also reject solutions dictated by practical necessity and visualize the hypothesis of a world government from which the international bill of human rights would result and of which it would be the corner-stone.

MR. MALIK (Lebanon) stated that the Secretary of the Commission had submitted a list of the different rights included in the draft declaration. This list contained the statutes of equality, liberty and security; an excellent presentation, perhaps, but difficult to accept as it was. The members of the Commission should not be restricted by a division of rights among these different statutes.

[3]

It was not sufficient to include the freedom of thought and conscience in a list; a way must be found to enable men to acquire these freedoms.

The representatives of the United Kingdom and of Yugoslavia had made statements on the different conceptions of human freedoms, the first defending Liberalism, the second Marxism. He could find no answer to the question before the Commission in the advice tendered by the representative of Yugoslavia.

In his opinion moreover, it was not politicians and diplomats alone who were concerned with this question; the advice of poets, prophets and philosophers should be asked.

Today, men had no need for protection against kings or dictators, but rather against a new form of tyranny: that exercised by the masses and by the State. Mention must therefore be made in the international bill of human rights of this tyranny of the State over the individual, whom it was the duty of the Commission to protect.

If the international bill of human rights did not stipulate the existence of the individual and his need for protection in his struggle against the State, the Commission would never achieve its intended purpose.

MRS. MEHTA (India) recalled that she had been promised that she could submit her draft resolution after the general discussion. She wished to make a formal motion.

COLONEL HODGSON (Australia) considered that the general discussion showed that members of the Commission had not yet defined their objective nor the exact

plan they wished to follow. All the Commission's work would remain valueless so long as the machinery for applying the principles set forth had not been considered.

[4]

He emphasized that no right was absolute in itself and that every right entailed a corresponding duty. There was also the question of the interest of the State as against the interest of the individual or of the community. Various peace treaties were to be signed this month. Some of them contained territorial claims, the consequence of which would be the displacement of hundreds of thousands of persons who had, for example, their right of nationality. Application of the rights under discussion had to be considered with regard to them. No machinery existed. The International Court of Justice concerned itself only with disputes between governments. The Security Council had no jurisdiction in this matter. The immediate problem therefore was to consider machinery for practical application.

MR. WU (China) said that it was a question of establishing the rights of the human being and at the same time demanding his acceptance of the corresponding obligations.

MR. LEBEAU (Belgium), replying first to the Australian representative, pointed out that the territorial claims put forward by Belgium concerned a very small number of people who already had relatives in Belgium and to whom freedom of choice would be allowed.

He said that the right of every human being to participate in social and economic life fully and completely, without having to suffer the shocks and consequences of economic upheavals and unemployment, must be affirmed. As opposed to the representative of Yugoslavia, however, he considered that the basis of a bill of rights was not the community and the mass, but simply the human person, that is to say the human person participating in social life.

The human person today was threatened by two great dangers: The [5] first was the ascendancy of the mass, the community and the State; the second lay in the excessive overdevelopment of industrial life itself, which crushed the human person. It must be protected against these two dangers, which should be mentioned in a bill of its rights.

THE CHAIRMAN, replying to a remark by MR. CASSIN (France), stated that when general statements had been made she proposed to begin consideration of the agenda point by point, and of any resolutions which might be submitted. This procedure would thus assume the form of a general discussion, but would deal with specific points.

MR. MALIK (Lebanon) considered that on the closure of the discussion the Commission should take up the question of the Drafting Committee. The establishment of this Committee had to be decided first, and then its membership.

MRS. MEHTA (India) wished to submit her resolution on the bill of human rights before taking up the question of the Drafting Committee.

COLONEL HODGSON (Australia) asked if the Drafting Committee to be set up would be permanent or whether it would merely be a body which would have to submit a draft to the Commission during this session.

MR. MALIK (Lebanon) explained that the bill of rights comprised two stages: (1) the summary record of the work of the Commission, drafted after the general discussion; (2) the discussion of the proposals submitted by India, which served as a basis for discussion. The decision taken by the Commission at the conclusion of its work would be liable to alteration in the years to come. In his opinion, the Commission should avoid all haste. Members of the Commission should be given sufficient time to consult their respective governments.

MRS. ROOSEVELT, Chairman, (speaking in her capacity as representative of the United States) pointed out to the representative of Australia that the Government of the United States considered that a Drafting Committee should be appointed during the first session of the Commission, and that the report of this Committee could not be submitted to the Commission before the next session.

[6]

MRS. MEHTA (India) asked for a discussion on the resolution which she submitted, in order to bring the debate back to specific points.

The meeting rose at 1:15 p.m.

E/CN.4/SR.10

1 February 1947

***Summary Record of the Tenth Meeting [of the Commission
on Human Rights]***

Held at Lake Success, New York, on Saturday
1 February 1947 at 3:00 p.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Rapporteur: Mr. Malik (Lebanon); Members: Colonel Hodgson (Australia); Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Wu (China); Mr. Ebeid (Egypt); Mr. Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); Mr. Malik (Lebanon); Mr. Tepliakov (Union of Soviet Socialist Republics); Mr. Dukes (United Kingdom); Mr. Mora (Uruguay); Mr. Ribnikar (Yugoslavia); Observer: Mr. Guardia (Panama); Representatives of Specialized Agencies: Mr. Hutchison (ILO); Mr. Darchambeau (UNESCO). Secretary of the Commission: Prof. John Humphrey (Director, Human Rights Division).

Discussion of item 8 of the agenda: International Bill of Rights (continued)

Draft Resolution Submitted by the Representative of India (E/CN.4/11)

MRS. MEHTA proposed that the draft resolution contained in document E/CN.4/11 should be used by the Commission as a basis to discuss [2] the form, contents, application and implementation of an international bill of rights.

MR. DUKES (United Kingdom) supported the proposal made by the representative of India. He considered that the Indian draft resolution constituted an excellent basis for groundwork, and suggested that it might be discussed in connection with the memorandum prepared by the Secretariat, listing the different types of rights contained in the drafts previously submitted (E/CN.4/W.18).

MR. MORA (Uruguay) agreed that the Indian draft resolution deserved careful attention, but felt that it should be referred to a drafting committee for study in connection with the other projects submitted.

COL. HODGSON (Australia) proposed that the Commission should examine immediately the desirability of appointing a drafting committee.

MR. MALIK (Lebanon), supporting the view taken by the Australian representative, remarked that the Uruguayan proposal was invalid, since it referred to a body which had not yet been established.

MRS. MEHTA (India) reiterated her proposal that the Commission should first proceed to examine the Indian draft resolution as the basis of the discussion.

In reply to a question from Mr. Tepliakov (Union of Soviet Socialist Republics), Mrs. Mehta emphasized that the Indian draft resolution was not to be considered as a substitute for other documents, but should be discussed along with the other drafts submitted. She had proposed that it should serve as a basis for discussion because it appeared to be more comprehensive and raised four separate issues, namely the form, contents, application, and implementation of the proposed bill.

MR. MALIK (Lebanon) moved that the Commission should consider the Indian draft resolution as the basis of discussion after deciding on the creation and composition of a drafting committee.

[3]

MR. CASSIN (France) remarked that the document presented by the Indian representative should be submitted to preliminary discussion, if it were to be considered as a draft for a bill of rights. If, on the contrary, that proposal were to be regarded as a basis for the instructions to be given to the drafting body, the Commission would simply revert to the discussion held during the previous meeting. He believed that the Commission should follow the order of the previous debate, and should proceed to examine the third question raised in the United States proposals, considering the Indian document as basically complementary to the present discussion.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) moved that the Commission should postpone examination of the Indian draft resolution and the question of a drafting committee, and should proceed to discuss the particular points of the bill.

THE CHAIRMAN put to the vote the amendments to the Indian proposal, submitted by the representatives of the Union of Soviet Socialist Republics and Lebanon.

- Decision:* (1) The USSR amendment was defeated by seven votes to three.
 (2) The Lebanese amendment was adopted by six votes with no opposition.

B. Machinery for Drafting an International Bill of Rights

MR. MALIK (Lebanon) moved that the Commission should establish a drafting committee to examine the various draft resolutions submitted with reference to an international bill of rights.

COL. HODGSON (Australia) considered that appointment of a drafting group was necessary, but submitted that a drafting committee was not the appropriate organ for that purpose. No concrete results could be achieved by a drafting committee composed of government representatives expressing different points of view. Indeed, the drafting group should act as the servant of the Commission. Col. Hodgson suggested that the Secretariat [4] was the most competent body to draft an international bill of rights. The Human Rights Division included experts in that particular field, international civil servants who had already accomplished excellent work on related problems. It could continue that task in a more competent manner and at a lesser cost than a new body of experts created by the Commission.

Col. Hodgson therefore moved that the Lebanese proposal should be amended to instruct the Secretariat to draft an international bill of rights for the consideration of the Commission.

In reply to a question from Mr. Ebeid (Egypt), Col. Hodgson explained that his proposal was motivated by the consideration that a drafting committee could not function adequately, if it were composed of members expressing their views as individual experts as well as government representatives, in accordance with the different suggestions made to the Commission.

MR. DUKES (United Kingdom) stated that he would support the proposals of the Australian representative if the latter were prepared to add to his motion a provision allowing the Secretariat to call in such experts as it deemed necessary. Col. Hodgson agreed to this.

THE CHAIRMAN, speaking as representative of the United States of America, stated that she would support the Australian proposal. If that proposal were accepted, the Commission could proceed to discuss the substance of the problem

at its next meeting. In reply to a question from Mr. Tepliakov (Union of Soviet Socialist Republics), the Chairman expressed the opinion that the Secretariat should receive directions from the Commission and report back to it for final decision, but should be allowed a certain latitude in accomplishing its task.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) considered that the Secretariat might draft the bill with the help of members of the Commission. However, the technical task of drafting the bill could only [5] be accomplished in accordance with instructions received from the Commission, after the Commission had completed its deliberations on particular points of the bill and had determined the principles to be enunciated therein.

The representative of the USSR therefore moved that the Australian proposal should be amended so as to postpone a decision regarding the drafting question until all points of the bill had been discussed.

THE CHAIRMAN ruled that this motion was out of order, since it had already been voted upon during the previous debate.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) replied that this was a new motion, submitted as an amendment to the Australian proposal, and should therefore be voted upon.

Decision: The ruling of the Chair was sustained by six votes to two.

MR. CASSIN (France) accepted the Australian proposal that the Secretariat should draft the bill. However, he wished to make it clear that the work undertaken by the Secretariat should be accomplished under the direct responsibility of the Commission and under the supervision of the Chairman. Moreover, the Secretariat should be invited to consult with experts from other continents.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) moved that the meeting should be adjourned, in order that the question might be given further examination.

Decision: The motion for adjournment was defeated by six votes to four.

MR. MALIK (Lebanon) pointed out that the only difference between his proposal and that of the Australian representative concerned the question whether the assistance of experts would be enlisted by the Secretariat alone, or in consultation with the Commission. He was willing that both proposals should be amalgamated, if Col. Hodgson agreed to incorporate the latter alternative into his motion.

COL. HODGSON (Australia) stated that he could not accept the Lebanese [6] suggestion, since he had already agreed to the suggestion of the United Kingdom representative that the Secretariat should have the right, if necessary, to call on experts to accomplish a particular task. The alternative suggested by Mr. Malik appeared to involve rather unnecessary machinery. Moreover, Col. Hodgson preferred to accept the implication of the French representative that the Secretariat

would work under the direct responsibility of the Commission and under the general supervision of the Chairman.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) stated that he was not in a position to decide on the suggestion now before the Commission. He reserved the position of the Soviet Government to submit a draft bill of rights.

MR. MALIK (Lebanon) asked the representatives of Australia and the United Kingdom whether they would agree to the wording:

“The Secretariat shall draft an international bill of rights in accordance with the instructions and conclusions of the Commission, and shall call in any experts to help them in this task, entertaining nominations of such experts from the members of the Commission”.

MR. CASSIN (France) suggested that the following proposal might meet with the approval of the Commission:

“The Commission on Human Rights entrusts the Secretariat with setting up the first draft of an International Bill of Rights, to be submitted to the Commission at its next meeting, and taking into account in this respect the directions given by the Commission during its present session. This drafting task will be carried out under the authority of the Chairman of the Commission with the assistance of experts designated with the approval of the Chairman”.

COL. HODGSON (Australia) stated that he was prepared to accept the text submitted by the representative of Lebanon with the addition of the words: “. . . they may, if necessary consult. . .”. That wording would be less mandatory. Moreover, if a provision were added that the work of the Secretariat should be accomplished under the supervision of the Chairman, as suggested by the French representative, the resulting text might meet the different points of view expressed.

[7]

MR. MALIK (Lebanon) observed that the only difference between his text and that of the French representative concerned the responsibility of the Secretariat for calling in experts. He stated, however, that he was willing to accept that difference in order to conform to the wording submitted by Mr. Cassin.

THE SECRETARY called the attention of the Commission to paragraph 3 of the resolution of the Economic and Social Council, concerning consultation with working groups of experts (Journal of the Economic and Social Council, No. 29, page 521). He pointed out that the Lebanese and French proposals might not be entirely within the authorizations contained in that resolution. Were either proposal adopted, the matter would have to be referred back to the Economic and Social Council, since the Commission would go beyond its authorization by instructing the Secretariat to call in experts. However, the Australian proposal, with the added suggestion of the United Kingdom, did not raise that difficulty.

MR. MALIK (Lebanon) stated that a vote in this matter involved a very important decision, whether the Commission should entrust the Secretariat with drafting the

bill and allow it to call in experts at its own discretion, or continue to assume responsibility for the draft. He moved that the meeting should be adjourned, in order that members might examine the various proposals submitted in that respect.

Decision: The motion to adjourn was carried by nine votes to one.

The meeting rose at 4:55 p.m.

E/CN.4/SR.11

3 February 1947

Summary Record of the Eleventh Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Monday,
3 February 1947 at 11:00 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States of America); Vice-Chairman: Mr. P. C. Chang (China); Rapporteur: Mr. Charles Malik (Lebanon). Members: Col. W. R. Hodgson (Australia); Mr. L. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. F. Nieto Del Rio (Chile); Mr. O. Ebeid (Egypt); Mr. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. G. Ghani (Iran); Mr. C. Malik (Lebanon); Mr. V. Teplakov (Union of Soviet Socialist Republics); Mr. C. Dukes (United Kingdom); Mrs. E. Roosevelt (United States of America); Mr. J. A. Mora (Uruguay); Mr. V. Ribnikar (Yugoslavia). Substitutes: Mr. R. Lebeau (Belgium); Mr. G. G. Guardia (Panama). Representatives of Specialized Agencies: Mr. E. Hutchison (ILO); Mr. G. L. Carnes (UNESCO). Consultant of Non-Governmental Organization: Mr. L. Teper (AF of L). Secretary of the Commission: Prof. J. P. Humphrey (Director, Human Rights Division).

Introductory Remarks

THE CHAIRMAN welcomed the Member for Chile, Mr. F. Nieto Del Rio.

[2]

2. *Discussion of procedure to be followed in the drafting of an International Bill of Rights* (documents E/CN.4/12 and 13).

THE CHAIRMAN said that Mr. Malik, the Rapporteur, wished to present a formula which might help solve the problem of the composition of the group which would prepare the first draft of the Bill of Rights.

MR. MALIK (Lebanon), the Rapporteur, said that his proposal was based on five ideas. Firstly, the drafting should be closely supervised by the Commission itself. Secondly, the expert knowledge of the Secretariat should be fully utilized. Thirdly, the utilization of experts from outside the Commission should be left open.

Fourthly, the drafting must be in accordance with instructions elaborated at the present session. Lastly, the draft should be submitted to the next Session of the Commission.

He read the following text:

“That the Chairman of the Commission on Human Rights undertake, in co-operation with the Secretariat and any Member of the Commission, or any expert outside the Commission she may wish to co-opt, the task of formulating a draft Bill of Human Rights, in accordance with the instructions and conclusions of the first session of the Commission, to be submitted to the second session of the Commission for thorough examination.”

MR. TEPLIAKOV (Union of Soviet Socialist Republics) thought that the best procedure would be for a Sub-Commission composed of Members of the Commission to work out the draft. It would be difficult for outside experts to do the work satisfactorily under the present circumstances. He had full confidence in the Secretariat, but could not agree that the Commission had the right to transfer its duties to the Secretariat. The Members of the Commission were supposed to be experts; they also represented their Governments, which were ultimately responsible for the protection and furthering of human rights. He wished therefore to second the Indian proposal (document E/CN.4/12).

[3]

MR. DUKES (United Kingdom) supported Mr. Malik's proposal. He thought, however, that the word “consult” should be substituted for “co-opt”, since experts should not receive the rights of representatives. It should be clear that the Commission's authority would not be delegated; the Commission would make the final decision regarding every clause of the proposed Bill of Rights. If a Committee of the Commission prepared the draft, that Committee's Members would, to some extent, be obligated to support that draft. No such difficulty would occur if the draft were prepared by the Secretariat under the Chairman's supervision.

THE CHAIRMAN, speaking as the member for her Government, expressed the view that persons of differing national, legal, economic, and social systems, with a broad international outlook and experience in various fields of human rights, should be available to the Secretariat in the drafting work. Consultation should be carried on with persons thoroughly familiar with various legal and religious systems.

MRS. MEHTA (India) stressed that neither the Secretariat nor a Committee could prepare an acceptable draft unless the Commission gave full instructions. Unless it were decided that such instructions would be forthcoming, she could not vote in favour of any of the resolutions.

THE CHAIRMAN said that after the solution of the present procedural problem, three days would be devoted to the discussion of the directives for the drafting group.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) thought that the Indian proposal would be voted on first. He wished to point out that the Members of the Commission could utilize the services of experts. Special experts could be invited too, but they should not be charged with the task of drafting the document.

MR. MALIK (Lebanon), the Rapporteur, accepted the suggestion of the Member for the United Kingdom as regards the substitution of the word "consult" for "co-opt". He observed that the Chairman would be responsible for the utilization of experts.

[4]

THE CHAIRMAN said that the draft would be based on the Commission's instructions. The Members of the Secretariat, however, and any other person who might participate in the work, would be available for questioning as regards their work.

COL. HODGSON (Australia) supported Mr. Malik's proposal, as amended, which brought in the concept that, through its Chairman, the Commission would remain responsible for the drafting work.

MR. CASSIN (France) pointed out that it was manifestly impossible for the Commission itself to do the drafting work; neither could the Secretariat do that work, since that would imply a derogation of the Commission's mandate. He favoured, therefore, the Rapporteur's proposal, since the Commission could carry out its duties through its Chairman. In view of the fact that Mrs. Roosevelt would not be available during some of the time between the sessions, two or four other members of the Commission should be designated to assist her, and to form a small Committee.

He stressed the point made by the Member for the USSR as regards experts. Some of those would be appointed by the individual Members; others would be called upon by the Drafting Group. Furthermore, the Drafting Group should be aware of the fact that wherever the Commission's instructions were not explicit, alternative texts should be prepared for submission to the Commission itself. Lastly, the draft should be prepared as rapidly as possible in order to enable the Members, the Governments, and the numerous groups of jurists and associations interested in human rights to study the document and make observations.

MR. CHANG (China) thought that the difficulty might be solved by the Commission sitting as a whole as a Committee, to draft the International Bill of Human Rights. The Chairman could call a meeting every two weeks, at which those members or their deputies who were in New York could be present. No formal voting would be done, but the Committee would give its views on the drafts prepared by the Secretariat with the assistance of experts.

[5]

He considered it was more desirable to arrive at a practical compromise such as that than to take a vote which would give the impression of a difference of opinion on a matter of such vital importance.

MR. LEBEAU (Belgium) shared the views of the Representatives of USSR and France that the Commission could not delegate to any other body the task of drafting a Bill of Human Rights.

He supported the suggestion of the Representative of the Lebanon that the work of formulating a draft International Bill of Human Rights should be the responsibility of the Chairman in co-operation with the Secretariat, and proposed that, in view of the Chairman's statement that she might be absent from New York a considerable time, two other members, such as the Vice-Chairman and the Rapporteur, should share the responsibility. The Commission would of course have to give its opinion on the draft Bill and would in no way be delegating its powers.

A discussion ensued as to the order in which the various motions and amendments before the Commission should be voted upon, and it was finally agreed to regard the motion presented by MRS. MEHTA (India) as an amendment to the formula presented by MR. MALIK (Lebanon) and to vote upon the former first.

MR. TEPLIAKOV (USSR) maintained that the first question to be settled was whether the Commission wished to set up a Drafting Sub-Committee, and with that in view he proposed an amendment to the amendment of the Representative of India to read as follows: "The Commission on Human Rights decides to set up a Drafting Sub-Committee composed of members of the Commission to prepare the initial draft of an International Bill of Human Rights".

A vote was taken on the amendment proposed by the Representative of USSR.

Decision: The amendment was defeated by 8 votes to 4.

[6]

THE CHAIRMAN pointed out that the decision disposed of the amendment of the Representative of India.

MR. RIBNIKAR (Yugoslavia) moved an amendment to the proposal of the Representative of the Lebanon. He proposed the addition of the words: "Experts designated by the members of the Commission, each member being allowed to propose not more than three experts".

THE CHAIRMAN pointed out that if that amendment were adopted, it would mean that experts would have to be named during the present session of the Commission. It would tie the hands of those engaged upon the drafting of the Bill, who might require the services of a particular expert between the two sessions.

MR. TEPLIAKOV (USSR) asked that the motion of the Lebanese Representative and the amendment of the Representative of Yugoslavia should be submitted in writing before a vote was taken.

MR. LEBEAU (Belgium) requested the Lebanese Representative to include in his motion a provision that if the Chairman were not able to assume responsibility for

the drafting of an International Bill of Human Rights, that responsibility should be relegated to other officers of the Commission.

MR. MALIK (Lebanon) agreed.

MR. MORA (Uruguay) moved the adjournment of the meeting until 2:30 p.m. to allow time for the motion and amendment to be prepared and circulated.

A vote was taken, and adjournment was approved by eight votes to two.

The meeting rose at 12:40 p.m.

E/CN.4/SR.12

3 February 1947

***Summary Record of the Twelfth Meeting [of the Commission
on Human Rights]***

Held at Lake Success, New York, on Monday,
3 February 1947 at 11:00 a.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Vice-Chairman: Dr. Chang (China); Rapporteur: Mr. Malik (Lebanon). Members: Colonel Hodgson (Australia); Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Del Rio (Chile); Mr. Ebeid (Egypt); Professor Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); Mr. Teplakov (Union of Soviet Socialist Republics); Major Dukes (United Kingdom); Mr. Mora (Uruguay); Mr. Ribnikar (Yugoslavia). Alternates: Mr. Lebeau (Belgium); Mr. Guardia (Panama). Representatives of Specialized Agencies: Mr. Hutchison (ILO); Mr. Carnes (UNESCO). Non-Governmental Organizations: Consultants: Miss Spiegel (World Federation of Trade Unions); Mr. Teper (American Federation of Labor). Secretariat: Professor Humphrey (Secretary of the Commission).

Discussion and Vote on the Resolution of the Commission on Human Rights, the Subject of Formulating a Preliminary Draft International Bill of Human Rights

[2]

THE CHAIRMAN recalled that at the end of the morning meeting a Committee, composed of the representatives of France, Yugoslavia and Lebanon, had been formed to draft a resolution on the drawing up of an International Bill of Human Rights.

THE CHAIRMAN then called on MR. MALIK (Rapporteur).

THE RAPPOREUR stated that the Committee had been unanimous in its conclusions. Its draft resolution read as follows:

“That the Commission on Human Rights decide that the Chairman, Vice-Chairman and Rapporteur shall constitute a Committee to undertake, in co-operation with the Secretariat, the task of formulating a preliminary draft International Bill of Human Rights, in accordance with the instructions and decisions of the first session of the Commission, to be submitted to the second session of the Commission for thorough examination.

“In the course of its work, this Committee may enlist the co-operation of, and shall receive any observations and suggestions from, any member of the Commission. It may also consult experts with the consent of their Governments, Members of the United Nations.”

First Paragraph

DR. CHANG (China) and PROFESSOR CASSIN (France) requested that the phrase “in co-operation with the Secretariat” be changed to “with the Co-operation of the Secretariat”.

MRS. MEHTA (India) asked whether the draft resolution submitted was not contrary to the decision taken during the morning meeting, not to set up a committee composed of Members of the Commission.

THE CHAIRMAN pointed out that it was the idea of a Committee composed *exclusively* of Members of the Commission which had been rejected. The resolution, however, provided for participation by the Secretariat in the work of the Committee.

[3]

COLONEL HODGSON (Australia) shared the opinion expressed by the representative of India. He thought the draft resolution merely reintroduced the idea which had been voted down that morning, for the Secretariat would co-operate as a matter of course. He would vote against the resolution.

In reply to the question from the Chairman, he added that he would propose the original motion submitted at the morning meeting.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) considered that the draft resolution did not contradict the decision of the previous meeting.

MAJOR DUKES (United Kingdom) proposed the following amendment to the draft resolution: “That the Secretariat, under the supervision of the Chairman, Vice-Chairman and Rapporteur, undertake the task of formulating a preliminary draft International Bill of Human Rights. . .”

COLONEL HODGSON (Australia) withdrew his amendment in favour of that of the United Kingdom representative, who agreed to the omission of the term “Committee” in the second paragraph.

THE RAPPORTEUR explained that the word “Committee” had been used in the text of the resolution only in order to avoid the repetition of the words “Chairman, Vice-Chairman and Rapporteur”, as the English language had no equivalent for the French word “bureau”. He was opposed to the United Kingdom representative’s

amendment, which would place the main responsibility for drafting the declaration on the Secretariat rather than on the Commission itself, and proposed that the first sentence of the resolution be worded as follows: “That the Chairman of the Commission on Human Rights, together with the Vice-Chairman and Rapporteur, undertake, with the assistance of the Secretariat, the task of formulating a preliminary draft International Bill of Human Rights.”

At the request of DR. CHANG (China), the Commission decided to take a vote by paragraphs.

Decision: The United Kingdom representative’s amendment, which was put to the vote first, was rejected.

[4]

Decision: The Lebanese representative’s amendment was adopted.

Second Paragraph

MR. TEPER (American Federation of Labor) drew the Commission’s attention to the fact that the second paragraph of the resolution, in its present wording, seemed to exclude any participation in the work by the organizations classified in Category A.¹⁰²

MISS SPIEGEL (World Federation of Trade Unions) supported the opinion expressed by the American Federation of Labor representative, and requested that co-operation with the non-governmental organizations be provided for in the second paragraph of the resolution.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) stated that the question of co-operation with those organizations was on the Commission’s agenda and would come up for discussion in due course.

Supported by DR. CHANG (China), he stated that the members of the Commission should have the right to express their opinion at any stage in the drafting of the declaration.

He suggested amending the second paragraph as follows: “The Chairman of the Commission may consult with experts *chosen* with the consent of their Governments, Members of the United Nations.”

He also proposed inserting, before the words “any observations and suggestions”, the words “orally or in writing”.

¹⁰² Non-government organizations (NGOs) are accredited to the Economic and Social Council (ECOSOC) pursuant to article 71 of the Charter of the United Nations. At the time the Universal Declaration of Human Rights was being adopted, large international NGOs whose area of work comprised most of the issues on the agenda of ECOSOC and its subsidiary bodies were listed in “Category A”. Smaller, more specialized NGOs were deemed “Category B”.

MR. MALIK (Lebanon), in order to facilitate the proceedings, asked for a vote to be taken on the first sentence of the second paragraph as thus amended.

Decision: The first sentence of the second paragraph, as amended, was adopted.

The Commission then voted on the drafting proposed by the Union of Soviet Socialist Republics representative for the second sentence of the second paragraph.

Decision: The amendment proposed by the Union of Soviet Socialist Republics representative was adopted.

[5]

The Rapporteur read the full text of the resolution, as adopted:

“That the Chairman of the Commission on Human Rights, together with the Vice-Chairman and the Rapporteur, undertake, with the assistance of the Secretariat, the task of formulating a preliminary draft international bill of human rights, in accordance with the instructions and decisions of the first session of the Commission, to be submitted to the second session of the Commission for thorough examination.”

“In the course of this work, the Chairman may enlist the co-operation of, and shall receive, orally or in writing, any observations and suggestions from, any member of the Commission. The Chairman of the Commission may consult experts chosen with the consent of their governments, Members of the United Nations.”

The meeting rose at 4:00 p.m.

E/CN.4/SR.13

4 February 1947

Original Text: French

***Summary Record of the Thirteenth Meeting [of the
Commission on Human Rights]***

Held at Lake Success, New York, 4 February 1947
at 11:00 a.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Vice-Chairman: Dr. Chang (China); Rapporteur: Mr. Malik (Lebanon). Members: Colonel Hodgson (Australia); Mr. Nieto Del Rio (Chile); Mr. Ebeid (Egypt); Professor Cassin (France); Mr. Ghani (Iran); Mrs. Mehta (India); General Romulo (Philippine Republic); Mr. Tepliakov (Union of Soviet Socialist Republics); Major Dukes (United Kingdom); Mr. Mora (Uruguay). Alternates: Mr. Lebeau (Belgium); Mr. Guardia (Panama). Representatives of Specialized Agencies: Mr. Carnes (UNESCO); Mr. Hutchison (ILO). Representatives of Non-Governmental Organizations: Miss Spiegel (World Federation of Trade Unions); Miss Sender (American Federation of Labor); Mr. Teper (American Federation of Labor); Secretariat: Professor Humphrey.

Consideration of Document E/CN.4/W.18

THE CHAIRMAN informed the Commission that the Secretariat had received a draft declaration of human rights from the Catholic Welfare Association [2] and that that draft would be examined.

She suggested the adoption of the following procedure in discussing the drafts: In studying document E/CN.4/W.18, the Commission would

1. Decide whether to include or reject the various rights enumerated;
2. Make a theoretical study of the said rights;
3. Discuss their possible application.

MRS. MEHTA (India) pointed out that her draft resolution had been submitted in time and had been seconded by the Representative of the United Kingdom, and that it should therefore serve as a basis of discussion.

THE CHAIRMAN considered that it was preferable to examine document E/CN.4/W.18 first.

COLONEL HODGSON (Australia) considered in the first place that the classification of the freedoms contained in that document was questionable. If the Commission adopted that procedure, it would be jumping from one point to another. He considered that it would be preferable to adopt a logical order.

PROFESSOR CASSIN (France) did not consider it appropriate to raise the question of classification at the present juncture. He considered it better to wait until the concrete rights had been examined.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) likewise considered it unnecessary to divide the rights into groups. The Commission's task was to discuss rights and not a statute.

THE CHAIRMAN asked the Commission to return to the subject under discussion, namely the status of equality without distinction as to race, sex, language or religion.

MR. MALIK (Lebanon) considered that the question was a very ambiguous one.

THE CHAIRMAN pointed out that the Charter contained a very broad statement on this subject. It was the task of the Commission at the present juncture to determine what it wished to investigate, and to postpone the subject of drafting until later.

GENERAL ROMULO (Philippine Republic) considered that the procedure [3] being followed was complicated. The subject was of an abstract nature and it was impossible when speaking of the various rights not to deal with their application. He therefore expressed himself in favour of discussing a concrete draft, for example, that of India.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) considered, for his own part, that the principle of the equality of rights was very clear. It had been defined for centuries.

The right of equality was illustrated by the fact that every person was a citizen of the United Nations. That should be recognized and incorporated in the Bill of Human Rights.

PROFESSOR CASSIN (France) endorsed the ideas expressed by Mr. Tepliakov. He recalled Article 1 of the French Declaration of the Rights of Man of 1789 to the effect that "Men are born and remain free and equal before the law". The definition was a broad one and justified the belief that it was not necessary to specify in too much detail what the principle of equality was.

MR. NIETO DEL RIO (Chile) was in agreement with the Representative of France on this question.

The right of equality before the law implied the enjoyment of the other rights mentioned in document E/CN.4/W.18. The Representative of Chile was inclined to vote in favour of the inclusion of a text of the principle of equality of men before the law, together with certain definitions contained in the aforementioned document subject to simplification of the text.

COLONEL HODGSON (Australia) was in agreement with the Representative of Chile.

MR. LEBEAU (Belgium) considered that the best procedure would be to define rights in relation to the principle of liberty.

THE CHAIRMAN then proposed proceeding to Point 2.

PROFESSOR CASSIN (France) said that it was impossible to leave Point 1 without a declaration that the Commission unanimously accepted the principle of equality; that principle would be included in the Commission's resolution.

DR. CHANG (China) considered that the principle of equality should be [4] examined, bearing in mind the concept of human dignity.

MR. LEBEAU (Belgium) was opposed to immediate acceptance of the principle of equality. He wanted first to define the concrete rights attaching to the concept of equality, the interpretation of which was difficult.

PROFESSOR CASSIN (France) stated that he agreed to postponing discussion on the concept of equality, but that he wished to insist on the assertion of the fundamental principle of the unity of the human race in the Commission's resolution.

GENERAL ROMULO (Philippine Republic) supported the statement of the representative of France. He asked that the Commission accept that principle henceforward, and that instructions be given to the Drafting Committee to include it in the Bill of Human Rights.

THE CHAIRMAN summed up the discussion, and asked whether the Commission agreed to the Drafting Committee being entrusted with the definition of the principle of equality in the Bill of Human Rights.

MR. LEBEAU (Belgium) agreed that the principle of the fundamental solidarity of all men should be mentioned in the Declaration, but he considered that the essential thing was to define the rights deriving from the concept of equality.

PROFESSOR CASSIN (France) considered it essential that the principle of equality be defined from the outset. He recalled that Hitler started by asserting the inequality of men before attacking men's liberties. The principles of the unity of the human race and of the equality of men before the law should appear in one of the fundamental articles of the Declaration.

THE CHAIRMAN considered that all the members were in agreement on the substance of the question.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) proposed that voting on the questions which had just been discussed should be postponed until the next meeting. He read a statement which he would like to see included in the draft which the Commission would examine at its next meeting. That statement contained the definition of the principle of the equality of men in all fields.

[5]

THE CHAIRMAN pointed out that that matter was the province of the Drafting Committee.

MAJOR DUKES (United Kingdom) considered that the discussion was missing the principal point. Personally, he understood very well the principles of equality of race, equality before the law, *etc.*, but he could not make out what was meant by equality of condition. He considered that in order to achieve more clarity on the subject, it would be better to allow the discussion to continue a little while longer so as to permit ideas to emerge which the Drafting Committee for the Bill of Human Rights could employ to advantage.

MRS. MEHTA (India) remarked that it was not necessary to proceed to the vote at the present discussion, but to arrive at some conclusion. She reminded those present that her draft resolution dealt with the right of equality.

DR. CHANG (China) considered that, in order to comply with the wishes of the Representatives of France and the Philippine Republic, a sentence might be included in the summary record to the effect that the Commission considered it necessary to emphasize this idea of the solidarity or unity of the human race.

It would thereby be ensured that the Declaration of Human Rights would always be correctly understood, and that it would be possible at all times to see what had been formulated on the morrow of a war waged by the enemy in the name of racial inequality.

MR. NIETO DEL RIO (Chile) asked if the first paragraph would be recommended to the Drafting Committee in its present form.

THE CHAIRMAN said that only the summary record of the discussion would be communicated to the Drafting Committee and would serve as a basis for drafting the Bill of Human Rights. Proceeding to examination of paragraph 2, Mrs. Roosevelt, after reading the rights enumerated in that paragraph, suggested that the

Commission might decide whether or not it wished one or the other of those rights to appear in the Declaration.

DR. CHANG (China) emphasized that his country's Constitution already [6] contained the majority of the rights enumerated in paragraph 2, and he added that he would have copies of the Chinese Constitution distributed among the members of the Commission.

MRS. MEHTA (India) considered that the right of political liberty should be added to this list of rights.

MR. GUARDIA (Panama) desired that passage (a) should be amended. If he understood it correctly, it referred not only to a right to existence but also to the right to protection and respect for existence.

MR. LEBEAU (Belgium) desired to submit certain general observations. The rights of the human being were concerned here, and the list in question applied much more to the rights of the individual than to those of the human being generally. There was a gap here, which he considered was filled in the document presented to the Commission by the Catholic Welfare Association of the United States. Section 2 of that document dealt with the rights of the family which were four in number: the right to contract marriage, to make a home and to have children; the right to an economic security adequate to ensure the independence of the family; the right of the mother to protection; and the right of the children to education. If it was desired to consider the rights of the human being here, it was also necessary to take into account those rights enumerated in the document referred to. It was also necessary to consider ensuring the protection of the human being against the over-industrialization of this modern age.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) did not understand very well what was meant by the right to existence. It went without saying that that right existed, and it was therefore unnecessary to mention it. He pointed out that the right to personal liberty was defined by the subsequent paragraphs in the list. Furthermore, the mention of the United Nations in paragraph 1 did not seem very clear to him. He considered, moreover, that certain rights contained in the list were matters for national legislations, and that wherever they fell within the international field they were covered by international agreements or by conventions and should not appear [7] in an international Bill of Human Rights. That applied for example to points (o), (p), (s), (t) and (u). He therefore suggested that those points should be left out of the Bill of Human Rights. If they were allowed to appear, that would not be in conformity with the Charter.

DR. CHANG (China) drew the Commission's attention to Article 18 of the Chinese Constitution which prescribed the system of public examinations for the admission to public office. He considered that that right should exist in all countries, and suggested that it be mentioned in the Bill of Human Rights.

COLONEL HODGSON (Australia) pointed out that the rights of the family, of which the Representative of Belgium had spoken, would be found in paragraph 3 of the document. In his opinion certain rights enumerated in the list of paragraph 2 were quite obvious, and already guaranteed. That applied, for example, to the right to existence which was, so to speak, a *sine qua non*. It was a right which was already assured by the laws of all countries. Certain other rights contained in the list appeared to him too vague, and he considered that this list should in any case be restricted, and that before going any further it should be decided on which of the rights the Commission was in agreement.

PROFESSOR CASSIN (France) desired that the matter should be more precisely formulated. Certain rights had been treated as obvious, but that was not always the case. As regards the right to existence, for example, the fundamental consideration was to assure the protection of human life. That certainly was not as elementary a right as one might believe for in 1933, when Germany violated those principles, there were many countries in the world who asked themselves whether they had the right to intervene. He considered that it was of fundamental importance to affirm the right of human beings to existence. Similarly, it was a fundamental duty to assert that slavery was a shame to humanity. The most elementary rights must be re-affirmed as experience has proved that they could be violated.

[8]

Replying to the Representative of Belgium, he acknowledged that man could in fact be considered either as an individual, or in respect of his relations with other human groups. The document submitted by the Catholic Welfare Association considered man and the various human groups. But this Commission must make man, the human person, the centre of the Declaration.

Replying to the remarks made by the Representative of the Union of Soviet Socialist Republics on matters belonging to national legislation, he pointed out that certain national laws were very badly co-ordinated in the international field, and thus today large masses of humanity were obliged to live without properly defined rules. Somebody must take care of these masses of humanity. Rights of asylum, immigration and rights of nationality were so closely intertwined that millions of human beings could not be left without any statute. It was the duty of the community in the International Field to settle these three questions.

THE CHAIRMAN stated that she had just received a proposal from the Representative of Chile requesting the Drafting Committee to take into account the various Constitutions of Member States in the matter of human rights and liberties in the various countries.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) endorsed that proposal.

The meeting rose at 1:10 p.m.

E/CN.4/SR.14**4 February 1947****Original Text: French**

Summary Record of the Fourteenth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday,
 4 February 1947 at 2:00 p.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Vice-Chairman: Dr. Chang (China); Rapporteur: Mr. Malik (Lebanon). Members: Mr. Hodgson (Australia); Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. del Rio (Chile); Mr. Ebeid (Egypt); Prof. Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); General Romulo (Philippine Republic); Mr. Tepliakov (Union of Soviet Socialist Republics); Mr. Mora (Uruguay); Mr. Ribnikar (Yugoslavia). Alternates: Mr. Lebeau (Belgium); Mr. Guardia (Panama). Representatives of Specialized Agencies: Mr. Hutchison (ILO); Mr. Carnes (UNESCO). Non-Governmental Organizations: Consultant: Mr. Teper (American Federation of Labor). Secretariat: Mr. Humphrey (Secretary of the Commission).

Continuation of the Debate on the Contents of the Draft International Bill of Rights (Documents E/CN.4/W.18 and E/CN.4/11)

THE CHAIRMAN called the meeting to order. At the previous meeting the representative of the Union of Soviet Socialist Republics had asked that [2] certain items on the list of rights drawn up by the Secretariat (document E/CN.4/W.18) be excluded from the Bill of Rights, and she now asked the Commission for its opinion on this subject.

MR. MORA (Uruguay) felt that the right of citizenship should be extended in such a way as to grant human beings a certain degree of world citizenship, and to offer the individual the possibility of participating personally in the international organization of the Community of Nations. The proposed right to petition the United Nations was insufficient. The right to freedom of movement ought also to include the freedom to change one's nationality.

MR. EBEID (Egypt) noted that in the course of the debate no mention had been made of the duties of the individual, which were a corollary to his rights. Moreover, the Commission ought merely to define the rights in a general way, without going into details; thus controversy would be avoided.

THE CHAIRMAN thought that freedom of movement, a right inherent in the human person, ought to be understood only as the ability to leave a country freely. This right would be limited by the immigration laws of the receiving country.

MR. DUKES (United Kingdom) noted that it was difficult to implement the right to work without making it compulsory for unemployed members of the community to

work. Freedom of movement ought also to be defined with the utmost care, and a nation's right to claim the extradition of its criminals ought to be preserved. Moreover, freedom of movement was naturally limited by the absorptive capacity of receiving countries, which had first to find employment for their own nationals.

In regard to the rights of the individual, it was quite legitimate to list certain obligations, without which the ratification of the International Bill would give rise to serious difficulties.

MRS. MEHTA (India) drew the Commission's attention to the draft resolution she had submitted in which none of the rights granted released the individual from his obligations towards the State. By freedom of movement she understood [3] not only the freedom to emigrate, but also the freedom to move from one place to another within the boundaries of the State, a right not at present respected in all countries of the world.

MR. TEPLIAKOV (Union of Soviet Socialist Republics), speaking on the right to work, said that the moral and material conditions necessary to assure it ought to be provided. There could be no right to work without a corresponding duty to the community. In this respect, he cited Article 12 of the Soviet Constitution, which stipulated that in the Soviet Union work was a "duty and an honour for every able-bodied citizen, in accordance with the principle: no work, no food." He asked that the Bill include the individual's obligation to work for the community, by which he meant his country as well as the United Nations.

Passing on then to the rights listed in Section 3 (food, housing), he observed that the implementation of these rights depended on factual circumstances.

MR. MALIK (Lebanon) was interested chiefly in the problem of personal liberty. He considered the Yugoslav representative's statement that the social principle ought to take first place as inconsistent with his other statement that freedom was to be found in harmony between the individual and the community. He urged the Commission to adopt the following four principles, which were in danger of being repudiated:

1. The human person is more important than the racial, national, or other group to which he may belong;
 2. The human person's most sacred and inviolable possessions are his mind and his conscience, enabling him to perceive the truth, to choose freely, and to exist;
 3. Any social pressure on the part of the State, religion or race, involving the automatic consent of the human person is reprehensible;
- [4]
4. The social group to which the individual belongs, may, like the human person himself, be wrong or right: the person alone is the judge.

The Bill of Rights, he concluded, could not without prejudice to itself, disregard these four principles.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) opposed these principles. He was against the Commission's considering the principles stated and reserved the right to comment on them after studying them.

MRS. MEHTA (India) did not think these principles should give rise to any controversy; the point was to study measures likely to uphold the dignity of the human person.

MR. GHANI (Iran) felt that freedom of expression and of opinion were possible only in countries where the standard of education was high enough to allow the masses to form a sound opinion, and so he wished the United Nations to take steps first of all to eliminate illiteracy and promote education, by such means as granting financial assistance to backward countries.

THE CHAIRMAN felt that the authors of the Bill had the duty to guarantee the fundamental liberties of the individual, and on these grounds, she considered the Lebanese representative's statement of particular importance.

She then asked the Commission to discuss more fully, Section 3 of the list of rights drawn up by the Secretariat (Social Security), since any observations might be useful to the group appointed to draw up the preliminary draft Bill.

MR. DUKES (United Kingdom) disagreed with Mr. Malik, for he did not think that there could be unrestricted individual liberty in any modern community.

As to Mr. Malik's fears, Mr. Dukes did not think it wholly possible, in an organized society, to prevent groups from exercising a certain pressure upon individuals. That was the price which had to be paid for freedom of association, the necessity of which no one would contest.

[5]

Considering all the items in Category 3 (Social Security) of the list of the various types of rights to be included in the draft International Bill of Rights, he said it would be useless to try to define the liberties of the individual without taking account of his obligations towards the State or benevolent organizations. On the other hand, it was, he presumed, clear in the minds of all that individual liberties included the liberty to exercise pressure upon Governments in order to achieve the application of the various items in the third category. He presumed also that all the members of the Commission thought individuals ought to have the right to replace these governments if they failed to respect what might be called the collective will and collective obligations.

In conclusion, he stressed the co-existence and closely knit interdependence of the State and of the individual. It was the combination of these two elements, their reciprocal effects and influences which could produce the highest civilization.

MR. CASSIN (France) shared Mr. Duke's views and propounded the principle that the human being was above all, a social being. Parallel with the list of the

rights of the individual, they ought, no doubt, to draw up a list of the rights of the community.

He warned against the danger of placing too little importance upon social rights. With regard to Item (f) of Category 3, he wished to see a distinction made between freedom of instruction and right to education.

MRS. MEHTA (India) considered the expression "right to health care" would be the right one in Section 3, as corresponding to the State's duties towards the individual.

MR. HODGSON (Australia) thought, that in spite of the slight differences in the opinions expressed, it could be inferred from the present debate that the members of the Commission all recognized that the individual's rights ought to be subordinated to those of the national community and of the international community. This principle could serve as a guide for the [6] Drafting Committee.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) noted, with reference to Mrs. Mehta's remarks, that the expression "right to health care", was not, perhaps, entirely felicitous inasmuch as this right had never been disputed. Concerning Item (e), he personally wished to suggest the expression "right to maintenance in case of old age, sickness, or other incapacity to work". Item (d) would read only: "protection against unemployment."

MR. MALIK (Lebanon) wished to stress the fact that he had not used the word "individual" but the expression "human person" in his previous intervention.

Coming back to the Charter's reference to the dignity and worth of the human person, he explained that he wished to give greater meaning to this expression. It would indeed be a dead letter if they refused to admit that the human person had the right to choose in full liberty, that is, without being exposed to reprisals or persecutions.

He was in complete agreement with Mr. Dukes' remarks about the price which had to be paid for the advantages derived from the State.

In conclusion, he laid down the principle that the human person had not been created for the sake of the State, but that the State existed rather for the sake of the human person. The Bill of Rights ought, therefore, to subordinate everything to the interest of the human person, even the State.

MR. CHANG (China) warned against the danger of producing a document which would ill accord with the times owing to its being out of time with the spirit and atmosphere of the post war era; he would like to see the expression "freedom from want" appear somewhere, either in the preamble or in the text itself.

MR. CASSIN (France) noted that there was one right which was absolutely unconditional, namely, the right to freedom of conscience. He stressed this [7] point, on which he thought the Lebanese representative was absolutely right, because it was this right to the freedom of conscience which gave the human person his worth and dignity.

THE CHAIRMAN thought the members of the Commission were now ready to study the form in which the Bill should be presented. She had observed in the course of the discussion that everyone seemed in favour of a general bill or declaration incorporated in a draft resolution to be submitted to the Assembly.

MRS. MEHTA (India) thought a mere declaration would not be sufficient and that provision would have to be made for means of implementation. What was required was an Act of the General Assembly which would place upon the Assembly the main responsibility for applying the rights.

THE CHAIRMAN drew the Commission's attention to the United States proposal that the Commission should prepare an International Bill of Rights which the Assembly could adopt in the form of a resolution providing that the Commission on Human Rights would prepare one or more "Conventions on Human Rights and Fundamental Freedoms".

MR. HODGSON (Australia) noted that the Assembly had the power to pass resolutions but not Acts, and that it was for the various Governments to implement those resolutions.

THE CHAIRMAN thought that the provisions of the Commission's draft resolution could be of a general nature and that it would be sufficient if they were adopted. It would not be necessary to specify each nation's attitude in regard to every one of the points adopted.

MR. CHANG (China), supported by Mr. Tepliakov (Union of Soviet Socialist Republics), thought the Commission ought, first of all, with the assistance of the Drafting Committee, to draw up a Bill of Rights incorporated in a draft resolution.

MR. CASSIN (France) shared this view and suggested that the resolution [8] might contain an invitation to the States to incorporate in their Constitutions or in their national law such items of the Bill as were not already included therein.

He also advocated adopting the principle of an organic act which could be amended by a two-thirds majority and which would be a more or less independent instrument, capable of being amended by the General Assembly at future sessions.

He appealed to the members of the Commission not to follow the old conventional school of thought, or on the other hand, merely to pass an enthusiastic bill lacking concrete value.

THE CHAIRMAN noted that the Commission was unanimous in its decision to instruct the Drafting Committee to draw up the Bill and to incorporate it in a draft resolution to be submitted to the Economic and Social Council.

The next day's meeting would be devoted to a study of the means of implementation.

The meeting rose at 5:00 p.m.

E/CN.4/15

5 February 1947

Draft Resolution for an International Court of Human Rights Submitted by the Representative from Australia

1. There is hereby established an International Court of Human Rights. The Court shall be constituted and shall function in accordance with the Articles contained in this Part and in the Statute of the Court.

2. The Court shall have jurisdiction to hear and determine all disputes concerning the rights of citizenship and enjoyment of human rights and fundamental freedoms provided for in the Declaration of Human Rights. Subject to such conditions as shall be contained in the Statute of the Court, the Jurisdiction of the Court shall be both original and appellate, and shall extend to questions of interpretation arising in such disputes as are brought before administrative tribunals or administrative authorities.

3. The appellate jurisdiction shall extend to appeals from all decisions of the courts of the States bound by the obligations contained in the Declaration of Human Rights, in which any question arises as to the rights of citizenship or the enjoyment of human rights, or fundamental freedoms.

4. The Court shall be open to any person or group of persons. It shall also be open to any of the States acceptors of the Declaration.

5. Each of the States accepting the Declaration shall comply with the judgment of the Court in any case to which the State is a party and with any order which the Court may make against it.

[2]

6. Any judgment or order made by the Court in favour of any person or group of persons within the jurisdiction of any of such States shall be fully effective according to its terms and shall be enforced in and by the State affected by the judgment or order.

7. Each of such States undertakes that the provisions contained in the declaration shall be recognized as fundamental laws and that no law, regulation or official action shall conflict or interfere with these provisions, nor shall any law, regulations or official action prevail over them.

8. The Court shall also have jurisdiction, both original and appellate, to hear and determine disputes concerning such rights of citizenship and enjoyment of human rights and fundamental freedoms as shall be provided for in the treaties of peace which will be made by any of the Allied and Associated Powers with Romania, Bulgaria, Hungary, Finland, Austria, Germany or Japan.

9. The Court shall be composed of a body of independent judges, selected according to the standards laid down by the Charter of the United Nations for the election of judges of the International Court of Justice.

10. The Court shall consist of not less than three members appointed in the manner set out in the Statute of the Court.

11. The Court shall make an annual report to the Economic and Social Council of the United Nations on the working of the Court in relation to the rights and freedoms within its jurisdiction. The Court may also make other reports to that Council if and when it thinks proper to do so.

E/CN.4/SR.15

5 February 1947

Original Text: French

Summary Record of the Fifteenth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, 5 February 1947
at 11:00 a.m.

Present: Chairman: Mrs. Roosevelt (United States of America); Vice-Chairman: Mr. Chang (China); Rapporteur: Mr. Ch. Malik (Lebanon). Members: Colonel Hodgson (Australia); Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Nieto del Rio (Chile); Mr. Ebeid (Egypt); Mr. Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); General Romulo (Philippine Republic); Mr. Tepliakov (Union of Soviet Socialist Republics); Mr. Dukes (United Kingdom). Alternates: Mr. Lebeau (Belgium); Mr. Guardia (Panama). Representatives of the Specialized Agencies: Mr. Carnes (UNESCO); Mr. E. Hutchison (International Labour Organization). Non-Governmental Organizations: Consultant: Miss Sender (American Federation of Labor). Secretariat: Mr. J. Humphrey.

Before proceeding to Item 15 of the agenda, THE CHAIRMAN called upon the representative of India.

[2]

MRS. MEHTA (India) pointed out that the form of the Bill of Human Rights was of great importance to her government. It could either be in the nature of a vague resolution, including mystic and psychological principles, or it could be an instrument binding on all the Member States. She was in favour of the latter form as it would be in accordance with the Charter and the Resolutions of the last General Assembly. She stressed the necessity of this Bill having an imperative character.

THE CHAIRMAN called on the representative of Australia to speak on Item 15 of the agenda, regarding the implementation of the Bill of Human Rights.

COLONEL HODGSON (Australia) explained his Government's position on the Bill of Human Rights. His Government considered that the Resolution of the General Assembly Committee regarding this Bill should not be a simple recommendation, but a multilateral Convention binding Member States. These States should incorporate the principles laid down in this Bill in their own legislation.

He recalled that similar principles were incorporated in the Peace Treaties following the 1914–1918 war. In view of the negative results of these different declarations, the Australian Government had proposed, at the Paris Peace Conference,¹⁰³ the setting up of definite machinery for the application of these principles: that is to say, an International Court of Human Rights. By this action, the Australian Government was only conforming with the terms of a letter of June 1946 from Mr. Trygve Lie to the various governments. The Members of the Paris Conference, however, rejected this proposal on the grounds that the United Nations had at its disposal a body competent to settle the question; the Security Council. The objection was, in fact, unjustifiable as the Council could only intervene if peace were in danger. In view of the great number of Stateless persons whose future could only be settled on the international plane, the question was now even more acute.

The Australian Government therefore proposed that the Commission on Human Rights should recommend to the Economic and Social Council and to the General Assembly, the creation of an International Court of Human Rights. This Court would be the Central Appeal Court to which States, groups of individuals and even single individuals could appeal when all domestic possibilities of appeal had been exhausted.

He read the text of his proposal, which would be distributed later, and asked the Commission to express its views.

GENERAL ROMULO (Philippine Republic) reverted to the principles which should appear in the Bill of Human Rights. The task of the Commission was to prepare the way for a general Bill of Rights for all conditions of men. This Bill would prescribe rights and freedoms; it would also establish their inviolability from tyranny. In addition, it would determine the objectives to be attained on behalf of backward populations. He was in favour of a Bill on a sufficiently broad basis to cover the needs of free men and of men still to be freed.

He admitted, moreover, that the principles of this Bill would sometimes be violated, but was convinced that they would, nevertheless, be effective. He stated that the Government of the Philippine Republic was prepared to include all the provisions of the Bill in its Constitution, thus amplifying those it already contained.

¹⁰³ Held from 29 July to 15 October 1946 at the Palais du Luxembourg, the Paris Peace Conference led to the adoption of treaties with Italy, Romania, Hungary, Bulgaria and Finland.

As to Colonel Hodgson's proposal for the creation of an International Court of Human Rights, he stated that he was in entire agreement with the Australian representative. Nevertheless, he reserved the right of his Government to submit comments on this matter.

THE CHAIRMAN stated that no resolution would be put to the vote. So far as the question of the implementation of the Bill of Rights was concerned, the Commission would confine itself to making recommendations and suggestions to the Drafting Committee. The latter would proceed to the drafting and the Commission could then vote on the proposals in order [4] to refer them to the Economic and Social Council in the form of recommendations.

MR. DUKES (United Kingdom) stated that his government considered that discussion of the enforcement of the Bill of Rights was premature so long as its principles were not clearly defined.

He considered that the Commission should first of all endeavour to clarify its views on the rights to be implemented. He stated that if a vote were to be taken on proposals for the creation of machinery to ensure respect of the rights mentioned in the Bill, in order to refer them to the Drafting Committee, he would be forced to vote against them.

MR. DEL RIO (Chile) and MR. TEPLIAKOV (Union of Soviet Socialist Republics) were of the same opinion. Mr. Tepliakov would also be opposed to the Commission giving the Drafting Committee authority to examine the different systems for putting the principles of the Bill into practice before the Bill itself had been prepared.

MR. LEBEAU (Belgium) considered that in so far as the form of the Bill was concerned, the discussion was somewhat confused. The Indian representative had spoken of an "instrument" of the General Assembly; the Assembly would adopt the text of a Bill containing precise juridical obligations for each State. But the General Assembly could not make such provisions. It could either adopt a resolution which each State would be free to approve, or adopt the text of an international convention which would have to be signed and ratified. They had to decide which solution the Commission would seek. He was in favour of a resolution submitted in the form of a General Assembly resolution, containing the text of the Bill of Rights.

As for the body which would have to enforce the Bill, this was an entirely new question for the Commission. He declared that he must reserve his opinion on this matter, in order to consult his government.

THE CHAIRMAN, speaking as representative of the United States of [5] America, stated that her government considered that the General Assembly should recommend in its resolution that the Bill of Rights be incorporated in the respective constitutions of Member States. The United States Government did not think it advisable to go any further than that for the moment. The Commission on Human

Rights could later prepare conventions, the details of which could be formulated gradually. It could suggest the creation by the Economic and Social Council of special machinery; but this would require long and exhaustive study. The convention could, for example, provide for reports on the manner in which the Bill was being applied, The Economic and Social Council could study means of submitting all information regarding human rights to the General Assembly, in conformity with Articles 10, 11 and 14 of the Charter. Finally, means of ensuring the collaboration of the Security and Trusteeship Councils as well as that of the Secretary-General, as provided for in Articles 65, 91 and 98 of the Charter, could also be considered.

MRS. MEHTA (India) wondered whether the Commission should be satisfied with an academic discussion of a Bill of Rights or whether it wished to implement such a Bill. Agreement must be reached on the principle upon which the Bill would be applied, otherwise the existence of the Commission could not be justified.

MR. HUTCHISON (International Labour Organization), having recalled the part played by the International Labour Office in the economic and social fields during the last twenty-five years, suggested that the potentialities of possible action by the specialized agencies in the implementation of the Bill of Human Rights should be carefully considered.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) thought it necessary to point out that he had not opposed the implementation of the Bill of Rights. He merely thought that the formulation of a precise plan would be premature and he was still of that opinion, particularly after hearing the statement of the representative of the International [6] Labour Organization. He urged that the Commission should not delegate to the Drafting Committee any powers which would allow it to consider measures for implementation.

MISS SENDER (American Federation of Labor) on behalf of the organization which she represented, wished to emphasize that the peoples must have faith in the United Nations and consequently, if it was decided to draft an International Bill of Rights, it must be shown that it was not merely a matter of empty words, but that decisions taken would be applied and enforced.

MR. CASSIN (France) wished to dispel a misunderstanding: the Commission was not on the horns of a dilemma; it was not forced to choose between the drafting of a theoretical Bill that could not be implemented and the preparation of an International Convention entailing juridical obligations for the States, which would have to be ratified by them.

From the beginning, the United Nations itself, as well as the Economic and Social Council, had given this Commission its terms of reference: to see that the obligations undertaken by the United Nations were respected. The Commission therefore had not only to draft a Bill recognizing certain internationally accepted rights, but it had also to study means of implementing this Bill. He considered that the Drafting

Committee could prepare a provisional draft incorporating as much information and documentation as possible on the establishment of Human Rights. This method of procedure, avoiding specific directives, would doubtless have the advantage of meeting the objections put forward by certain members of the Commission, and would accelerate its work.

THE CHAIRMAN noted that the procedure recommended by Mr. Cassin was entirely consistent with the proposals put forward by the United States Delegation. To meet the desires of the representative of the Soviet Union, she added that the Drafting Committee would only prepare a Bill of Rights to be submitted at the next session.

MR. DUKES (United Kingdom) feared that he had given the impression that his government was not anxious to apply the Bill of Human Rights. [7] He therefore wished to make it quite clear that this was not so. It was simply a matter of avoiding commitments which governments would later hesitate to accept. He drew the attention of the Commission to paragraph 7 of Article 2 of the Charter, and emphasized that the question of implementing the Bill of Rights again raised the problem of the relationship between the organ of implementation and domestic jurisdiction. The first thing, it seemed to him, was to draft a Bill of Rights containing no ambiguities, then to weigh its consequences, to refer it to governments and finally, to work out a system of implementation which would be clearer and more precise than anything which could be drawn up at that moment.

The meeting rose at 1:10 p.m.

E/CN.4/SR.16

5 February 1947

Summary Record of the Sixteenth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Wednesday,
5 February 1947 at 2:45 p.m.

Present: Chairman: Mrs. Roosevelt (United States); Vice-Chairman: Mr. Chang (China); Rapporteur: Mr. Malik (Lebanon); Members: Col. Hodgson (Australia); Mr. Ebeid (Egypt); Mr. Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); Mr. Malik (Lebanon); Mr. Tepliakov (USSR); Mr. Dukes (United Kingdom); Mrs. Roosevelt (United States); Substitutes: Mr. Lebeau (Belgium); Mr. Guardia (Panama); Representatives of Specialized Agencies: Mr. Hutchison (ILO); Mr. Darchambeau (UNESCO); Consultant: Miss Sender (AF of L); Non-Governmental Organizations: Secretary of the Commission: Mr. Humphrey (Director, Human Rights Division).

Draft Resolution for an International Court of Human Rights, Submitted by the Representative of Australia (document E/CN.4/15)

COL. HODGSON (Australia), commenting on the Australian draft resolution, recalled that the objection had been raised that the Commission could not [2] consider implementing an international bill of rights before deciding its contents. He believed, however, that the Commission had an obligation under Article 56 to implement those rights and freedoms already laid down in the Charter. It was necessary to establish effective machinery to make those human rights and fundamental freedoms a reality.

Moreover, it was not premature to consider machinery for implementation of the bill, since the definitive rights to be enforced would be known at the time the bill was submitted to the General Assembly. The variety of principles enunciated therein would subsequently be incorporated into international convention for ratification by States members. There the elaboration and implementation of the bill constituted parallel processes.

Col. Hodgson also recalled that it had been suggested that the rights and fundamental freedoms embodied in the bill should first be implemented by governments through national legislation. He considered, however, that this function belonged to an international tribunal, to which there could be appeal over and beyond national courts.

In conclusion, the representative of Australia stated that the Commission should not confine itself to abstractions but was bound to consider immediately effective machinery for implementing human rights and fundamental freedoms, in accordance with its solemn obligations. He moved, therefore, that the Australian proposal for the establishment of an International Bill of Human Rights should be referred to the drafting group for consideration with a view to reporting on the implementation of human rights and fundamental freedoms, as contained in the proposed bill of human rights, to the next session of the Commission.

MR. MALIK (Lebanon) supported the motion of the Australian representative.

MR. TEPLIAKOV (USSR) considered that the drafting group had been established to make a preliminary draft of the bill of rights on the basis of [3] the instructions of the Commission, and the body as such had no authority to consider the question of documents, or drafting of documents, for implementation of the bill, at the present stage of the work of the Commission.

MR. DUKES (United Kingdom) moved as an amendment to the Australian motion that the question of referring the implementation of the bill to the drafting group should be deferred for consideration to the second session of the Commission.

MR. LEBEAU (Belgium) recalled the resolution of the Economic and Social Council adopted on 21 June 1946, which stated that the aims of the United

Nations could only be implemented if provisions were taken to ensure respect for the rights of man and requested the Commission on Human rights to elaborate the means of ensuring such rights.

He considered that the Commission should not express its opinion on the substance of the Australian proposal, but was absolutely empowered to submit it to the drafting body for study and exploration, together with proposals introduced by other representatives.

MR. CASSIN (France) supported the view taken by the Belgian representative, and stated that he would vote for the Australian motion. He suggested the addition of certain amendments allowing the commission to submit to the drafting body not only the Australian resolution but all other documents concerning the same subject, and stating that, since the Commission was not in a position to give precise instructions, the drafting group should not prepare a positive draft but only undertake a task of exploration.

MRS. MEHTA (India) maintained that the question of implementation of an international bill of rights had been placed on the agenda, in accordance with the instructions of the Economic and Social Council, and the Commission was required to take appropriate action.

MR. DUKES (United Kingdom) explained that his amendment was motivated by [4] the fact that he was not in possession of sufficient instructions regarding the question of implementation. The fact that only one such a proposal had been received was an indication of the unpreparedness of more than one country in that respect. The United Kingdom Government supported the principle of implementation and would later submit its own concrete proposals.

MR. MALIK (Lebanon) pointed out that the drafting group could consider at the present time the various points of view expressed. There was nothing to prevent the United Kingdom representative from submitting to the drafting group his own draft regarding implementation at a later date. Therefore, Mr. Malik suggested that the United Kingdom amendment should be amended to allow the drafting group to explore and consider, in addition to the Australian document, any suggestions for implementation of the international bill of rights that might be submitted to it between now and the next session of the Commission by any Government Member of the United Nations.

COL. HODGSON (Australia) pointed out that the problem of implementation had been exhaustively examined during the Paris Conference, where it had finally been decided that the question should be dealt with by the Economic and Social Council. All Governments had received advance agenda and had known that the Australian proposal was being referred to the Commission. Moreover, the Commission would be in a better position to consider the Australian proposal

during its second session, if in the meantime, the drafting group had examined its contents and implications.

MR. TEPLIAKOV (USSR) remarked that the Commission had authorized the drafting body to deal only with an international bill of rights. He therefore moved an amendment that the Commission should reverse its previous decision about the drafting body, and should appoint a new drafting Sub-Committee with powers to draft a preliminary international bill [5] of rights and explore methods of implementation.

MR. CHANG (China) agreed that the drafting group had been entrusted with the task of drafting a bill of rights. If suggestions concerning implementation were also to be referred to that group, that fact should be clearly stated. In order to meet the different points of view expressed, the Chinese representative suggested that the Lebanese amendment should also state that the drafting group should be allowed to explore all aspects of the problem, including implementation.

MR. GUARDIA (Panama) suggested that the membership of the drafting group should be increased, if it were instructed to fulfil additional functions in the field of implementation.

MR. DUKES (United Kingdom) recognized the value of the Australian proposal. The United Kingdom Government was most anxious that any undertaking in connection with an international bill of rights should be effectively observed. He would support the Lebanese amendment, providing that it was clearly understood that the drafting group would only undertake a task of exploration, considering, in addition to the Australian document any other proposal that might be submitted.

MR. MALIK (Lebanon) replied that his amendment was only intended to authorize the drafting body to consider and explore suggestions regarding implementation, in accordance with the instructions of the Economic and Social Council.

Decision: The USSR amendment, which was voted on in two parts, was defeated.

MR. CASSIN (France), with a view to reconciling divergent views, proposed the following amendment:

“The Commission on Human Rights, recognizing that it is not at present in a position to give precise directives with regard to the means of ensuring the observance of the rights to be embodied in the international declaration, invites the drafting group, in the [6] forthcoming months, with the assistance of the Secretariat, to explore this field and to study the Australian proposal and any other documents which may be submitted to it so that the Commission at its second session may be able to work out proposals on this subject in conformity with the duties assigned to it by the Economic and Social Council.”

MR. MALIK (Lebanon) and MR. DUKES (United Kingdom) accepted the French amendment.

MR. HODGSON (Australia) pointed out that according to his resolution the drafting group was to be asked not only to study the Australian amendment for the establishment of an International Court of Human Rights, but also to report upon it.

MR. CASSIN (France) replied that, any study by a subsidiary body should result in a report, which might be considered as a working document. He did not believe that the report should present any definite conclusions.

MR. HODGSON (Australia) felt that it would be desirable for the group to proceed as far as they could. Conclusions and to make recommendations, would be preferable to an abstract study. He therefore supported his original resolution.

Decision: The French amendment was adopted by seven votes to three, and the Australian resolution fell automatically.

MR TEPLIAKOV (USSR) said that, since the functions of the drafting group had been changed from a technical to a substantial one, he withdrew his support of the first part of the Commission's resolution of 4 February 1947 with respect to that group.

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E/CN.4/17

6 February 1947

United States Proposals Regarding an International Bill of Rights

Proposals

The United States proposes:

1. that the Commission on Human Rights should consider the following questions at its forthcoming session before proceeding with the drafting of an international bill of rights:
 - (a) the legal form of the bill;
 - (b) the subject matter to be dealt with in the bill;
 - (c) the implementation of the bill;
2. that the Commission should, before adjourning,
 - (a) appoint a working group to draft an international bill of rights for submission to the Commission at its next session, following closely the Commission's decisions on the points listed in paragraph (1) above;
 - (b) suggest methods of consulting with interested agencies, commissions, and sub-commissions in the drafting of an international bill of rights.

II. Specific Suggestions

1. With regard to the legal form of an international bill of rights, the United States suggests that the Commission should first prepare it in the form of a Declaration on Human Rights and Fundamental Freedoms to be adopted as a General Assembly Resolution. This Declaration should be of such a character as to command the respect of people throughout the world and should be framed with a view to speedy adoption by the [2] General Assembly. The resolution containing this Declaration should make provision for the subsequent preparation by the Commission on Human Rights of one or more conventions on human rights and fundamental freedoms. This course, it is thought, would permit prompt adoption of a broad statement of human rights and allow time for the working out of detailed treaty provisions on specific matters.

2. Among the categories of rights which, the United States suggests should be considered are the following:

- (a) personal rights, such as freedom of speech, information, religion and rights of property;
- (b) procedural rights, such as safeguards for persons accused of crime;
- (c) social rights such as the right to employment and social security and the right to enjoy minimum standards of economic, social and cultural wellbeing;
- (d) political rights, such as the right to citizenship and the right of citizens to participate in their government.

It is recognized that the definition of rights within these categories is a task of great difficulty, which cannot be performed by the Commission at its forthcoming session, but it is submitted that these categories taken together include the rights which persons of differing national, legal, economic, and social systems would regard as the human rights and fundamental freedoms to be promoted and respected by the United Nations.

3. With regard to implementation, the United States suggests that the General Assembly resolution setting forth the Declaration on Human Rights and Fundamental Freedoms should recommend the Declaration as a standard to be observed by Members. It might also recommend that these rights be incorporated in constitutions and in legislation, to be observed and enforced by administrative and judicial authorities.

[3]

The conventions suggested earlier might contain provisions for reporting by the signatories on the application of the convention and on the position of their law and practice regarding the rights stipulated in the convention. They might also, if feasible, empower the Commission on Human Rights to recommend to states measures to give effect to the convention.

4. The United States proposes the appointment of a working group to draft the Declaration since the Commission's agenda for the forthcoming meeting is long and the decisions to be reached with respect to the foregoing questions will require more extended consideration than will be possible at the forthcoming session of the Commission. The decisions with regard to subject matter to be included would furnish leads to the drafting group to guide it in formulating specific provisions or in evaluating proposals which may be made or referred to it.

All bills which have been submitted to the Commission should be referred to the working group for study in the light of the decisions of principle reached by the Commission.

The subsequent drafting of conventions for submission by the Economic and Social Council to the General Assembly and adoption by Members might be performed by the same working group, or one or more new ones might be formed.

5. The Commission may consider it desirable to consult with organs, commissions, or specialized agencies of the United Nations with regard to the drafting of certain provisions. It might, therefore, suggest to the working group methods of consultation with these bodies.

6. In order to submit the Declaration on Human Rights, if possible, to the Second Session of the General Assembly, it is suggested that the working group complete its work in time for consideration by the Commission (possibly in June) and the Fifth Session of the Economic and Social Council (Summer 1947).

E/CN.4/19

6 February 1947

Draft Report of the Commission on Human Rights to the Economic and Social Council

Chapter I Introduction

1. The Commission on Human Rights held its first session during the period 27 January to 8 February 1947 with the following Members in attendance:

Col. William R. Hodgson	Member from	Australia
Mr. T. Kaminsky	“	Byelorussian Soviet Socialist Republic
Mr. T. Felix Nieto Del Rio	“	Chile
Dr. P. C. Chang	“	China
Mr. Osman Ebeid	“	Egypt
Professor René Cassin	“	France

Mrs. Hansa Mehta	“	India
Dr. Ghassame Ghani	“	Iran
Dr. Charles Malik	“	Lebanon
General Carlos P. Romulo	“	Philippine Republic
Mr. Charles Dukes	“	United Kingdom
Mrs. Eleanor Roosevelt	“	United States of America
Mr. V. F. Tepliakov	“	Union of Soviet Socialist Republics
Dr. Don José A. Mora	“	Uruguay
Mr. V. Ribnikar	“	Yugoslavia

2. Mr. Fernand Dehousse of Belgium and Mr. Ricardo J. Alfaro of Panama were unable to attend but were represented by substitutes: Mr. Roland Lebeau, and Dr. German Gil Guardia, respectively. The Member from the Ukrainian Soviet Socialist Republic was not present. The Member from the Philippine Republic was forced to leave early and was replaced by Colonel Amado Bautista.¹⁰⁴

3. The Specialized Agencies were represented at the Commission by: Mr. E. Hutchison, for the International Labour Organization; Dr. Archibald MacLeish,¹⁰⁵ Mr. Valère Darchambeau and [Mr.] Carnes for the United Nations Educational, Scientific and Cultural Organization.

[2]

4. Consultants in attendance were:

Mr. L. Teper, and
Miss Toni Sender,¹⁰⁶ for the American Federation of Labor;
Mr. W. Campbell,¹⁰⁷ for the International Cooperative Alliance;
Miss Lena Spiegel, for the World Federation of Trade Unions.

5. Professor John P. Humphrey was Secretary of the Commission.

6. The Commission elected the following members as its officers:

Mrs. Eleanor Roosevelt as Chairman
Dr. P. C. Chang as Vice-Chairman
Dr. Charles Malik as Rapporteur

¹⁰⁴ Colonel Amado Bautista replaced General Carlos P. Romulo as a representative of the Philippine Republic on the first session of the Commission on Human Rights.

¹⁰⁵ Archibald MacLeish (1892–1982) was an American writer who was appointed Librarian of Congress by President Franklin D. Roosevelt.

¹⁰⁶ Toni Sender (1888–1964), consultant for the American Federation of Labor on the Commission of Human Rights, was a member of the Social Democratic Party in Germany and was elected as a member of parliament for the Dresden-Bautzen constituency, holding this post from 1924 to 1933. Toni Sender participated in the Commission on the Status of Women and the United Nations Relief and Rehabilitation Administration. John Humphrey said she “interpreted her consultative function rather widely” (John P. Humphrey, *Human Rights & the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 25).

¹⁰⁷ Wallace Campbell (1911–1998), co-founder of Cooperative for Assistance and Relief Everywhere (CARE), represented the International Cooperative Alliance before the Economic and Social Council. In 1962, Mr. Campbell assisted Senator Hubert Humphrey in drafting the Humphrey Amendment to the United States Foreign Assistance Act.

7. The Commission adopted, after amendment, the Provisional Rules of Procedure (document E/33/Rev.1) as its Rules of Procedure.

Chapter II

International Bill of Human Rights

1. The Commission decided:

- (a) That the Chairman, together with the Vice-Chairman and the Rapporteur, undertake, with the assistance of the Secretariat, the task of formulating a preliminary draft International Bill of Human Rights, in accordance with the instructions and decisions of the Commission at its First Session, to be submitted to the Commission at its Second Session for thorough examination.
- (b) That the Chairman, in the course of this work, may enlist the co-operation of, and shall receive, orally or in writing, any observations and suggestions from, any Member of the Commission.
- (c) That the Chairman may consult experts chosen with the consent of their Governments, Members of the United Nations.
- (d) That the Chairman, Vice-Chairman and Rapporteur, in drawing up the preliminary draft of the International Bill of Human Rights, might consult any person or document deemed by them of relevance to their work.
- (e) That, while recognizing that it is not at present in a position to formulate precisely its views concerning the means of ensuring the observance of the rights to be included in the International Bill of Human Rights, to invite the drafting group to explore this field and to study the Australian Proposal (E/CN.4/15) and any other documents which may be submitted to it, so that the Commission at its Second Session may be able to work out proposals on this subject in fulfilment of the duties assigned to it by the Council. (Journal of the Economic and Social Council Number 29.)

2. As a guide to the drafting group in its work, the Members of the Commission stated their views concerning items they considered should be included in or excluded from the International Bill of Human Rights. [4] The expression of these views is embodied in the verbatim and summary records of the meetings of the Commission, which are available for use by the drafting group.

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E/CN.4/SR.17

6 February 1947

Summary Record of the Seventeenth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Thursday,
6 February 1947 at 11:00 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Rapporteur: Mr. Malik (Lebanon). Col. W. R. Hodgson (Australia); Mr. F. Nieto Del Rio (Chile); Mr. O. Ebeid (Egypt); Mr. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. G. Ghani (Iran); Mr. C. Malik (Lebanon); Col. A. Bautista (Philippine Republic); Mr. V. Tepliakov (Union of Soviet Socialist Republics); Mr. C. Dukes (United Kingdom); Mrs. E. Roosevelt (United States); Mr. J. A. Mora (Uruguay); Mr. V. Ribnikar (Yugoslavia). Alternates: Mr. R. Lebeau (Belgium); Mr. G. G. Guardia (Panama); Col. A. N. Bautista (Philippine Republic). Representatives of Specialized Agencies: Mr. E. Hutchison (ILO); Mr. G. L. Carnes (UNESCO). Consultant of Non-Governmental Organization: Miss Toni Sender (AF of L). Secretary of the Commission: Prof. J. P. Humphrey (Director, Human Rights Division).

Consideration of Item 13 of Original Agenda (document E/CN.4/1)

THE CHAIRMAN said that Item 13 had been discussed thoroughly in earlier meetings, where it had been decided to establish a drafting group to prepare [2] a preliminary Draft International Bill of Human Rights for the consideration of the Commission at its next session. It had been agreed that the drafting group could ask and receive assistance from members of the Commission and from any others to whom they chose to apply.

MRS. MEHTA (India) drew attention to the last paragraph of document E/CN.4/W.17, and asked whether the Commission was to consider the point raised there with regard to the setting up of a panel of experts.

THE CHAIRMAN answered that the creation of a panel of experts would have to be approved by the Chairman of the Economic and Social Council and by the Secretary-General. She personally did not consider that such specific action would be of any use at the present time.

MRS. MEHTA explained that her idea was that members of the Commission could, in consultation with their governments, suggest names to be put on the panel.

THE CHAIRMAN said that it had already been agreed that anyone the drafting group wished to call upon could only be approached after consultation with his government.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) pointed out that the resolution whereby the drafting group had been set up had contained a clause to

the effect that any members of the Commission had a right to submit names of experts. There was no need for further discussion.

COL. HODGSON (Australia) agreed with the representative from the Union of Soviet Socialist Republics that there was no need for a panel, since the resolution establishing the drafting group allowed them a considerable amount of discretion in calling upon individual experts.

MRS. MEHTA said that, so long as the principle of the right of members to submit names of experts in consultation with their governments was accepted, she was satisfied to pass to the next item.

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[3]

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Item 16

THE CHAIRMAN, drawing attention to the working paper prepared by the Secretariat on the subject (document E/CN.4/W.1), said that for present purposes the discussion could be confined to consultations of the drafting group with non-governmental organizations. The Economic and Social Council had divided non-governmental organizations into Categories (a), (b) and (c). With regard to Category (a), she would suggest that the Commission should simply agree that such organizations should be encouraged to submit to the drafting group ideas for an International Bill of Human Rights.

With regard to categories (b) and (c), the Commission might consider it sufficient to say that it would be a good working arrangement for the drafting group to receive written communications and to hear representatives of those organizations.

THE SECRETARY drew the attention of members to the fact that the whole question of relations with non-governmental organizations was still before the Economic and Social Council and that a decision might be reached before the next session of the Commission. Machinery was being created to implement relations between the United Nations and Categories (a), (b) and (c), and the [4] question arose whether the Commission would have the right to consult any body not having that status.

THE CHAIRMAN thought that, pending the decision of the Economic and Social Council, the drafting group would not want to cut off any organizations which had not yet been granted status.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) considered that the question of relations with non-governmental organizations was a matter of great importance. He did not think, however, that there was any need for the Commission to make any kind of recommendation.

MR. LEBEAU (Belgium) reminded members that the Economic and Social Council had devoted much time and effort to deciding the status of non-governmental

organizations in relation to the Council itself, and that there was therefore no need for the Commission to concern itself with that. The intention of the Economic and Social Council was that non-governmental organizations should have consultative status with Commissions, and it was the duty and the right of each Commission to decide whether or not to consult them.

MR. CASSIN (France) asked whether, pending the decision of the Economic and Social Council, the Commission was able to receive visits from non-governmental organizations. Communications in writing had been received, and the Commission might be asked later to receive someone in audience.

THE CHAIRMAN shared the views expressed by the representative from Belgium, and thought that the Commission could informally allow the drafting group to proceed on the assumption that non-governmental organizations in Category (a) could consult the group and that the group could invite any organization it wished to consult.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) emphasized that, as far as the drafting group was concerned, that group was to work solely under the instructions of the Commission.

With regard to relations with non-governmental organizations, it was the [5] duty of the Commission to observe the Charter and the decisions of the General Assembly and of the Economic and Social Council.

He drew attention to the resolution adopted by the Social Commission on the question (document E/CN.5/W.21/Rev.1, page 26), and thought the Commission on Human Rights might well follow the framework of that decision. If necessary, he would make a formal motion to that effect.

THE CHAIRMAN did not think such a motion would be needed, since the Commission had practically the same permission at the present time.

THE SECRETARY explained that he had not intended to suggest that the Commission should go beyond the decisions of the Economic and Social Council. It was possible that the drafting group might want to consult agencies to whom consultative status had not been granted. The Commission might consider it advisable to make recommendations to the Council before the latter took a decision on the matter.

MR. LEBEAU (Belgium) thought it was the duty of the Commission to suggest to the Economic and Social Council that consultative status should be granted to any organization offering assistance.

THE CHAIRMAN did not consider there was any need for formal action. Until the Economic and Social Council came to a decision, the Commission could continue to use the methods used hitherto. In reply to a question from Mr. Tepliakov (Union of Soviet Socialist Republics) as to whether that would mean that the group would not be empowered to consult any organizations other than those authorized by the Economic and Social Council, she answered that it had authority to consult any non-governmental organizations under the present arrangements.

MR. CASSIN (France) thought it would be a serious matter if pending the decision of the Council, the drafting group were not allowed to receive communications from organizations whose status had not yet been established.

THE CHAIRMAN stressed that both the Commission and the drafting group had the right to consult organizations not as yet recognized, while [6] awaiting the final decision of the Economic and Social Council.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) referring to a remark by the representative of France, said that the Drafting Group had to carry out its task under the instructions of the Commission on Human Rights and the former should first bring to the notice of the Commission any paper or documents submitted to it by non-governmental organizations.

THE CHAIRMAN pointed out that the Drafting Group had to proceed on the basis of the Rapporteur's report. A number of papers had been submitted by non-governmental organizations and they were bound to read and consider them though that did not mean that these papers would be included in the draft Bill of Rights or that that draft would be accepted without a great deal of discussion.

MR. LEBEAU (Belgium) said that the question of non-governmental organizations was discussed in great detail by the Economic and Social Council. The Council had said that Commissions might consult those organizations placed in Category (a) or (b) either directly or through committees, and he felt that the Drafting Group should not be empowered to do any more. The Commission on Human Rights could suggest to the Economic and Social Council that certain organizations should be placed in Categories (a) and (b) because their advice was necessary for the work of the Commission.

MR. MALIK (Lebanon), Rapporteur, referring to the remarks of the representative of the Union of Soviet Socialist Republics that the Drafting Group should have the right only to consult those papers or documents referred to it by the Commission, said that to his knowledge no such papers had been submitted to the Commission, though about twenty had been received by the Secretariat from various non-governmental organizations regarding the question of a Bill of Rights. The Drafting Group wished to know to what extent that material could be utilized in the elaboration of a draft Bill of Rights.

MR. HODGSON (Australia) referring to Items 13, 16, 17 and 18 of the [7] Agenda said that the discussion was circumscribed. The Economic and Social Council had laid down that certain bodies should be given consultative status, and he considered that the right of consultation did not mean the right to participate in the work of a Commission or Committee. The Commission should not request information direct from the non-governmental organizations as had been suggested in the last paragraph of document E/CN.4/17. If non-governmental organizations were given the right to participate in meetings, they might plead special cases and that might place governments in an embarrassing position.

THE SECRETARY drew the attention of the representative of Australia to the fact that document E/CN.4/W.17 referred to consultation with the Commission and not to participation.

Replying to Mr. Tepliakov (Union of Soviet Socialist Republics), THE CHAIRMAN pointed out that the General Assembly and the Economic and Social Council had referred documents to the Commission and it had had to consider documents which had been submitted by a Member Government.

MR. DUKES (United Kingdom) felt that specific instructions regarding consultation with non-governmental organizations should not be given to the Drafting Group. It would only impede the free development of the Drafting Group.

MR. MALIK (Lebanon), Rapporteur, said the Commission should come to a decision as to whether the Drafting Group could only work in accordance with explicit instructions as to what documents they should refer to, or whether they should have the liberty of referring to any document which they deemed of interest to their work.

THE CHAIRMAN said that the Commission should decide what the particular field of the Drafting Group should be. Item 16 of the agenda of the Commission could be disposed of by saying that the Commission would await the decision of the Economic and Social Council and not make any recommendations at the present time.

[8]

Replying to Mr. Lebeau (Belgium) who referred to his proposal that the Commission should suggest to the Economic and Social Council that certain non-governmental organizations should be placed in Categories (a) and (b), the Chairman said that could be done and organizations could be advised to apply to the Economic and Social Council to be included in those categories.

MR. LEBEAU (Belgium) suggested that the Commission should submit the following recommendation to the Economic and Social Council:

“The Commission recommends to the Economic and Social Council that at its fourth meeting the Council should place in Category (b) such non-governmental organizations which at present had consultative status namely . . . (and here would be inserted the three or four organizations connected with the work of the Commission) and which are of interest to the Commission.”

Replying to Mr. Tepliakov (Union of Soviet Socialist Republics) who asked what organizations the representative of Belgium had in mind, Mr. Lebeau said that any organization of special interest to the Commission should be placed in Category (b). He did not think it necessary to name any special organization.

MR. CASSIN (France) wished to draw attention to the fact that the Secretariat had received a large number of draft Bills of Rights and the Drafting Group should be able to consider those documents in case they were of interest in drawing up the draft Bill of Human Rights. He felt that the Commission should not specify the number of organizations it wished to recommend for inclusion in Category (b).

MR. LEBEAU (Belgium) agreed with the recommendation made by the [9] Chairman and withdrew his proposal.

MR. DEL RIO (Chile) asked whether the non-governmental organizations to be suggested by members of the Commission were only for consultation in connection with the drafting of the Bill of Rights.

THE CHAIRMAN said that the Economic and Social Council had placed certain organizations in Category (a) and had given them consultative status. The organizations suggested by the members of the Commission on Human Rights would be placed in Categories (b) and (c).

MR. DEL RIO (Chile) suggested that a decision on the matter should not be taken at the present time.

THE CHAIRMAN said that the final decision as to which non-governmental organizations would be included in Categories (b) and (c) would be taken by the Economic and Social Council, and the Commission on Human Rights could only make recommendations to the Council.

MR. EBEID (Egypt) suggested that if the Drafting Group found that a certain non-governmental organization could be of use to them in their work they should ask the Commission for permission to consult that organization.

THE CHAIRMAN felt that Item 16 should be left to the Economic and Social Council for a decision.

MR. MALIK (Lebanon), Rapporteur, said the draft Report of the Commission would be ready for discussion sooner if the Commission approved of it being a brief one, embodying only the decisions arrived at and referring in general to the summary records for any elaboration that might be needed.

THE CHAIRMAN felt that the Report should be a brief one and should refer to the summary records. The drafting group should also use the verbatim records for information purposes.

MR. MALIK (Lebanon), Rapporteur, proposed the following:

“The Chairman, Vice-Chairman and Rapporteur of the Commission, in drawing up the International Bill of Rights may consult any document or organization deemed by them of relevance to their work.”

[10]

MR. DUKES (United Kingdom) seconded the proposal of the representative of the Lebanon.

THE CHAIRMAN said it should be understood that the Drafting Group, although governed by the rules of the Economic and Social Council, could still consult with organizations or with individuals if they so wished.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) supported the proposal of the representative of the Lebanon and suggested the following amendment:

“The Commission instructs the Drafting Group that in the course of its work of preparing a preliminary draft of the Bill of Rights it may consult any document received from non-governmental organizations in Category (a), and in particular the Commission desires that the Drafting Group should co-operate to the fullest possible extent with the WFTU which represents seventy-one million workers and fifty-six countries and is the most authentic body of the workers of the whole world and is very important in this particular field of work of the United Nations.”

MR. CHANG (China) said that the Drafting Group were only submitting a draft Bill of Rights and it could be left to their common sense to consider all documents submitted to them.

THE CHAIRMAN said that the motion and amendment before the Commission would be discussed at the afternoon meeting.

The meeting rose at 12:30 p.m.

E/CN.4/SR.18

6 February 1947

Summary Record of the Eighteenth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Thursday,
6 February 1947 at 12:45 p.m.

Present: Chairman: Mrs. Roosevelt (United States). Vice-Chairman: Dr. Chang (China). Rapporteur: Mr. Malik (Lebanon). Members: Col. Moore (Australia); Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Nieto Del Rio (Chile); Mr. Ebeid (Egypt); Prof. Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); Gen. Romulo (Philippine Republic); Mr. Tepliakov (Union of Soviet Socialist Republics); Maj. Dukes (United Kingdom); Mr. Mora (Uruguay). Alternates: Mr. Lebeau (Belgium); Mr. Guardia (Panama). Representatives of Specialized Agencies: Mr. Darchambeau (UNESCO); Mr. E. Hutchison (ILO). Non-Governmental Organization: Consultant: Miss Sender (American Federation of Labor). Secretariat: Prof. J. Humphrey.

I. Item 3 of the Agenda: Relations with Non-Governmental Organizations (continued)

THE CHAIRMAN announced that the discussion begun that morning would be resumed. Two texts were before the Commission, the Lebanese proposal and the Soviet amendment.

[2]

MR. MALIK (Lebanon), Rapporteur, read his proposal:

“That the Chairman, Vice-Chairman and Rapporteur, in drawing up the preliminary draft of the International Bill of Human Rights, may consult any document or person deemed by them of relevance to their work.”

PROFESSOR HUMPHREY (Secretariat) read the amendment submitted by the Soviet representative. It specified that the Drafting Committee might consult the non-governmental organizations in Category (a) and, in particular, the World Federation of Trade Unions.

PROFESSOR CASSIN (France) considered that the two proposals were not compatible. He thought that the Drafting Committee should be free to gather information from all useful sources and, more particularly, that it should be able to consult the organizations in Category (a) of which the World Federation of Trade Unions was the most important.

THE CHAIRMAN considered that if the World Federation of Trade Unions was mentioned, the other organizations in Category (a) would have to be mentioned too. The Soviet representative's amendment seemed to her inopportune.

MR. DUKES (United Kingdom) thought it was difficult to assign a special position to any particular organization, and the Drafting Committee should be left free to consult whomever it wished.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) pointed out that the object of his amendment was to give directions to the Drafting Committee in order to avoid confusion in the future.

MISS SENDER (American Federation of Labor) stated that the Soviet amendment drew an arbitrary distinction between the four non-governmental organizations. She regretted, moreover, that the Commission had not considered the draft Bill of Human Rights submitted by her organization.

MR. MOORE (Australia) thought the Lebanese motion was sufficient to guide the Drafting Committee in its work, and opposed the Soviet amendment.

[3]

PROFESSOR CASSIN (France) thought that legal equality was not the only criterion, and that the moral importance of certain federations should also be taken into consideration. He recalled that, in the last war, thousands of workers, now represented by the World Federation of Trade Unions, had risen to fight the enemy, and that it was largely thanks to them that it was now possible to debate here in full freedom.

Nevertheless, he would prefer to adopt the Lebanese proposal as a working basis, with the reservation that special mention be made of the World Federation of Trade Unions, which represented *par excellence* those who had fought for the rights of man.

MR. MORA (Uruguay) preferred the Lebanese proposal, which did not give the impression of discriminating between the various organizations. He would therefore vote in favour of it.

THE CHAIRMAN put the Soviet amendment to the vote.

Decision: The amendment was rejected by six votes to two.

THE CHAIRMAN put the Lebanese proposal to the vote.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) stated that the terms of the Lebanese motion were in contradiction with the Charter of the United Nations.

Decision: The proposal was adopted by eight votes to one.

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E/CN.4/SR.20

7 February 1947

Summary Record of the Twentieth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Friday,
7 February 1947 at 3:00 p.m.

Present: Chairman: Mrs. Roosevelt (United States). Vice-Chairman: Mr. Chang (China). Rapporteur: Mr. Malik (Lebanon). Members: Colonel Hodgson (Australia); Mr. del Rio (Chile); Mr. Ebeid (Egypt); Professor Cassin (France); Mrs. Mehta (India); Mr. Ghani (Iran); Maj. Dukes (United Kingdom); Mr. Tepliakov (Union of Soviet Socialist Republics); Mr. Ribnikar (Yugoslavia). Alternates: Mr. Lebeau (Belgium); Mr. Guardia (Panama); Mr. Bautista (Philippine Republic). Representatives of Specialized Agencies: Mr. Hutchison (ILO); Mr. Carnes (UNESCO). Secretariat: Mr. Pelt (Assistant Secretary-General); Mr. Cordier (Executive Assistant to the Secretary-General); Mr. Stanczyk (Director of the Department of Social Affairs); Professor Humphrey (Secretary of the Commission).

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2. Discussion of the Draft Report of the Commission on Human Rights to the Economic and Social Council (document E/CN.4/19)

THE CHAIRMAN invited the members of the Commission to submit proposals for amendments as the Rapporteur, Mr. Malik (Lebanon) read through the text of the document.

In Chapter I, paragraph 2, the Commission decided, on the proposal of Mr. Chang (China), to delete the word “substitutes” in line 2 and to insert “represented” instead of “replaced” in the last line.

At the request of MR. TEPLIAKOV (Union of Soviet Socialist Republics) it was decided that in lines 5 and 6 of the same paragraph, dealing with the absence of the representative of the Ukrainian Soviet Socialist Republics, the latter’s name, Mr. Stadnik, be inserted, and the words “on account of illness” be added after the words “not present”.

[7]

THE CHAIRMAN, replying to a remark by COLONEL HODGSON (Australia), said that the representative of the Byelorussian Soviet Socialist Republic was present only as an observer, and that no credentials establishing his quality as a member of the Commission had been received. So far as the representative of the Ukrainian Soviet Socialist Republic was concerned, a telegramme had been received from Mr. Manuilsky, Minister of Foreign Affairs, stating that he had appointed a provisional representative to replace Mr. Stadnik at the next session of the Commission on Human Rights. This nomination did not affect the present situation in any way.

MR. TEPLIAKOV (Union of Soviet Socialist Republics) stated that Mr. Stadnik who had been wounded by a shot during the General Assembly hoped to be able to resume his duties very shortly.

On the proposal of Mr. Lebeau (Belgium) the Commission decided that the erroneous reference to “document E/33/Rev.1”, whilst on the Rapporteur’s proposal, the word “provisional” was added in line 2 before the word “rules”.

The Commission unanimously adopted Chapter I as a whole.

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E/259

11 February 1947

Report of the Commission on Human Rights to the Economic and Social Council

Chapter 1

Introduction

1. The Commission on Human Rights held its first session during the period 27 January to 10 February 1947, with the following members in attendance: Australia: Colonel W.R. Hodgson, OBE; Byelorussian Soviet Socialist Republic: Mr. L.I. Kaminsky; Chile: Mr. Felix Nieto del Rio; China: His

Excellency Dr. P. C. Chang; Egypt: Mr. Osman Ebeid; France: Professor René Cassin; India: Mrs. Hansa Mehta; Iran: His Excellency Dr. Ghassame Ghani; Lebanon: His Excellency Dr. Charles Malik; Philippines: His Excellency Brigadier-General Carlos P. Romulo; Union of Soviet Socialist Republics: Mr. Valentin F. Tepliakov; United Kingdom: The Honourable Charles Dukes; United States of America: The Honourable Mrs. Franklin D. Roosevelt; Uruguay: Dr. José A. Mora; Yugoslavia: Mr. V. Ribnikar.

2. Mr. Fernand Dehousse of Belgium and Dr. Ricardo J. Alfaro of Panama were unable to attend, but were represented by Mr. Roland Lebeau and Dr. German Gil Guardia, respectively. The member from the Ukrainian Soviet Socialist Republic, Mr. G. L. Stadnik, was not present because of illness. The member from the Philippines was forced to leave early and was represented by Colonel Amado N. Bautista.

3. The specialized agencies were represented at the Commission by the following: International Labour Organization: Mr. E. Hutchison; [2] United Nations Educational, Scientific and Cultural Organization: Mr. Archibald MacLeish, Mr. Valère Darchambeau, and Mr. G. L. Carnes.

4. Consultants in attendance were: American Federation of Labor: Mr. L. Teper; NS: Miss Toni Sender; International Cooperative Alliance: Mr. W. Campbell; World Federation of Trade Unions: Miss Lena Spiegel.

5. Professor John P. Humphrey was Secretary of the Commission.

6. The Commission elected the following members as its officers: Mrs. Franklin D. Roosevelt (United States of America), Chairman; Dr. P. C. Chang (China), Vice-Chairman; Dr. Charles Malik (Lebanon), Rapporteur.

7. The Commission adopted, after amendment, the Provisional Rules of Procedure (document E/CN.4/W.7) as its Provisional Rules of Procedure.

8. The Commission authorized the Rapporteur to present this report to the Economic and Social Council.

9. The Commission voted that its second session convene in Geneva on 21 July 1947.

Chapter II

International Bill of Human Rights

10. The Commission decided:

- (a) That the Chairman, together with the Vice-Chairman and the Rapporteur, undertake, with the assistance of the Secretariat, the task of formulating

a preliminary draft international bill of human rights, in accordance with the instructions and decisions of the Commission at its first session, to be submitted to the Commission at its second session for thorough examination.

- (b) That the Chairman, in the course of this work, might enlist the co-operation of, and should receive, orally or in writing, any observations and suggestions from any member of the Commission.

[3]

- (c) That the Chairman might consult experts chosen with the consent of their Governments, Members of the United Nations.
- (d) That the Chairman, Vice-Chairman and Rapporteur, in drawing up the preliminary draft of the international bill of human rights, might consult any person or document deemed by them of relevance to their work.
- (e) That, while recognizing that the Commission was not at present in a position to formulate precisely its views concerning the means of ensuring the observance of the rights to be included in the international bill of human rights, the drafting group be invited to explore this field and to study the Australian Proposal (E/CN.4/15) and any other documents which had been or might be submitted to it, so that the Commission at its second session might be able to work out proposals on this subject in fulfilment of the duties assigned to it by the Council (Journal of the Economic and Social Council, No. 29).¹

11. As a guide to the drafting group in its work, the members of the Commission stated their views concerning items they considered should be included in the international bill of human rights. The expression of these views is embodied in the verbatim and summary records of the meetings of the Commission, which are available for use by the drafting group.

12. Concerning the form of the international bill of human rights, the consensus of the Commission was that it should be submitted to the Commission by the drafting group as a draft resolution for presentation to and approval by the General Assembly.

13. The Commission instructed the drafting group to report on its progress to the members of the Commission monthly, beginning 1 April, and to mail the final preliminary draft of the bill to the members of the Commission by 25 June 1947.

[The remainder of the report concerns the sub-commissions and communications concerning human rights.]

[1] See *Official Records of the Economic and Social Council*, First Year, Second Session, Annex 14, pages 400–402.

E/CN.6/SR.12

18 February 1947

***Summary Record of the Twelfth Meeting [of the Commission
on the Status of Women]***

Held at Lake Success, New York, on Tuesday,
18 February 1947 at 11:00 a.m.

Present: Chairman: Mrs. Begtrup (Denmark); Vice-Chairman: Mrs. Street (Australia); Rapporteur: Mrs. Uralova (Byelorussian Soviet Socialist Republic). Members: Mrs. New (China); Mrs. De Echeverria (Costa Rica); Mrs. Lefauchaux (France); Miss Basterrechea (Guatemala); Mrs. Hamid Ali (India); Mrs. Castillo Ledon (Mexico); Mrs. Cosma (Syria); Mrs. Popova (Union of Soviet Socialist Republics); Miss Sutherland (United Kingdom); Miss Kenyon (United States of America); Mrs. Urdaneta (Venezuela). Representatives of Specialized Agencies: Mrs. Rowe (ILO); Miss Maass (UNESCO). Consultant of Non-Governmental Organization: Miss Spiegel (WFTU). Secretariat: Mr. Humphrey; Mr. Lawson; Miss Bowerman (Secretary of the Commission).

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**Consideration of Item 11 of the Agenda (Co-ordination with
other Commissions)**

THE CHAIRMAN read paragraphs 5, 6 and 7, pages 2 and 3 of the document entitled "Co-ordination with other Commissions" (document E/CN.6/7), which suggested various means of informal co-ordination with other Commissions.

She thought that the Commission should decide on what points it had common interest with other Commissions, and she suggested a discussion of the co-ordination of work with the Human Rights Commission.

MRS. LEFAUCHEUX (France) said that a resolution, which would be distributed soon, dealt with the question of protection of minorities and the struggle against discrimination, both of which concerned the Human Rights Commission.

MRS. STREET (Australia) spoke of the particular interest of women in an International Bill of Rights, and proposed that the following communication should be sent to the Human Rights Commission:

"The Commission on the Status of Women notes that the Commission on Human Rights has appointed a Sub-Committee to draft an International Bill of Rights and requests (a) that the Commission on the Status of Women be represented on this Sub-Committee, and (b) that the draft of the International Bill of Rights be submitted for consideration to the Commission on the Status of Women."

MRS. NEW (China) said that she had prepared a paper containing the same idea.

MR. HUMPHREY (Secretariat) explained that the Commission on Human Rights had asked its Chairman, Vice-Chairman and Rapporteur to prepare a preliminary draft of an International Bill of Rights which could be used as a basis for discussion at its next session. He thought it might be more appropriate for the Commission on the Status of Women to ask that a representative be [8] allowed to participate in the meetings of the Human Rights Commission when the draft was under discussion.

Mr. Humphrey also pointed out the problem of timing, for if the Commission on Human Rights did not meet until after the next session of the present Commission, there might not be time for the Commission on the Status of Women to consider the International Bill of Rights before it was sent to the Economic and Social Council.

In reply to a question by the CHAIRMAN, he stated that he did not know whether it would be possible for the Commission on the Status of Women to get a copy of the preliminary draft before it was submitted to the Commission on Human Rights.

MRS. POPOVA (Union of Soviet Socialist Republics) proposed that the Commission on the Status of Women should appoint a committee composed of the Chairman, Vice-Chairman and Rapporteur to prepare a draft of points which the Commission wished the International Bill of Rights to contain.

MR. HUMPHREY (Secretariat) thought that the Commission might make recommendations to the Commission on Human Rights on questions involving the status of women.

MISS SUTHERLAND (United Kingdom) felt that the Commission had no right to ask to be represented on a small committee appointed by another Commission. She could not agree either that the Commission should appoint a committee to draw up a special draft of women's rights, for there was no reason to think that the Commission on Human Rights would fail to realize that women's rights were a part of human rights.

She agreed with Mr. Humphrey's suggestion that the Commission should ask to send a representative to the Human Rights Commission to participate in the discussion on the International Bill of Rights.

MISS KENYON (United States of America) supported the member from the United Kingdom, and thought that the Chairman should represent the Commission at the meetings of the Human Rights Commission.

[9]

In view of the explanations given by Mr. Humphrey, MRS. STREET (Australia) made the following proposal:

“The Commission on the Status of Women requests the Economic and Social Council to arrange that the Commission be represented by its officers at the meetings of the Human Rights Commission when the draft of the International Bill of Rights is considered.”

MISS SUTHERLAND (United Kingdom) and MISS KENYON (United States of America) thought that the Commission should not ask to be represented by more than one member.

THE CHAIRMAN, MRS. STREET (Australia), and MRS. POPOVA (Union of Soviet Socialist Republics) thought that the responsibility was too great for one person, for there would be need for consultation on the important questions that would arise.

MRS. LEFAUCHEUX (France) made a general suggestion about co-operation with other Commissions. After the Commission had decided with which other Commissions it had common interests, the work of co-ordination should be divided up, and each member of the Commission on the Status of Women should be assigned the task of keeping in touch with the work of a particular Commission.

MRS. NEW (China) said that while the Commission should in no way interfere with the work of the drafting group of the Commission on Human Rights, it should be represented during that group’s discussions. She believed that one member would be sufficient for such representation, and suggested that that Member should be the Chairman.

MISS KENYON (United States of America) supported the Member from China.

MRS. POPOVA (Union of Soviet Socialist Republics) maintained her original proposal that the Commission should be represented by the Chairman, the Vice-Chairman, and the Rapporteur.

THE CHAIRMAN moved that the Commission should request the drafting group of the Commission on Human Rights to circulate the draft of the International Bill of Rights among the Members of the present Commission at the same time as it was made available to the Members of the Commission on Human Rights.

[10]

Decision: The United Kingdom amendment, to the effect that the Commission should be represented by a single Member, was defeated by 10 to 4.

The Australian resolution, requesting the Economic and Social Council to arrange that the Commission should be represented by its officers at the Commission of Human Rights when the draft International Bill of Rights was being considered, was adopted by 9 to 0 (5 abstentions).

The Danish proposal with respect to the circulation of the draft International Bill of Rights among the Members of the Commission was adopted by 13 votes to 0.

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E/281¹⁰⁸

25 February 1947

**Report of the Commission on the Status of Women
to the Economic and Social Council**

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[10]

Chapter IX

Co-ordination with Other Commissions

32. *Commission on Human Rights* – The Commission decided:

- (a) to request the Economic and Social Council to arrange that the Commission on the Status of Women be represented by its officers (the Chairman, Vice-Chairman and Rapporteur) at the session of the Commission on Human Rights when the draft of the International Bill of Human Rights is being considered.
- (b) to request that the Drafting Group of the Commission on Human Rights be requested to circulate copies of the preliminary draft of the International Bill of Human Rights to Members of the Commission on the Status of Women at the same time as it is made available to the members of the Commission on Human Rights.

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E/C.2/28¹⁰⁹

28 February 1947

Original Text: French

**Letter dated 26 February 1947 from Mr. Louis Saillant,
Secretary-General of the World Federation of Trade Unions,
to the Secretary-General of the United Nations**

By letter dated 14 January 1947, the World Federation of Trade Unions requested you to place on the agenda of the Economic and Social Council:

¹⁰⁸ Document E/281/Rev.1 does not contain any relevant additions or changes.

¹⁰⁹ The text of this document is taken from *Official Records of the Economic and Social Council, Second Year, Fourth Session, 28 February–29 March 1947*, Annex 31, pp. 333–337.

1. Guarantees for the exercise and development of trade union rights;
2. Equality of social rights for immigrant workers.

[334]

I have the honour to send you herewith officially the text (in French and English) of the draft resolution on the guarantees for the exercise and developments of trade union rights, which the World Federation of Trade Unions wishes to submit to the Economic and Social Council at its session which is to open on 28 February 1947.

As regards the other question mentioned in our letter of 14 January 1947, the World Federation of Trade Unions is not requesting that it should be submitted and studied during the session starting on 28 February 1947, but that this question, that of the equality of social rights between immigrant and national employees with respect to the vested interests of the latter should simply be taken into consideration by yourself and the President of the Economic and Social Council and reserved for possible consideration by the Economic and Social Council at a session other than that which is to open at Lake Success on 28 February 1947.

I should be grateful, Sir, if you would bring this letter and the attached resolution to the knowledge of the President of the Economic and Social Council and to the representatives of the States members of the said Council.

**Draft resolution on guarantees for the exercise and development of
trade union rights submitted by the World Federation of Trade Unions
to the Economic and Social Council**

1. Ever since the end of the Second World War, one notes that certain interventions tend, in various countries, to destroy the very foundations of trade union rights. The means employed to hinder the progress of the trade union movement are principally as follows: the large-scale dismissal of trade unionist workers, the arrest of active trade unionist and trade union leaders, the occupation of trade union premises, the revocation by the government of bodies democratically chosen by the trade unions, the nomination of trade union leaders by the government, the prohibition of all coloured or native workers against forming occupational organizations, the prohibition on occupational organizations against forming any federal occupational or inter-occupational organizations, whether locally, nationally or internationally, *etc.*

2. Such attacks on trade union rights can demonstrate the persistence in certain countries of nefarious ideologies which have placed the world in deadly peril. The respect for trade union rights as an element of peace and co-operation between the peoples should be assured on the international level.

3. Trade-Unionism when unhampered in its evolution tends to go further than the particular interests of its members and becomes, in an ever-increasing measure, the spokesman of the general interests. This aspect of the evolution is also clearly illustrated by the programmes of economic reorganization formulated in most countries by the workers' trade unions. Basing themselves on the generally accepted idea that the exercise of the right of ownership is a social function. Trade Unionism, representing the producers, insists on the necessity of bringing the community into still greater participation in the general direction of economic policy.

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4. In the social domain, the role of the trade unions is still more important. They conclude collective agreements which can be extended to embrace all workers in a profession or in a nation, that is to say, even those who are not members of these organizations. In certain cases therefore, the trade unions are given the power to make regulations. In many countries also, they share in the control and direction of industrial undertakings and even in the activities of the State; in this way, they take part in the preparation of social legislation through their advisory councils, labour councils and economic councils, and share in the application of social legislation by administering social security institutions, by collaborating with inspecting bodies and also on conciliation and arbitration boards and on labour tribunals by supervising employment, apprenticeships, occupational training, and control of prices, *etc.*

5. Thus, in war, as in peace, the states call on the aid of trade union organizations in order to introduce a higher degree of justice into their social system. In this way alone can there be the guarantee of a peaceful evolution in conformity with the facts and with the democratic development. If, for example, it is rendered impossible for workers to make collective agreements, they have no other means of redressing the wrongs inflicted on them than by the collective stoppage of work and by agitation.

6. This evolution, which must be guaranteed and made general, is merely the expression of the democratic principle, according to which those concerned, namely the producers, should have a say in determining economic and social policy. The value of this principle has been increased by the fact that the war for the triumph of democracy and liberty has been brought to a successful issue with the active help of the working class and as a result of its sacrifices. Already the victory of the United Nations has inspired the development of trade unionism in all quarters in close relationship with social progress and the development of popular liberties.

7. Within the State, the role of modern trade unionism is of ever-increasing importance. This role, however, can be effective and can be of value for the

community only on condition that the trade union movement preserve its independence, its autonomy and its spontaneous character. It is therefore over the workers' movement by means such as: the nomination of administrative bodies and leaders by the public authorities, or the interference of the latter on any other score in the running of trade unions.

8. Furthermore, any attempt to hinder the federation of trade union organizations on the occupational and inter-occupational level, locally, nationally and internationally, constitutes a very serious infringement of trade union liberty. In fact, the idea of organization is at the very basis of trade union movement which, by its very nature, tends to integrate into ever-widening entities. Trade union practice in every country is decisive in this direction and any effort to the contrary could only tend to restore a corporate system condemned by experience.

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Moreover, the evolution of trade unionism extends beyond national frontiers and is manifested with equal intensity on the international level.

9. Even at the end of the First World War, the Peace Conference insisted on the necessity of organizing the working class. Through its representatives, the working class took part in a series of conferences and in a number of international organizations and in this way the international personality of the workers organizations became an indisputable reality.

10. Attention should be drawn to the work undertaken by the WFTU after the Second World War, in order to assist trade union organization in liberated or defeated countries, an action which constitutes one of the most important factors in the spread of democracy in the political, social and economic domain, and of which the beneficial effect has been recognized by all the governments concerned.

11. After the Second World War, the evolution which we have demonstrated both on the national and international level, became more pronounced. Already relations of confidence have been established between the Economic and Social Council and the World Federation of Trade Unions.

12. Besides, according to Article 1, paragraph 3 of its Charter, the United Nations propose as one of their aims, the realization of international co-operation "in solving international problems of an economic, social, intellectual or humanitarian nature, by developing and encouraging respect by the rights of man and the fundamental liberties for all without distinction of race, sex, language or religion". The same idea is to be found in Articles 55(c) and 62 of the Charter. The attainment of this objective, presupposes the general expansion and consolidation of trade unionism on the national and international level.

13. Effective co-operation in economic and social matters is only feasible with the help of the masses of the peoples, who must be assured of an ever-increasing

standard of comfort, and whose most responsible elements are organized within trade unions.

The recognition of trade union rights and the unrestricted and uncontested use of those rights should allow the full development of the trade union activities. These activities may lead the trade union organizations in each country to co-operation in establishing and implementing social legislation. The outcome of this progressive social legislation, setting out the constructive possibilities of trade unionism, can be a new right enabling the trade unions to determine the economic and social policies in each country.

14. Unorganized, spontaneous anarchic movements can be a danger to the internal peace of every country. If effective international co-operation is to be established, there must be pacification and consolidation of the democratic regime within each state.

15. Effective respect for trade union rights, apart from guarantees proper to every country, demands a safeguard of an international character whenever the use of these rights results in developments which might affect the international life. From national and international practice there can be established, for trade union rights, a real common international law, for which, respect in all states, should be assured by the Economic and Social Council.

On the basis of preceding considerations, the WFTU submits to the Economic and Social Council, the following resolutions:

- I. Trade Union rights are recognized as an inviolable prerogative enjoyed by salaried workers for the protection of their professional and social interests.
- II. Trade union organizations should be able to administer their own affairs, to deliberate and freely decide on all questions falling within their competence, in conformity with the law and with their constitution, without interference in their duties from governmental or administrative bodies.
- III. There should be no obstacle to the federation of trade union organizations on the occupational or inter-occupational level, whether locally, regionally or internationally.
- IV. All legislation which places restrictions on the above-mentioned principles is contrary to the economic and social collaboration laid down by the Charter of the United Nations.
- V. The Economic and Social Council decides to set up a Committee for Trade Union Rights which will safeguard, in a permanent fashion, respect for trade union rights. On every occasion on which the afore-mentioned principles are violated, the Committee will make the necessary enquiries and will submit recommendations to the Economic and Social Council as to the measures to be adopted.

E/C.2/32
13 March 1947

**Letter dated 12 March 1947 sent by the American Federation
of Labor to the Secretary-General of the United Nations**

Mr. Trygve Lie, Secretary-General
United Nations
Lake Success, New York

Attached please find a memorandum prepared by the Executive Council of the American Federation of Labor. We would appreciate it if you would submit the latter to the Economic and Social Council.

(Signed) Matthew Woll
David Dubinsky
Consultant
Toni Sender
Assistant Consultant

Memorandum

1. On 28 February 1947, a document E/C.2/28 was circulated to the members of the Economic and Social Council on behalf of the World Federation of Trade Unions. This document contains a draft of the proposed resolution regarding the guarantees for the exercise and development of trade unions' rights.

2. In the document E/CT.2/2 circulated to members of the Council as of 20 August 1946, the American Federation of Labor, in its draft of a proposed "International Bill of Rights" covered, among other questions, the basic points raised by the World Federation of Trade Unions. Specifically, the American Federation of Labor draft urged the adoption of the following provisions as a part of the "International Bill of Rights":

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3. Basically, the protection of rights of trade union members and of their organizations is encompassed by the above proposals of the American Federation of Labor. These proposals were referred to the Human Rights Commission of the Economic and Social Council, were considered by that Commission and were referred by it to the Drafting Committee empowered to draft an International Bill of Rights.

¹¹⁰ See E/CT.2/2 for the text.

4. There is no doubt that numerous problems which affect workers generally, or labour and trade union organizations more specifically, are outside the framework of reference set forth for the Human Rights Commission. The United Nations, under the terms of its agreement with the International Labour Organization (document A/72), article 1¹, recognized the latter organization as “a specialized agency responsible for taking such action as may be appropriate under its basic instrument for the accomplishment of the purpose set forth therein”. The terms of reference of the International Labour Organization are indicated in its constitution, article 10 and articles 19, 20, 21, 35. (*Constitution and Rules*, Montreal, 1946.)

...

5. It is therefore quite proper for the Economic and Social Council to request the International Labour Organization to make a survey of labour conditions in the various countries, Members of the United Nations, in order to secure information on the treatment received by the individual workers in the exercise of their rights to form, join, or belong to trade union organizations without interference or coercion by the governmental authorities; on the extent, if any, of government domination or interference with the trade union organizations; and regarding any coercive acts directed against individual works in so far as their relations to their trade union organizations are concerned. On the basis of such inquiries, the International Labour Organization should be requested to undertake the necessary steps for the elimination of such practices, which deny basic individual rights to workers or collective rights to their organizations.

...

6. The American Federation of Labor after examining in detail the proposals submitted to the Economic and Social Council by the World Federation of Trade Unions, suggests that these proposals be amended to read as follows:

Draft Resolution

- I. The Economic and Social Council recommends, in accordance with the agreement between the United Nations and the International Labour Organization, that the International Labour Organization take into early consideration the problem of trade union rights with reference to questions as follows:
 - A. To what extent have workers the right to form, join or belong to labour or trade union organizations of their own choice without interference or coercion by the government?
 - B. To what extent are trade unions free to operate in accordance with the decisions of their own members, whether on a local, regional or national basis, without interference by governmental authorities?
 - C. To what extent are workers free to select, elect or appoint officers of their own trade unions?
 - D. To what extent are unions free to raise their own funds and dispose of them by decisions of their own memberships or in accordance therewith, under their own rules and regulations, without governmental interference?

- E. To what extent are workers or their organizations free to communicate with other workers or organizations, either within the confines of the same country or outside the country?
- F. To what extent are local, regional or national trade union members free to join international organizations, without fear and free from governmental interference?
- G. To what extent are labour or trade union organizations free to deal with the employers of workers they represent and conclude collective agreements and participate in their formulation?
- H. To what extent is the right of workers and of their organizations to resort to strikes recognized and protected?
- I. To what extent are workers and their trade unions free to resort to voluntary arbitration, free from government domination and interference, in order to settle their differences with their employers?
- J. To what extent have workers and their organizations the right to press for governmental action for the purpose of securing legislative or administrative action on their behalf?
- K. To what extent are workers free to move from one part of the country to another, within the confines of the national borders, and to what extent are they free to migrate outside the national boundaries?
- L. To what extent are workers free to accept employment, to stay on the job or to abandon it, in accordance with their own decision, without governmental coercion or interference?
- M. To what extent, if any, does forced or slave labour exist and how are individuals of whatever nationality, race, sex, language or religion, protected against compulsory, or forced, labour?
- N. To what extent are working conditions and workers' welfare protected by legislative standards and what is the nature and character of such protection?

^[1] For the text of the draft agreement, see *Official Records of the Economic and Social Council*, First Year First Session, pages 365 to 373. This agreement was approved without change by resolution 50(I) of the General Assembly.

E/439

14 March 1947¹¹¹

Summary Record of the Sixty-Eighth Meeting
[of the Economic and Social Council]

Held at Lake Success, New York, on Friday,

14 March 1947 at 11:00 a.m.

Present: President: Sir Ramaswami Mudaliar (India). Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Smith (Canada); Mr. Santa Cruz (Chile); Dr. Chang (China); Dr. Belt (Cuba); Mr. Papenek (Czechoslovakia); Mr. Mendes-France (France); Mrs. Mehta

¹¹¹ This is the date of the meeting. The document was issued on 22 May 1947.

(India); Mr. Malik (Lebanon); Mr. van Roijan (Netherlands); Mr. Nash (New Zealand); Mr. Colbjørnsen (Norway); Mr. Arca Parro (Peru); Mr. Yazici (Turkey); Mr. Morozov (Union of Soviet Socialist Republics); Mr. Mayhew (United Kingdom); Mr. Stinebower (United States of America); Mr. Zuloaga (Venezuela). Secretariat: Mr. Humphrey; Mr. Hogan; Mr. Yates.

Report of the Human Rights Commission

MR. VAN ROIJEN¹¹² (Netherlands) said that his Government whole-heartedly supported the decisions of the Commission establishing Sub-Commissions: one on Freedom of Information and of the Press, and on Prevention of Discrimination and Protection of Minorities. He warned that even with the best intentions there was little chance of achieving full freedom of information in countries where newsprint was scarce.

MRS. MEHTA (India) declared that the International Bill of Rights, [2] on which the Human Rights Commission began preliminary work, should be binding on all Members of the United Nations. The problem, in her opinion, resolved itself into two parts: supervision of the observance of rights, and enforcement, if the rights were not observed. She stated further that machinery to ensure that the rights were observed would have to be considered.

MR. MENDÈS-FRANCE¹¹³ (France), after recalling his country's traditional advocacy of human rights, said he would submit certain proposals to the drafting group, headed by Mrs. Roosevelt, to which the Commission had entrusted the task of formulating a preliminary draft International Bill of Rights. He added that his Government intended to submit to the International Conference on Freedom of Information a programme calling for the study of measures to ensure freedom of information and of the Press throughout the world, and of measures to prevent abuses of these freedoms, and of the material means required to make achievement of these aims possible. It would also suggest an international statute for journalists and an international Press organization, whose duty it would be to ensure that the principles accepted were respected. Mr. Mendès-France marked his delegation's complete approval with no reservation whatever of the creation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.¹

MR. MOROZOV¹¹⁴ (Union of Soviet Socialist Republics) said that his delegation did not agree with the Commission's recommendations on the constitution of the

¹¹² J.H. van Roijen (1905–1991) served as Minister of State and Minister of Foreign Affairs for the Netherlands from 1945–1946. Mr. van Roijen represented the Netherlands as a member of the Economic and Social Council during its fourth session and was a delegate during the first special session of the General Assembly in 1947.

¹¹³ Pierre Mendès-France (1907–1982) was a French politician who served as Prime Minister in 1954 and 1955.

¹¹⁴ Platon D. Morozov (1907–1985) was a Russian international lawyer who was part of the Soviet prosecution team at the International Military Tribunal for the Far East. He sat as judge of the International Court of Justice from 1970 to 1985.

two Sub-Commissions, on the drafting group for the International Bill of Human Rights, and of the treatment of communications received concerning human rights; nor did it agree with the decision of the Commission giving the work of drafting the Bill of Rights to a small group of experts. He said he believed that two Sub-Commissions should consist not of private experts but of representatives of Governments; that this was the principle followed in selecting members of the Council and other United Nations agencies. The drafting group for the Bill of Rights, he said, had been set up before any decisions were taken on the actual rights. This made the group's [3] responsibilities much wider than had originally been intended; the group was also too small and did not include any representatives of European countries. He suggested that the group should be chosen in accordance with geographic principles, and enlarged from three to five members.

On the handling of communications received by the Commission on Human Rights, Mr. Morozov asserted that the Commission's decisions given in paragraphs 21 and 23 of the report conflicted with the Charter (Articles 64 and 71) and the powers of the Council, and required amendment. He also thought that paragraphs 21 and 23 were in contradiction with paragraph 22 of the report, with which he agreed.

MR. YAZICI (Turkey) expressed full agreement with all recommendations of the Human Rights Commission Report, and stated that a Human Rights group has been established in Turkey.

MR. ARCA PARRÓ (Peru) emphasized that in his opinion the drafting of an international bill of human rights should take place simultaneously with a creation of machinery to enforce such rights. He pointed to the fact that most national constitutions contained provisions for the rights of the individual, and while recommending to the Commission to study and take notice of all existing national legislation in this respect, he stressed that the final declaration of international human rights should go beyond a mere compilation of already recognized rights.

Mr. Arca Parró further endorsed the principle that the group charged with the drafting of the International Bill should be composed of representatives of Governments. Only thus, he said, could fair geographic distribution of membership be ensured. Finally, he warned that freedom of the Press should not be interpreted as a right for those having the material means of distributing information to publish only such items as suited their own interests.

[4]

MR. MAYHEW¹¹⁵ (United Kingdom) welcomed the progress made so far by the Human Rights Commission, but said he thought the Commission would hardly be able to prepare the International Bill during its next session. It would be better, he said, if the Commission, instead, took more time to study it and presented the

¹¹⁵ Christopher Paget Mayhew (1915–1995) was Under-Secretary of State for Foreign Affairs in 1946.

International Bill to the General Assembly in 1948, and methods of implementing the bill could be discussed later.

Mr. Mayhew also said that the Sub-Commission on Prevention of Discrimination and the Protection of Minorities could only function effectively after the International Bill of Human Rights had been agreed. On the other hand, he regarded it as essential that the Sub-Commission on Freedom of Information and of the Press should get to work immediately, because it was formulating one of the basic human freedoms.

The meeting rose at 1:15 p.m.

E/422

14 March 1947¹¹⁶

Summary Record of the Sixty-Ninth Meeting
[of the Economic and Social Council]

Held at Lake Success, New York, on Friday,
14 March 1947 at 2:45 p.m.

Present: President: Sir Ramaswami Mudaliar (India). Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Davidson (Canada); Mr. Santa Cruz (Chile); Dr. Chang (China); Mr. Osuna (Cuba); Mr. Papenek (Czechoslovakia); Mr. Boris (France); Mr. Kirpalani (India); Mr. Malik (Lebanon); Mr. van Kleffens (Netherlands); Mr. Nash (New Zealand); Mr. Colbjørnsen (Norway); Mr. Arca Parro (Peru); Mr. Yazici (Turkey); Mr. Morozov (Union of Soviet Socialist Republics); Mr. Mayhew (United Kingdom); Mr. Stinebower (United States of America); Mr. Stolk (Venezuela). Representatives of Specialized Agencies: Mr. J. Thomas (UNESCO). Secretariat: Mr. Yates.

**Continuation of the Discussion of the Report of the Human Rights
Commission (Documents E/259, E/259/Add.1)**

MR. THOMAS (UNESCO) wished to raise two questions concerning the report of the Commission on Human Rights. It has been stated during the discussion that the elaboration of an international bill of human rights would necessitate a great amount of work as well as consultation with many important specialists and a vast documentation. The report of the [2] Commission had mentioned the appointment of a drafting group which would work in consultation with experts. However, it was to be regretted that no mention had been made of collaboration with the specialized agencies. Some of the suggestions which UNESCO might make on the subject,

¹¹⁶ This is the date of the meeting. The document was issued on 17 March 1947.

particularly in view of that agency's character, would be very helpful for the elaboration of an international bill of human rights.

The contribution of UNESCO might be most useful in the field of the preliminary collection of documents and collation of various points of view.

The second point in which UNESCO was particularly interested was the projected conference on freedom of information and of the Press. The Convention bringing UNESCO into relationship with the United Nations stipulated that one of UNESCO's primary tasks was to ensure freedom of information and of the Press by various media such as books, newspapers, radio and the cinema.

The UNESCO Conference in Paris had recommended to its secretariat to get in touch with the United Nations and in particular with the Economic and Social Council, with a view to extending all possible co-operation for the projected conference on freedom of information and of the Press. UNESCO had indeed hoped to play a more active part in convening that conference than seemed to have been assigned to it. There were certain practical aspects of freedom of information and of the Press on which UNESCO might give very useful assistance.

MR. STOLK¹¹⁷ (Venezuela) stated that the need for formulating an international declaration of the rights of man and finding a procedure which would guarantee their effective enjoyment was a problem which had been of special interest to the American Republics. Consequently they had resolved, at the International Conference at Chapultepec, to entrust the formulation of a draft declaration of the international rights and duties of man to the Inter-American Juridical Committee. The draft prepared by that body had been submitted to the various Governments, whose observations would in turn serve the Committee as a basis for a text to be submitted [3] to the Conference of Inter-American Jurisconsults. That Conference would make the final decision on the terms of the declaration with the object of submitting it for adoption as a convention by all the States of the continent. The advantages of a declaration of that type which would define the individual rights and guarantees that would be acceptable to all the States were indisputable. In presenting its observations on the draft of the Inter-American Juridical Committee, the Venezuelan Government wished to stress the importance of agreeing on a definitive text which could be presented as the Inter-American contribution to the joint study now undertaken by the United Nations.

The Venezuelan delegation wished to refer to a suggestion it had previously made and to request that the Council should broaden the basis of the work of the Commission on Human Rights. The Commission had decided to set up a drafting group to formulate a preliminary draft declaration; the group would

¹¹⁷ Carlos Eduardo Stolk (born 1912) represented Venezuela on the Inter-American Juridical Committee in 1942, the General Assembly in 1946 and the Economic and Social Council in 1947.

be authorized to consult any person or document that it thought necessary. However, in clause (b) of section 10 of chapter II of the report, that consultation was limited to observations and suggestions from members of the Commission alone. That rule did not seem adequate since it would exclude the co-operation of Members of the United Nations which were not represented on the Commission. It would also forego the help of those institutions which were concerned with the type of study under consideration. To obviate the difficulty it would be sufficient to modify the end of the paragraph to read: "any member of the Commission or of the United Nations". Likewise the draft prepared by the drafting group should be submitted not only to the members of the Commission but to all the Members of the United Nations to enable them to present their observations.

In conclusion, Mr. Stolk urged that the Council should suggest to the Commission the desirability of preparing the declaration at an early date to enable the Council to discuss it and submit it for the consideration of the General Assembly at its next ordinary session.

[4]

MR. MALIK (Lebanon),¹¹⁸ speaking as Rapporteur of the Commission, pointed out that the report was exceedingly concise and presented only the positive decisions of the Commission. For a full presentation of what had taken place during the Commission's discussions, reference should be made to the summary and verbatim records.

The phrase "drafting group" was rather unfortunate. It had only been used because no equivalent could be found for the French word *bureau*. The Commission had merely asked its officers to prepare, in collaboration with the Secretariat, a preliminary draft bill of human rights taking into account all suggestions that had been made during the discussion as well as in the many papers and documents that had been submitted to the Commission. Consequently, the entire Commission should be considered a drafting committee, which would eventually submit the draft to the Council.

In view of the Commission's terms of reference, which stated that the Commission was itself responsible for drawing up the bill of human rights, the Venezuelan amendment would not seem appropriate. However, no Member of the United Nations, specialized agency or private organization was prevented from submitting suggestions, which would all be carefully examined. In fact, two specialized agencies, ILO and UNESCO, as well as three non-governmental

¹¹⁸ The verbatim transcript of Mr. Malik's remarks is published as Chapter 5 of Habib C. Malik, ed., *The Challenge of Human Rights, Charles Malik and the Universal Declaration*, Oxford: Centre for Lebanese Studies, 2000, pp. 53–60.

organizations, the American Federation of Labor, the International Chamber of Commerce and the World Federation of Trade Unions had made notable contributions to the work of the Commission.

Speaking as the representative of Lebanon, Mr. Malik pointed out that in the opinion of his delegation, chapter V, embodying the measures which ought to be taken in dealing with communications concerning human rights, represented a minimum programme. By receiving those communications the Commission would not be establishing relations not authorized by the Charter with any people or organization. The Lebanese delegation could not agree with the opinion of the representative of the Union of Soviet Socialist Republics that chapter V constituted a contradiction to the United Nations Charter.

The Lebanese delegation could not agree with the representative of the [5] United Kingdom that the Sub-Commission on Prevention of Discrimination and Protection of Minorities was less important than the Sub-Commission on Freedom of Information and of the Press.

It was also urgent that the Sub-Commission on Freedom of Information and of the Press should be established at the earliest possible date. Fear and suspicion due to lack of information were basic evils, and the promotion of freedom of information would cut their very roots.

Regarding the composition of the two Sub-Commissions, the Lebanese Government maintained that they should be established on the basis of personal capacity and not of governmental representation. The Commission should itself maintain the initiative in the choice of personnel of the two Sub-Commissions.

The Bill of Human Rights would be the United Nations' answer to the question: "What is man?" and would give meaning to the phrase "dignity and worth of the human person", which was to be found in the Preamble of the Charter. The elaboration of the bill of rights was fraught with three grave dangers. The first was that of legalism or getting lost in legalistic distinctions and niceties. The second danger was that of instrumentalism, namely allowing the instrumental things of life to obscure the essence of man.

The last and most important danger was that of totalitarianism. It was not to be feared that the rights of the State would not be properly represented. But the danger existed that the individual human person might be forgotten. Unless the Bill of Rights embodied man as he really was, the declaration would merely express the dominant forces of the age, which did not respect man sufficiently.

MR. SANTA CRUZ¹¹⁹ (Chile) stated that in the opinion of his Government the State should intervene in guiding the internal economy of a country, supplying what

¹¹⁹ Hernán Santa Cruz (1906–1999) was a Chilean military judge and academic who published on economic and social problems.

private initiative was not able to give and ensuring that production and distribution of goods was adjusted to the general welfare of the population. That criterion was regarded by some as a limitation of freedom and democracy, but it was merely a way of transforming [6] the political democracy of the nineteenth century into an economic democracy.

Though the Chilean Government favoured that point of view in social and economic matters, it maintained that political freedom, the safeguarding of the fundamental rights of the individual and respect for the dignity of man, were an obligation of the State and of society.

Chile was ready to co-operate wholeheartedly with the United Nations in furthering respect for the rights of man and his fundamental liberties irrespective of race, sex, language or religion. Consequently, the Chilean delegation approved the report of the Commission and hoped that its sub-commissions would be composed of persons whose qualifications would constitute a guarantee of the fulfilment of their tasks.

The Chilean delegation also wished to see incorporated in the bill the new legal concepts with regard to human rights, for instance, the principle enunciated at the Inter-American Conference on Social Security held in Santiago, Chile, in 1942, according to which freedom and dignity were essential and inalienable attributes of man and of the human person.

MR. STINEBOWER¹²⁰ (United States of America) declared his readiness to accept the report in its present form. The bill of rights should be as bold and as broad as possible and, in addition to the traditional categories of rights, it should embrace social rights such as those of employment, social security and equal opportunity as well as minimum standards of economic, cultural and social wellbeing.

The United States laid great stress on freedom of information, and he welcomed the Human Rights Commission's proposal to establish a Sub-Commission on freedom of information, which would be a practical way of implementing the General Assembly resolution of 14 December 1946 for a Freedom of Information Conference. The Assembly had defined freedom of information as a fundamental human right and as the touchstone of all the freedoms to which the United Nations was consecrated. He was prepared to submit a list of nominations for this sub-commission as soon as nominations were requested. [7] The first item on the sub-commission's agenda should be the drafting of a provisional agenda for the Conference on Freedom of Information.

¹²⁰ Leroy D. Stinebower (1904–1976) became Deputy Director of Office of International Trade Policy in 1945.

MR. PAPANĚK¹²¹ (Czechoslovakia) said that his delegation would state its views when the substance of the problems had been defined; at present the report was concerned only with procedural and preparatory work.

The trend of discussions and opinions during the Commission's deliberations should be reflected in the report, as that would offer an extremely useful summary of the Commission's activity.

He supported the United Kingdom representative's suggested method of executing the programme in the report.

Members of the sub-commissions should represent their various Governments. In any case the necessary experts would be recruited from all countries and there was therefore no reason for avoiding the straightforward decision to declare them representatives of their countries.

When speaking of the freedom of the Press members should bear in mind the very weighty responsibilities and duties of the Press. Freedom without obligation might lead to action opposed to the aims of the Charter. The free Press should refrain from sensationalism.

With regard to chapter V of the report, it would be impractical to permit a flood of communications on suggested human rights from irresponsible people or organizations [sic] should be method of filtering communications should be evolved so that relations might be maintained only with knowledgeable and responsible individuals.

He agreed with the representative of the Union of Soviet Socialist Republics that the Committee of three should be increased or that the Commission itself should undertake to draft the bill. He supported the representatives of France and of the United States in stressing the social aspect of human rights.

MR. CHANG (China) hoped that after the myopia of the last hundred and fifty years, nations were at last on the threshold of a new humanistic period. [8] The bill envisaged should be based on the aspiration for a new humanism.

The fact that rights of men were included in thirty-five or forty of the world's constitutions indicated that a large measure of agreement was possible in spite of differences of philosophy or ideology.

In Article 18 of the Constitution promulgated in December 1946 by the Constituent Assembly in China a new right was included – the right to take public examination for holding public offices – of which little notice had been taken in the world as a whole. The institution of public civil service examinations and that of

¹²¹ Jan Papanek (1896–1991) was secretary of the Czechoslovakian Legation in Washington from 1927–1932. He served as Vice President of the Economic and Social Council in 1947. As Permanent Representative of Czechoslovakia in 1948, he condemned the pro-Soviet coup in the United Nations General Assembly and was relieved of his functions by the new government. For the next forty years, he headed the American Fund for Czechoslovak Refugees.

representative government had contributed greatly to the promotion of true freedom and equality and formed the basis of social democracy. He hoped that some notice would be taken of the former institution in the Bill of Rights.

MR. NASH¹²² (New Zealand) felt that the right to live healthily for the maximum period of time with the availability of all essentials for cultural, spiritual and mental progress transcended all others. People could agree upon rights but could not confer them upon others. The inherent right of a people to govern itself could not be conferred by a Government, but the latter could help the people exercise its right when it could not do so by its own strength.

He stated his belief in collectivism. Individual rights could not be enjoyed unless the requisite materials and facilities were provided by collective organization and work.

He supported the proposal for a committee of three to draft the bill.

The public of the world desired the following rights: to have access to full and correct information, to exercise freely the various forms of religion, to enjoy material sustenance at the highest level attainable locally, to have basic education, to co-operate in the field of culture, to assemble in order to determine the best social action to be taken in a given situation, to have freedom of action provided the action was not demonstrably harmful to other human beings, to enjoy the maximum level of [9] health, and to develop one's personality so as to live in health and happiness as long as possible.

MR. VAN KLEFFENS¹²³ (Netherlands) pointed out that a pronouncement concerning the date of the Conference on Freedom of Information and of the Press would have to be made during the present session, because an Assembly resolution called for a conference in 1947. The Secretariat had stated in document E/333 that the conference could not be held in 1947, and the Council had therefore to request the General Assembly to reconsider the date. He supported the view that the conference should be held at Geneva or at Lake Success, and had withdrawn his recommendation that the meeting should be held in the Netherlands for reasons of economy and convenience to the Secretariat.

He suggested that it might be appropriate for the Sub-Committee to consider the possible participation in the Conference of countries which were not Members of the United Nations: Switzerland, for example, had a fine record with regard to freedom of information and the Press. A precedent already existed in the case of the World Health Conference in 1946 and of the proposed International Shipping Conference.

¹²² Walter Nash (1882–1968) was Prime Minister of New Zealand from 1957 to 1960.

¹²³ Eelco van Kleffens (1894–1983) worked in the Secretariat of the League of Nations. In the early 1930s he was Secretary-General of the Hague Academy of International Law. He served as Dutch Minister of Foreign Affairs from 1939 to 1946. He was president of the United Nations General Assembly in 1954.

MR. MOROZOV (Union of Soviet Socialist Republics) disagreed with the attitude of the United Kingdom representative concerning the plan of work. The latter had asserted that the organizational work of the Sub-Committee could await the drafting of the bill of rights and that it would be detrimental to the United Nations to expedite the drafting unduly. That would imply postponing the entire work of the Sub-Committee for a considerable period.

The USSR delegation had strongly recommended the creation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at the second session of the Council and had stressed that the Sub-Commission should work diligently and urgently to eliminate discrimination with respect to race, sex and religion.

[10]

Mr. Malik had said that the task of the drafting group, namely to prepare a preliminary draft, did not offer any particular complexities; but paragraph 10(a) of chapter II of the Commission's report stated that the group had not only to collect all suggestions, but also was to elaborate the preliminary draft of international rights. If the group had to collate suggestions formulated by the fifty-five Members of the United Nations, the task could not be assigned to such a small body.

MR. MALIK (Lebanon) replied that he agreed with Mr. Morozov that the Commission had assigned an exceedingly complex and responsible task to its officers. The Commission had decided to appoint that drafting group rather than to remain in session.

Paragraph 10(b) covered Mr. Morozov's objection to the unrepresentative nature of the drafting group. There was no attempt to limit the responsibility of the work to the three officers of the Commission. The drafting group was bound to consider any oral or written suggestion submitted by a member of the Commission.

MR. MAYHEW (United Kingdom) replied to Mr. Morozov that he shared the latter's high estimation of the importance of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and that what he had intended to propose was a practical point of procedure. He had said that the Sub-Commission could not work effectively until it was in possession of the provisions which would be given at the beginning of the bill of rights. Only when the rights themselves had been defined could the Sub-Commission propose appropriate measures to ensure non-discrimination.

THE PRESIDENT proposed that the report should be referred to the Committee of the Whole of the Council, where a vote would be taken.

There followed some discussion on the agenda and the programme of future work.

The meeting rose at 6:15 p.m.

E/353**18 March 1947**

Observations submitted by the delegation of the United Kingdom on the report of the Commission on the Status of Women

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[3]

...

8. As regards chapter XI, entitled “Urgent Problems”, the question of “equal rights impartially for all citizens” (paragraph 36) appears to be one for the Commission on Human Rights, which is already undertaking studies in this field in connection with the preparation of a draft Bill of Human Rights.

...

E/AC.7/8**20 March 1947**

Summary Record of the Sixth Meeting [of the Committee on Social Affairs of the Economic and Social Council]

Held at Lake Success on 20 March 1947 at 3:30 p.m.

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[3]

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THE CHAIRMAN opened discussion on the General Assembly Resolution concerning draft Declaration on Fundamental Human Rights and Freedoms (document A/64/Add.1, page 68) and Report of the Commission on Human Rights.

MR. STOLZ (Czechoslovakia) proposed to amend paragraph 10(a), Chapter II of the Report of the Commission on Human Rights (document E/259, page 2), in order to enlarge the working group in charge of formulating a preliminary draft International Bill of Rights. Mr. Stolz suggested that Chile, France and the Union of Soviet Socialist Republics be included.

MR. HAKIM (Lebanon) pointed out that the working group was to do only preparatory work; it had to be small in order to work effectively. Mr. Hakim opposed the Czechoslovak amendment.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the amendment.

MR. GUERIN (France) considered that all ideologies should be represented in the working group. He further proposed that Australia be added.

MR. STOLK (Venezuela) felt that the working group should receive [4] recommendations from all Member States, but that that it should not be enlarged.

MR. KOTSCHNIG (United States) pointed out that the working group constituted only a “convenience”, that it was not a committee and consequently could not be enlarged.

MR. SANTA CRUZ (Chile) formally proposed that Australia be added.

MR. ENCINAS (Peru) seconded the proposal.

MR. HAKIM (Lebanon) pointed out that the creation of the working group was a decision of the Commission and not a recommendation to the Council. The Council should not interfere with that decision.

MR. STOLZ (Czechoslovakia) accepted the Chilean amendment to his motion.

(At this point MR. CHANG (China) took the place of Mr. Yang).

THE CHAIRMAN put to a vote the Czechoslovak amendment. The amendment was adopted by 10 votes for, 5 votes against and 2 abstentions.

MR. RIDDLE (Canada) moved that “prior to the meeting of the Drafting Committee the officers of the Commission on Human Rights, assisted by the Secretariat, prepare a draft International Bill of Human Rights and circulate such draft to the Members of the United Nations for their observations and comments.”

MR. CHANG (China) asked Mr. Riddle to accept an amendment to his motion which would then read:

“That, prior to the meeting of the Drafting Committee, the Secretariat under the supervision of the officers of the Commission on Human Rights, prepare a draft International Bill of Human Rights and circulate such draft to the Members of the United Nations for their observations and comments.”

MR. RIDDLE (Canada) accepted Mr. Chang’s amendment.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) stated that he wished to vote separately on the two paragraphs of the Canadian amendment.

MR. KOTSCHNIG (United States) moved the closure of the debate.

THE CHAIRMAN put to the vote the motion to close the debate. The motion was adopted. The Chairman put to the vote the first paragraph of the Canadian amendment. This was adopted. The second paragraph was put to the vote and adopted.

MR. BORISOV (Union of Soviet Socialist Republics) thought that the Czechoslovak and Canadian amendments as adopted were contradictory. The Chairman gave his interpretation of the Canadian amendment, stating that if the Council decided to enlarge the working group the number of members of the Commission supervising the work of the Secretariat would become seven instead of three.

MR. RIDDLE (Canada) stated that the interpretation of the Chairman did not correspond with his intentions, and asked to change the word “officers” to the words “The Chairman, Vice-chairman and Rapporteur”, in order to clarify the matter.

THE COMMITTEE voted to adjourn to re-examine the motion at its next meeting.
The meeting adjourned at 6:15 p.m.

E/AC.7/13

21 March 1947

Summary Record of the Eighth Meeting [of the Committee on Social Affairs of the Economic and Social Council]

Held at Lake Success on 21 March 1947 at 3:00 p.m.

Present: Chairman: Mr. Papanek (Czechoslovakia); Members: Mr. Kaminsky (Byelorussian Soviet Socialist Republics); Mr. Riddle (Canada); Mr. Fausto Soto (Chile); Mr. Yang (China); Mr. Pérez Cisneros (Cuba); Mr. Radimsky (Czechoslovakia); Mr. Royer (France); Mr. Mahalanobis (India); Mr. Hakim (Lebanon); Mr. van Heuven (Netherlands); Mr. Reid (New Zealand); Mr. Moe¹²⁴ (Norway); Mr. Arca Parró (Peru); Mr. Turhan (Turkey); Mr. Kabushko (Union of Soviet Socialist Republics); Mr. Phillips (United Kingdom); Mr. Kotschnig (Venezuela); Secretariat: Mr. Stanczyk, Mr. Ording, Mr. Hogan.

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[6]

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***Report of the Commission on Human Rights (continued):
(Documents E/259, E/259/Add.1)***

THE CHAIRMAN outlined the discussions on the subject of the drafting of the International Bill of Human Rights which had taken place at the sixth meeting of the Committee. He recalled that a proposal of the representative of Czechoslovakia had added four other members to the drafting group. The Committee had subsequently adopted a Canadian proposal which had changed the situation.

MR. ROYER (France) introduced a draft resolution which read as follows:

“The Economic and Social Council

“Takes note of the Report of the Commission on Human Rights, and

“Recommends that the Commission Secretariat [6]

¹²⁴ Finn Moe (1902–1971) was Director of Norway broadcasting from 1940–1943 and served as a Press Consultant at Norway Ministry of Foreign Affairs in London from 1943 to 1945. He represented Norway on the Committee on Social Affairs of the Economic and Social Council and was a member of the Norwegian delegation to the General Assembly in London in 1946, as well as during the first special session of the General Assembly in 1947.

“(a) request all member countries to send in by 1 September 1947 their suggestions, proposals, and observations concerning the drafting of an international declaration of human rights;

“(b) classify the answers received and forward them in suitable form to the member countries and invite them to submit their observations before 15 October;

“(c) bring together the Chairman of the Commission, the Vice-Chairman, the Rapporteur and the representatives of Australia, Chile, France, United Kingdom and the Union of Soviet Socialist Republics, at the earliest possible date after 15 October, to draw up a preliminary draft international declaration on human rights in accordance with the instructions and decisions of the first session of the Human Rights Commission.

“*Recommends* to the Commission that it examine this preliminary draft and transmit a final draft to the Council, which will examine it during its first session after 1 January 1948.”

MR. RIDDLE (Canada) also introduced a resolution which was a revision of the Canadian proposal as adopted at the sixth meeting (document E/AC.7/8) and which read as follows:

“That the Secretariat, under the supervision of the Chairman, the Vice-Chairman and the Rapporteur of the Commission on Human Rights, prepare a preliminary draft International Bill of Human Rights. That this preliminary draft be considered by the three officers of the Commission and the representatives of Australia, France, Chile and the Union of Soviet Socialist Republics. That the draft then be considered by the Commission on Human Rights at its next session and, that after that session it be circulated to Member States for observation and comment.”

MR. ROYER (France) stated his opinion that the bill of human rights should [8] originate from as many countries as possible and explained the procedure his resolution envisaged.

MR. MOE (Norway) said a weakness of the French proposal was that the Governments would have no draft to work on.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said the French proposal would revise the decision taken previously. If the drafting group was to be enlarged to eight members, he reserved the right to make another nomination.

MR. RADIMSKY (Czechoslovakia) explained that the discussion had been reopened for the reason that some representatives might have voted under a misunderstanding.

MR. FAUSTO SOTO (Chile) summarized the discussion which had taken place at the sixth meeting and the reason for revision of the Canadian proposal.

MR. RIDDLE (Canada) said that he did not consider that his proposal implied a reversal of the Czechoslovakian resolution, but was a method of ensuring that the drafting body should start where the Chairman, Vice-Chairman and Rapporteur left off. He would be happy to add the United Kingdom to his list.

MR. ARCA PARRÓ (Peru) who was Chairman of the sixth meeting of the Committee explained the procedure adopted at that meeting, and the sequence of events.

MR. KABUSHKO (Union of Soviet Socialist Republics), who was supported by the representative from the Byelorussian Soviet Socialist Republic, pointed out that the Committee had adopted the Czechoslovakian proposal, and this decision could not be reversed. He did not think the new Canadian proposal should be considered.

MR. RIDDLE (Canada) said he was sorry some members had suggested he was trying to mislead the Committee. Such had not been his intention; his revision had attempted to clear up doubtful points.

[9]

THE CHAIRMAN ruled that the French draft be considered first.

MR. KAMINSKY (Union of Soviet Socialist Republics) said the Committee should first decide on the principle of whether the drafting group should be increased further.

MR. RIDDLE (Canada) complained that he was receiving sharp treatment. He had agreed, at the request of the Chair to clarify his proposal, and now it was set aside.

MR. MAHALANOBIS (India) said that the Committee should concentrate on paragraph (a) of the French resolution, which was the heart of the proposal.

MR. HAKIM (Lebanon) said the French proposal upset the programme of the Commission on Human Rights, and would be a vote of no confidence in the Commission.

MR. KOTSCHNIG (United States of America) thought the French proposal helpful, but questioned the dates suggested. There also seemed to be a step missing somewhere. Prior to paragraph (a) there might be a statement requesting the Secretariat, under the supervision of the Chairman, Vice-Chairman and Rapporteur, to prepare a documented outline of the International Bill of Human Rights to be submitted to Member Governments at the earliest possible date.

MR. ROYER (France) pointed out that a majority of the Committee had agreed on the principle of establishing equality among the drafting group. The United States suggestion was contrary to the spirit of this decision. He was prepared to seek a formula which would meet the wishes of the representatives of Norway and India, and also the wishes of the United States representative regarding dates. He stated that his resolution did not imply lack of confidence in the Commission on Human Rights or its officers.

MR. RADIMSKY (Czechoslovakia) suggested making paragraph (c) of the French proposal paragraph (a).

MR. YANG (China) suggested adding India and the Philippine Republic to the drafting group.

[10]

MR. KABUSHKO (Union of Soviet Socialist Republics) said he would accept the French proposal with the Czechoslovakian amendment making paragraph (c) paragraph (a) and a provision that the Council should prepare the final draft for

submission to the General Assembly. The Council should make out the draft on a democratic basis and on a proper geographic basis, in order to produce a draft acceptable to everyone.

MR. ROYER (France) accepted the suggestion of the representative of Czechoslovakia.

The Committee agreed to refer the French and Canadian proposals to a drafting committee consisting of the representatives of Czechoslovakia, France and the United States of America.

The meeting rose at 6:55 p.m.

E/AC.7/19

22 March 1947

Summary Record of the Ninth Meeting [of the Committee on Social Affairs of the Economic and Social Council]

Held at Lake Success on 22 March 1947 at 2:45 p.m.

Present: Chairman: Mr. Papanek (Czechoslovakia); Members: Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Riddle (Canada); Mr. Santa Cruz (Chile); Mr. Sze (China); Mr. Cisneros (Cuba); Mr. Stolz (Czechoslovakia); Mr. Mendès-France (France); Mr. Mahalanobis (India); Mr. Malik (Lebanon); Mr. van Heuven (Netherlands); Mr. Reid (New Zealand); Mr. Moe (Norway); Mr. Arca Parró (Peru); Mr. Turhan (Turkey); Mr. Borisov (Union of Soviet Socialist Republics); Mr. Phillips (United Kingdom); Mr. Kotschnig (United States of America); Mr. Stolk (Venezuela); Secretariat: Mr. Yates, Mr. Notestein.

The meeting was convened at 3:15 p.m.

1. *Consideration of the Report of the Commission on Human Rights (Document E/259 and E/259/Add.1) (continued)*

THE CHAIRMAN opened the discussion on the draft resolution on the drafting of the International Bill of Human Rights submitted by the sub-committee consisting of the members from Czechoslovakia, France and the United States, which read as follows:

The Economic and Social Council

Takes note of Chapter II of the Report of the Commission on Human [2] Rights; and Resolves

- (a) that the Secretariat be requested to prepare a documented outline concerning an International Bill of Human Rights and that this form the basis for the work of a

- drafting committee consisting of the members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, United Kingdom, Union of Soviet Socialist Republics and the United States, and that this drafting committee be convened prior to the second session of the Commission on Human Rights; and
- (b) that the draft prepared by the Committee of eight be submitted to the second session of the Commission on Human Rights; and
 - (c) that the draft as developed by the Commission on Human Rights be submitted to all States, Members of the United Nations, for their observations, suggestions and proposals; and
 - (d) that these observations, suggestions and proposals then be considered as the basis of a re-draft, if necessary, by the Committee of eight; and
 - (e) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and
 - (f) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948.

MR. STOLZ (Czechoslovakia) explained that the presented draft resolution was a combination of the French and the Canadian proposals. He stated that the desire of the sub-committee was that the draft resolution be discussed in two parts: first the whole procedure, and second, the composition of the drafting group.

MR. MALIK (Lebanon) said he wished to raise a point of principle. The Council had resolved that the Commission on Human Rights should draw up [3] an International Bill of Human Rights. The Commission at its first session had debated and voted down a motion to set up a drafting committee. The Council can reverse that decision – it can reverse a decision of any commission, – but is it proper for the Council to set up a Committee of a Commission in the absence of the Commission? Had it ever been done before? Since a point of precedent and fundamental principle was involved, Mr. Malik said he would request that the President of the Council be asked to the meeting to give a ruling.

MR. MENDÈS-FRANCE (France) stated that he understood the objection raised by Mr. Malik, but it ought to have been raised before, during the three days of long discussions. He thought that at that stage a solution could be reached by the Committee. Legally, the Council had the authority to take a decision in this case. Since the Committee was unanimous in its desire to reach a conclusion, he suggested that the President put the proposed draft resolution to a vote.

MR. KAMINSKY (Byelorussia) agreed with Mr. Mendès-France but pointed out that a decision had already been taken by the Committee and that the discussion was only on the point of procedure of drafting the International Bill of Rights.

MR. MALIK (Lebanon) wished to point out that he was speaking as Rapporteur of the Commission on Human Rights and could not have done so before, having been ill. He also stated that since the question had to come before the Council, the discussion could not be finished.

MR. BORISOV (Union of Soviet Socialist Republics) asked the Committee to abide by its own decision. He further stated that if the Commission on Human Rights did not take a democratic approach, it was up to the Council to change its decision. He reminded the Committee that the draft of the International Bill of Human Rights must be acceptable to all Member States.

MR. REID (New Zealand) emphasized that he was speaking only as Rapporteur of the Commission on Human Rights and stated that it was of [4] paramount importance to find out if the Council's interference with the procedure of the Commission was appropriate or not.

THE CHAIRMAN decided that the point of order raised by the Delegate for Lebanon would be before the Council at its next plenary session. He asked the committee to examine the first paragraph of the draft resolution without taking membership into consideration.

MR. MALIK (Lebanon) stated that the first paragraph was incompatible with the decision of the Council that the Commission on Human Rights draft the Bill.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that Resolution 43(1) of the General Assembly put the Economic and Social Council in charge of drafting the International Bill of Human Rights with the aid of the Human Rights Commission.

MR. KOTSCHNIG (United States), after stating that though the United States Delegation would have liked to uphold the decisions of the Commission, it was willing to accommodate its views to the majority of the Committee, suggested a vote on the draft proposal as a whole before the ruling of the President of the Council.

MR. CISNEROS (Cuba) proposed to defer the matter until after the ruling of the President of the Council.

MR. MAHALANOBIS (India) supported the Cuban proposal.

MR. MOE (Norway) expressed the opinion that the question whether the Council could overrule a decision of a commission was not a procedural one, but one of principle. He thought that it was the task of the Council of the General Assembly to resolve it.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the Delegate of Norway and urged an immediate vote.

MR. CHANG (China) stated that only the Commission on Human Rights could make the proposed changes.

MR. MENDÈS-FRANCE (France) proposed to adjourn so that the previous sub-committee of three could meet and prepare an acceptable draft which [5] would combine all points of view.

MR. PHILLIPS (United Kingdom) supported the French proposal.

THE CHAIRMAN put the proposal to a vote and it was accepted.

(At that point Sir Ramaswami Mudaliar, the President of the Council, came in.)

MR. MALIK (Lebanon) asked the sub-committee of three to have in mind that the Commission on Human Rights was charged with the responsibility of drafting the Bill.

MR. KOTSCHNIG (United States) asked the President of the Council to participate in the discussions of the sub-committee. The President of the Council accepted.

[The remainder of the meeting concerned the Report of the Population Commission, (E/267).]

E/AC.7/12

23 March 1947

Draft Resolutions on Human Rights and on International Conference on the Freedom of the Press

Following is the text of draft resolutions prepared by the Secretariat on the basis of discussion by the Social Committee at its meeting on 23 March:

The Economic and Social Council

Takes note of the Report of the Commission on Human Rights; and

A. *Requests* the Secretary-General to prepare a documented outline concerning an International Bill of Human Rights; and

Establishes a temporary Sub-Commission consisting of the Members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States. This temporary Sub-Commission shall be convened prior to the second session of the Commission on Human Rights and shall prepare, on the basis of documentation supplied by the Secretary-General, a preliminary draft of an International Bill of Human Rights; and

Decides

- (a) that the draft prepared by the temporary Sub-Commission be submitted to the second session of the Commission on Human Rights; and

- (b) that the draft as developed by the Commission on Human Rights be submitted to all Members of the United Nations for their observations, suggestions and proposals; and
 - (c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary, by the temporary Sub-Commission; and
 - (d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and
- [2]
- (e) that the Council consider the proposed International Bill of Human Rights as submitted to the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948; and

[Paragraphs B, C and D concern the composition and functions of the Sub-Commission on Freedom of Information and of the Press and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the handling of communications.]

[3]

The Economic and Social Council

Pursuant to Resolution No. 43(1) of the Second Part of the First Session of the General Assembly (Draft Declaration on Human Rights and Fundamental Freedoms)

Transmits the Declaration on Human Rights and Fundamental Freedoms presented by the Delegation of Panama, and any other draft declarations received from Member States, to the Temporary Sub-Commission and the Commission on Human Rights for consideration in their preparation of an International Bill of Human Rights.

E/AC.7/20

23 March 1947¹²⁵

***Summary Record of the Tenth Meeting of the
Social Committee of the Economic and Social Council***

Held at Lake Success on 23 March 1947 at 10:45 a.m.

Present: Chairman: Sir A. Ramaswami Mudaliar (India); Members: Mr. Kaminsky (Byelorussian Soviet Socialist Republic); Mr. Riddle (Canada); Mr. Chang (China); Mr. Pérez Cisneros (Cuba); Mr. Stolz (Czechoslovakia); Mr. Mendès-France (France); Mr. Mahalanobis (India); Mr. Malik (Lebanon); Mr van Heuven (Netherlands); Mr. Reid (New Zealand);

¹²⁵ This document was issued on 25 April 1947.

Mr. Moe (Norway); Mr. Arca Parró (Peru); Mr. Phillips (United Kingdom); Mr. Kotschnig (United States); Mr. Borisov (Union of Soviet Socialist Republics); Mr. Stolk (Venezuela); Secretariat: Mr. Stanczyk, Mr. Hogan, Mr. Yates. (During the meeting Mr. Chang replaced Mr. Yang (China) and Mr. Stinebower replaced Mr. Kotschnig (United States).)

The meeting opened at 10:45 a.m.

**Discussion on Draft Resolution Submitted by the Sub-Committee
consisting of the Representative of Czechoslovakia, France and the
United States on the Drafting of the International Bill
of Human Rights**

THE CHAIRMAN introduced the draft resolution which read as follows:

[2]

“The Economic and Social Council

“Takes note of the Report of the Commission on Human Rights; and

“Requests the Secretariat to prepare a documented outline concerning an International Bill of Human Rights; and

“Establishes a temporary Sub-Commission consisting of the Members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States. This temporary Sub-Commission shall be convened prior to the second session of the Commission on Human Rights and shall prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights; and

“Decides

- a. that the draft prepared by the temporary Sub-Commission be submitted to the second session of the Commission on Human Rights; and
- b. that the draft as developed by the Commission on Human Rights be submitted to all States, Members of the United Nations, for their observations, suggestions and proposals; and
- c. that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary, by the temporary Sub-Commission; and
- d. that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and
- e. that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948.”

MR. MALIK (Lebanon) said that the draft was entirely different from what had been considered on Friday and Saturday. He presumed that the internal [3] arrangements of the Commission on Human Rights were untouched by it.

THE CHAIRMAN gave a ruling as President of the Council. He said that Commissions were appointed by the Economic and Social Council. Sub-Commissions of Commissions were authorized to be appointed by the Council and, when a Sub-Commission was established, approval of the Council was required. Sub-Commissions might consist not only of members of Commissions but also of others. The Council, or any body, had the right to appoint the sub-committees of itself. This was an inherent right. A committee of a Commission composed of its own members could always be appointed by the Commission; the Council appointed a sub-committee of itself. It was the privilege of all bodies, not only under the United Nations Charter, to appoint sub-committees of their own members. If the desire of the Council was that this Bill of Human Rights should be studied by a larger body, the only way that desire could be accomplished is by proposing a temporary Sub-Commission which could be appointed without reference to the Commission. They could always interpose a Sub-Commission to which certain terms of reference might be directly made by the Council and that Sub-Commission could, of course, report, through the main Commission, to the Council. Therefore, the desire of the Council having been expressed that a number of members should study this Bill, the way to do this was to interpose a Sub-Commission which would report to the Council, or to the Commission. The draft proposal tried to carry out that idea. This was a problem of procedure. It did not interfere with the procedures that the Commission saw fit to follow in the meantime.

MR. MALIK (Lebanon) said he was grateful to the Chairman for clearing up this point. The whole question was whether a superior body had the right to appoint sub-committees of an inferior body. The Chair had given an unequivocal ruling that it had no right to appoint such sub-committees. This was a separate act entirely; the Commission had seen fit not to set up a sub-committee but would itself supervise the drafting of the bill. He could [4] see only one question, which was one of propriety, not of rights. Was it really proper, was it a duplication, or a vote of lack of confidence in the Commission? He stated he was raising a subtle moral issue in this respect, and he thought that the Sub-Commission envisaged, might by reason of that moral point, discourage the Commission in its delicate task.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said he held that the Council had the right to create any organs to carry out its task. The resolution submitted differed from the decision already taken, which had entrusted the draft to a seven-person drafting committee. He had no objection to the principle of setting up the Sub-Commission, but proposed the addition, where the countries were listed, of Yugoslavia.

MR. KOTSCHNIG (United States of America) observed that the proposal was a valuable compromise. He moved the closure of the debate and a vote on the document as it stood but leaving the enumeration of the countries for separate discussion.

MR. PÉREZ CISNEROS (Cuba) supported the representative of the United States, and said he also agreed with most of the views of the representative of Lebanon. He suggested it might be helpful to decide on paragraph 10(d) of the report of the Commission on Human Rights.

THE CHAIRMAN stated that that point was within the competence of the Commission.

MR. PÉREZ CISNEROS (Cuba) added that he would like to ask four questions. First, should membership of the Sub-Commission be restricted to members of the Commission on Human Rights? Second, should they represent only some countries with specialized interests in the field of human rights? Third, was it necessary to have original representation? And fourth, would there be a balance between great and small states?

THE CHAIRMAN said the only relevant principle was whether the Council could include non-members of the Commission in the Sub-Commission. The [5] Council could. The others were points which the members of the Committee could keep in mind when voting.

MR. YANG (China) said the proposal was a little unusual procedurally. He supported the United States motion to close the debate.

MR. MALIK (Lebanon) suggested that the word “prepare” in paragraph (A) was inappropriate.

THE CHAIRMAN said ultimately it would be the Commission which would prepare the draft. This action of the Council could not be interpreted as a reflection on the Commission.

The proposal, with the exception of the phrase relating to the composition of the Sub-Commission, was put to the vote and was accepted. The representative of Lebanon said he considered the decision a reflection on the Commission on Human Rights, and reserved his right to raise the matter again in plenary session.

THE CHAIRMAN maintained that there was no reflection on the Commission. The Council had set up other sub-commissions, such as the Sub-Commission on Freedom of Information and of the Press, which reported to the Commission on Human Rights.

MR. MALIK (Lebanon) said that as far as the other sub-commissions were concerned, the relevant text that the Economic and Social Council “empowered” the Commission on Human Rights to establish sub-commissions. The present text was different.

MR. BORISOV (Union of Soviet Socialist Republics) drew attention to the fact that, as far as composition was concerned, the Committee had decided, by ten votes to five, that the body should consist of seven members. He had no objection to including the United Kingdom, but would support the Byelorussian suggestion to include Yugoslavia also.

MR. MALIK (Lebanon) restated his opinion that this was a superfluous arrangement. He pointed out that two countries, India and Panama, had [6] submitted draft bills of human rights, and the Panamanian draft was the subject of a General Assembly Resolution. He suggested including these countries.

MR. YANG (China) recalled that he had suggested including India.

THE CHAIRMAN, referring to the point raised by the Soviet representative, said he understood that at a previous meeting of the committee it had been decided to include seven members, and not eight. If that were so, an addition could only be made in plenary session. The draft would stand with the deletion of the words "United Kingdom".

MR. RIDDLE (Canada) referred to the fact that his previous proposal had also been accepted by the Committee, and summarized the sequence of discussions. He maintained that there should be a certain amount of flexibility.

MR. MENDÈS-FRANCE (France) thought there was some misunderstanding and recounted the sequence of discussions. The propositions were entirely different, he maintained, and the Committee was free to decide on a membership of seven or eight.

THE CHAIRMAN agreed with the representative of France that the Committee would be free to discuss the matter of membership.

MR. BORISOV (Union of Soviet Socialist Republics) said that the basic idea was that the Sub-Commission should be democratic in its representation. The seven countries named represented different, even opposing, points of view regarding human rights. He thought that if a different principle were adopted, the Sub-Commission would become big and unwieldy.

THE CHAIRMAN pointed out that the main Commission consisted of 19 members; there should be some relevance between the two compositions. All countries were interested in the subject.

MR. MOE (Norway) formally proposed the same countries as named previously, deleting the United Kingdom. He pointed out that, while it was desired to [7] have different ideologies and trends of law represented, the Anglo-Saxon tradition was represented – by the United States and Australia.

MR. PHILLIPS (United Kingdom) disagreed with the representative of Norway and referred to his country's long traditions in human rights, and added that the United Kingdom had a draft bill ready to submit. He would be disappointed if the United Kingdom were excluded.

The proposal that the Sub-Commission should consist of seven members was defeated. Decision to make the number eight was then taken.

MR. MENDÈS-FRANCE (France) referred to the paragraphs in the report of the Commission on Human Rights providing for consultation of experts and the views of others on the subject of human rights. He presumed the Sub-Commission would consider all the information available.

Consideration of the Draft Resolution submitted by Sub-Committee consisting of Representatives of Czechoslovakia, France, and the United States of America on the Subject of the Panamanian Draft Declaration on Fundamental Human Rights and Freedoms.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said he did not approve of the resolution. A great number of other drafts might be received, and would demand similar treatment.

MR. MENDÈS-FRANCE (France) suggested that the resolution should indicate that any other draft proposals coming from member governments would also be referred to the Sub-Commission.

The representative of the Union of Soviet Socialist Republics supported the representative of France, and the resolution was adopted as follows;

“The Economic and Social Council

“Pursuant to Resolution No. 43(1) of the second part of the First Session of the General Assembly (Draft Declaration on Fundamental Rights and Freedoms)

“Transmits the Declaration on Fundamental Human Rights and Freedoms presented by the Delegation of Panama, and any other draft declaration received from Member States, to the Temporary Sub-Commission and the [8] Commission on Human Rights for consideration in their preparation of the International Bill of Human Rights.”

...

E/RES/52(IV)

24 March 1947

Resolution 52(IV) of the Economic and Social Council
“Guarantees for the Exercise and Development of Trade Union Rights”

“The Economic and Social Council

“Having taken note of the item regarding Trade Union Rights placed on its agenda at the request of World Federation of Trade Unions, and the memoranda submitted by the World Federation of Trade Unions and the American Federation of Labor,

“The Economic and Social Council

*“Further resolves to transmit the documents to the Commission on Human Rights in order that it may consider those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights.”*¹²⁶

E/SR.79¹²⁷

24 March 1947

Summary Record of the Seventy-Ninth Meeting
[of the Economic and Social Council]

Held at Lake Success, New York, on Monday,
 24 March 1947 at 3 p.m.

President: SIR RAMASWAMI MUDALIAR (India)

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56. *Discussion of the resolution submitted by the World Federation of Trade Unions on guarantees for the exercise and development of trade union rights and memorandum submitted by the American Federation of Labor (documents E/C.2/28 and E/C.2/32)*¹²⁸

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MR. WINSLOW (United States of America) stated that his Government, which believed in free trade unionism and the right of association, viewed with alarm any threat to those principles. He agreed with the United Kingdom representative that the matter fell within the scope of the ILO. The Council had to guard itself against duplicating the work of the specialized agencies. He felt that referring the matter to the ILO for consideration and for a report containing recommendations as to measures that might be taken would in no way mean prejudging the case. He suggested that the WFTU draft resolution should at the same time be transmitted to the Commission on Human Rights, to be used by that Commission in its work of drafting the international bill of rights. The

¹²⁶ The documents to which reference is made here are contained in E/CN.4/AC.1/9.

¹²⁷ The document is taken from *Official Records of the Economic and Social Council*, Second Year, Fourth Session, 28 February-29 March 1947, pp. 189–197.

¹²⁸ These documents are contained in E/CN.4/AC.1/9.

memorandum of the American Federation of Labor should be dealt with in the same manner.

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Decision. The United Kingdom proposal that the draft resolution of the World Federation of Trade Unions and the memorandum of the American Federation of Labor should be referred for consideration to the International Labour Organization and considered by the Council at its next session was adopted.

The United States proposal that the two documents should be referred to the Commission on Human Rights for consideration of those aspects which might appropriately form part of the international bill of rights, was adopted.

...

E/383

24 March 1947

Report of the Commission on Human Rights

The attached letter from the Chairman of the Commission on Human Rights to the President of the Economic and Social Council is circulated for the information of the Council.

[2]

March 24, 1947

My dear Mr. President:

Prior commitments made before my election as chairman of the Commission on Human Rights forced me to tell the Commission I could not appear before the Economic and Social Council to submit the Commission's report, and the Commission voted to have the Rapporteur, Dr. Malik, present its report. While I regretted not being present, I have been gratified by the great interest shown by the Council in the work and the report of the Commission.

According to information which I have just received, a majority of the members of the Council have indicated a desire for the appointment of a special body within the framework of the Commission on Human Rights which would undertake to prepare a preliminary draft of the proposed International Bill of Human Rights and would assist the Commission in carrying out its responsibilities in this field.

As you know, the Commission on Human Rights itself voted that all members of the Commission should be consulted in the preparation of the draft declaration of Human Rights. It had of course, always been my intention to take advantage of the advice of other members of the Commission at all stages of the work and I can see no important inconsistency between the suggestion of the Social Committee and the procedure that we intended to follow. I shall, of course, be assisted by the suggestions of this Committee as to the members of the Commission who should be consulted, and in the light of the discussions which have taken place, I shall be pleased, acting as Chairman of the Commission on Human Rights, to appoint immediately a Drafting Committee composed of the members of the Commission on Human Rights for Australia, China, Chile, France, Lebanon, United States, United Kingdom, and the Union of Soviet Socialist Republics.

It is my understanding that this Drafting Committee would meet prior to the next session of the Commission and prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights. I furthermore concur in the recommendation of the Social Committee of the Whole that the following procedure be adopted in preparing the International Bill of Human Rights.

- (a) that the draft prepared by the Drafting Committee be submitted to the second session of the Commission on Human Rights; and
- (b) that the draft as developed by the Commission on Human Rights be submitted to all States, Members of the United Nations, for their observations, suggestions and proposals; and
- (c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary, by the Drafting Committee; and
- (d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and
- (e) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948.

In accordance with the directions given us by the Commission on Human Rights, the group working on a preliminary Draft Bill was requested to send reports on progress by the first of every month beginning with April first, and I presume that we are following that procedure.

Very sincerely yours,
(sgd.) Eleanor Roosevelt
(Chairman, Commission on Human Rights)

E/AC.7/15¹²⁹

25 March 1947

Resolutions on the Report of the Commission on Human Rights, on the Conference on Freedom of Information and on the Crime of Genocide

Following are the texts of draft resolutions on the Report of the Commission on Human Rights agreed by the *ad hoc* drafting sub-committee of the Social Committee at its meeting on 24 March:

Draft Resolution on the Resolution of the General Assembly Concerning the Draft Declaration on Human Rights and Fundamental Freedoms

The Economic and Social Council,

Pursuant to Resolution No. 43 of 11 December 1946, of the General Assembly (Draft Declaration on Human Rights and Fundamental Freedoms)

Transmits the Declaration on Human Rights and Fundamental Freedoms, presented by the Delegation of Panama, and any other draft declarations received from Member States, Specialized Agencies and Category A NGOs to the Temporary Sub-Commission and the Commission on Human Rights for consideration in their preparation of an International Bill of Human Rights.

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...

Draft Resolutions on the Report of the Commission on Human Rights

The Economic and Social [Council]

Takes note of the Report of the Commission on Human Rights; and

A. *Requests* the Secretary-General to prepare a documented outline concerning an International Bill of Human Rights; and

Establishes a temporary Sub-Commission consisting of the Members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States. This temporary Sub-Commission shall be convened prior to the second session of the Commission on Human Rights and shall prepare, on the basis of documentation

¹²⁹ Also issued as E/386 on 27 March 1947.

supplied by the Secretary-General, a preliminary draft of an International Bill of Rights; and

Decides

- (a) that the draft prepared by the temporary Sub-Commission be submitted to the second session of the Commission on Human Rights; and
 - (b) that the draft as developed by the Commission on Human Rights be submitted to all members of the United Nations for their observations, suggestions and proposals; and
- [3]
- (c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary, by the temporary Sub-Commission; and
 - (d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and
 - (e) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948;

...

E/AC.7/15/Add.1

26 March 1947

Resolution of the General Assembly Concerning the Draft Declaration on Human Rights and Fundamental Freedoms

Sir Ramaswami Mudaliar
President, Economic and Social Council
United Nations
Lake Success, New York

Sir:

The American Federation of Labor wishes to draw the attention of the Council to the omission in the "Draft Resolution of the General Assembly Concerning the Draft Declaration on Human Rights and Fundamental Freedoms", document E/AC.7/15 dated 25 March, of any mention of other draft declarations which organizations such as the American Federation of Labor might wish to submit.

The American Federation of Labor would suggest, therefore, the insertion in the fourth line of the Resolution, after the words “member states” of the following: “Specialized Agencies and Category A Non-Governmental Organizations”.

Thank you for your kind attention.

Very truly yours,
Toni Sender, Consultant
American Federation of Labor

E/AC.7/18
26 March 1947

The Economic and Social Council

Takes note of the report of the Commission on the Status of Women (document E/281/Rev.1) and

A. Resolves:

...

3. That the Commission on the Status of Women be represented by its officers, the Chairman, Vice-Chairman and Rapporteur, at all sessions of the Commission on Human Rights at which the draft international bill of human rights is under consideration;

4. That the preliminary draft of the international bill of human rights be circulated to the members of the Commission on the Status of Women at the same time as it is made available to the members of the Commission on Human Rights;

...

E/386
27 March 1947

Report of the Commission on Human Rights

International Bill of Human Rights

The following is the text of the Draft Resolution approved by the Committee of the Whole on 27 March in replacement of the Resolution commencing on page 2 of document E/AC.7/15:

The Economic and Social Council,
Taking note of Chapter II, paragraph 10 of the Report of the Commission on Human Rights,

Requests the Secretariat to prepare a documented outline concerning an International Bill of Human Rights; and

Having noted with approval the letter of the Chairman of the Commission on Human Rights to the President of the Economic and Social Council, under date of 24 March 1947, including her statement of intention to appoint immediately a Drafting Committee of the Commission on Human Rights consisting of the members of the Commission on Human Rights for Australia, China, Chile, France, Lebanon, United States, United Kingdom, and the Union of Soviet Socialist Republics, which will be convened prior to the second session of the Commission on Human Rights and prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights

Decides

(a) that the draft prepared by the above-mentioned Drafting Committee be submitted to the second session of the Commission on Human Rights; and

[2]

(b) that the draft as developed by the Commission on Human Rights be submitted to all States, Members of the United Nations, for their observations, suggestions and proposals; and

(c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary by the Drafting Committee; and

(d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and

(e) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948.

E/386/Add.1

28 March 1947

Amendment to Draft Resolution on the Report of the Commission on Human Rights Proposed by the Delegation of Canada

The resolution contained in document E/386 be amended to read:

(e) Further, that the Commission on Human Rights invite a representative of the Commission on the Status of Women to be present when sections of this draft of the

International Bill of Human Rights concerning the particular rights of women are being considered; and

That paragraph (e) be retained as paragraph (f).

In connection with the above, the Delegation of Canada will move the rejection of Paragraph A(3) of the Draft Resolution on the Report of the Commission on the Status of Women. (E/AC.7/18)

E/SR.84

29 March 1947

Summary Record of the Eighty-Fourth Meeting
[of the Economic and Social Council]

Held at Lake Success, New York, on Saturday,
29 March 1947 at 2:30 p.m.

Present: President: Sir Ramaswami Mudaliar (India); Mr. Smith (Canada); Mr. Santa Cruz (Chile); Dr. Chang (China); Mr. Osuna (Cuba); Mr. Papenek (Czechoslovakia); Mr. Mendès-France (France); Mr. Kirpalani (India); Mr. Hakim (Lebanon); Mr. van Kleffens (Netherlands); Mr. Reid (New Zealand); Mr. Moe (Norway); Mr. Arca Parro (Peru); Mr. Turhan (Turkey); Mr. Morozov (Union of Soviet Socialist Republics); Mr. Mayhew (United Kingdom); Mr. Stinebower (United States of America); Mr. Stolk (Venezuela). Secretariat: Mr. Owen; Mr. Stanczyk.

...

[2]

...

Consideration of *the Report of the Commission on the Status of Women (Documents E/AC.7/18; E/AC.7/18/Add.1; E/AC.7/18/Add.1/Rev.1; E/AC.7/18/Add.2; E/AC.7/18/Add.3, and E/386/Add.1)*

In introducing the Soviet amendment (document E/AC.7/18/Add.3) to section A, paragraph 6 (document E/AC.7/18), MR. MOROZOV (Union of Soviet Socialist Republics) emphasized that it expressed much more clearly than the original text the scope and importance of the work of the Commission. From the paragraph as it now stood, the whole conception of political rights seemed to have disappeared, and its indefinite wording did nothing to reflect the aims and principles contained in the report of the Commission on the Status of Women (document E/201/Rev.1). There was no need to limit the sphere of the activities of the Commission, nor was there any purpose in stating didactically with which organizations it should enter into consultation.

MR. PHILLIPS (United Kingdom) pointed out that the present text did nothing to preclude a discussion of political or other rights, but rather widened the area of consideration with the use of the word "opportunities". One could have rights and at the same time not the opportunity to enjoy them.

Decision: The USSR amendment was rejected by the Council.

In connexion with the amendment (document E/386/Add.1) which his delegation proposed should be made to the resolutions on the report of the Commission on Human Rights, MR. HALSTEAD (Canada) brought forward two considerations. First, it was only natural that the Economic and Social Council should instruct the Commission on Human Rights to invite a representative of the Commission on the Status of Women to be present during the drafting of the international bill of rights. Secondly, it was [3] also logical that the representative of the latter Commission should limit her advice to those sections of the bill which dealt specifically with the question of the rights of women.

MR. MOROZOV (Union of Soviet Socialist Republics) opposed the Canadian amendment in principle. There seemed to be a deliberate attempt on the part of certain members of the Council to place the Commission in the position where it would not be able to do anything which it had asked the Council's approval to do. At the meeting on Friday, it had been decided that it should hold only one session a year, and now a request that its officers should participate in the drafting of the International Bill of Rights was being opposed. The Canadian proposal limited the number of its representatives on the Commission on Human Rights to one, and further attempted to guarantee that the representative should express views on no other question but the rights of women. Without the possibility of another meeting this year, the Commission would not be able to formulate its recommendations on the International Bill of Rights nor, in fact, would it be able to nominate its representative to the Commission on Human Rights.

MR. SMITH (Canada) assured the delegate of the Union of Soviet Socialist Republics that his delegation had no desire to refuse the legitimate requests of the Commission, but owing to the fact that so much of its report had been expressed in too broad terms, it had seemed necessary to rephrase and narrow some of its requests. The Commission on Human Rights represented the interests of both men and women: there was therefore no more reason why the point of view of the Commission on the Status of Women should be represented during all of its deliberations than for representatives of, say the Transport and Communications Commission to be present because the problems of transport workers might come under consideration.

It was to be hoped that all organs would have an opportunity to express their views, but it should be remembered that it was the Commission on Human Rights that had been given the task of drafting the preliminary version of the International Bill of Human Rights.

[4]

As a final argument, he pointed out that the representatives of the Union of Soviet Socialist Republics had taken the lead in arguing that members of Commissions should be Government nominees rather than individual experts, in which case the point of view of the Soviet Government could be equally well expressed by its representative on the Commission on Human Rights, as by its representative on the Commission on the Status of Women.

In reply to the Chairman, Mr. Smith (Canada) stated that, on second thought, he had no objection to the Commission on the Status of Women being represented by its three officers.

MR. STINEBOWER (United States of America) was thus able to accept the Canadian amendment, as were also MR. MOE (Norway) and MR. MENDÈS-FRANCE (France).

MR. MOROZOV (Union of Soviet Socialist Republics) pointed out that his statement had not been a proposal, but was simply a reflection of the request made to the Council by the Commission. To ask to be present during the drafting of the Bill of Human Rights was surely a very natural and legitimate claim.

After a short discussion, the President proposed and it was agreed that the following text should be included among the resolutions on the report of the Commission on Human Rights:

“That the Commission on Human Rights invite the officers of the Commission on the Status of Women to be present and to participate without vote in its deliberations at all of its sessions when sections of the draft of the international bill of human rights concerning the particular rights of women are under consideration.”

He further proposed that paragraph A.3 (document E/AC.7/18) be amended to read as follows:

“That the Commission on the Status of Women be represented by its officers (the Chairman, Vice-Chairman and Rapporteur) at all sessions of the Commission on Human Rights at which sections of the draft of the international bill of human rights concerning the particular rights of women are under consideration, to participate, without vote, in the deliberations on such sections”.

Decision: The proposals put forward by the President were adopted by the Council.

...

E/RES/46(IV)¹³⁰

28 March 1947

Draft Declaration on Fundamental Human Rights and Freedoms

The Economic and Social Council,

Pursuant to Resolution No. 43(1) of the General Assembly of 11 December 1946
Transmits the Declaration on Fundamental Human Rights and Freedoms, presented by the Delegation of Panama, and any other draft declarations received from Member States, to the Drafting Committee of the Commission on Human Rights and to the Commission on Human Rights for consideration in their preparation of an International Bill of Human Rights.

...

Report of the Commission on Human Rights

A. Draft International Bill of Rights

...

The Economic and Social Council

Taking note of Chapter II, paragraph 10 of the Report of the Commission on Human Rights,

A. *Requests* the Secretariat to prepare a documented outline concerning an International Bill of Human Rights; and

Having noted with approval the letter of the Chairman of the Commission on Human Rights to the President of the Economic and Social Council, under date of 24 March 1947, including her statement of intention to appoint immediately a Drafting Committee of the Commission on Human Rights consisting of the members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, United States, United Kingdom, and the Union of Soviet Socialist Republics, which will be convened prior to the second session of the Commission on Human Rights and prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights,

Decides

(a) that the draft prepared by the above-mentioned Drafting Committee be submitted to the second session of the Commission on Human Rights; and

¹³⁰ Issued as E/325.

- (b) that the draft as developed by the Commission on Human Rights be submitted to all States Members of the United Nations for their observations, suggestions and proposals; and
- (c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary by the Drafting Committee; and
- (d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and
- (e) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948; and further
- (f) that the Commission on Human Rights invite the officers of the Commission on the Status of Women, the Chairman, the Vice-Chairman and the Rapporteur, to be present and participate without vote in its deliberations when sections of the draft of the International Bill of Rights concerning the particular rights of women are being considered;

...

E/RES/48(IV)¹³¹

29 March 1947

Status of Women

The Economic and Social Council,

Takes note of the Report of the Commission on the Status of Women (document E/281/Rev.1), and

A. Resolves

...

3. That the Commission on the Status of Women be represented by its officers, the Chairman, Vice-Chairman and Rapporteur, at the sessions of the Commission on Human Rights when sections of the draft of the international bill of human rights concerning the particular rights of women are under consideration, to participate, without vote, in the deliberations thereon;

4. That the preliminary draft of the international bill of human rights be circulated to the members of the Commission on the Status of Women at the same time as it is made available to the members of the Commission on Human Rights;

...

¹³¹ Issued as E/425.

E/CN.4/AC.1/2

29 May 1947

Memorandum on the Historical Background of the Committee (Submitted by the Division of Human Rights)

1. At its first session, the Commission on Human Rights decided (Document E/259, pages 2 and 3):

- (a) That the Chairman, together with the Vice-Chairman and the Rapporteur, undertake, with the assistance of the Secretariat, the task of formulating a preliminary draft International Bill of Human Rights, in accordance with the instructions and decisions of the Commission at its first session, to be submitted to the Commission at its second session for thorough examination.
- (b) That the Chairman, in the course of this work, might enlist the co-operation of, and should receive, orally or in writing, any observations and suggestions from, any member of the Commission.
- (c) That the Chairman might consult experts chosen with the consent of their Governments, Members of the United Nations.
- (d) That the Chairman, Vice-Chairman and Rapporteur, in drawing up the preliminary draft of the International Bill of Human Rights, might consult any person or document deemed by them of relevance to their work.
- (e) That, while recognizing that it was not at present in a position to formulate precisely its views concerning the means of enforcement of the rights to be included in the International Bill of Human Rights, it invite the drafting group to explore this field and to study the Australian proposal (E/CN.4/15) and any other [2] documents which had been or might be submitted to it, so that the Commission at its second session might be able to work out proposals on this subject in fulfilment of the duties assigned to it by the Council (*Journal of the Economic and Social Council*, No. 29).

2. At the sixty-eighth plenary meeting of the Economic and Social Council, the delegate for the Union of Soviet Socialist Republics said that his delegation did not agree with the Commission's recommendations on, *inter alia*, the drafting group for the International Bill of Rights, nor with the decision of the Commission giving the work of drafting the Bill of Rights to a small group of experts.

The drafting group, he said, had been set up before any decisions were taken on the actual rights. This made the group's responsibilities much wider than had originally been intended. He stated that in the opinion of his delegation the group was too small and did not include representatives of the European

countries. He suggested that the group should be chosen in accordance with geographic principles, and enlarged from three to five members (Document E/439, pages 2–3).

3. Speaking as Rapporteur of the Commission on Human Rights, Mr. Malik of Lebanon pointed out that the phrase “drafting group” had been used only because no equivalent could be found for the French word “bureau”. He explained that the Commission had merely asked its officers to prepare, in collaboration with the Secretariat, a preliminary draft bill of human rights taking into account all suggestions that had been made during the discussion as well as in many papers and documents that had been submitted to the Commission. Consequently the entire Commission must be considered as a drafting Committee which would eventually submit the draft to the Council (Document E/422, page 4).

4. The delegate for Czechoslovakia agreed with the representative of the Union of Soviet Socialist Republics that the Committee of Three should be increased or that the Commission itself should undertake the [3] drafting of the Bill (Document E/422, page 7).

5. The report of the Commission on Human Rights was referred to the Committee of the Whole on Social Affairs of the Council. It was first discussed at the sixth meeting of this Committee.

A proposal was put forward by the delegate for Czechoslovakia to amend paragraph 10 (a) of Chapter II of the Commission’s report, in order to enlarge the working group in charge of formulating a preliminary draft International Bill of Human Rights. The proposal was adopted by ten votes for, five against, and two abstentions. The delegate for Czechoslovakia suggested that Chile, France, and the Union of Soviet Socialist Republics be included (Document E/AC.7/8, pages 3 and 4).

6. The delegate for Chile proposed that Australia be added to the list of States suggested by the delegate for Czechoslovakia. This proposal was seconded by the delegate for Peru (Document E/AC.7/8, page 4).

7. A draft resolution was proposed by the delegation of Canada and amended at the suggestion of the delegate for China to read as follows (Document E/AC.7/8, page 4):

“That, prior to the meeting of the Drafting Committee, the Secretariat, under the supervision of the officers of the Commission on Human Rights, prepare a draft International Bill of Human Rights and circulate such draft to the Members of the United Nations for their observations and comments.”

This resolution was adopted by the Committee. However, the delegate for the Union of Soviet Socialist Republics thought that the Czechoslovakian and Canadian amendments, as adopted, were contradictory. The Committee decided to re-examine the matter at a later meeting.

8. At the eighth meeting of the Committee of the Whole on Social Affairs, the delegate for France introduced a draft resolution proposing a procedure for the drafting of the International Bill of Human Rights (Document E/AC.7/13, pages 6 and 7). A revised Canadian proposal on the [4] same subject was also introduced (Document E/AC.7/13, page 7).

9. The delegate for the Union of Soviet Socialist Republics pointed out that the Committee had adopted the Czechoslovakian proposal. Because it had done so, and because its decision could not be reversed, he did not think that the Canadian proposal should be considered. He was supported by the delegate for the Byelorussian Soviet Socialist Republic.

The Chairman ruled that the French draft resolution should be considered first. The delegate for the Union of Soviet Socialist Republics said that the French proposal would be acceptable to his delegation if a suggestion made by the Czechoslovakian delegation, altering the order of the paragraphs, were accepted; and if provision were made that the Council should prepare the final draft for submission to the General Assembly.

The delegate for France accepted the Czechoslovakian amendment, and the French and Canadian proposals were referred to a drafting committee consisting of the representatives of Czechoslovakia, France, and the United States of America (Document E/AC.7/13, pages 8–10).

10. A draft resolution prepared by this Committee (E/AC.7/12) was considered at the tenth meeting of the Social Committee on 23 March. It proposed, *inter alia*, the establishment of a temporary Sub-Commission consisting of the Members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, to be convened prior to the second session of the Commission on Human Rights and to prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights. No decision was taken on the proposal at this meeting (E/AC.7/20).

11. On 24 March a letter was received by the President of the Council from the Chairman of the Commission on Human Rights (Document E/383). In this letter the Chairman of the Commission recognized the fact that, according to information she had received, a majority of the members of [5] the Council had indicated a desire for the appointment of a special body within the framework of the Commission on Human Rights which would undertake to prepare a preliminary draft of the proposed International Bill of Human Rights and would assist the Commission in carrying out its responsibilities in this field.

The Chairman wrote:

“As you know, the Commission on Human Rights itself voted that all members of the Commission should be consulted in the preparation of the draft declaration of Human

Rights. It had of course, always been my intention to take advantage of the advice of other members of the Commission at all stages of the work and I can see no important inconsistency between the suggestion of the Social Committee and the procedure that we intended to follow. I shall, of course, be assisted by the suggestions of this Committee as to the members of the Commission who should be consulted, and in the light of the discussions which have taken place, I shall be pleased, acting as Chairman of the Commission on Human Rights, to appoint immediately a Drafting Committee composed of the Members of the Commission on Human Rights for Australia, China, Chile, France, Lebanon, United States, United Kingdom, and the Union of Soviet Socialist Republics.

“It is my understanding that this Drafting Committee would meet prior to the next session of the Commission and prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights. I furthermore concur in the recommendation of the Social Committee of the Whole that the following procedure be adopted in preparing the International Bill of Human Rights.

“(a) that the draft prepared by the Drafting Committee be submitted to the second session of the Commission on Human Rights; and

[6]

“(b) that the draft as developed by the Commission on Human Rights be submitted to all States, Members of the United Nations, for their observations, suggestions and proposals; and

“(c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary, by the Drafting Committee; and

“(d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and

“(e) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948.”

12. On 25 March, the drafting committee of the Council’s Committee of the Whole on Social Affairs submitted a draft resolution to this Committee (Document E/AC.7/15, pages 14–15). With a few alterations, this draft resolution was approved by the Committee on 27 March (Document E/386), and adopted by the Economic and Social Council on 28 March (Document E/325, pages 2 and 3). The final resolution, after taking note of Chapter II, paragraph 10 of the Report of the Commission on Human Rights,

“*Requests* the Secretariat to prepare a documented outline concerning an International Bill of Human Rights; and

“*Having noted* with approval the letter of the Chairman of the Commission on Human Rights to the President of the Economic and Social Council, under date of 24 March 1947, including the statement of her intention to appoint immediately a Drafting Committee of the Commission on Human Rights consisting of the Members for Australia, Chile, China, France, Lebanon, United States, United Kingdom, and the Union of Soviet Socialist Republics, which will be convened prior to the second session of the Commission on

Human Rights and [7] prepare, on the basis of documentation supplied by the Secretariat a preliminary draft of an International Bill of Human Rights.

“Decides

“(a) that the draft prepared by the above-mentioned Drafting Committee be submitted to the second session of the Commission on Human Rights; and

“(b) that the draft as developed by the Commission on Human Rights be submitted to all States Members of the United Nations for their observations, suggestions and proposals; and

“(c) that these observations, suggestions and proposals then be considered as a basis of a redraft, if necessary by the Drafting Committee; and

“(d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and

“(e) that the Council consider the proposed International Bill of Human Rights as submitted by the Commission on Human Rights with a view to recommending an International Bill of Human Rights to the General Assembly in 1948; and further

“(f) that the Commission on Human Rights invite the officers of the Commission on the Status of Women, the Chairman, the Vice-Chairman and the Rapporteur, to be present and participate without vote in its deliberations when sections of the draft of the International Bill of Rights concerning the particular rights of women are being considered.”

13. The Chairman of the Commission on Human Rights, by letter dated 8 April, appointed the members of the Drafting Committee of eight, and proposed that the Committee meet at Lake Success on 9 June for its first session.

E/CN.4/AC.1/3

4 June 1947

Draft Outline of International Bill of Rights (prepared by the Division of Human Rights)

[2]

The Preamble shall refer to the four freedoms and to the provisions of the Charter relating to human rights and shall enunciate the following principles:

1. that there can be no peace unless human rights and freedoms are respected;
2. that man does not have rights only; he owes duties to the society of which he forms part;
3. that man is a citizen both of his State and of the world;
4. that there can be no human dignity unless war and the threat of war is abolished.

Article 1

Everyone owes a duty of loyalty to his State and to the (international society) United Nations. He must accept his just share of responsibility for the performance of such social duties and his share of such common sacrifices as may contribute to the common good.

Article 2

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the State and of the United Nations.

Article 3

Everyone has the right to life. This right can be denied only to persons who have been convicted under general law of some crime to which the death penalty is attached.

Article 4

No one shall be subjected torture, or to any unusual punishment or indignity.

Article 5

Everyone has the right to personal liberty.
[3–4]

Article 6

No one shall be deprived of his personal liberty save by a judgment of a court of law, in conformity with the law and after a fair public trial at which he has had an opportunity for a full hearing, or pending his trial which must take place within a reasonable time after his arrest. Detention by purely executive order shall be unlawful except in time of national emergency.

Article 7

Everyone shall be protected against arbitrary and unauthorized arrest. He shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.

Article 8

Slavery and compulsory labour are inconsistent with the dignity of man and therefore prohibited by this Bill of Rights. But a man may be required to perform his just share of any public service that is equally incumbent upon all, and his right to a

livelihood is conditioned by his duty to work. Involuntary servitude may also be imposed as part of a punishment pronounced by a court of law.

Article 9

Subject to any general law adopted in the interest of national welfare or security, there shall be liberty of movement and free choice of residence within the borders of each State.

Article 10

The right of emigration and expatriation shall not be denied.

Article 11

No one shall be subjected to arbitrary searches or seizures, or to unreasonable interference with his person, home, family relations, reputation, privacy, activities, or personal property. The secrecy of correspondence shall be respected.

[5–6]

Article 12

Everyone has the right to a legal personality. No one shall be restricted in the exercise of his civil rights except for reasons based on age or mental condition or as a punishment for a criminal offence.

Article 13

Everyone has the right to contract marriage in accordance with the laws of the State.

Article 14

There shall be freedom of conscience and belief and of private and public religious worship.

Article 15

Everyone has the right to form, to hold, to receive and to impart opinions.

Article 16

There shall be free and equal access to all sources of information both within and beyond the borders of the State.

Article 17

Subject only to the laws governing slander and libel, there shall be freedom of speech and of expression by any means whatsoever, and there shall be reasonable access to all channels of communication. Censorship shall not be permitted.

Article 18

There exists a duty towards society to present information and news in a fair and impartial manner.

[7–8]

Article 19

There shall be freedom of peaceful assembly.

Article 20

There shall be freedom to form associations for purposes not inconsistent with this Bill of Rights.

Article 21

Everyone has the right to establish educational institutions in conformity with conditions laid down by the law.

Article 22

Everyone has a right to own personal property.

His right to share in the ownership of industrial, commercial and other profit-making enterprises is governed by the law of the State within which such enterprises are situated.

The State may regulate the acquisition and use of private property and determine those things that are susceptible of private appropriation.

No one shall be deprived of his property without just compensation.

Article 23

No one shall be required to pay any tax or be subjected to any public charge that has not been imposed by the law.

Article 24

There shall be equal opportunity of access to all vocations and professions not having a public character.

[9–10]

Article 25

Everything that is not prohibited by law is permitted.

Article 26

No one shall be convicted of crime except by judgment of a court of law, in conformity with the law, and after a fair trial at which he has had an opportunity for a full public hearing.

Nor shall anyone be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence, nor be subjected to a penalty greater than that applicable to at the time of the commission of the offence.

Article 27

There shall be access to independent and impartial tribunals for the determination of rights and duties under the law.

Everyone has the right to consult with and to be represented by counsel.

Article 28

Everyone has the right, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievances.

Article 29

Everyone has the right, either individually or with others, to resist oppression and tyranny.

Article 30

Everyone has the right to take an effective part in the government of the State of which he is a citizen. The State has a duty to conform to the wishes of the people as manifested by democratic elections. Elections shall be periodic, free and fair.

Article 31

Everyone shall have equal opportunity of access to all public functions in the State of which he is a citizen.

[11–12]

Appointments to the civil service shall be by competitive examination.

Article 32

Everyone has the right to a nationality.

Everyone is entitled to the nationality of the State where he is born unless and until on attaining majority he declares for the nationality open to him by virtue of his descent.

No one shall be deprived of his nationality by way of punishment or be deemed to have lost his nationality in any other way unless he concurrently acquires a new nationality.

Everyone has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another State.

Article 33

No alien who has been legally admitted to the territory of a State may be expelled therefrom except in pursuance of a judicial decision or recommendation as a punishment for offences laid down by law as warranting expulsion.

Article 34

Every State shall have the right to grant asylum to political refugees.

Article 35

Everyone has the right to medical care. The State shall promote public health and safety.

Article 36

Everyone has the right to education.

Each State has the duty to require that every child within its territory receive a primary education. The State shall maintain adequate and free facilities for such education. It shall also promote facilities for higher education without distinction as to the race, sex, language, religion, class or wealth of the persons entitled to benefit therefrom.

[13–14]

Article 37

Everyone has the right and the duty to perform socially useful work.

Article 38

Everyone has the right to good working conditions.

Article 39

Everyone has the right to such equitable share of the national income as the need for his work and the increment it makes to the common welfare may justify.

Article 40

Everyone has the right to such public help as may be necessary to make it possible for him to support his family.

Article 41

Everyone has the right to social security. The State shall maintain effective arrangements for the prevention of unemployment and for insurance against the risks of unemployment, accident, disability, sickness, old age and other involuntary or undeserved loss of livelihood.

Article 42

Everyone has the right to good food and housing and to live in surroundings that are pleasant and healthy.

Article 43

Everyone has the right to a fair share of rest and leisure.

Article 44

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.

Article 45

No one shall suffer any discrimination whatsoever because of race, sex, language, religion, or political creed. There shall be full equality before the law in the enjoyment of the rights enunciated in this Bill of Rights.

[15–16]

Article 46

In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right to establish and maintain, out of an equitable proportion of any public funds available for the purpose, their schools and cultural and religious institutions, and to use their own language before the courts and other authorities and organs of the State and in the press and in public assembly.

Article 47

It is the duty of each member State to respect and protect the rights enunciated in this Bill of Rights. The State shall, when necessary, co-operate with other States to that end.

Article 48

The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and of the national law of each of the member States

of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.

E/CN.4/AC.1/4

5 June 1947

**Text of Letter from Lord Dukeston,¹³² the United Kingdom
Representative on the Human Rights Commission, to the
Secretary-General of the United Nations**

1. I have the pleasure of transmitting to you herewith, to be laid before the Drafting Committee of the Commission on Human Rights the following documents:

- (a) A draft International Bill of Human Rights.
- (b) A draft resolution which might be passed by the General Assembly when adopting an International Bill of Rights.

2. It is suggested that the International Bill of Rights should be prepared in the form of an instrument which would be approved by the Assembly and submitted to Governments for accession by members of the United Nations, by states parties to the Statute of the International Court of Justice, and by any other state whom the General Assembly of the United Nations shall, by resolution, declare to be eligible. The draft Bill itself requires little explanation. It is intended to contain an enumeration of the Human Rights and fundamental freedoms, provisions as regards execution and enforcement, and certain formal provisions which necessarily accompany the bringing of the Bill into force. The draft Assembly Resolution deals with a number of secondary matters which will assist in the execution of the Bill, but which should be approved in a form which will allow for relatively simple amendment and adaptation. The proposals in the resolution regarding the furnishing of information by signatory States are of considerable importance in this respect.

3. It is understood that the purpose of the Drafting Committee is to produce texts for the consideration of the Human Rights Commission, and that [2] the texts

¹³² Charles Dukes, a British labour leader who had represented his country at the first session of the Commission, became Baron Dukeston of Warrington on 1 April 1947.

submitted by the Drafting Committee, being the result of the combined efforts of its members working for this purpose, will not bind any delegation which has taken part in the work of the Drafting Committee. In submitting the attached draft Bill and Assembly Resolution the United Kingdom representative is making suggestions for the assistance of the Drafting Committee, and the draft must not be taken as representing the final views of His Majesty's Government in the United Kingdom either as regards the provisions which are contained in the United Kingdom drafts or as regards any matters which are not contained in those drafts.

Draft of Resolution of General Assembly when Adopting the International Bill of Rights

I.

1. Whereas it is a purpose of the United Nations to achieve international co-operation as a means of encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion; and

2. Article 13 of the Charter provides that the General Assembly shall initiate studies and make recommendations for the purpose of assisting in the realization of the said human rights and fundamental freedoms;

II.

1. Whereas, in conformity with Article 68 of the Charter, the Economic and Social Council set up a Commission to study and recommend measures for the promotion of human rights: and

2. The said Human Rights Commission has reported and recommended the acceptance by all members of an International Bill of Human Rights;

III.

1. Whereas it is also an aim of the United Nations as defined in its Charter to achieve international co-operation in solving international problems of an economic, social, cultural and humanitarian character and to achieve social progress and better standards of life in larger freedom; and

[3]

2. It is through measures taken through the instrumentality of the Economic and Social Council and its organs and through specialized agencies in relationship with the United Nations that the United Nations is seeking to establish international co-operation for the achievement of this aim; and

3. It is through the international co-operation so established that the United Nations can most effectively assist the realization of the right of all persons to work, to education, to social security and similar social and economic rights, which cannot by their nature be defined in the form of legal obligations for states in an instrument such as the International Bill of Rights;

IV.

The General Assembly expresses the opinion that human rights and fundamental freedoms can only be completely assured by the application of the rule of law and by the maintenance in every land of a judiciary, fully independent and safeguarded against all pressure, and that the provisions of an International Bill of Rights cannot be fulfilled unless the sanctity of the home and the privacy of correspondence are generally respected and unless at all trials the rights of the defence are scrupulously respected, including the principle that trials shall be held in public and that every man is presumed innocent until he is proved guilty.

V.

Considering also that the promotion of human rights and fundamental freedoms will be assisted by full and accurate information on the position in every land with regard to these matters, and that such information should be published by the United Nations under conditions which will best guarantee its objectivity.

The General Assembly entrusts this function to the Commission for Human Rights and requests the Economic and Social Council to reconsider the terms of reference of the said Commission, having regard to the principles and directives set forth in Annex 2.

[4]

VI.

Considering further that it is by defining human rights and fundamental freedoms and placing them under the protection of international law and the guarantee of the United Nations that the dignity and worth of the human person will be best secured.

The General Assembly approves the International Bill of Rights which forms Annex 1 to the present Resolution and recommends that all members should accept the obligations thereof.

[5]

Annex 1

International Bill of Human Rights

Preamble

1. Whereas the peoples of the United Nations have reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person;

2. Whereas it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion;

3. Whereas all men are members of communities and as such have the duty to respect the rights of their fellow men equally with their own;

4. Whereas the just claims of the state, which all men are under a duty to accept, must not prejudice the respect of man's right to freedom and equality before the law and the safeguard of human rights, which are primary and abiding conditions of all just government;

5. Whereas the denial of human rights and fundamental freedoms endangers the general welfare and friendly relations among nations and the enjoyment of such rights and freedoms by all persons must be secured by international law and protected by the organized community of states;

6. Whereas it is expedient to define more exactly the aforesaid human rights and fundamental freedoms and to make provision for their universal observance and protection;

Now therefore the States parties to this International Bill of Rights have accepted the following provisions:

Part I

Article 1

The State parties hereto declare that they recognize the principles set forth in Part II of this Bill as human rights and fundamental freedoms founded on the general principles of law recognized by civilized nations.

[6]

Comment to Article 1

The phrase at the end of this Article comes from Article 38(1)(c) of the Statute of the International Court of Justice. This phrase in the Statute of the Court is with justification considered by many commentators to represent the same principle as the phrases "law of nature" and "*jus gentium*" which play so great a part in the early development of international law. The conceptions both of the "law of nature" and

“*jus gentium*” have also played a considerable part in the conception of the fundamental rights of man.

Article 2

Every state is, by international law, under an obligation to ensure:

- (a) that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless, the enjoyment of these human rights and fundamental freedoms:
- (b) that any person whose rights or freedoms are violated should have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity:
- (c) that such remedies shall be enforceable by a judiciary whose independence is secured: and
- (d) that its police and executive officers should act in support of the enjoyment of these rights and freedoms.

Comment to Article 2

Proposals that the provisions of the Bill of Rights should be embodied in the constitutions of states parties to the Bill, or otherwise consecrated by special constitutional guarantees, are not practicable for all countries. Some countries, like the United Kingdom, have no rigid constitution and, as a matter of internal law, it is not possible to surround any provision with any special constitutional guarantee. No enactment can be given a greater authority than an Act of Parliament, and one Act of Parliament can repeal any other Act of Parliament. Therefore, the legal provisions which safeguard human rights can only have as their special [7] safeguard the solemn international obligations undertaken in this Bill, together with the firm foundation which these principles have in the deepest convictions of Parliament and the people.

Article 3

On receipt of a request to this effect from the Secretary-General of the United Nations, made under the authority of a resolution of the General Assembly,^{*} the governments of any party to this Bill will supply an explanation, certified by the highest legal authorities of the state concerned, as to the manner in which the law of that state gives effect to any of the said provisions of this Bill of Rights.

Comment to Article 2 (a) and Article 3

The expression “law” is used in this draft as equivalent to the word “droit” that is, anything a court will enforce including statute law, regulations and common or customary law.

Article 4

1. In time of war or other national emergency, a state may take measures derogating from its obligations under Article 2 above to the extent strictly limited by the exigencies of the situation.

2. Any state party hereto availing itself of this right of derogation shall inform the Secretary-General of the United Nations fully of the measures which it has thus enacted and the reasons therefor. It shall also inform him as and when the measures cease to operate and the provisions of Article 2 are being fully executed.

Article 5

A failure by any state party hereto fulfil the obligations under Article 2 is an injury to the community of states and a matter of concern to the United Nations as the community of states organized under the rule of law.

Comment to Article 5

This Article is meant to apply to failures of a substantial

[*] *Comment:* Section V of the draft resolution to which this Bill is Annex 1 is intended to provide this authority.

[8]

character. It is not intended to apply to failures of a trivial or technical character.

Article 6

1. While declaring their readiness to consider the adoption of further procedures designed to strengthen the international protection of fundamental human rights and freedoms, the states parties hereto accept the right of any of them, acting in the interests of the community of states, to bring to the attention of the General Assembly of the United Nations any violation by any of them of the provisions of this Bill of Rights as constituting a situation likely to impair the general welfare or friendly relations amongst nations and as a violation of the purposes and principles of the United Nations within the meaning of Article 14 of the Charter.

2. Any party hereto which is thus alleged to have violated the provisions of this Bill of Rights shall have the right to request the General Assembly to obtain the advisory opinion of the International Court of Justice thereon and to refrain from taking any further action on the matter until this opinion has been obtained, and if such a request is made the parties hereto agree that they are bound to support the request.

Comment to Article 6

It would be possible to insert here an additional provision under which all parties to this Bill would agree that in the event of any alleged violation of the Bill being

brought before the General Assembly they would support a proposal that the matter should first be considered by a committee composed only of members of the United Nations who are parties to the Bill.

Article 7

The parties hereto agree that anyone of them which is found by a Resolution of the General Assembly adopted by a two-thirds majority [9] persistently to have violated the provisions of this Bill of Rights should be deemed to have violated the principles of the Charter of the United Nations and therefore be liable to expulsion from the organization under Article 6 of the Charter.

Part II

Definition of Human Rights and Fundamental Freedoms

Article 8

It shall be unlawful to deprive any person of his life save in the execution of the sentence of a court following on his Conviction of a crime for which this penalty is provided by law.

Article 9

1. No form of slavery shall be permitted.
(A text on the subject of compulsory labour will be inserted here later.)

Article 10

1. No person shall be deprived of his liberty save by an arrest which is effected for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or which is reasonably considered to be immediately necessary to prevent his committing a crime or breach of the peace.

2. Every person arrested and detained shall be brought without delay before a judge who shall either try the case or decide, after hearing evidence, whether there is sufficient case to justify that person's trial and if so whether his liberty shall be restored to him on bail.

3. The period of detention pending trial shall not be unreasonably prolonged.

4. The preceding provisions of this Article do not apply to (i) the lawful detention of a person sentenced after conviction to deprivation of liberty or (ii) lawful detention of persons of unsound mind or (iii) the lawful custody of minors or (iv) the lawful arrest and detention of a person [10] to prevent his effecting an unauthorized entry into the country.

5. Every person who is deprived of his liberty shall have an effective remedy in the nature of “*Habeas corpus*” by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not justified.

6. Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

Article 11

Every person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country including his own.

Comment to Article 11

There may also be other outstanding obligations such as those relating to taxation or the maintenance of dependents, of which account should be taken here.

Article 12

No person shall be held guilty of any offence on account of acts or omissions which did not constitute such an offence at the time when they were committed.

Article 13

1. Every person shall be free to hold any religious or other belief dictated by his conscience and to change his belief.

2. Every person shall be free to practise, either alone or in community with other persons of like mind, any form of religious worship and observance, subject only to such restrictions, penalties or liabilities as are strictly necessary to prevent the commission of acts which offend laws passed in the interests of humanity and morals, to preserve public order and to ensure the rights and freedoms of other persons.

[11]

3. Subject only to the same restrictions, every person of full age and sound mind shall be free to give and receive any form of religious teaching and to endeavour to persuade other persons of full age and sound mind of the truth of his beliefs, and in the case of a minor the parent or guardian shall be free to determine what religious teaching he shall receive.

Article 14

1. Every person shall be free to express and publish his ideas orally, in writing, in the form of art, or otherwise.

2. Every person shall be free to receive and disseminate information of all kinds, including both facts, critical comment and ideas by books, newspapers, or oral instruction, and by the medium of all lawfully operated devices.

3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; [publications aimed at the suppression of human rights and fundamental freedoms]; publications injurious to the independence of the judiciary or the fair conduct of legal proceedings; and expressions or publications which libel or slander the reputations of other persons.

Comment to Article 14

The fundamental provisions of the Bill of Rights relating to freedom of speech and information will be completed by other agreements, resulting from the work of the sub-committee on Freedom of Information and the international conference on the subject.

Comment to Article 14 (3)

- (a) The provision in paragraph 3 above, recognizing the right of Governments to impose the necessary restrictions, penalties [12] or liabilities on publications likely or intended to incite persons to alter by violence the system of Government, is to be interpreted as strictly confined to such publications as advocate the use of violence, and does not apply to publications advocating a change of government or of the system of Government by constitutional means.
- (b) Some doubt is felt as to the suitability of the words “publications aimed at the suppression of human rights and fundamental freedoms” from the point of view of drafting. It may be that these words afforded a wider power for the limitation of freedom of publication than is necessary or desirable. On the other hand it may be said that it would be inconsistent for a Bill of Rights whose whole object is to establish human rights and fundamental freedoms to prevent any Government, if it wished to do so, from taking steps against publications whose whole object was to destroy the rights and freedoms which it is the purpose of the Bill to establish. In the last analysis, perhaps, the best definition of a Nazi or Fascist regime is that it is a regime which does not recognize the dignity and worth of the human person and permit individuals to enjoy human rights and fundamental freedoms.
- (c) In any case it will be observed that no Government is obliged by the Bill to make use of the powers of limitation which are provided in paragraph 3.

Article 15

All persons shall have the right to assemble peaceably for any lawful purpose including the discussion of any matter, on which under Article 14 any person has the right to express and publish his ideas. No restrictions shall be placed on the exercise of this right other than those necessary for the protection of life and property and to prevent disorders, the obstruction of traffic and of the free movement of others.

[13]

Article 16

All persons shall be free to constitute associations, in whatever form may be appropriate under the law of the state, for the promotion and protection of their legitimate interests and of any other lawful object, including the dissemination of all information of which under Article 14 the dissemination is unrestricted. The rights and freedoms set forth in Articles 13 and 14 shall be enjoyed by such associations.

Comment to Article 16

The word “associations” is here used as the widest possible term and is intended to include the creation of entities having juridical personality.

Comment to Part II

This part of this Bill will be completed by provisions prohibiting distinctions based on race, sex, language and religion. No attempt is made to draft these provisions in advance of the reports of the subcommittee on Discrimination and Minorities and also of the Commission on the Status of Women. In any case, Part II as drafted above in fact provides for absence of discrimination seeing that it uses the words “all persons”. (See also Article 2 (a) of Part I: “all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless”.)

Part III*Article 17*

1. This Bill of Rights is submitted, for the purpose of accession thereto, to every member of the United Nations, to every state party to the Statute of the International Court of Justice and to every other state whom the General Assembly of the United Nations shall, by resolution, declare to be eligible.

2. Accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations and the Bill of Rights shall come [14] into force as soon as . . . * states members of the United Nations have deposited such instruments

as regards those states and thereafter as regards each party on the date of the deposit of its instrument of accession.

3. Every deposit of an instrument of accession shall be accompanied by a statement that this Bill had been approved in accordance with the constitutional processes of the state concerned for the acceptance of the obligations of a treaty and by a solemn declaration made by the government of the state concerned that full and complete effect to the provisions of Part II is given by the law of that state.

4. The Secretary-General shall inform all members of the United Nations and the other states referred to in paragraph 1 above of the deposit of each instrument of accession.

Article 18

1. Amendments to this Bill of Rights shall come into force when they have been adopted by a vote of two-thirds of the members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two-thirds of the parties to this Bill.

2. When such amendments come into force they shall be binding on those parties which have ratified them, leaving other parties still bound by the provisions of the Bill which they have accepted by accession including earlier amendments which they have ratified.

[*] *Comment:* The number to be given here should not be less than two-thirds of the members of the United Nations.

[15]

Annex 2

1. All information published by the United Nations relating to human rights should be approved by the Commission for Human Rights before publication. The Commission should be guided in this matter by the principle that accuracy and objectivity in information published is the first essential.

2. Before any information relating to the position in any particular state is published, it should be transmitted to the government of that state which should be given a reasonable time in which to make any comments thereon which it desires. If the government makes any comments and the Commission decides that publication of this information is nevertheless desirable, these comments should be published, together with the information to which they relate.

3. By careful study and selection, the Commission should endeavour to reduce the frequency of the occasions when it transmits information to governments for comments and also the volume thereof.

4. Any explanations transmitted to the Secretary-General under Part 1, Article 3 of the Bill of Rights and information given to the Secretary-General under Article 4(2) will be published automatically. Requests to governments for explanations under Article 3 of Part I shall be made on a decision of the Commission approved by the Economic and Social Council.

5. The Commission should consider the desirability of appointing an expert committee to assist it in the performance of these functions.

Comment on Annex 2

As Section V in the draft Resolution shows, it is proposed to leave to the Economic and Social Council the task of reviewing the terms of reference of the Commission on Human Rights in the light of the provisions of the Bill. Since the first task of the Commission under its existing terms of reference was the preparation of the draft Bill, it is obvious [16] that when the Bill comes into operation, the Commission must act under new terms of reference which will be drawn up having particular regard to the provisions of the Bill. All that the draft Assembly Resolution does is to lay down certain provisions which must in any case be included in the future terms of reference. The Economic and Social Council would have to consider the manner in which petitions on Human Rights questions received by the Secretary-General should be dealt with and whether, and if so under what conditions, they should be passed to the Commission. Experience of the minorities procedure of the League of Nations has shown that this is a question which requires very mature consideration and that inappropriate procedure may tend to damage rather than further the advancement of Human Rights. In any case, it is suggested that provisions on these matters should not be included in the Bill itself, as such provisions should be capable of easy adaptation and amendment.

E/CN.4/AC.1/6

6 June 1947

**Communications Received Requesting the Inclusion
of Certain Specific Provisions in the International
Bill of Rights**

Several communications have been received from Non-Governmental Organizations and Individuals requesting that certain specific provisions should be included in the International Bill of Rights. The substance of most of these communications has

already been included in the documented outline prepared by the Secretariat. A précis of each communication is given below and the appropriate Article quoted in each case.

The communications are listed under the following headings, subdivided according to the source of the communication: (Non-Governmental Organization or Individual).

1. General Comments
2. Right to Life (Cf. Article 3)
3. Freedom of Movement (Cf. Article 9)
4. Freedom of Conscience and of Religion (Cf. Article 14)
5. Prevention of Discrimination (Cf. Article 45)
6. Women's Rights (Cf. Article 45)
7. Right to a Nationality (Cf. Article 32)

1. General Comments

Communications received from National Non-Governmental Organizations:

United States of America

American Law Institute

Letter, dated 9 May 1946, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

[2]

Subject: Summary of the views of the drafting committee of the Statement of Essential Rights of the American Law Institute emphasizing the importance of having a clear definition of human rights.

*Philadelphia Archdiocesan Holy Name Union*¹³³

Letter, dated 10 March 1947, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

Subject: Resolution emphasizing the importance of drafting a complete and comprehensive Bill of Rights.

¹³³ The National Association of the Holy Name Society exists in order to promote the mission of the Catholic Church and assist the members of the various Holy Name Societies.

*World Citizenship Movement*¹³⁴

Letter, undated, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

Subject: Advocation that a World Bill of Rights be adopted soon, guaranteeing to every individual certain basic human rights and suggesting that machinery be set up within the United Nations for its implementation.

2. Right to Life (Article 3)

“Everyone has the right to life. This right can be denied only to persons who have been convicted under general law of some crime to which the death penalty is attached.”

*Communications from National Non-Governmental Organizations**Argentina**Comite permanente de Relaciones Espiritualistas*¹³⁵

Letter, dated 8 February 1947, addressed to the Secretary-General.

Subject: Request that capital punishment be made unlawful in those countries where it still exists as any form of violent death is un-Christian.

3. Freedom of Movement (Article 9)

“Subject to any general law adopted in the interest of national welfare or security, there shall be liberty of movement and free choice [3] of residence within the borders of each State.”

*Communications received from Individuals.**In the United States of America*

Letter, dated 4 August 1946, from Evanston, Illinois, addressed to Dr. J. Humphrey, Director of the Division of Human Rights.

Subject: Request that a “fifth freedom”, the freedom of migration be granted to citizens of all nations.

Letter, dated 9 January 1947, from Minnesota, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

¹³⁴ The World Citizenship Movement advocated for world or international citizenship, rather than national citizenship. From 1 January 1949 to 1 January 1951, the World Citizenship Movement gained the support of over 750,000 individuals from 150 different countries who declared world citizenship.

¹³⁵ The Comite Permanente de Relaciones Espirituales (Permanent Committee on Spiritual Relations) is a South American Christian organization based in Argentina.

Subject: Suggestion that freedom of movement should be included in the Bill of Rights, with special emphasis on the right of any individual to emigrate from a country where conditions have become unbearable to him.

4. Freedom of Conscience and Religion (Article 14)

“There shall be freedom of conscience and belief, and of private and public religious worship.”

Communications received from International Non-Governmental Organizations

*Commission of the Churches on International Affairs*¹³⁶

Letter, dated 4 March 1947, addressed to Dr. Humphrey, Director, Human Rights Division.

Subject: Expression of the desire of the Commission of the Churches on International Affairs to co-operate with the Human Rights Commission in drafting the Bill of Rights.

Enclosure: Memorandum on Provisions for Religious Liberty in an International Bill of Rights.

Religious liberty should be interpreted in the International Bill of Rights to include all the rights and freedoms necessary to the full exercise of religion, either by a detailed statement enumerating all the rights and freedoms pertaining to religion, or by a broad statement wherein their [4] recognition will be understood by implication.

The Bill of Rights should indicate further the relationship between provisions relating specifically to religious liberty, and provisions for such other rights and freedoms as are significant for the exercise of religious liberty.

References are given from the reports of conferences of the World Council of Churches¹³⁷ and the International Missionary Council,¹³⁸ and from the Statement on Religious Liberty, adopted by the Federal Council of the Churches of Christ in America¹³⁹ and the Foreign Conference of North America.¹⁴⁰

¹³⁶ The Commission of the Churches on International Affairs, founded in 1946, offers advice on policy and peace-making efforts with regards to religious conflict and the intersection of religion and political affairs. It is comprised of experts in the field of religion nominated by churches and ecumenical organizations, and meets every eighteen months to review policy and current global issues.

¹³⁷ The World Council of Churches is a fellowship of 349 churches whose mission is to foster Christian unity, as well as support and promote service, evangelism and worship.

¹³⁸ The International Missionary Council, founded in 1921, is a movement associated with the World Council of Churches whose main focus is promoting the Christian mission.

¹³⁹ The Federal Council of the Churches of Christ in America was an official federation of several evangelical Protestant churches in the United States existing between 1894 and 1952.

¹⁴⁰ The Foreign Missions Conference of North America, existing from 1887 to 1951, was a voluntary cooperative association of various mission boards of Canada and the United States.

*War Resisters' International*¹⁴¹

Letter, dated 25 March 1947, addressed to the Secretariat of the Commission on Human Rights.

Subject: Plea for the inclusion of a specific provision in the International Bill of Rights relating to conscientious objectors, granting the right to refuse military service in obedience to conscience.

Communications received from Individuals*In the United States of America*

Letter, dated 23 December 1946, from Andover, Massachusetts, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

Subject: Suggestion that in the Bill of Rights the rights of free thinkers should be protected. This protection should be in the form of an explicit declaration guaranteeing rights to free thinkers and anti-supernaturalism equal to those granted to religious persons and religion.

5. Prevention of Discrimination (Article 45)

No one shall suffer any discrimination whatsoever because of race, sex, language, religion, or political creed. There shall be full equality [5] before the law in the enjoyment of the rights enunciated in this Bill of Rights.

Communications received from Non-Governmental Organizations*International Organizations**Nordic Authors' Conference*¹⁴²

Letter, dated 30 November 1946, addressed to the Secretary-General.

Subject: Support for those clauses of the draft declaration on an international Bill of Rights submitted by the Delegations of Panama, Cuba, India, which deal with racial persecution and national and religious persecution.

National Organizations*Argentina**Hebrew Society of Argentina*

Cable, dated 7 November 1946, addressed to M. Spaak, President of the General Assembly.

¹⁴¹ War Resisters International is a network of independent organizations founded in 1921 under the name "Paco". Its activities include the promotion of non-violent action against the causes of war and various publications offering news and information on non-violence.

¹⁴² The Nordic Authors Conference falls under the umbrella of The Nordic Writers Guild. Founded in 1941, it was developed as an antifascist front.

Subject: Request that the United Nations should adopt an international convention declaring racial and anti-semitic demonstrations and all activities harmful to religious freedom, criminal and punishable.

6. *Women's Rights (Article 45 See above paragraph 5)*

Communications received from International Non-Governmental Organizations

*Liaison Committee of Women's International Organizations*¹⁴³

Letter, dated 7 February 1947, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

Subject: Request that "equality of persons of both sexes" be included in the Bill of Rights.

Expression of the hope that the opinion of the Liaison Committee and its affiliated Organizations will be considered by the Drafting Committee.

[6]

*St. Joan's Social and Political Alliance*¹⁴⁴

Memorandum, dated 26 April 1947, submitted to the Commission on Human Rights.

Subject: Request that the following points specifically relating to women's rights be included in the Bill of Rights.

1. No child or woman, whatever her race, shall be treated as a chattel to be sold by her father or alleged proprietor.

2. Every woman shall be permitted to choose her own partner in life despite any contract entered into in her name by any other person.

3. No marriage contract shall be made for any girl under fourteen, nor for any woman over fourteen without her consent.

4. There shall be no lending out of wives under any pretext.

5. Widows shall not be inherited. They should be free to dispose of themselves and their children as they think fit, remain with the husband's family, go back to their own, be independent, or remarry.

¹⁴³ The Liaison Committee of Women's International Organizations (1925–1945) was a cooperation of international women's organizations designed to monitor and promote the appointment of women in the United Nations and more generally the influence of women in international affairs.

¹⁴⁴ St. Joan's International Alliance (formerly St. Joan's Political and Social Alliance) was founded in 1936 as a Catholic organization committed to promoting gender equality in the social, economic and political arenas.

*Women's International League for Peace and Freedom*¹⁴⁵

(United States Section)

Telegram, addressed to Mrs. Roosevelt, Chairman of the Commission on Human Rights.

Subject: Expression of the hope that “equality of the sexes” will be included as a specific provision in all declarations or other actions of the Commission.

7. Right to a Nationality (Article 32)

“Everyone has the right to a nationality.

Everyone is entitled to the nationality of the State where he is born unless and until on attaining majority he declares for the nationality [7] open to him by virtue of descent.

No one shall be deprived of his nationality by way of punishment or be deemed to have lost his nationality in any other way unless he concurrently acquires a new nationality.

Everyone has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another State.”

Communications received from Individuals*In the United States of America*

Letter, dated 16 February 1947, from Hartford, Connecticut, addressed to the Commission on Human Rights.

Subject: Request that the Bill of Rights should include a provision for freedom of nationality, for the protection of stateless persons. Individuals living without a national status are very often forgotten in declarations on human rights.

E/CN.4/AC.1/3/Add.2**9 June 1947****Plan of the Draft Outline of an International Bill of Rights
(Prepared by the Secretariat)**

[2–3]

- *Preamble* –
- *Preliminary articles* –
 - Article 1 – Duties towards Society –
 - Article 2 – Limitation of Rights –

¹⁴⁵ The Women's International League for Peace and Freedom, founded in 1915, works to promote disarmament, peace and equality on an international level.

Chapter I – Liberties –

- 1 – *Right to life and physical integrity of the person* –
 - Article 3 – Right to life –
 - Article 4 – No torture, cruelty or indignity –
 - 2 – *Liberty of the person* –
 - Article 5 – Principle –
 - Article 6 – Need for judgment of a court of law –
 - Article 7 – Protection against arbitrary arrest –
 - Article 8 – Prohibition of slavery and compulsory labour –
 - Article 9 – Liberty of movement within the borders of the State –
 - Article 10 – Freedom of emigration and expatriation –
 - Article 11 – Liberty of and respect for private life –
 - 3 – *Civil status* –
 - Article 12 – Right to possess a legal personality and to exercise civil rights –
 - 4 – *Marriage* –
 - Article 13 – Right to contract marriage –
 - 5 – *Public liberties* –
 - Article 14 – Freedom of conscience and freedom of religion –
 - Article 15 – Freedom of opinion –
 - Article 16 – Freedom of access to all sources of information –
 - Article 17 – Freedom of speech and freedom of expression –
 - Article 18 – Duty to present information fairly and impartially –
 - Article 19 – Freedom of Assembly –
 - Article 20 – Freedom of association –
 - Article 21 – Freedom of instruction –
- [4–5]
- 6 – *Right of property* –
 - Article 22 – The right – its limits –
 - 7 – *Taxation and public charges* –
 - Article 23 – Principle –
 - 8 – *Freedom of access to professions* –
 - Article 24 – Principle –
 - 9 – *Legal principles* –
 - Article 25 – Everything not prohibited by law is permitted –
 - Article 26 – Penalties –
 - Necessity of a judgment –
 - Principle of non-retroactivity –

- 10 – *Remedies* –
 Article 27 – Access to Courts –
 Article 28 – Right of petition –
 Article 29 – Right to resist oppression –
- 11 – *Political Rights* –
 Article 30 – Right to take part in the government of the State –
 Democracy –
 Article 31 – Right of access to public office –
- 12 – *Nationality* –
 Article 32 – Right to a nationality –
 No loss of nationality without acquiring a new one –
 Right to renounce nationality –
- 13 – *Aliens* –
 Article 33 – No arbitrary expulsion –
 Article 34 – Right of asylum –

Chapter II – Social Rights –

- Article 35 – Right to health –
 Article 36 – Right to education –
 Article 37 – Right to work –
 Article 38 – Right to good working conditions –
 Article 39 – Right to an equitable share of the national income –
 Article 40 – Compensation for family responsibilities –

[6–7]

- Article 41 – Right to social security –
 Article 42 – Right to food and housing –
 Article 43 – Right to rest and leisure –
 Article 44 – Right to participate in cultural, scientific and artistic life –

Chapter III – Equality –

- Article 45 – No discrimination –
 Article 46 – Right of minorities to maintain special institutions with State aid –

Chapter IV – General dispositions –

- Article 47 – Duty of the State to respect and protect the rights enumerated –
 Article 48 – Observance of these rights is a matter of international concern –

E/CN.4/AC.1/5

9 June 1947

Proposal Submitted by the French Delegation to the Drafting Committee of the Commission on Human Rights

Whereas the Charter of the United Nations provides in Article 55 that the United Nations “shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”;

Whereas the General Assembly of the United Nations on 29 January¹⁴⁶ instructed the Commission on Human Rights to apply those principles, in particular by the preparation of a Bill of human rights;

Whereas, without formulating abstract and philosophical conceptions on the international plane, it appears relatively easy to find in the national systems in force the concrete rights that are generally recognized;

Whereas it also appears possible and necessary to supplement such a list by a certain number of rights, which, owing to their international character, are not at present sanctioned by municipal legislation, but are called for by the progress of international law (right to a nationality, rights of foreigners);

Whereas future negotiations should make it possible to complete later the list of such rights and liberties, the observance of which will also have to be ensured;

The Commission on Human Rights proposes that a resolution of the General Assembly of the United Nations should note, on the one hand, the fundamental human rights which form part of the general principles [2] of law recognized by civilized nations, and should recognize, on the other, certain international human rights which can be accepted by civilized nations immediately; and that the General Assembly of 1947 instruct the Commission on Human Rights to study the constitution of an appropriate international organ with a view to ensuring effective observance of those rights.

E/CN.4/AC.1/7

9 June 1947

General Observations Made by Various Members of the Commission on Human Rights Concerning the Form and Content of the International Bill of Rights

- I. *The Constitutions of Member States Should be Taken into Account*
- II. *The Bill Should be Acceptable to ALL Members of the United Nations*

¹⁴⁶ This reference is erroneous, because no General Assembly resolution was adopted on 29 January. Presumably, the reference is to General Assembly Resolution 43(I), adopted 11 December 1946.

- III. *The Bill Should be Short, Simple, Easy to Understand and Expressive*
- IV. *It Should be a Reaffirmation of the Most Elementary Rights*
- V. *The Classification of the Provisions of the Bill*

In drawing up its preliminary draft Bill, the Secretariat felt that the observations made by various Members of the Commission on Human Rights should be noted, especially when these observations had not raised any objections from other Members.

Points raised during the discussion may be grouped under five general headings.

I. The Constitutions of Member States Should be Taken into Account

1. MR. DEL RIO (Chile)

“The Chilean representative deems convenient that the drafting group consult the Constitutions of all the Member States of the United Nations for examination of the rights and liberties actually enjoyed by its citizens and alien residents.”*

MR. TEPLIAKOV (Union of Soviet Socialist Republics)

“I just want to support the suggestion of the Chilean representative and will say that this drafting group on the bill of rights will consult the national Constitutions. . . .”**

[*] H.R. Com. – 1st Session – 13th Meeting – p. E-102.¹⁴⁷

[**] H.R. Com. – 1st Session – 13th Meeting – p. E-103.

[2]

2. The Secretariat has examined the Constitutions of all the Member States of the United Nations and extracted therefrom all those provisions relating to human rights which correspond to the various articles of its draft.

In drawing up its draft, the Secretariat has taken into account the form of the various national Bills of Rights. In spite of differences these present, on the whole, a certain unity.

The Drafting Committee can, of course, change this form and adopt a more original one; but in the first instance, it seemed proper that the Secretariat should present its Draft in a familiar form.

The Secretariat has also taken into account the draft international bills presented to the Commission on Human Rights by governments.

II. The Bill Should be Acceptable to All Members of the United Nations

1. GENERAL ROMULO (Philippines)

. . . “We are to frame an international bill of rights, acceptable to and binding upon all the States Members of the United Nations, a herculean task of compromise and agreement. . . .”*

¹⁴⁷ This and subsequent references are to a verbatim record of the first session of the Commission on Human Rights. The verbatim record was not issued as an official document.

2. Unless the Member Governments agree on the draft finally accepted by the Commission, the General Assembly will not adopt the Bill. Such agreement depends upon political considerations beyond the province of the Secretariat. The duty of the Secretariat in the matter was limited to the preparation of a draft which would serve as a basis for discussion. It has attempted to perform its duty in such a way, however, that points of agreement and disagreement will be clearly visible. In this way, it will be possible to see general agreement on certain points, and on others, either to find a compromise acceptable to all, or to decide on their omission.

The Secretariat has adopted the following method:

1. All provisions requested by Members of the Human Rights Commission have been included. The principal provisions relating to human rights contained in the majority of the national constitutions

[*] H.R. Com. – 1st Session – 9th Meeting – V.R. – p. 12

[3]

have also been included. The inclusion of these provisions does not mean necessarily that they should be retained in the international bill of rights, but they will provide a basis for discussion.

2. The views of Governments will probably differ on some of the provisions in the Draft, *e.g.* in those relating to the right of property, and the freedom of access to professions. The different points of view might have been expressed in several draft articles. Thus MR. CASSIN (France) who contemplated this procedure, said:

“One might suppose that in the course of work, directives given by the Commission might be found insufficient and that one might be facing two or three possible or contradictory suggestions. In such case the duty of loyalty of our drafters would be to prepare alternative texts. . .”*

In drawing up the Draft, however, the Secretariat felt that it should present only one draft which could perhaps reconcile the various points of view, it being always understood of course that the purpose of the Secretariat draft is merely to serve as a basis for discussion.

III. The Bill Should be Short, Simple, Easy to Understand and Expressive

Several Members said that the Declaration should possess one or other of the above qualities.

MRS. MEHTA (India)

“Such a bill of human rights must be a simple, forthright document which is easily understood. . .”**

MR. CASSIN (France)

“The Bill of Rights should for the present be in the form of a resolution, which would be sent to the General Assembly *rather than in the form of a complete code* with all the laws which that embodies. . .

. . . We need a certain ideal, and that I think would be diminished if there were too great an enumeration of all the various details.”***

[*] H.R. Com. – 1st Session – 11th Meeting – p. 31

[**] H.R. Com. – 2nd Meeting – V.R. – p. 23–27 January 1947

[***] H.R. Com. – 8th Meeting – V.R. – p. 82–31 January 1947

[4]

MR. MALIK (Lebanon)

“ . . . We require, I submit, the sensitive insight of the poet, the prophet, the philosopher; and I hope we shall call in these types of minds to aid us in our important enterprise. If only jurists and politicians and diplomats work out this Bill, I am afraid it will come out a distorted thing: it will lack vision and unity; it will lack sweeping simplicity. Vision and sensitiveness belong pre-eminently to the prophet, unity to the philosopher, simplicity to the poet.”*

MR. OSMAN EBEID (Egypt)

“It seems to be advisable that an International Bill of Rights should not go into too much detail which may make it senseless, as our colleague from the Soviet Union rightfully pointed out this morning. . .

Legislation which contains repetitions that can be avoided is always considered bad legislation. . .

I hope that the expected Bill of Rights will be immune from attacks and that we will try to make it precise accurate and confined to the broad outlines by which contradictions can be avoided.”**

So that its Draft might be short and simple, the Secretariat has not included rules of procedure contained in the various national constitutions, but has limited itself to general principles. So that its Draft should be easy to understand the Secretariat has drafted short articles, each article dealing with one or few specific points. There are forty-eight articles. It may be assumed that some articles, which were included in order to cover the whole field of human rights and freedoms, will not be adopted; and some articles will probably be combined when agreement has been reached on their contents. In that event there would be less than forty-eight articles.

It should be noted that certain articles which have no place in a national bill of rights have been included in the draft of the International Bill, *e.g.* Article 32, which affirms the right to possess a nationality.

The Secretariat has attempted to use language which is as simple as possible and at the same time consistent with the formal and legal character of the document.

[*] H.R. Com. – 1st Session – 9th Meeting – V. R – p. 31

[**] H.R. Com. – 1st Session – 14th Meeting. – p. E-4

[5]

It was difficult to introduce colourful and expressive language into the body of the Bill, but the Preamble may offer an opportunity for this.

IV. It Should be a Reaffirmation of the Most Elementary Rights

MR. CASSIN (France)

“ . . . I believe that the simplest rights should be reaffirmed here . . . ”

“ . . . If you do not speak of fundamental things now, the temptation to speak of details will arise . . . ”*

The Secretariat endeavoured to comply with this suggestion, *e.g.* the right to life is affirmed in Article 3. This right is not specifically mentioned in most national constitutions.

The right to possess a legal personality is affirmed in Article 12, the right to contract marriage in Article 13, the principle that everything not prohibited by law is permitted in Article 25, *etc.*

The affirmation of these principles might be of little interest for advanced countries, but it is useful to include them in an international bill of rights, because in certain countries there still remain vestiges of tribal or feudal systems that are incompatible with fundamental human rights.

V. The Classification of the Provisions of the Bill

MR. CASSIN (France)

approves “the classification of rights . . . by the ideas to which they pertain, the rights classified according to the idea of freedoms, rights according to the conceptions of equality, and rights according to the conception of security.”**

Some discussion arose in the Commission on Human Rights concerning the classification of the Rights. The distinction between rights relating to personal freedom, rights relating to social security and the right to equality was, it seems, unanimously accepted. It was generally agreed, however, that the right to equality should not occupy the first place.

[*] H.R. Com. – 1st Session – 13th Meeting – p. E-95

[**] H.R. Com. – 1st Session – 8th Meeting. – V.R. – p. 81

[6]

The Draft drawn up by the Secretariat is not divided into chapters or sections. However, the arrangement of the articles follows a certain order.

First: there are two preliminary articles (Articles 1 and 2).

Secondly: the articles concerning “Liberties” (Articles 3 to 34).

Thirdly: the articles concerning “Social Rights” (Articles 35 to 44).

Fourthly: two articles corresponding to the idea of equality (Articles 45 and 46).

Fifthly: some general dispositions (Articles 47 and 48).

This order can easily be changed. For example, the Social Rights could be placed before liberties. This is a political and not a technical question.

Special care was taken in the grouping of the articles within the above general categories. For example, Articles 5 to 11 deal with liberty of the individual; Articles 14 to 21 public liberties; Articles 27, 28 and 29 remedies; Articles 30 and 31 political rights.

E/CN.4/AC.1/SR.1

9 June 1947¹⁴⁸

Summary Record of the First Meeting [of the Drafting Committee of the Commission on Human Rights]

Held at Lake Success, New York, on Monday, 9 June 1947
at 11:00 a.m.

Present: Col. William R. Hodgson (Australia), Mr. H. Santa Cruz (Chile), Dr. P. C. Chang (China), Prof. René Cassin (France), Dr. Charles Malik (Lebanon), Mr. G. Wilson,¹⁴⁹ (United Kingdom), Mrs. Eleanor Roosevelt (United States of America), Mr. V. Koretsky¹⁵⁰ (Union of Soviet Socialist Republics). Specialized Agencies: Mr. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor), Mrs. Fuhrman (International Cooperative Alliance). Secretariat: Mr. Henri Laugier (Assistant Secretary-General for Social Affairs), Prof. J. P. Humphrey (Secretary of the Committee).

1. Opening of the Session

The meeting was called to order by MRS. ELEANOR ROOSEVELT, Chairman of the Commission on Human Rights, who announced that Mr. Felix Nieto Del Rio of Chile, Lord Dukeston of the United Kingdom, and Mr. V. F. Tepliakov of the Union of Soviet Socialist Republics were not present, but that they would be represented by Mr. H. Santa Cruz, Mr. G. Wilson and Mr. V. Koretsky respectively. Mr. Morgan,

¹⁴⁸ This is the date of the meeting. The document was issued on 10 June 1947.

¹⁴⁹ Geoffrey Masterman Wilson (1910–2004) represented the United Kingdom during the first and second sessions of the Drafting Committee of the Commission on Human Rights. He became Vice-President of the World Bank in 1961 and served as deputy secretary of the Ministry of Overseas Development in 1966. Wilson was part of the United Kingdom delegation at the Yalta Conference. According to his obituary in *The Telegraph*, “[s]eated directly behind Churchill, Wilson’s role was to take the minutes at the plenary meetings and periodically to empty Churchill’s ashtray of cigar butts.”

¹⁵⁰ Vladimir M. Koretsky replaced V.F. Tepliakov as delegate for the Union of Soviet Socialist Republics on the Drafting Committee. He was a judge on the International Court of Justice from 1961 to 1970 and its vice-president from 1967 to 1970.

she stated, would represent Mr. Wilson, who was [2] delayed, temporarily, as an observer.

Mrs. Roosevelt stated that she was of the opinion that it might be very difficult for the Drafting Committee to complete a perfect draft of an International Bill of Human Rights, either as to substance or as to style, during its two-week session. She reminded the delegates that the draft Bill of Human Rights would have to be considered on six separate occasions, after it was completed by the Drafting Committee, before it could be considered final. She mentioned that her Government had considered submitting a draft Bill but had decided not to do so because it felt that it would be better for the Drafting Committee to work from the documented outline prepared by the Secretariat. She suggested that the first thing to be done was to reach agreement on the rights to be included in the draft Bill, and the definitions of those rights. Because of the preliminary nature of the Drafting Committee's work, she proposed that it be understood that no agreement reached in the Drafting Committee be considered as irrevocably binding the Governments represented there, as these Governments might wish to reconsider various parts of the draft at a later date.

2. Election of Officers

COL. HODGSON (Australia) referred to the decision of the Commission on Human Rights, that its officers, Mrs. Roosevelt (Chairman), Dr. Chang (Vice-Chairman), and Dr. Malik (Rapporteur) should undertake, with the assistance of the Secretariat, the task of formulating a preliminary draft of an International Bill of Human Rights. He suggested that the officers of the Drafting Committee be the same as those of the Commission on Human Rights.

MR. SANTA CRUZ (Chile) supported the motion, and stated that in his opinion it was the intention of the Economic and Social Council that these members of the Commission should continue to act in their respective capacities on the Drafting Committee.

[3]

Decision: As there were no other nominations, the officers of the Commission on Human Rights were automatically elected as officers of the Drafting Committee.

3. Adoption of Provisional Agenda (Document E/CN.4/AC.1)

DR. CHANG (China) moved the adoption of the provisional agenda as the agenda of the Drafting Committee. PROF. CASSIN (France) supported the motion. COL. HODGSON (Australia) pointed out that the question of implementation was not on the provisional

agenda. He said that he felt that the Drafting Committee was obliged, under the resolution relating to implementation adopted by the Commission on Human Rights, to study this question.

THE CHAIRMAN explained that although the question of implementation did not appear on the provisional agenda, that did not mean that the subject would be ruled out entirely from consideration by the Drafting Committee. She stated that in her opinion the Drafting Committee's first objective was to come to an agreement on what should be included in the Bill in the way of rights and that then the question of implementation might be taken up and considered very carefully. COL. HODGSON (Australia) stated his willingness to vote for the adoption of the provisional agenda subject to the reservation that later, if time and opportunity permitted, he might raise the question of implementation although it did not appear on the agenda.

Decision: Without objection the provisional agenda was adopted unanimously as the agenda of the Drafting Committee.

4. Adoption of Rules of Procedure

THE CHAIRMAN proposed that the Drafting Committee adopt the Rules of Procedure of the Commission on Human Rights.

MR. KORETSKY (Union of Soviet Socialist Republics) did not object to the adoption of these rules but reserved the right, if necessary, to make any other observations in the future since he had had no time to study the document containing the rules of procedure. PROF. CASSIN (France) supported this point of view. DR. MALIK (Lebanon) moved that the Drafting [4] Committee adopt the Rules of Procedure of the Commission on Human Rights.

Decision: Without objection, the Rules of Procedure of the Commission on Human Rights were adopted with the reservations made by the representatives of the Union of Soviet Socialist Republics and France.

5. Review of Terms of Reference

At the request of the Chairman, PROF. HUMPHREY (Secretariat) read the resolution of the Economic and Social Council on the drafting of an International Bill of Human Rights (Document E/CN.4/AC.1/2, pages 6 and 7), and explained that the terms of reference of the Committee would be found within the body of that resolution. PROF. CASSIN (France) moved that the terms of reference be accepted.

Decision: Without objection, the terms of reference were accepted.

6. Preparation of a Preliminary Draft of an International Bill of Human Rights on the Basis of Documentation Supplied by the Secretariat

THE CHAIRMAN enumerated the documents which had been prepared by the Secretariat or submitted by the members. She suggested that most of the members of the Drafting Committee would prefer to have time to study these documents.

COL. HODGSON (Australia) asked for an explanation of the documented outline prepared by the Secretariat, particularly as to the contents of the document and the principles followed in its compilation. PROF. HUMPHREY stated that Document E/CN.4/AC.1/3 contained the draft outline of an International Bill of Human Rights, in English and in French, as prepared by the Secretariat. Document E/CN.4/AC.1/3/Add.1 he said contained the documented outline of the Bill.

THE CHAIRMAN wondered whether the Secretariat had compared the documents submitted by France and by the United Kingdom with the suggested Secretariat outline. PROF. HUMPHREY explained that since the French and British papers had been received only a few days prior to the meeting of the Drafting Committee there had not been sufficient time to prepare a comparison. He stated that the Division of Human Rights would undertake [5] this task immediately.

COL. HODGSON addressed a further question to the Secretary of the Commission regarding the principles adopted and the philosophy behind the draft outline submitted by the Secretariat. MR. KORETSKY (Union of Soviet Socialist Republics) stated that in his opinion any discussion of the documents should be postponed for a reasonable period of time in order that the members might study the documents and be in a position to discuss them. He proposed that the meetings of the Drafting Committee be postponed for two or three days in order to give the members an opportunity to study the documents and to prepare concrete proposals relating to them.

THE CHAIRMAN asked the Secretary of the Committee to reply to the question of the representative of Australia and stated that after his answer had been given the Committee could then decide how long would be required for the members to make themselves familiar with the documentation. PROF. HUMPHREY (Secretariat), in reply to the question which has been addressed by the representative of Australia, stated that the Secretariat had prepared a paper explaining the procedure followed by the Secretariat in drawing up its documented outline (Document E/CN.4/AC.1/7). This paper, he stated, contained no statement about the philosophy on which the Secretariat document was based because this document had not been based on any philosophy. The Secretariat, he explained, had merely prepared an outline to serve as a basis for the discussion of the Drafting Committee. In doing so it had attempted to include all of the rights mentioned in various national Constitutions and in various suggestions for an International Bill of Human Rights.

THE CHAIRMAN pointed out that the Secretariat draft outline was not a proposed Bill of Human Rights, but simply a working document on the basis of which the Drafting Committee hoped to prepare a preliminary draft bill for the consideration of the Commission on Human Rights.

[6]

THE CHAIRMAN asked each member of the Committee to state how long he felt the Committee should adjourn in order that they might consider the documentation. PROF. CASSIN (France) felt that the Committee might resume work on Wednesday morning. In that time, he said, the Committee might begin to discuss the plan of the draft Bill of Rights. If a plan to be followed could be agreed upon immediately, he felt that the Committee might then undertake to consider the Preamble. He suggested that after a general discussion on the contents of the Preamble, a Sub-Committee might be appointed to consider the wording of the Preamble while the full Committee discussed the substance of the remainder of the bill.

MR. SANTA CRUZ (Chile) stated that he thought that by Wednesday the members of the Committee should be prepared to proceed with the work and carry it through. COL. HODGSON (Australia) asked for a clarification of the programme of work proposed for the Drafting Committee. THE CHAIRMAN replied that as she recollected Prof. Cassin had proposed that the Committee meet again on Wednesday morning, by which time its members should have considered the subject matter in the documentation. The members would not be expected, by Wednesday morning, to have reached decisions as to each specific item to be included in the Bill. They would come, however, prepared to discuss and if possible to reach a conclusion as to the exact form of the bill. On Wednesday, also, she added, a Sub-Committee could be appointed which would begin to write a general Preamble with the intention of bringing it to the full Committee for discussion at a later date. The Drafting Committee would then go ahead with the work of deciding on specific items to be included in the bill and on the method of grouping these items.

DR. MALIK (Lebanon) stated that the suggestion of beginning with the preamble worried him slightly. In his opinion, he stated, the preamble should come last in the logical sequence of construction, and [7] should be formulated only after the Committee had the concrete articles of the bill before it.

THE CHAIRMAN agreed that the preamble should be decided upon after the remainder of the draft bill had been agreed upon, but she pointed out that all Prof. Cassin had suggested was that a Committee be appointed on Wednesday. That Committee would consider the preamble and would be prepared to bring in a draft at the appropriate time. PROF. CASSIN agreed with this interpretation. DR. CHANG (China) agreed to postpone the second meeting of the Committee until Wednesday. DR. MALIK (Lebanon) also stated that in his opinion Wednesday was the right day. However, he did not believe that a final programme of work for Wednesday could be

decided at that time. He stated that in his opinion any decision as to such a programme of work ought to be tentative and open to reconsideration.

THE CHAIRMAN pointed out that a majority of the members of the Committee had agreed that its second meeting should be held on Wednesday morning. She suggested that all morning sessions be held at 10:30 a.m. and all afternoon sessions at 2:30 p.m. A vote of the members of the Committee indicated that a majority were in favour of beginning work at 10:30 a.m. and ending at 1:00 p.m.; beginning again at 2:30 p.m. and ending at 5:00 p.m. MR. WILSON (United Kingdom) who had just taken his place at the Committee table stated that the programme and schedule as adopted by the Committee was convenient for him.

THE CHAIRMAN summarized the general feeling of the Committee that its members would like to have until Wednesday morning at 10:30 a.m. to consider the various documents which had been distributed. She stated that the consensus of opinion was in line with the suggestion of Prof. Cassin, that on Wednesday morning the members should have in mind a plan for setting up the proposed first draft. Before Wednesday each was to go through the documented outline, indicate points on which they felt there might be agreement, and put them into categories. After the items [8] which could be agreed upon were disposed of, the members of the Committee might then take up the controversial questions and decide what agreement could be reached on them. The Chairman also stated the consensus of opinion that a Sub-Committee should be appointed early in the session so that its members would be aware that they must think about the Preamble, even though they might not be able to present their draft until the end of the session.

The meeting adjourned at 12:30 p.m.

E/CN.4/AC.1/3/Add.3

10 June 1947

Textual Comparison of the Draft International Bill of Human Rights submitted by the Delegation of the United Kingdom to the Drafting Committee of the Commission on Human Rights, and the Draft Outline of an International Bill of Rights. (Prepared by the Division of Human Rights)

[2]

Preamble (Draft Outline prepared by the Division of Human Rights)

The Preamble shall refer to the four freedoms and to the provisions of the Charter relating to human rights and shall enunciate the following principles:

1. that there can be no peace unless human rights and freedoms are respected;
2. that man does not have rights only; he owes duties to the society of which he forms part;
3. that man is a citizen both of his State and of the world;
4. that there can be no human freedom or dignity unless war and the threat of war are abolished.

United Kingdom Draft Bill

Preamble

1. Whereas the peoples of the United Nations have reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person;

2. Whereas it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion;

3. Whereas all men are members of communities and as such have the duty to respect the rights of their fellow men equally with their own;

4. Whereas the just claims of the state, which all men are under a duty to accept, must not prejudice the respect of man's right to freedom and equality before the law and the safeguard of human rights, which are primary and abiding conditions of all just government;

5. Whereas the denial of human rights and fundamental freedoms endangers the general welfare and friendly relations among nations and the enjoyment of such rights and freedoms by all persons must be secured by international law and protected by the organized community of states;

6. Whereas it is expedient to define more exactly the aforesaid human [3] rights and fundamental freedoms and to make provision for their universal observance and protection.

Now therefore the States parties to this International Bill of Rights have accepted the following provisions:

... Article 3 (Draft Outline prepared by the Division of Human Rights)

Everyone has the right to life. This right can be denied only to persons who have been convicted under general law of some crime to which the death penalty is attached.

United Kingdom Draft Bill

Part II – Article 8

It shall be unlawful to deprive any person of his life save in the execution of the sentence of a court following on his conviction of a crime for which this penalty is provided by law.

... *Article 6 (Draft Outline prepared by the Division of Human Rights)*

No one shall be deprived of his personal liberty save by a judgment of a court of law, in conformity with the law and after a fair public trial at which he has had an opportunity for a full hearing, or pending his trial which must take place within a reasonable time after his arrest. Detention by purely executive order shall be unlawful except in time of national emergency.

United Kingdom Draft Bill

Part II – Article 10

1. No person shall be deprived of his liberty save by an arrest which is affected for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or which is reasonably considered to be immediately necessary to prevent his committing a crime or breach of the peace.

2. Every person arrested and detained shall be brought without delay before a judge, who shall either try the case or decide, after hearing evidence, whether there is sufficient cause to justify that person's trial and if so whether his liberty shall be restored to him on bail.

[4]

3. The period of detention pending trial shall not be unreasonably prolonged.

4. The preceding provisions of this Article do not apply to (i) the lawful detention of a person sentenced after conviction to deprivation of liberty or (ii) lawful detention of persons of unsound mind or (iii) the lawful custody of minors or (iv) the lawful arrest and detention of a person to prevent his affecting an unauthorized entry into the country.

5. Every person who is deprived of his liberty shall have an effective remedy in the nature of "*Habeas corpus*" by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not justified.

... *Article 7 (Draft Outline prepared by the Division of Human Rights)*

Everyone shall be protected against arbitrary and unauthorized arrest. He shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.

United Kingdom Draft Bill***Part II – Article 10***

Paragraph 6. Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

... Article 8 (Draft Outline prepared by the Division of Human Rights)

Slavery and compulsory labour are inconsistent with the dignity of man and therefore prohibited by this Bill of Rights. But a man may be required to perform his just share of any public service that is equally incumbent upon all, and his right to a livelihood is conditioned by his duty to work. Involuntary servitude may also be imposed as part of a punishment pronounced by a court of law.

[5]

United Kingdom Draft Bill***Part II – Article 9***

No form of slavery shall be permitted.

(A text on the subject of compulsory labour will be inserted here later.)

... Article 10 (Draft Outline prepared by the Division of Human Rights)

The right of emigration and expatriation shall not be denied.

United Kingdom Draft Bill***Part II – Article 11***

Every person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country including his own.

Comment to Article 11

There may also be other outstanding obligations such as those relating to taxation or the maintenance of dependents, of which account should be taken here.

... Article 14 (Draft Outline prepared by the Division of Human Rights)

There shall be freedom of conscience and belief and of private and public religious worship.

United Kingdom Draft Bill

Part II – Article 13

1. Every person shall be free to hold any religious or other belief dictated by his conscience and to change his belief.

2. Every person shall be free to practise, either alone or in community with other persons of like mind, any form of religious worship and observance, subject only to such restrictions, penalties or liabilities as are strictly necessary to prevent the commission of acts which offend laws passed in the interests of humanity and morals, to preserve public order and to ensure the rights and freedoms of other persons.

3. Subject only to the same restrictions, every person of full age and sound mind shall be free to give and receive any form of religious teaching and to endeavour to persuade other persons of full age and sound mind the truth of his beliefs, and in the case of a minor the parent or guardian shall be free [6] to determine what religious teaching he shall receive.

... *Article 16 (Draft Outline prepared by the Division of Human Rights)*

There shall be free and equal access to all sources of information both within and beyond the borders of the State.

United Kingdom Draft Bill

Part II – Article 14

Paragraph 2. Every person shall be free to receive and disseminate information of all kinds, including both facts, critical comment and ideas by books, newspapers, or oral instruction, and by the medium of all lawfully operated devices.

3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; (publications aimed at the suppression of human rights and fundamental freedoms); publications injurious to the independence of the judiciary or the fair conduct of legal proceedings; and expressions or publications which libel or slander the reputations of other persons.

Comment to Article 14

The fundamental provisions of the Bill of Rights relating to freedom of speech and information will be completed by other agreements, resulting from the work of the sub-committee on Freedom of Information and the international conference on the subject.

Comments to Article 14 (3)

- (a) The provision in paragraph 3 above, recognizing the right of Governments to impose the necessary restrictions, penalties or liabilities on publications likely or intended to incite persons to alter by violence the system of Government, is to be interpreted [7] as strictly confined to such publications as advocate the use of violence, and does not apply to publications advocating a change of government or of the system of Government by constitutional means.
- (b) Some doubt is felt as to the suitability of the words “publications aimed at the suppression of human rights and fundamental freedoms” from the point of view of drafting. It may be that these words afford a wider power for the limitation of freedom of publication than is necessary or desirable. On the other hand it may be said that it would be inconsistent for a Bill of Rights whose whole object is to establish human rights and fundamental freedom to prevent any Government, if it wished to do so, from taking steps against publications whose whole object was to destroy the rights and freedoms which it is the purpose of the Bill to establish. In the last analysis, perhaps, the best definition of a Nazi or Fascist regime is that it is a regime which does not recognize the dignity and worth of the human person and permit individuals to enjoy human rights and fundamental freedoms.
- (c) In any case it will be observed that no Government is obliged by the Bill to make use of the powers of limitation which are provided in paragraph 3.

... Article 17 (Draft Outline prepared by the Division of Human Rights)

Subject only to the laws governing slander and libel, there shall be freedom of speech and of expression by any means whatsoever, and there shall be reasonable access to all channels of communication. Censorship shall not be permitted.

United Kingdom Draft Bill***Part II – Article 14***

Paragraph 1. Every person shall be free to express and publish his ideas orally, in writing, in the form of art, or otherwise.

...

Paragraph 3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary [8] restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; (publications aimed at the suppression of human rights and fundamental freedoms);

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- (c) In any case it will be observed that no Government is obliged by the Bill to make use of the powers of limitation which are provided in paragraph 3.

... **Article 19 (Draft Outline prepared by the Division of Human Rights)**

There shall be freedom of peaceful assembly.

United Kingdom Draft Bill

Part II – Article 15

All persons shall have the right to assemble peaceably for any lawful purpose including the discussion of any matter, on which under Article 14 any person has the

right to express and publish his ideas. No restrictions shall be placed on the exercise of this right other than those necessary for the protection of life and property and to prevent disorders, the obstruction of traffic and of the free movement of others.

... **Article 20 (Draft Outline prepared by the Division of Human Rights)**

There shall be freedom to form associations for purposes not inconsistent with this Bill of Rights.

United Kingdom Draft Bill

Part II – Article 16

All persons shall be free to constitute associations, in whatever form may be appropriate under the law of the state, for the promotion and protection of their legitimate interests and of any other lawful object, including the dissemination of all information of which under Article 14 the dissemination is unrestricted. The rights and freedoms set forth in Articles 13 and 14 shall be enjoyed by such associations. [10]

Comment to Article 16

The word “associations” is here used as the widest possible term and is intended to include the creation of entities having juridical personality.

... **Article 26 (Draft Outline prepared by the Division of Human Rights)**

Paragraph 2

Nor shall anyone be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

United Kingdom Draft Bill

Part II – Article 12

No person shall be held guilty of any offence on account of acts or omissions which did not constitute such an offence at the time when they were committed.

... **Article 27 (Draft Outline prepared by the Division of Human Rights)**

There shall be access to independent and impartial tribunals for the determination of rights and duties under the law. Everyone has the right to consult with and to be represented by counsel.

United Kingdom Draft Bill

Part I – Article 2

Every state is, by international law, under an obligation to ensure:

...

- (b) that any person whose rights or freedoms are violated should have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity:
- (c) that such remedies shall be enforceable by a judiciary whose independence is secured: . . .

... Article 45 (Draft Outline prepared by the Division of Human Rights)

No one shall suffer any discrimination whatsoever because of race, sex, language, religion, or political creed. There shall be [11] full equality before the law in the enjoyment of the rights enunciated in this Bill of Rights.

United Kingdom Draft Bill

Comment to Part II – (Articles 8 to 16)

This part of this Bill will be completed by provisions prohibiting distinctions based on race, sex, language and religion. No attempt is made to draft these provisions in advance of the reports of the sub-committee on Discrimination and Minorities and also of the Commission on the Status of Women. In any case, Part II as drafted above in fact provides for absence of discrimination seeing that it uses the words “all persons”. (See also Article 2 (a) of Part I: “all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless”).

... Article 47 (Draft Outline prepared by the Division of Human Rights)

It is the duty of each member State to respect and protect the rights enunciated in this Bill of Rights. The State shall, when necessary, co-operate with other States to that end.

United Kingdom Draft Bill

Part I – Article 2

Every state is, by international law, under an obligation to ensure:

- (a) that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless, the enjoyment of these human rights and fundamental freedoms:

...

- (d) that its police and executive officers should act in support of the enjoyment of these rights and freedoms.

Comment to Article 2

Proposals that the provisions of the Bill of Rights should be embodied in the constitutions of states parties to the Bill, or otherwise consecrated by special constitutional guarantees, are not practicable for all countries. Some countries, like the United Kingdom, have no rigid [12] constitution and, as a matter of internal law, it is not possible to surround any provision with any special constitutional guarantee. No enactment can be given a greater authority than an Act of Parliament, and one Act of Parliament can repeal any other Act of Parliament. Therefore, the legal provisions which safeguard human rights can only have as their special safeguard the solemn international obligations undertaken in this Bill, together with the firm foundation which these principles have in the deepest convictions of Parliament and the people.

... **Article 48 (Draft Outline prepared by the Division of Human Rights)**

The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and of the national law of each of the member States of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.

United Kingdom Draft Bill

Part I – Article 1

The States parties hereto declare that they recognize the principles set forth in Part II of this Bill as human rights and fundamental freedoms founded on the general principles of law recognized by civilized nations.

Comment to Article 1

The phrase at the end of this Article comes from Article 38 (I) (c) of the Statute of the International Court of Justice. This phrase in the Statute of the Court is with justification considered by many commentators to represent the same principle as the phrases “law of nature” and “*jus gentium*” which play so great a part in the early development of international law. The conceptions both of the “law of nature” and “*jus gentium*” have also played a considerable part in the conception of the fundamental rights of man.

Part I – Article 3

On receipt of a request to this effect from the Secretary-General of [13] the United Nations, made under the authority of a resolution of the General Assembly, the government of any party to this Bill will supply an explanation, certified by the highest legal authorities of the state concerned, as to the manner in which the law of that state gives effect to any of the said provisions of this Bill of Rights.

Comment to Article 2 (a) and Article 3

The expression “law” is used in this draft as equivalent to the word “droit” that is, anything a court will enforce including statute law, regulations and common or customary law.

Part I – Article 5

A failure by any State party hereto to fulfil the obligations under Article 2 is an injury to the community of states and a matter of concern to the United Nations as the community of states organized under the rule of law.

Comment to Article 5

This article is meant to apply to failures of a substantial character. It is not intended to apply to failures of a trivial or technical character.

Part I – Article 6

1. While declaring their readiness to consider the adoption of further procedures designed to strengthen the international protection of fundamental human rights and freedoms, the states parties hereto accept the right of any of them, acting in the interests of the community of states, to bring to the attention of the General Assembly of the United Nations any violation by any of them of the provisions of this Bill of Rights as constituting a situation likely to impair the general welfare or friendly relations amongst nations and as a violation of the purposes and principles of the United Nations within the meaning of Article 14 of the Charter.

2. Any party hereto which is thus alleged to have violated the provisions of this Bill of Rights shall have the right to request the General Assembly [14] to obtain the advisory opinion of the International Court of Justice thereon and to refrain from taking any further action on the matter until this opinion has been obtained, and if such a request is made the parties hereto agree that they are bound to support the request.

Comment to Article 6

It would be possible to insert here an additional provision under which all parties to this Bill would agree that in the event of any alleged violation of the Bill being

brought before the General Assembly they would support a proposal that the matter should first be considered by a committee composed only of members of the United Nations who are parties to the Bill.

Part I – Article 7

The parties hereto agree that any one of them which is found by a Resolution of the General Assembly adopted by a two-thirds majority persistently to have violated the provisions of this Bill of Rights should be deemed to have violated the principles of the Charter of the United Nations and therefore be liable to expulsion from the organization under Article 6 of the Charter.

Article . . .¹⁵¹ Emergency

United Kingdom Draft Bill

Part I – Article 4

1. In time of war or other national emergency, a state may take measures derogating from its obligations under Article 2 above to the extent strictly limited by the exigencies of the situation.

2. Any state party hereto availing itself of this right of derogation shall inform the Secretary-General of the United Nations fully of the measures which it has thus enacted and the reasons therefor. It shall also inform him as and when the measures cease to operate and the provisions of Article 2 are being fully executed.

[15]

Method of Adoption of the Bill of Human Rights

United Kingdom Draft Bill

Part III – Article 17

1. This Bill of Rights is submitted, for the purpose of accession thereto, to every member of the United Nations, to every state party to the Statute of the International Court of Justice and to every other state whom the General Assembly of the United Nations shall, by resolution, declare to be eligible.

2. Accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations and the Bill of Rights shall come into force as soon as . . . states members of the United Nations have deposited such instruments as regards those states and thereafter as regards each party on the date of the deposit of its instrument of accession.

¹⁵¹ The original document does not provide an article number.

3. Every deposit of an instrument of accession shall be accompanied by a statement that this Bill had been approved in accordance with the constitutional processes of the state concerned for the acceptance of the obligations of a treaty and by a solemn declaration made by the government of the state concerned that full and complete effect to the provisions of Part II is given by the law of that state.

4. The Secretary-General shall inform all members of the United Nations and the other states referred to in paragraph 1 above of the deposit of each instrument of accession.

Amendments to the Bill of Human Rights

United Kingdom Draft Bill

Part III – Article 18

1. Amendments to this Bill of Rights shall come into force when they have been adopted by a vote of two-thirds of the members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two-thirds of the parties to this Bill.

2. When such amendments come into force they shall be binding on those parties which have ratified them, leaving other parties still bound by the provisions of the Bill which they have accepted by accession including earlier amendments which they have ratified.

E/CN.4/AC.1/6/Add.1

10 June 1947

Additional Communications Received Requesting the Inclusion of Certain Specific Provisions in the International Bill of Rights

Additional communications have been received requesting that certain specific provisions should be included in the International Bill of Rights.

These communications all relate to *freedom of conscience and of religion* (cf. Article 14 of the Draft Outline of an International Bill of Rights prepared by the Division of Human Rights). One also relates to the *problem of the illegitimate child*.

Communications received from International Non-Governmental Organizations:

War Resisters' International – Palestine Section

Letter, dated 20 May 1947, addressed to the Secretary, Commission on Human Rights.

Subject: Request that man's freedom of conscience be stressed in the International Bill of Rights and that a special provision be included relating to conscientious objectors.

Communications received from *National Non-Governmental Organizations:*

United Kingdom

Labour Pacifist Fellowship¹⁵²

Letter, dated 11 May 1947, addressed to the Secretariat, Commission on Human Rights.

Subject: Request that the International Bill of Rights should include a [2] clause relating to conscientious objection to military service.

Communications received from Individuals

In the United Kingdom

Letter, dated 28 April 1947, from London, addressed to the Secretariat, United Nations.

Subject: Endorsement of the suggestion by the War Resisters' International Organization that an International Bill of Rights should concede the right to refuse military service in obedience to conscience. (See Document E/CN.4/AC.1/6 p. 4.)

Letter, dated 29 April 1947, from London, addressed to the Secretariat, Commission on Human Rights.

Subject: Endorsement of the suggestion by the War Resisters' International Organization that an International Bill of Rights should concede the right to refuse military service in obedience to conscience. (See Document E/CN.4/AC.1/6 p. 4.)

Letter, dated 29 April 1947, from London, addressed to the Secretariat, Commission on Human Rights.

Subject: Endorsement of the suggestion of the War Resisters' International Organization that a specific provision relating to conscientious objectors be included in the International Bill of Rights. (See Document E/CN.4/AC.1/6 p. 4.)

Letter, dated 6 May 1947, from London, addressed to the Secretariat, Commission on Human Rights.

Subject: Endorsement of the suggestion of the War Resisters' International Organization that a specific provision relating to conscientious objectors be included in the International Bill of Rights. (See Document E/CN.4/AC.1/6 p. 4.)

¹⁵² The Labour Action for Peace was known as the Labour Pacifist Fellowship from 1940 to 1950. It originated as "an organization of Labour Party members and supporters working for peace, socialism and disarmament".

Letter, dated 1 May 1947, addressed to the Secretary, Commission on Human Rights.

[3]

Subject:

- (a) Request that the International Bill of Rights should include a clause dealing with the rights of individual conscientious objectors to war.
- (b) Request that the Bill should take into account the right of the illegitimate child to claim obligations on the father across national frontiers.

E/CN.4/AC.1/3/Add.1

11 June 1947

Drafting Committee on an International Bill of Human Rights International Bill of Rights Documented Outline¹⁵³

Part I – Texts Table of Contents

[The table of contents is omitted]

[1]

Commission on Human Rights Drafting Committee International Bill of Rights Documented Outline, Part I – Texts

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Section I. Observations Made by Members of the Commission on Human Rights at its First Session, 27 January – 10 February 1947

Section II. Draft International Declarations or Proposals Submitted by Governments to the Commission on Human Rights

A. Declarations

Chile, Cuba, Panama

¹⁵³ The International Bill of Rights Documented Outline was prepared by the Secretariat from various sources. The Secretariat appears to have done its own translations of materials from languages other than English and the editor has not endeavoured to correct the text, which is sometimes rather awkward, aside from obvious spelling mistakes.

B. Proposals

India, United States of America

Section III. National Constitutions
(listed alphabetically as follows);

Afghanistan	Fundamental Principles of Afghanistan (Addendum 22 Feb. 1933)	31 Oct. 1931
Argentina	Constitution of the Argentine Nation (As revised 1860, 1866, 1898)	1 May 1853
Australia	No written provisions	
Belgium	Constitution of the Kingdom of Belgium	May 1896
Bolivia	Political Constitution of the State	28 Oct. 1938
Brazil	Constitution of the United States of Brazil	18 Sept. 1946
Byelorussia	Constitution of Byelorussian Soviet Socialist Republic	23 Dec. 1936
Canada	No written provisions	
[2]		
Chile	Political Constitution of the Republic of Chile	18 Sept. 1925
China	Constitution of the Republic of China (adopted)	Dec. 1946
Colombia	Political Constitution of the Republic of Columbia	4 Aug. 1886
Costa Rica	Political Constitution of Costa Rica	7 Dec. 1871
Cuba	Constitution of the Republic of Cuba	10 Oct. 1940
Czechoslovakia	Constitutional Charter of the Czechoslovak Republic	29 Feb. 1920
Denmark	Constitution of Denmark (with amendment of 10 Sept. 1920)	5 June 1915
Dominican Republic	Constitution of Dominican Republic	10 Jan. 1942
Ecuador	Political Constitution of the Republic of Ecuador	31 Dec. 1946
Egypt	Royal Rescript No. 42 of 1923 establishing the constitutional regime of the Egyptian State	1923
El Salvador	Political Constitution of El Salvador	13 Aug. 1886
Ethiopia	Constitution of Ethiopia	16 July 1931
France	Declaration of the Rights of Man and Citizen	26 Aug. 1789
Greece	Constitution of Greece	1 June 1911
Guatemala	Constitution of the Republic of Guatemala	11 Mar. 1945
Haiti	Constitution of the Republic of Haiti	22 Nov. 1946
Honduras	Political Constitution of Honduras	28 Mar. 1936
Iceland	Constitutional Law of the Kingdom of Iceland (Modified 17 June 1944)	18 May 1920
India	Government of India Act	1935
Iran	The supplementary fundamental laws (Amended 12 Dec. 1925)	7 Oct. 1907
Iraq	Constitution of Iraq (Amended 29 July 1925, and 27 Oct. 1943)	10 July 1924

[3]

Lebanon	Constitution of the Lebanese Republic (Amended Oct. 1927, and May 1929)	23 May 1926
Liberia	Constitution of Liberia (Modified May 1907)	26 July 1847
Luxembourg	Constitution (Amended 15 May 1919)	17 Oct. 1868
Mexico	Constitution of the United States of Mexico (Amended 5 Nov. 1942)	31 Jan. 1917
Netherlands	Constitution of the Netherlands (Amended 1938)	30 Nov. 1887
New Zealand	No written provisions	
Nicaragua	Political Constitution of Nicaragua	22 Mar. 1939
Norway	Constitution of the Kingdom of Norway	17 May 1814
Panama	Political Constitution of the Republic of Panama	1 Mar. 1946
Paraguay	Constitution of the Republic of Paraguay	10 July 1940
Peru	Political Constitution of the Republic of Peru	29 Mar. 1933
Philippine Republic	Constitution of the Philippines	8 Feb. 1935
Poland	Constitution of the Republic of Poland	17 Mar. 1921
Saudi Arabia	Constitution of Saudi Arabia	29 Aug. 1926
Siam	Constitution of Siam	10 Dec. 1932
Sweden	Constitution of the Kingdom of Sweden (Amended 30 June 1933)	6 June 1809
Syria	Constitution of the State of Syria	14 May 1930
Turkey	Constitution of the Turkish Republic	20 Apr. 1924
Ukraine Soviet Socialist Republics	Constitution of	20 Jan. 1937
Union of South Africa	South Africa Act 1909	1909
Union of Soviet Socialist Republics	Constitution of the Union of Soviet Socialist Republics	5 Dec. 1936
United Kingdom	No written provisions	
[4]		
United States of America	Constitution of the United States Amendments	
Uruguay	Constitution of the Eastern Republic of Uruguay	24 Mar. 1934
Venezuela*		
Yugoslavia	Constitution of Yugoslavia	29 Nov. 1945

***Section IV. Draft International Declarations Presented
by Non-Government Organizations in Category A.*****

American Federation of Labor

[*] It is regretted that the text of the Venezuelan Constitution was received too late to be included in this document, but it will be issued separately.

[**] That is, a non-governmental organization recognized in accordance with paragraph 1 (a) of Part IV of the Report of the Committee on Arrangements for Consultation with Non-Governmental Organizations, adopted by the Economic and Social Council 21 June 1946.

[5]

Article 1

“Everyone owes a duty of loyalty to his State and to the (international society) United Nations. He must accept his just share of responsibility for the performance of such social duties and his share of such common sacrifices as may contribute to the common good.”¹⁵⁴

Section I. Observations Made by Members of the Human Rights Commission

Mr. Hodgson (Australia):

“... are we, when we put it to the drafting group, going to ask them to attempt to define in some way, to go through the so-called rights one by one and say, well, none of them is absolute, they all have limitations, are they to define what the limitations will be, or are they going to get some general limitation, that is, that that right must have regard to the rights of the group, the rights of the State, the rights of the community and the rights of other human persons?”*

“... Every one of these rights has a corresponding duty. That brings in the points which were raised yesterday as to the interests of the state against the interests of the individual or the interests of the community. Now, none of these rights we are talking about is absolute. Take the best recognized one of all, the right of expression. Now, that right of expression has a corresponding duty. There is a right, there is a duty to respect the rights of others, not to be libellous. If I have, say, a newspaper to express myself, if I speak treasonably or corruptly, or undermine the very foundations of the state by my right of expression, I am automatically limited. So the question comes to my mind: Are we going in every case to put the corresponding duty or are we just going to lay these down as absolute rights?”**

Mr. Wu (China):

He says that it is a question of establishing the rights of the human being and at the same time demanding his acceptance of the corresponding obligations. ***

[*] H.R. Com. – 1st session – 14th meeting – pages 65–70.¹⁵⁵

[**] H.R. Com. – 1st session – 9th meeting – pages 42–43.

[***] H.R. Com. – 1st session – 9th meeting – pages 56–60.

¹⁵⁴ The original text does not consistently use inverted quotations when quoting articles. This version reflects the original.

¹⁵⁵ This and subsequent references are to a verbatim record of the first session of the Commission on Human Rights. The verbatim record was not issued as an official document.

[6]

Mr. Dukes (United Kingdom):

“... I repeat that in the language as used, it appears as though we are throwing the doors wide open and we unduly, I think, awaiting the right of personal freedom without, at the same time, making provision for the obligations as between the individual or individuals who are supposed to benefit by these freedoms and the obligation to the States into which they would move or where they would hope to find asylum.”*

“... It is of no use in my opinion of seeking to define personal freedom entirely detached from the obligation of those individuals either to the State or to voluntary organizations and at the same time claim the advantages and the benefits outlined in this group under number 3.”**

Mr. Cassin (France):

“... We have a right to food, we say, but if everybody has a right to food and no one wants to be compelled to work, how are we going to feed ourselves? This, therefore, is a point upon which we ought to state the opposite rights. On the one hand we ought to state the right of the individual and on the other hand the right of the community. I, myself, admit in a general way at any rate, that when the State or community creates a member who refuses to work and does not want to collaborate with others, then the rights of that individual must be conditioned by the work he is asked to accomplish.”***

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile – No provision*Cuba* – No provision*Panama* – No provision

B. Proposals

India – No provision*United States* – No provision

[*] H.R. Com. 1st session - 14th meeting - page E-21.

[**] H.R. Com. 1st session - 14th meeting - page E-51.

[***] H.R. Com. 1st session - 14th meeting - page E-61.

[7]

Section III. National Constitutions

Argentine, Constitution of

Article 21

Every Argentine citizen is obliged to arm himself in defence of the Fatherland and of this Constitution, in accordance with whatever laws the Congress shall enact for the purpose and with the decrees of the National Executive. Citizens by naturalization are free to render this service or not for a term of ten years counting from the date on which they obtain their letters of citizenship.

*Byelorussia, Constitution of**Article 105*

See Union of Soviet Socialist Republics Constitution, Article 130.

*China, Constitution of**Article 19*

The people shall have the duty of paying taxes in accordance with law.

Article 20

The people shall have the duty of performing military services in accordance with law.

*Czechoslovakia, Constitution of**Article 127*

1. Every able-bodied citizen of the Czechoslovak Republic shall undergo training and shall obey the summons when called upon for the defence of the State.

*Denmark, Constitution of**Article 88*

Every able-bodied man is obliged to contribute his personal services in the country's defence in accordance with the detailed regulations specified by law.

*Dominican Republic, Constitution of**Article 6*

5th. The law will establish penalties applicable to those who act against . . . the social order, or the public peace.

*Ecuador, Constitution of**Article 159*

All persons inhabiting national territory shall respect and obey the Constitution, laws and authority of the Republic.

[8]

*Ethiopia, Constitution of**Article 20*

All those belonging to the Ethiopian Army owe allegiance and absolute obedience to the Emperor in accordance with the provisions of the law.

Article 21

The nation shall be bound to pay legal taxes.

*Haiti, Constitution of**Article 33*

The counterpart of the status of citizenship and of civic and political rights is civic duty.

Civic duty consists of all the citizen's obligations towards the State and the nation in moral, political, social and economic matters.

Non-observance of these provisions shall be punishable by law. Officials and employees of all grades must, in the exercise of their duties, conduct themselves as men of honour, dignity and conscience and show due regard for the common weal under all circumstances.

*Iceland, Constitution of**Article 75*

Every able-bodied man is bound to take personal part in the defence of the country according to the detailed regulations which may be laid down by law.

*Liberia, Constitution of**Article 1, Section 12*

The people have a right to keep and to bear arms for the common defence. . .

*Mexico (United Mexican States), Constitution of the**Article 31*

It shall be the duty of all Mexicans: . . .

2nd. To present themselves on the days and hours designated by the municipal council of the place in which they reside, to receive such civic and military instruction as shall fit them for the exercise of their rights as citizens, train them in the use of arms, and accustom them to military discipline.

3rd. To enlist and serve in the national guard in accordance with the [9] respective organic law in order to preserve and defend the independence, territory, honour, rights, and interests of the Fatherland, as well as internal tranquillity and order; and. . .

4th. To contribute toward the public expenses of the Federation, as well as of the State and municipality in which they reside, in a proportionate and equitable manner, as provided by law.

Privileges of citizens are: . . .

Article 35

4th. To bear arms in the army or national guard for the defence of the Republic and its institutions and in the terms prescribed by law; and. . .

Article 36

The duties of a citizen of the Republic are:

1st. To be registered at the municipal revenue office, declaring the property he owns, the industry, profession, or work in which he is engaged, and also to be registered in the electoral list in the terms specified by the laws.

Netherlands, Constitution of the

Article 181

All Netherlands subjects who are able shall be bound to collaborate for the maintenance of the independence of the Realm and for the defence of its territory.

This obligation may also be laid upon inhabitants who are not Netherlands subjects.

Article 182

Obligatory military service shall be regulated by law.

Nicaragua, Constitution of

Article 96

Work is a social duty. Every inhabitant of the Republic has the obligation of applying his physical and intellectual energies in a form that will redound to the benefit of the community.

Norway, Constitution of

Article 109

Every citizen of the State shall, as a general rule, for a certain time, be liable to military service, without regard to birth or fortune.

[10]

The application of this principle and the restrictions it may become subject to, shall be determined by law.

Poland, Constitution of

Article 90

Every citizen has the duty of respecting and obeying the constitution of the state and other valid laws and ordinances of the state and self-government authorities.

Article 91

“All citizens are subject to military service. . .”

Article 89

Fidelity to the Republic of Poland is the first duty of a citizen.

Article 93

All citizens are bound to respect legitimate authority and to facilitate the performance of its duties to which they may be appointed by the nation or the proper authority.

Article 92

It is the duty of all citizens to submit to any public burdens, services and duties imposed by virtue of statute.

Siam, Constitution of

Article 15

It is the duty of every person to respect the law, to defend the country and to assist the Government by the payment of taxes and in other ways, under the conditions and in the manner prescribed by law.

Ukraine, Constitution of

Article 129

See Union of Soviet Socialist Republics Constitution Article 130.

Union of Soviet Socialist Republics, Constitution of

Article 130

It is the duty of every citizen of the Union of Soviet Socialist Republics to abide by the constitution of Soviet Socialist Republics, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

[11]

United States, Constitution of the

Article III, Section 3

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.
2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

*Yugoslavia, Constitution of**Article 22*

The citizens of the Federal Peoples Republic of Yugoslavia are bound to comply with the Constitution and laws.

Article 34

The defence of the fatherland is the supreme duty and honour of every citizen. High treason is the greatest crime towards the people. Military service is universal for all citizens.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor – No provision
[12]

Article 2

“In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the State and of the United Nations.”

(See Article 18 quoted below of the Panama Draft of International Declaration)

***Section I. Observations Made by Members
of the Human Rights Commission***

(See observations of Messrs. Hodgson, Dukes, Cassin under Article 1).

***Section II. Drafts of International Declarations or Proposals Submitted
to the Commission by Governments***

A – Drafts of International Declarations:

Chile (Draft of the Inter-American Juridical Committee)

Article XIX

Rights and duties are correlative; and the duty to respect the rights of others operates at all times as a restriction upon the arbitrary exercise of rights.

Cuba – no provision

Panama

Article 18

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic state.

B – Proposals

India – No provision*United States* – No provision***Section III. National Constitutions****China, Constitution of**Article 23*

No one of the liberties and rights enumerated in the preceding articles may, except as warranted by reason of preventing infringement of the liberties of other persons, averting an imminent crisis, maintaining social order or advancing public interest, be restricted by law.

[13]

Article 22

All other liberties and rights of the people that are not inimical to social order or public interest shall be guaranteed under the Constitution.

*France, Declaration of the Rights of Man and of the Citizen, 26 August 1789**Article 4*

Liberty consists in the power of doing whatever does not injure another. Accordingly, the exercise of the natural rights of every man has no other limit than those which are necessary to secure to every other man the free exercise of the same rights; and these limits are determinable only by the law.

*Paraguay, Constitution of**Article 35*

The liberties that this Constitution guarantees are all of a social character. Exigencies of the public order may limit them in their exercise in the manner and form that the laws may establish. To preach hatred or class conflict among Paraguayans is not permitted.

*Turkey, Constitution of**Article 68*

Every Turk is born free and free he lives. Liberty consists of any action which is not detrimental to others. The limits of an individual's liberty, which is his natural right, extend only to the point where they infringe on the liberties enjoyed by his fellow-citizens. The said limits are defined solely by law.

Article 79

The limits Imposed on the liberty of making contracts, of labour, of ownership, of meeting and associating, and of incorporating shall be determined.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor – No provision
[14]

Article 3

“Everyone has the right to life. This right can be denied only to persons who have been convicted under general law of some crime against society to which the death penalty is attached.”

***Section I. Observations Made by Members
of the Human Rights Commission***

Mr. Cassin (France):

“... we are thinking of the right to live and protection of human life. That is not quite as elementary as we see it. In 1933, when Germany began to violate these very principles, all the countries of the world wondered as to whether they had the right of intervention in order to save humanity and to maintain those principles, and they did not intervene. Later we suffered the loss of millions of human beings. Therefore, I think it is fundamental that we state that human beings have the right of existence.”*

***Section II. Drafts of International Declarations
or Proposals Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article I

Every person has the right to life. This right extends to the right to life from the moment of conception; to the right to life of incurables, imbeciles and the insane. It includes the right to sustenance and support in the case of those unable to support themselves by their own efforts; and it implies a duty of the state to see to it that such support is made available.

The right to life may be denied by the state only on the ground of conviction of the gravest crimes, to which the death penalty has been attached.

Cuba

The right to life, to liberty, to personal security and to respect of his dignity as a human being.

Panama – No provision

[*] H.R. Com. 1st session-13th meeting-pages E-94, E-95.

[15]

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Bolivia, Constitution of

Article 25

. . . Capital punishment shall be applied only in cases of assassination, patricide, and treason to the Fatherland, by treason, complicity with the enemy during a state of foreign war is understood.

Brazil, Constitution of

Article 141

No. 31. There shall be no penalty of death. . . Exception is made, with respect to the death penalty, of the provisions of military law in time of war with a foreign country. . .

China, Constitution of

Article 15

The right of existence. . . shall be guaranteed to the people.

Colombia, Constitution of

Article 29

The legislature may not impose capital punishment in any case.

Costa Rica, Constitution of

Article 45

Human life is inviolable in Costa Rica.

Cuba, Constitution of the Republic of

Article 25

The penalty of death may not be imposed. However, crimes of a military character committed by members of the armed force, and treason or

espionage in favour of the army in time of war with a foreign Nation, are excepted.

Czechoslovakia, Constitution of

Article 186

2. All persons residing in the Czechoslovak Republic shall enjoy within its territory in equal measure with the citizens of the Republic complete and absolute security of life and liberty without regard to origin, nationality, language, race or religion. Exception to this principle may be made only so far as is compatible with international law.

[16]

Dominican Republic, Constitution of

Article 6

The following are established as inherent to the human personality:

1st. Inviolability of life.

The penalty of death cannot be established, nor any other that implies the loss of the physical integrity of the individual.

The law will be able, nevertheless, to establish the penalty of death for those who, in time of war with a foreign nation, become guilty of crimes opposing the fortune of the national forces, or of treason or espionage in favour of the enemy.

Ecuador, Constitution of

Article 187

“The State shall guarantee to the inhabitants of Ecuador: (1) the sanctity of human life: there shall be no death penalty. . .”

El Salvador, Constitution of

Article 19

The penalty of death may not be imposed, except for very grave crimes, purely military, and committed in campaign and determined by the military code; and for the crimes of parricide, murder or robbery or arson if death follows. . .

Greece, Constitution of

Article 18

. . . Civil death is abolished.

The penalty of death for political offences, except complex crimes, is abolished.

Guatemala, Constitution of

Article 23

“The state protects human existence in a preferable way. The authorities of the Republic are instituted to maintain the inhabitants in the enjoyment of their rights, which are primarily life. . .”

*Haiti, Constitution of**Article 5*

The life and liberty of Haitians are sacred and must be respected by individuals and by the State.

Article 20

The death penalty cannot be established for political offences except treason.

[17]

The crime of treason includes every act consisting in taking up arms against the Republic of Haiti, adhering to the declared enemies of Haiti and giving them aid and comfort.

*Honduras, Constitution of**Article 31*

The penalty of death is abolished in Honduras; but while the penal system is being established, it shall be applied in cases determined by law, only to parricides, assassins, and traitors when the latter are in active service and on campaign.

Sentences issued in suits instituted for these crimes shall be deliberated on by the courts of appeals and the decision of the latter shall be sent to the Supreme Court of Justice for review if common crimes are involved, and to the military court of the Republic if the offence is of a military nature.

The Supreme Court of Justice, as well as the military court of the Republic, shall render a decision based only on the proceedings.

Article 44

The right of self-defence is inviolable.

*Iran, The Supplementary Fundamental Laws of**Article 9*

All individuals are protected and safeguarded in respect to their lives, property, homes, and honour, from every kind of interference, and none shall molest them save in such case and in such a way as the laws of the land shall determine.

*Luxembourg, Constitution of**Article 18*

The death penalty for political offences, civil death and branding are abolished.

*Mexico (United Mexican States), Constitution of the**Article 22*

The penalty of death for political crimes is likewise prohibited; and for other types of offences, it may be imposed only upon traitors to the Fatherland in a foreign

war, parricides, homicides by treachery, premeditation, or gain, incendiaries, plagiarizers, highway robbers, pirates, [18] and offenders who have committed grave offences of a military character.

Nicaragua, Constitution of

Article 36

Human life is inviolable in Nicaragua, but, while the penitentiary system is not established, the penalty of death may be applied in cases determined by law to traitors to the Fatherland in a foreign war, to criminals in cases of grave offences of a purely military character, to parricides, to incendiaries, to highwaymen, to pirates, and to assassins.

Panama, Constitution of the Republic of

Article 30

There is no penalty of death, expatriation, or confiscation of property.

Paraguay, Constitution of

Article 25

In no case may the death penalty be applied for political reasons.

Peru, Constitution of the Republic of

Article 54

The penalty of death may be imposed for the crimes of treason to the Fatherland and qualified homicide, and for all crimes that may be determined by the law.

Poland, Constitution of

Article 95

“The Republic of Poland guarantees on its territory, to all, without distinction of extraction, nationality, language, race, or religion, full protection of life. . .”

Sweden, Constitution of

Article 16

The King. . . shall not deprive anyone or permit anyone to be deprived of life without legal trial and sentence.

Turkey, Constitution of

Article 71

The life, property, honour and residence of each individual are inviolable.

*United States, Constitution of the
5th Amendment*

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment, or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger. . .
[19]

Uruguay, Constitution of

Article 25

The penalty of death shall not be inflicted on any person. Penal institutions shall in no case be permitted to inflict humiliating punishments, but shall exist only for the security of the accused and condemned persons, pursuing their re-education, rehabilitation for work, and prevention of crime.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor – No provision

[20]

Article 4

“No one shall be subjected to torture, or to any unusual punishment or indignity.”

***Section I. Observations Made by Members
of the Human Rights Commission***

– None –

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XII

“ . . . and no cruel or unusual punishments.”

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions*Afghanistan, Fundamental Principles of the Government**Article 19*

The rack and other kinds of torture are absolutely abolished. No punishment can be inflicted which is not prescribed by the law of the land and the sacred Shariat law.

*Argentine, Constitution of**Article 18*

No inhabitant of the Nation may be punished without previous trial, based on an earlier law than the date of the offence, nor tried by special commissions, nor removed from the judges designated by law before the date of the trial. No one can be compelled to testify against himself or be arrested except by virtue of a written order from a competent authority. The defence, by trial, of the person and of rights is inviolable. The [21] domicile is inviolable, as also epistolary correspondence and private papers; and a law shall determine in what cases and for what reasons their search and seizure will be allowed. The penalty of death for political offences, all kinds of torture, and whipping, are forever abolished. The prisons of the Nation shall be healthy and clean, for the safety and not for the punishment of the prisoners confined in them; and any measure that under pretext of precaution inflicts on them hardship beyond what the Nation demands, will bring responsibility upon the judge who authorizes it.

*Bolivia, Constitution of**Article 14*

... In no case shall torture or any other kind of inhuman punishment be employed.

*Chile, Constitution of**Article 18*

... Torture shall not be applied. . .

*Costa Rica, Constitution of**Article 24*

The punishment of infamy is not transcendental. The use of torture and the punishment of confiscation are prohibited.

*Ecuador, Constitution of**Article 161*

“... nor may the law prescribe conditions to the detriment of human dignity.”

Article 187

“(1)... mutilation, flogging and other tortures and degrading procedures are categorically forbidden whether as penalties, corrective measures, or means of investigating offences.”

El Salvador, Constitution of

Article 19

Perpetual penalties, flogging and all kinds of torture are prohibited.

Greece, Constitution of

Article 18

Torture and general confiscation are prohibited. . .

Guatemala, Constitution of

Article 45

“... In no case may torture, vexations, molestation, or any other form of coercion be inflicted upon. . .”

[22]

Haiti, Constitution of

Article 12

All unnecessary harshness or constraint in apprehending a person or keeping him in custody, as well as all moral pressure or physical violence, especially during interrogation, are prohibited.

Honduras, Constitution of

Article 47

Whipping, beating with sticks, and all kinds of torture are absolutely forbidden. Unnecessary imprisonment and all undue punishment are also forbidden.

Article 53

Proscriptive, confiscatory laws are prohibited, as well as those ordering inhuman or perpetual punishment. The duration of penalties shall not exceed twelve years, or twenty years for an accumulation for various offences.

Iraq, Constitution of

Article 7

... Torture and the deportation of Iraqis from the Kingdom of Iraq are absolutely forbidden.

Mexico (United Mexican States), Constitution of
Article 19

Any ill treatment on apprehension or in prisons, any hardship inflicted without legal cause, any tax or contribution in penal institutions are abuses which shall be corrected by law and repressed by the authorities.

Article 22

Punishments by mutilation or infamy, branding, flogging, beating, torture of any kind, excessive fines. . . are prohibited.

Nicaragua, Constitution of

Article 55

Prospective laws, those that inflict opprobrious penalties, or those that last more than twenty-five years are prohibited.

Article 76

Prisons are established for security and social defence. The prevention of crime, the re-education of the convict, and his preparation for work outside will be undertaken in them. . .

[23]

Article 76

. . . Every act of cruelty or torture against convicts is prohibited.

Article 221

When the Republic finds itself involved in an international war or in an internal civil war, or there exists the danger that one or the other may occur, or in case of epidemic, earthquake, or any other public calamity, or when for any other reason the defence, peace, and security of the Nation or of its institutions or forms of government may require it, the President of the Republic, in Council of Ministers, may, by decree, restrict or suspend, in all or a part of the national territory, the exercise of the constitutional guarantees, with the exception in all cases of those relating to:

- 1st. The inviolability of human life.
- 2nd. The prohibition against being tried by judges not recognized by the law.
- 3rd. The prohibition against inflicting infamous penalties, including those of whipping and of any kind of torture whatever.
- 4th. The prohibition against retroactive or confiscatory laws; and
- 5th. The levying of taxes.

*Norway, Constitution of**Article 96*

Examination by torture must not take place.

*Panama, Constitution of**Article 28*

Jails are places of security and regeneration. All severity that is not necessary for express purposes is prohibited in them.

*Paraguay, Constitution of**Article 28*

Jails must be sanitary and clean. Punishment by any form of torture, including whipping, is prohibited.

*Philippines, Constitution of**Article III, Section 1. (19)*

Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted.

*Poland, Constitution of**Article 98*

“... Punishments involving physical suffering are not permitted and no one may be subjected to such punishment. . .”

[24]

*Syria, Constitution of**Article 11*

Corporal punishment is forbidden. . .

*Turkey, Constitution of**Article 73*

Torture, bodily mistreatment, confiscation and forced labour are prohibited.

*United States, Constitution of**8th Amendment*

. . . nor cruel and unusual punishments inflicted.

*Uruguay, Constitution of**Article 25*

. . . Penal institutions shall in no case be permitted to inflict humiliating punishments, but shall exist only for the security of the accused and condemned persons, pursuing their re-education, rehabilitation for work, and prevention of crime.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor

Article 12

The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if -

(e) Freedom from the terror of secret police surveillance, arrest or torture. This can be assured only through the abolition of all political police and concentration camps in every country.

[25]

Article 5

“Everyone has the right to personal liberty”.

***Section I. Observations Made by Members
of the Human Rights Commission***

– None –

***Section II. Draft of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article II

Paragraph 1 – Every person has the right to personal liberty.

Cuba – No provision

Panama – No provision

B. Proposals

India

I. (a)

Every human being is entitled to the right of liberty including the right to personal freedom.

United States – No provision

Section III. National Constitutions*Afghanistan. Fundamental Principles of the Government**Article 11*

There is no interference with personal liberty. No one is imprisoned or punished without an order in accordance with the Shariat or the appropriate laws. The practice of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

*Belgium, Constitution of**Article 7*

Paragraph 1 – Individual liberty is guaranteed.

*Byelorussia, Constitution of**Article 102*

See the USSR Constitution Article 127

*China, Constitution of**Article 8*

1st paragraph – Freedom of person shall be guaranteed to the people.
[26]

*Czechoslovakia, Constitution of**Article 107*

“1. Personal freedom shall be guaranteed. . .”

*Ecuador, Constitution of**Article 187*

“The State shall guarantee to the inhabitants of Ecuador:
. . . (3) personal freedom. . .”

*Egypt, Royal Rescript No. 42**Article 4*

The freedom of the individual is guaranteed.

*El Salvador, Constitution of**Article 9*

All inhabitants of El Salvador have an indisputable right to preserve their lives, liberty, and property, and to dispose freely of their goods in conformity with the law.

*France, Declaration of the Rights of Man and of the Citizen**Article 2*

The purpose of all civil association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

*Greece, Constitution of**Article 4*

Personal liberty is inviolable. . .

*Guatemala, Constitution of**Article 23*

“ . . . The authorities of the Republic are instituted to maintain the inhabitants in the enjoyment of their rights, which are primarily. . . liberty. . . ”

*Haiti, Constitution of**Article 5*

The life and liberty of Haitians are sacred and must be respected by individuals and by the State.

Article 12

Individual liberty is guaranteed. . .

*Iraq, Constitution of**Article 7*

There shall be no violation of, or interference with, the personal liberty of any of the inhabitants of Iraq. None of them shall be arrested, [27] detained, punished or obliged to change their place of residence, or be placed in bonds, or compelled to serve in the armed forces, except in conformity with law.

*Lebanon, Constitution of**Article 8*

Personal freedom shall be guaranteed and protected.

*Luxembourg, Constitution of**Article 12*

The freedom of the individual is guaranteed.

*Nicaragua, Constitution of**Article 109*

The State guarantees individual liberty. This may not be restricted unless in conformity with the law.

*Poland, Constitution of**Article 95*

“The Republic of Poland guarantees on its territory, to all, without distinction of extraction, nationality, language, race, or religion, full protection of . . . liberty. . . .”

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association, and vocation.

*USSR, Constitution of**Article 127*

“Citizens of the USSR are guaranteed inviolability of the person. . . .”

*Ukrainian Constitution**Article 126*

See Article 127 of the USSR Constitution.

*Yugoslavia, Constitution of**Article 28*

Paragraph 1 – “Citizens are guaranteed inviolability of person.”

***Section IV. Draft International Declarations Presented
by Organizations in Category A***

American Federation of Labor – No provision

[28]

Article 6

“No one shall be deprived of his personal liberty save by a judgment of a court of law, in conformity with the law and after a fair public trial at which he has had an

opportunity for a full hearing, or pending his trial which must take place within a reasonable time after his arrest. Detention by purely executive order shall be unlawful except in time of national emergency.”

***Section I. Observations Made by Members
of the Human Rights Commission***

– None –

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XII

Every person accused of crime shall have the right to a fair public hearing of the case, to be confronted with witnesses, and to be judged by established tribunals and according to the law in force at the time the act was committed.

Cuba

Article 18

The right to trial without undue delay, to self defence. . .

Panama (American Law Institute)

Article 7

Everyone has the right to have his criminal and civil liabilities and his rights determined without undue delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing.

The state has a duty to maintain adequate tribunals and procedures to make this right effective.

B. Proposals

India – No provision

United States

II. (2)

Among the categories of rights which the United States suggests should be considered are the following. . .

b) procedural rights, such as safeguards for persons accused of crime.

[29]

Section III. – National Constitutions*Afghanistan, Fundamental Principles of the Government**Article 11*

There is no interference with personal liberty. No one is imprisoned or punished without an order in accordance with the Shariat or the appropriate laws. The practice of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

*Brazil, Constitution of**Article 141*

25. Accused persons are assured of full defence, with all the means and resources essential to it, from the time of the charge of guilt, which, signed by a competent authority, with the names of the accuser and of the witnesses, shall be delivered to the prisoner within twenty-four hours. The criminal instruction shall be contradictory.

26. There shall be no privileged court nor exceptional judges and tribunals.

*Byelorussia, Constitution of**Articles 102, 86, 87, 81*

See Union of Soviet Socialist Republics, Constitution Articles 127, 110, 111, 103.

*Chile, Constitution of**Article 11*

No one may be sentenced unless he is legally tried and by virtue of a law promulgated prior to the act upon which the sentence rests.

Article 12

No one may be tried by special commissions, nor otherwise than by the tribunal the law appoints and has previously constituted.

*China, Constitution of**Article 8*

... No person may be tried or punished except by a law court in accordance with legal procedure. Any arrest, detention, trial or punishment, if conducted not in accordance with legal procedure may be refused.

*Colombia, Constitution of**Article 25*

No one shall be obliged, in criminal, correctional, or police proceedings, to testify against himself or against his relatives within [30] the fourth civil degree of consanguinity or the second of affinity.

Article 24

An offender caught *in flagrante delicto* may be arrested and taken before a judge by any person. If the agents of the authority pursue him and he takes refuge in his own dwelling, they may enter it for the purpose of arresting him; but if he seeks asylum in the dwelling of another person, the consent of the owner or tenant thereof must be previously obtained.

Article 26

No one shall be tried except in conformity with laws antedating the offence with which he is charged, and before a competent tribunal, observing in full the forms proper to each case.

Article 27

The preceding provision shall not prevent the following persons from inflicting punishment, without previous trial, in the cases and within the exact limits established by law:

- 1st. Public officials exercising authority or jurisdiction, who shall have power to punish with fines or imprisonment any person who may injure or offend them with respect to an action that they may perform in discharging the functions of their office.
- 2nd. Military officers, who may inflict instant punishment to subdue insubordination or a military mutiny, or to maintain discipline in the presence of the enemy.
- 3rd. Captains of vessels, who have the same power, when not in port, to repress offences committed on board their ships.

*Costa Rica, Constitution of**Article 40*

No one can be arrested without a proved indication of having committed a crime, and without a written order from a judge or authority in charge of public order; except when the defendant may be declared a fugitive from justice or a delinquent *in flagrante delicto*; but in every case he must be placed at the disposition of a competent judge within the definite period of twenty-four hours.

[31]

Article 44

No person can be subjected to prison for debt, except only in the case of legally proved fraud.

Cuba, Constitution of

Article 26

Persons under arrest, and political or social prisoners, shall be detained in compartments separate from common offenders, and shall not be subjected to any labour or to the penal regulations for common prisoners.

Article 27

Every detained person shall be placed at liberty or delivered to a competent judicial authority within twenty-four hours following the act of his detention.

Every detained person shall be released from custody, or committed to prison by a judicial writ, within seventy-two hours after having been placed at the disposition of a competent judge. Within the same period the detained person shall be notified of the writ issued.

Preventive imprisonment shall be maintained in places distinct and completely separate from those designed for the serving of sentences, and persons kept in said preventive imprisonment may not be subjected to any labour or to penal regulations designed for persons serving sentence.

Article 26

The penal process law shall establish the necessary guarantees that all guilt shall be proved independently by the testimony of the accused, of the spouse, and also of relatives within the fourth degree of consanguinity and second of affinity. All accused persons shall be deemed innocent until found guilty.

In all cases the authorities and their agents shall make a record of detention that shall be signed by the detained person, who will be notified of the authority ordering the detention, the reason for it, and the place to which the person in custody is to be conducted, placing an affidavit as to all these details in the record.

[32]

Registration of detained persons and prisoners shall be open to public inspection. Officials approaching or guarding a person in custody shall be liable for every act against the personal integrity, security, or honour of any detained person, unless such officials shall prove their innocence of such act. A subordinate may refuse compliance with orders that infringe upon this guarantee. A guard employing arms against a detained person or a prisoner attempting to escape, shall be accused and held responsible according to the laws, for the crime that may have been committed.

No person under arrest or imprisoned shall be held incommunicado. Infractions of this provision shall be taken up only in ordinary jurisdiction, regardless of the place, circumstances, or persons involved in the detention.

Czechoslovakia, Constitution of

Article 107

2. No person shall be deprived of personal liberty or restricted in the enjoyment of the same except legal grounds. . .

Article 94

2. No one shall be tried other than before his legal judge.

Article 95

4. Trial by jury may be temporarily suspended in cases provided for by law.

Ecuador, Constitution of

Article 94

In the event of imminent threat of foreign invasion or of international conflict or internal disturbance, the Executive shall apply to Congress. . . in order that. . . it may grant. . . some or all of the following Extraordinary Powers:

(8) to arrest any persons suspected of favouring foreign invasion or internal disturbance, or of participating in such; but within a maximum of six days, he shall place them at the disposal of the competent judge, with a report of the investigation made and other documents in justification of the arrest, or else he shall sentence them to imprisonment within the same six days. . .

(9) to imprison any persons suspected of favouring war, and of taking part in internal disturbance. . .

[33]

El Salvador, Constitution of

Article 20

No person may be deprived of his life, or his liberty, or of his property without previously being heard and convicted in a trial in accordance with the laws; nor may anyone be prosecuted twice, civilly or criminally, for the same cause.

Article 28

Neither the Executive nor the judiciary, nor any other authority, may issue orders of detention or imprisonment if they are not in conformity with the law. These orders must always be written, except in criminal matters, when the offender may be taken *in flagrante delicto*, in which case he may be detained by any person, to be delivered

immediately to the respective authorities. Detention for inquiry shall not exceed forty-eight hours, and the investigating judge is obliged, within the said period, to order the liberty or the provisional arrest of the suspected person.

Article 39

Neither the Legislature nor the Executive, nor any tribunal, authority, or person, may restrict, alter, or violate the constitutional guarantees, without being subject to the responsibilities established by law. A law on the state of siege shall determine those that may be suspended and the cases in which the suspension may take place.

Ethiopia, Constitution of

Article 23

No Ethiopian subject may be arrested, sentenced or imprisoned, except as prescribed by law.

France, Declaration of the Rights of Man and of the Citizen

Article 9

Every man being counted innocent until he has been convicted, whenever his arrest becomes indispensable, all rigour more than is necessary to secure his person ought to be provided against by law.

Article 7

No one shall be accused, arrested or imprisoned save in the cases [34] determined by law and according to the forms which it has prescribed. All who solicit, promote, execute or cause to be executed arbitrary orders ought to be punished and every citizen summoned or apprehended by virtue of the law ought immediately to obey and becomes culpable if he resists.

Greece, Constitution of

Article 4

... no man may be prosecuted, arrested, imprisoned, or otherwise confined, except when and as the law provides.

Article 5

Except when taken in the act, no man may be arrested or imprisoned without a judicial warrant stating the reason, which must be served at the moment of arrest or detention. Any person who is detained on being taken in the act or on a warrant of arrest must be brought without delay before the competent examining Judge within twenty-four hours of his arrest at the latest, or, if the arrest occurred beyond the limits of the district of the examining judge, within the time absolutely necessary for

his conveyance. The examining Judge, must, within at the most three days of his appearance, either release the person arrested or deliver a warrant for his imprisonment. In the event of either of these terms having passed without such action, every gaoler or other person, civil or military, charged with the detention of the arrested person must release him instantly. Those who violate the above provisions are punished for illegal detention, and are obliged to make good any loss sustained by the injured party, and further to indemnify him a sum of money fixed at the discretion of the Judge, but never less than 10 drachmas *per diem*.

Guatemala, Constitution of

Article 47

Sentence of imprisonment may not be issued without previous summary information of a crime having been committed and the presence of a sufficient motive, according to the law, for the belief that the person detained is guilty.

Article 43

No one may be detained or imprisoned except by reason of crime, offence, [35] or judicial restraint, and by means of a written order by a competent authority issued in accordance with the law. . . but the detained person must be placed without delay at the disposal of a judicial authority and in centres of provisional detention. . .

Haiti, Constitution of

Article 12

No person may be prosecuted, arrested or detained except in the cases provided for and in accordance with the procedure prescribed by law. Furthermore, arrest and detention shall only take place on the warrant of a legally authorized official.

For such warrant to be executed:

- (1) It must formally state the reason for detention and the provision under the law which punishes the alleged act;
- (2) It must be served on the person concerned and a copy of it left with him at the time of his detention, except in cases of *flagrante delicto*.

No person may be kept in custody unless he has been brought within forty-eight hours after arrest before a judge authorized to decide the question of the legality of arrest. Such jurisdiction shall be organized by the law.

All unnecessary harshness or constraint in apprehending a person or keeping him in custody, as well as all moral pressure or physical violence, especially during interrogation, are prohibited. All violations of this provision are arbitrary acts against which the injured parties may, without previous authorization, appeal to

the competent courts and prosecute those authorizing or committing the said acts, whatever may be their rank and duties.

Honduras, Constitution of

Article 35

Detention for inquiry shall not exceed six days.

Article 36

Persons arrested and held incommunicado shall not be held for more than forty-eight hours.

[36]

Article 37

An order for detention in prison shall not be issued without previous full proof that a crime or simple offence meriting the penalty of deprivation of liberty has been committed, and without a rational suspicion of its author. The declaration of the criminal shall be made in the same manner.

Article 38

Imprisonment for debts is prohibited except when fraud is present.

Article 39

Imprisonment or arrest is permitted as punishment, or as a detainer, in the cases and for the terms established by law. The detention may not exceed thirty days.

Article 40

An offender caught *in flagrante delicto* may be apprehended by any person in order to deliver him to the proper authority.

Article 41

No person shall be imprisoned or detained except in places established by law. Jails shall serve only for the safekeeping of indicted persons or those serving terms of punishment.

Article 42

No person shall be brought to a jail or detained therein, even with an order of arrest, if he presents sufficient bond, when the offence committed does not carry a penalty of more than three years.

Article 56

The laws shall fix the order and form of procedure in civil and criminal matters.

Iran, The Supplementary Fundamental Laws

Article 12

No punishment can be decreed or executed save in conformity with the law.

Liberia, Constitution of

Article I, Section 9

No place shall be searched, nor person seized on a criminal charge, or [37] suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search.

Article I, Section 10

Excessive bail shall not be required nor excessive fines imposed, nor excessive punishments inflicted. Nor shall the Legislature make law impairing the obligation of contracts; nor any law rendering any act punishable in any manner in which it was not punishable when it was committed.

Article I, Section 20

That all prisoners shall be bailable by sufficient sureties; unless for capital offences, when the proof is evident, or presumption great; and the privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Republic, in the most free, easy, cheap, expeditious and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Mexico (United Mexican States), Constitution of

Article 16

No order of apprehension or detention shall be issued, except by judicial authority, without being preceded by a denunciation, accusation, or complaint of a specific act which the law penalizes by corporal punishment nor without the same being substantiated by an affidavit, under oath, made by some trustworthy person, or by other evidence showing the probable guilt of the accused; exception is made in cases *in flagrante delicto*, in which any person may apprehend the offender and his accomplices, placing them without delay at the disposal of the nearest authorities. Only in urgent cases, when there is no judicial authority available in the district, and involving offences officially prosecuted, may the administrative authority, under its

strictest accountability, order the detention of the accused, placing him immediately at the disposal of the judicial authority. . .

[37]

Article 17

No person may be imprisoned for debts of a purely civil character. . .

Article 19

No detention may exceed the term of three days without being authorized by a formal warrant of penal arrest in which shall be specified; the offence imputed to the accused; the elements constituting it; the place, time, and circumstances of its commission, and the facts that brought forth the previous investigation, which should be sufficient to prove the circumstance of the offence and show the probable guilt of the accused. The authority ordering the detention or consenting to it, and the agents, ministers, wardens, and guards executing it, shall be responsible for the violation of this provision. . .

Article 21

The imposition of penalties is the strict and exclusive right of the judicial authorities. The prosecution of crimes concerns the Public Ministry and the judicial police, the latter being under the immediate authority and command of the former. The administrative authority has jurisdiction in punishing violations of governmental and police regulations, which punishment shall consist only of a fine or arrest of not more than thirty-six hours; but should the offender not pay the fine that may have been imposed, his punishment shall be changed to a corresponding arrest that in no case may exceed fifteen days.

Should the offender be a day labourer or a workman, he shall not be punished by a fine greater than the amount of his weekly wage or salary.

Netherlands, Constitution of

Article 158

Except in cases determined by the law, no person may be arrested otherwise than under an order of the judge, stating the reasons for the arrest. This order must be served on the person against whom it is directed, either at the moment of arrest or immediately afterwards. The form of this order and the time within which all arrested persons must be heard shall be fixed by law.

Nicaragua, Constitution of

Article 221

When the Republic finds itself involved in an international war or in an [39] internal civil war, or there exists the danger that one or the other may occur, or in case of

epidemic, earthquake, or any other public calamity, or when for any other reason the defence, peace, and security of the Nation or of its institutions or forms of government may require it, the President of the Republic, in Council of Ministers, may, by decree, restrict or suspend, in all or a part of the national territory, the exercise of the constitutional guarantees, with the exception in all cases of those relating to:

- 1st. The inviolability of human life.
- 2nd. The prohibition against being tried by judges not recognized by the law.
- 3rd. The prohibition against inflicting infamous penalties, including those of whipping and of any kind of torture whatever.
- 4th. The prohibition against retroactive or confiscatory laws; and
- 5th. The levying of taxes.

Article 110

No one may be detained except by a written order from a public official expressly empowered by law. In cases *in flagrante delicto*, the offender may be arrested by any private individual in order to turn him over to a competent authority or court.

Every order of detention that does not emanate from a competent authority, or that has not been issued with legal formalities, is punishable.

Article 111

Every detained person must be set at liberty or delivered to a judicial authority within twenty-four hours following the act of detention, exclusive of the extra time it takes to cover the distance for such delivery, according to the case.

Article 114

No order of imprisonment may be issued without full proof that an act has been committed that calls for a greater penalty than a purely correctional one, and without at least grave presumption that the party to be imprisoned is guilty.

[40]

Article 115

When the offence for which one is being tried does not call for imprisonment for more than two years, the judges may place the defendant at liberty by means of a bond, in accordance with the law.

Article 116

Every detention for investigation shall cease to have effect, or shall be changed to imprisonment, within ten days after the person detained has been delivered to a competent court.

Article 117

Every restriction of personal liberty for debts or purely civil obligations is prohibited, unless it be by judicial agreement or bond in the cases and for the period that the law prescribed.

Article 118

The State guarantees the right of *habeas corpus*. Any person illegally detained or threatened with detention by virtue of an arbitrary order, or any other inhabitant of the Republic, acting for him, may invoke orally or by writing before a competent tribunal recourse to the writ of *habeas corpus* in order that the person apprehending shall, in such case, present the one detained and shall immediately explain and justify the legal cause for detention or threat of detention, conforming to what the tribunal decides in the matter.

Article 221

This decree will be repealed when the reasons for its existence are removed, and the Executive must without delay give an account of his actions to the Congress.

The restriction of guarantees will in no way affect the functioning of the public organs of the Nation, and their members will always enjoy the prerogatives granted them by the law.

[41]

The President of the Republic and the Secretaries of State will be responsible when they declare a suspension or restriction of the constitutional order without the circumstance having occurred that will justify it; and they will be responsible, along with any other officials, for any abuse they may have committed in the exercise of the powers granted in this article.

In case of foreign war, the Executive, by the same decree in which the exercise of the constitutional guarantees is restricted or suspended, will call the Congress to meet within the following thirty days; and, in case he does not call it, the Congress may meet by its own right.

Norway, Constitution of

Article 99

No one may be arrested and committed to prison except in the cases determined by law and in the manner prescribed by the laws. For unjustifiable arrest and illegal detention the officer concerned shall be responsible to the person imprisoned.

Panama, Constitution of

Article 22

No one may be deprived of his liberty except by virtue of a written order by a competent authority, issued in accordance with the legal formalities and for a reason previously defined in the law. The executors of said order are obliged to give a copy of it to the interested party, provided he requests it.

A delinquent surprised *in flagrante delicto* may be apprehended by any person and must be delivered up immediately to the authorities.

No one may be detained more than twenty-four hours without being placed under the orders of a competent authority. Members of the police who may violate this precept have as a penalty the immediate loss of their office, without prejudice to the penalties that the law may establish for the purpose.

[42]

There is no imprisonment, detention, or arrest for purely civil debts or obligations.

Article 24

Every individual detained apart from the cases and the form that this Constitution and the law may prescribe will be placed at liberty on his petition or that of any other person. For this purpose the law will regulate the recourse of *habeas corpus* by means of a summary judicial proceeding and without consideration of the applicable penalty.

Peru, Constitution of

Article 56

No one may be detained save by written order authorized by a competent judge or by the authorities charged with preserving public order, excepting cases of crimes *in flagrante delicto*, with the stipulation in every case that the detained person be placed, within twenty-four hours, or within the limits of the distance, at the disposal of the corresponding court, which shall either order his release or order a prison sentence for the period that the law stipulates.

Article 58

There is no detention for debts.

Article 69

All of the individual and social rights recognized by the Constitution are open to the action of *habeas corpus*.

Philippines, Constitution of

Article III, Section 1. (12)

No person shall be imprisoned for debt or non-payment of a poll tax.

Article III, Section 1. (16)

All persons shall before conviction be bailable by sufficient sureties, except those charged with capital offences when evidence of guilt is strong. Excessive bail shall not be required.

Article III, Section 1. (14)

The privilege of the writ of *habeas corpus* shall not be suspended except in cases of invasion, insurrection, or rebellion, when the public safety requires it, in any of which events the same may be suspended wherever during [43] such period the necessity for such suspension shall exist.

*Poland, Constitution of**Article 98*

No one may be deprived of the court to which he is subject by law. Exceptional courts are admissible only in cases determined by statutes, which statutes must have been issued before the offence was committed.

*Sweden, Constitution of**Article 16*

The King . . . shall not deprive anyone or allow anyone to be deprived of . . . personal liberty . . . without legal trial and sentence.

*Syria, Constitution of**Article 9*

No offence shall be punished and no conviction may be pronounced, except in conformity with the law.

Article 10

No person shall be tried except before the courts prescribed by the law.

*Turkey, Constitution of**Article 86*

In the event of a war, rebellion or in the case of convincing evidence of a positive and serious conspiracy against the country and the Republic, the Council of Ministers may proclaim partial or general martial law on condition that this does not exceed one month and that this measure is submitted without delay to the Grand National Assembly for approval. The Assembly, may, if deemed necessary, extend or reduce the duration of martial law. Should the Assembly not be in session, it shall be convened immediately.

The prolongation of Martial Law is subject to the decision of the Grand National Assembly. Martial Law implies the temporary restriction or suspension of personal

and residential immunity, of inviolability of correspondence, of the freedom of the press, and of the right of assembling and associating. The area over which Martial Law may be proclaimed, the application of the provisions of this regulation over the said area, as well as the mode of restriction or suspension of immunity, and freedom in time of war is determined by law.

[44]

Uruguay, Constitution of

Article 26

Judges may place the accused at liberty at any stage of a criminal trial from which punishment by imprisonment is not likely to result, provided he gives bond according to law.

Article 15

No person shall be arrested unless taken *in flagrante delicto* or with partial proof on written order of an authorized judge.

Article 16

In either of the cases of the previous article, the judge, under the strictest responsibility, shall take the declaration of the accused within twenty-four hours and shall return an indictment within not more than forty-eight hours. The declaration of the accused shall be taken in the presence of his defender. The latter shall also have the right to be present at all of the summary judicial proceedings.

Article 12

No person shall be punished or confined without a legal form of trial and sentence.

Article 51

No person shall be deprived of liberty because of debts.

Article 30

Individual security may not be suspended except with the compliance of the General Assembly or the permanent committee, in case the former has been dissolved or is in recess, and in the extraordinary case of treason or conspiracy against the Fatherland; and then it shall be instituted only for apprehension of the offenders, without prejudice to the provision of Clause 18 of Article 157.

Union of Soviet Socialist Republics, Constitution of

Article 127

“... no person may be placed under arrest except by decision of a court or with the sanction of a procurator.”

[45]

Article 110

“Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.”

Article 111

“In all courts of the Union of Soviet Socialist Republics cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by Counsel.”

Article 103

“In all courts cases are tried with the participation of people’s assessors, except in cases specially provided for by law.”

Ukraine, Constitution of

Articles 126, 109, 110 and 103

See Union of Soviet Socialist Republics; Constitution – Articles 127, 110, 111, 103.

Yugoslavia, Constitution of

Article 28

No person may be punished for a criminal act except by sentence of a competent court on the basis of the law establishing the competence of the court and defining the offence.

Article 28 (paragraph 5)

No person, if within the reach of the State authorities, may be tried without being given a lawful hearing and duly invited to defend himself.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor

Article 12

The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if [46]

(e) Freedom from the terror of secret police surveillance, arrest or torture. This can be assured only through the abolition of all political police and concentration camps in every country.

Article 11

Freedom from arbitrary arrest, detention, search and seizure; proper judicial determination of arrest and charges; a fair public trial by jury or competent and unprejudiced court constituted in accordance with normal judicial procedure, right of *habeas corpus* and freedom from arbitrary imposition of penalties.

[47]

Article 7

“Everyone shall be protected against arbitrary and unauthorized arrest. He shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.”

***Section I. Observations Made by Members
of the Human Rights Commission***

None

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XI

Every person accused of crime shall have the right not to be arrested except upon warrant duly issued in accordance with the law, unless the person is arrested *in flagrante delicto*. He shall have the right to a prompt trial and to proper treatment during the time he is in custody.

Cuba

Article 19

The right to immunity from arbitrary arrest and to a review of the regularity of his arrest by ordinary tribunals.

*Panama (American Law Institute)**Article 8*

Everyone who is detained has the right to immediate judicial determination of the legality of his detention.

The state has a duty to provide adequate procedures to make this right effective.

B. Proposals

India – No provision

United States of America – No provision

Section III. National Constitutions*Belgium, Constitution of**Article 7 (paragraph 3)*

Except in the cases of flagrant offence no one may be arrested without warrant issued by a magistrate, which ought to be shown at the time of arrest, or at the latest within twenty-four hours thereafter.

*Bolivia, Constitution of**Article 7*

No person shall be arrested, detained, or imprisoned except in the [48] cases and according to the forms established by law.

For the execution of an order of arrest, it is required that the latter shall be issued by the proper authority and be recorded in writing.

Article 8

Every person who believes he is illegally arrested, prosecuted, or imprisoned, may himself or by means of some other person in his name, with or without power of attorney, have recourse to the superior court of the district or to the corresponding judge, as he prefers, to require that the legal formalities be preserved. The judicial authority shall decree immediately that the individual be brought to his presence and his decree shall be obeyed, without objection or excuse, by those in charge of the jail or place of detention. Informed of the antecedents, the judicial authority shall decree his liberty and have the legal proceedings complied with or shall place the individual at the disposal of the proper judge within twenty-four hours. The decision that is pronounced shall be subject to an appeal of annulment before the Supreme Court of Justice, an appeal that shall not suspend execution of the sentence.

Public officials or private individuals who resist the judicial decisions in the cases covered by this article shall be guilty at all times of offence against constitutional guarantees, and the plea of having obeyed superior orders shall not serve as an excuse.

*Brazil, Constitution of**Article 141*

No. 20. No one shall be imprisoned except *in flagrante delicto* or, by written order of a competent authority, in the cases expressed in the law.

No. 21. No one shall be taken to prison or detained therein if, when the law permits, he offers bond.

No. 22. The imprisonment or detention of any person shall be immediately communicated to a competent judge, who, if it should not be legal, shall give release, and, in the cases provided for by law, shall [49] hold the restraining authority responsible.

No. 32. There shall be no civil imprisonment for debt, fines, or costs, except in case of failure to fulfil one's obligation to feed his dependents or of unfaithful bondsman, provided for by law.

No. 23. *Habeas corpus* shall be given whenever anyone shall suffer or be threatened with suffering violence or restraint in his freedom of movement, by illegality or abuse of power. *Habeas corpus* shall not apply in disciplinary transgressions.

No. 24. Mandate of security shall be granted to protect clear and certain rights not covered by *habeas corpus*, whatever may be the authority responsible for the illegality or abuse of power.

*Byelorussia, Constitution of**Article 102*

See the Union of Soviet Socialist Republics Constitution Article 127.

Chile, Constitution of

No one may be arrested except by the order of a public official expressly empowered by law, and after such order has been made known to him, in legal form; unless he is surprised *in flagrante delicto*, and in this same case for the sole purpose of being conducted before the proper judge.

No one may be arrested, subjected to preventive detention, or imprisoned except in his house or in public places intended for this purpose.

Those in charge of prisons cannot receive in them anyone in the character of arrested, indicted, or imprisoned persons without transcribing in their registers the corresponding order, issued by an authority having legal power. They may, nevertheless, receive within the precincts of the prison for detention those brought for the purpose of being presented before the proper judge, but with the obligation of giving an account to the latter within twenty-four hours.

[50]

Article 16

Every individual who may be arrested, indicted, or imprisoned in violation of the provisions of the foregoing articles may apply, for himself or by anyone in his name, to the judicial authority designated by law, demanding that the legal formalities be observed. This judicial authority shall decree that the individual be brought to his presence and his decree shall be exactly obeyed by all those having charge of prisons and places of detention. Informed of the antecedents, he shall declare his immediate liberty, or cause the legal defects to be corrected, or place the individual at the disposition of the proper judge; in all, proceeding briefly and summarily, himself correcting the defects or pointing them out to whomever it falls to correct them.

Article 15

In case an authority orders the arrest of any person, he must, within the forty-eight hours following, give a report to the proper judge, placing at his disposal the person detained.

Article 17

No order of incommunication shall prevent the official in charge of a house of detention from visiting the detained, indicted, or imprisoned person who is located in it.

This official is obliged, provided that the person arrested so requires, to transmit to the proper judge a copy of the order of arrest, or make demand that he be given said copy, or himself give a certificate that such a person is arrested, if, at the time of his arrest, this requirement was omitted.

Article 19

One who is not answerable for an offence to which the law attaches corporal punishment shall not be detained or subjected to preventive imprisonment if he is sufficiently bonded personally, or in indemnification of the action, in the form and according to the nature of the cases [51] determined by law.

Article 20

Every person, in favour of whom sentence of acquittal is rendered or prosecution finally abated, shall have the right to indemnification in the form determined by law, for the pecuniary or merely moral injuries that he may have unjustly suffered.

*China, Constitution of**Article 8 (paragraph 1)*

No person may, except in case of *flagrante delicto* as otherwise provided for by law, be arrested or detained except through a judicial or a police organ in compliance with legal procedure. . .

Article 8 (paragraph 2)

When a person is arrested or detained on suspicion of having committed a crime, the organ responsible therefore shall in writing inform the said person and his designated relatives or friends of the reason for the arrest or detention, and shall, within twenty-four hours, turn him over to a competent court for trial. The said person, or any other person may petition the competent court to demand from the organ concerned the surrender, within twenty-four hours, of the said person to the court for trial.

Article 8 (paragraph 3)

The court may not reject the petition mentioned in the proceeding section, nor shall it order the organ concerned to make an investigation and report first. The organ concerned may not refuse to execute or delay in executing the writ of the court for surrender of the said person for trial.

Article 8 (paragraph 4)

When a person is arrested or detained illegally he or any other person may petition the court for investigation. The court may not reject such petition, and shall, within twenty-four hours, make the investigation with the organ concerned, and proceed with the case in accordance with law.

[52]

*Colombia, Constitution of**Article 23*

In no case shall detention, imprisonment, or arrest be made for purely civil debts or obligations, except by judicial decision.

No one shall be molested in his person or his family, imprisoned, arrested, or apprehended, or have his domicile searched, except by virtue of a written warrant from a competent authority, with all legal formalities, and for an offence previously defined in the law.

*Costa Rica, Constitution of**Article 41*

Every inhabitant of the Republic has the right of *habeas corpus*.

*Cuba, Constitution of the Republic of**Article 29*

Any person detained or imprisoned under circumstances not foreseen in the Constitution and the laws, and without the formalities and guarantees provided by them, shall be placed at liberty upon his own petition or upon the

petition of any other person, without the necessity of power or direction of an attorney, by means of summary proceedings of *habeas corpus* before the ordinary tribunals of justice.

The tribunal may not decline jurisdiction or admit question as to competence in any case or for any reason, or defer its decision, which shall have preference over all other matters.

The presentation of every detained or imprisoned person before the tribunal issuing the writ of *habeas corpus* is absolutely obligatory, regardless of the authority or official, person or body, holding custody of said detained person, and said authority is without power to deny obedience to said writ.

All provisions that may impede or retard the appearance of a person deprived of his liberty, as well as any provisions causing delay in the *habeas corpus* proceedings, shall be null and shall be so declared by the office of the judicial authority.

In case the person detained or imprisoned should not be brought before the tribunal granting the writ of *habeas corpus*, the latter shall order the [53] arrest of the detaining officer, who shall be judged in accordance with the provisions of the law.

Judges or magistrates who refuse to admit application for the writ of *habeas corpus*, or who do not comply with the other provisions of this article, shall be dismissed from their respective offices by the chamber of government of the Supreme Tribunal.

Denmark, Constitution of

Article 78

Every person placed under arrest shall be brought before the judge within twenty-four hours. If the arrested person cannot be set at liberty immediately the judge shall decide, on the basis of a duly substantiated order which is to be submitted as soon as possible and within three days at the latest, whether he is to be detained in custody, and, in case he may be released on bail, the nature and amount of the bail.

Appeal against the judge's verdict may at once be filed separately with a higher court by the party concerned.

No person may be imprisoned in the second division for an offence which is subject only to the penalty of a fine or imprisonment in the first division.

Dominican Republic, Constitution of

Article 6

12th . . . (e) each person deprived of his liberty without cause or without legal formalities, or outside of the cases foreseen by the laws, will be placed immediately at liberty at his request or at that of some other person. The law will determine the manner of proceeding summarily in this case.

(d) each person deprived of his liberty will be submitted to a competent judge or tribunal within forty-eight hours of his arrest, or placed at liberty. Each arrest will be left

without effect or will be changed to imprisonment within forty-eight hours of having submitted the arrested person to the competent judge or tribunal, having notified the person concerned, within the same time, the judgment that is issued to this end; . . .

[54]

(b) no one may be sentenced to prison or restricted in his liberty without an order issued and written by a competent judicial official, except in cases *in flagrante delicto*;

. . .

Individual security. Therefore: (a) bodily restraint for a debt that does not arise from fraud or violation of penal laws will not be permitted; . . .

Ecuador, Constitution of

Article 187

“The State shall guarantee to the inhabitants of Ecuador;

. . . 4) the right of *habeas corpus*. Save in cases of *flagrante delicto*, police contravention or military offence, no one may be detained, arrested or imprisoned without a warrant signed by the competent authority stating the motive, which must be one specified by law. . . .”

Egypt, Royal Rescript No. 42

Article 5

No person may suffer arrest and detention, save in accordance with the provisions of the law.

Greece, Constitution of

Article 6

In the case of political offences, the Council of the Judges of the Court of Misdemeanours can always, on the demand of the person detained allow his release under bail fixed by a judicial order, against which an appeal is allowed. In the case of these offences, preliminary detention can never be prolonged beyond three months.

Haiti, Constitution of

Article 12

Individual liberty is guaranteed.

No person may be prosecuted, arrested or detained except in the cases provided for and in accordance with the procedure prescribed by law.

Furthermore, arrest and detention shall only take place on the warrant of a legally authorized official.

For such warrant to be executed:

- (1) It must formally state the reason for detention and the provision under the law which punishes the alleged act;
- (2) It must be served on the person concerned and a copy of it left [55] with him at the time of his detention, except in cases of *flagrante delicto*.

No person may be kept in custody unless he has been brought within forty-eight hours after arrest before a judge authorized to decide the question of the legality of arrest. Such jurisdiction shall be organized by the law.

All unnecessary harshness or constraint in apprehending a person or keeping him in custody, as well as all moral pressure or physical violence, especially during interrogation, are prohibited.

All violations of this provision are arbitrary acts against which the injured parties may, without previous authorization, appeal to the competent courts and prosecute those authorizing or committing the said acts, whatever may be their rank and duties.

Honduras, Constitution of

Article 32

The Constitution recognizes the guarantee of *habeas corpus*. In consequence, any person illegally detained, or any other person in his name, has the right to appeal to the respective tribunal verbally or in writing, requesting the exhibition of the person detained.

Article 34

An order of arrest not issued by a competent authority, or one issued without the legal formalities required, is contrary to law.

Iceland, Constitution of

Article 65

Anyone who is arrested must without delay be brought before a judge, and should he not be discharged immediately, the judge shall decide within twenty-four hours, giving his reasons for the finding, whether the person arrested shall be imprisoned. Should it be possible to liberate him on bail, the nature and the amount of the security shall be decided in the award. Appeal can at once be made against the judge's award to a higher court; with regard to notification and appeal the procedure is the same as in criminal cases.

[56]

No one can be kept under remand for an offence which only incurs a fine or ordinary imprisonment.

*Iran, The Supplementary Fundamental Laws of**Article 10*

No one can be summarily arrested, save *flagrante delicto* in the commission of some crime or misdemeanour, except on the written authority of the President of the Tribunal of Justice, given in conformity with the law. Even in such case the accused must immediately or at latest in the course of the next twenty-four hours, be informed and notified of the nature of his offence.

*Lebanon, Constitution of**Article 8*

. . . No person may be arrested or kept in custody except in accordance with the law. . .

*Liberia, Constitution of**Article 1*

Section 9. No place shall be searched, nor person seized on a criminal charge, or suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search.

*Luxembourg, Constitution of**Article 12*

Paragraph 3. Except in cases of *flagrante delicto*, no person may be arrested save under a warrant stating the reason for arrest and issued by the court, which must be served on the person concerned at the time of arrest or not later than twenty-four hours thereafter.

*Paraguay, Constitution of**Article 26*

. . . No one may be. . . arrested except by virtue of a written order by a competent authority, or be detained more than twenty-four hours without being informed of the reason for his detention, or be detained except in his own house or in public places intended for that purpose. The recourse of *habeas corpus* is guaranteed to all inhabitants. The law considers anyone innocent who may not have been declared guilty, or legally suspected of so being by decree of a competent judge.

[57]

*Poland, Constitution of**Article 97*

Paragraph 1. Limitations of personal liberty, especially search of person and arrest, are admissible only in cases prescribed by law, and in the manner defined by statutes, by virtue of an order from judicial authorities.

Paragraph 2. In case a judicial order cannot be issued immediately, it should be served, at the latest, within forty-eight hours, with a statement of the reasons of the search or arrest.

Paragraph 3. Arrested persons who have not been served within forty-eight hours with a written statement of the cause of the arrest, signed by a judicial authority, regain their freedom at once.

Article 124

“A temporary suspension of citizens’ rights of personal liberty (Article 97). . . may take place for the whole territory of the state or for localities in which it may prove necessary for reasons of public safety. . .”

Syria, Constitution of

Article 7

Personal freedom shall be guaranteed. No person may be arrested or kept in custody, except in cases determined by the law and in observance of the forms prescribed by it.

Article 8

Every person who is arrested or detained in custody shall be informed within twenty-four hours of the grounds for such detention or arrest, and of the authority at whose instance it has been carried out; and such persons shall, within the same period, be accorded all possible facilities for preparing their defence.

Turkey, Constitution of

Article 72

No individual shall be seized or arrested under any other circumstance or manner than that provided by law.

Ukraine, Constitution of

Article 127

See the Union of Soviet Socialist Republics Constitution Article 127.

[58]

Union of Soviet Socialist Republics, Constitution of

Article 127

“. . . No person may be placed under arrest except by decision of a court or with the sanction of a procurator.”

*United States, Constitution of**6th Amendment*

In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

4th Amendment

... and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article 1, Section 9, clause 2 – The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

*Uruguay, Constitution of**Article 17*

In case of illegal arrest, the interested party or any other person may address an appeal of *habeas corpus* to the authorized judge in order that the apprehending authority may immediately explain and justify the legal cause of detention submitting it to the decision of the afore-mentioned judge.

*Yugoslavia, Constitution of**Article 28*

Paragraph 2. “No person may be detained under the arrest for longer than three days without written and motivated decision of a court of law or of a public prosecutor. The longest period of arrest is determined by law.”

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor – No provision
[59]

Article 8

“Slavery and compulsory labour are inconsistent with the dignity of man and therefore prohibited by this Bill of Rights. But a man may be required to perform his just share of any public service that is equally incumbent upon all, and his right to a livelihood is conditioned by his duty to work. Involuntary servitude may also be imposed as part of a punishment pronounced by a court of law.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Cassin (France):

“... it is our fundamental right to say in our Charter, in our Bill of Human Rights, that slavery is a shame on the head of humanity and that we will not suffer it”.*

Mr. Dukes (United Kingdom):

“...we talk about the right to work, well, it has been found exceedingly difficult to implement the right to work without placing the obligation to work on unemployed members of the community... .

...I see difficulty in making any attempts to provide or to place on a country the obligation to provide for the right to work, if that right is to be implemented only on one side. What is to happen in the case of the individual who may decline, and, assuming that he is in a state of penury? Is he to have the right to throw his economic burden upon the state without his having any obligation to the State within which he claims, alternatively, either the work or the right to absent himself from work?***

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article II (paragraph 5)

The right of the state to call upon the services of the individual in time of emergency or to meet the necessities of national defence shall not be regarded as a limitation upon the fundamental right to personal liberty, but merely as a temporary restriction operating during the existence of the national need.

[*] H.R. Com. – 1st session – 13th meeting – p. E-95.

[**] H.R. Com. – 1st session – 14th meeting – p. E-20.

[60]

(paragraph 6)

No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.

Article XIV (paragraph 5)

The state has the right, in time of emergency, to call upon the services of the individual in cases where such services are necessary to meet an urgent public need.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions*Afghanistan, Fundamental Principles of the Government**Article 11*

There is no interference with personal liberty. No one is imprisoned or punished without an order in accordance with the Shariat or the appropriate laws. The practice of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

Article 18

Levies of money and forced labour are prohibited, except during time of war.

*Argentina, Constitution of**Article 15*

In the Argentine Nation there are no slaves; the few that exist today are free from the promulgation of this Constitution; and a special law shall regulate whatever indemnifications to which this declaration may give rise. Any contract for the purchase or sale of persons is a crime for which those committing it, and the notary or officer authorizing it, shall be responsible. And slaves, whatever the manner in which they shall be introduced, shall be free by the mere fact of setting foot on the territory of the Republic.

Article 21

Every Argentine citizen is obliged to arm himself in defence of the Fatherland and of this Constitution, in accordance with whatever laws the [61] Congress enact for the purpose and with the decrees of the National Executive. Citizens by naturalization are free to render this service or not for a term of ten years counting from the date on which they obtain their letters of citizenship.

*Bolivia, Constitution of 28 October 1938**Article 5*

Slavery does not exist in Bolivia.

No kind of servitude is recognized and no person shall be obliged to render personal service without just retribution and without his complete consent.

Personal services shall be exacted only as they may be established by the laws.

*Byelorussia, Constitution of**Article 12 and Article 107*

See the Union of Soviet Socialist Republics Constitution, Article 12 and Article 132.

*Chile, Constitution of 18 September 1925**Article 10*

The Constitution insures to all the inhabitants of the Republic:

1st. . . . In Chile there are no slaves, and he who sets foot upon its territory becomes free. The slave traffic may not be engaged in by Chileans; the alien who does so cannot live in Chile nor be naturalized in the Republic.

*China, Constitution of**Article 20*

The people shall have the duty of performing military service in accordance with law.

*Colombia, Constitution of 4 August 1886**Article 22*

There shall be no slaves in Colombia. Any slave who sets foot on the territory of the Republic shall be free.

*Costa Rica, Constitution of**Article 27*

All men are free in the Republic; he who is under the protection of its laws cannot be a slave.

[62]

*Czechoslovakia, Constitution of**Article 107*

“2. . . . Public authorities can demand personal services from a citizen only on legal grounds.”

Article 127

1. Every able-bodied citizen of the Czechoslovak Republic shall undergo military training and shall obey the summons when called upon for the defence of the State.

*Denmark, Constitution of**Article 88*

Every able-bodied man is obliged to contribute his personal services in the country's defence in accordance with the detailed regulations specified by law.

*El Salvador, Constitution of**Article 10*

Every man in the Republic is free. No one who enters its territory shall be a slave, nor can anyone who deals in slaves be a citizen.

*El Salvador, Constitution of**Article 15*

No one shall be obliged to give work or personal services without just compensation and without his full consent, except for reasons of public necessity or utility established by law.

The law cannot authorize any act or contract that may have for its object the loss or irrevocable sacrifice of the liberty of man whether by reason of work, education, or religious vows.

Nor can it authorize agreements in which a man contracts his proscription or exile.

*Greece, Constitution of**Article 13*

In Greece human beings may neither be bought nor sold; a slave, purchased or otherwise, of every race and every religion, is free from the time he sets foot on Greek soil.

*Iceland, Constitution of**Article 75*

Every able-bodied man is bound to take personal part in the defence of the country according to the detailed regulations which may be laid down by law.

[63]

*Iraq, Constitution of 21 March 1925**Article 10*

(3) Unpaid forced labour. . . are absolutely forbidden.

*Liberia, Constitution of**Article 1*

Section 4. There shall be no slavery within the Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic, directly or indirectly.

*Mexico (United Mexican States), Constitution of**Article 2*

Slavery is prohibited in the United Mexican States. Slaves from abroad who enter the national territory shall by this act alone acquire liberty and the protection of the laws.

Article 5

No person may be obliged to render personal labour without just compensation and without his full consent, except labour imposed as punishment by judicial authority;

such work shall be regulated by the provisions set forth in Fraction I and II (*i.e.*, 1st and 2nd Clauses) of Article 123.

In regard to public services, only military and jury duty, as well as the discharge of compulsory public offices and those directly or indirectly subject to popular election, may be obligatory in the manner established by the respective laws. Electoral and census functions are obligatory and uncompensated; professional services of a social nature shall be obligatory and are compensated in the manner and with the exceptions indicated by law. . .

. . . Nor shall any contract be permitted whereby a man agrees to his own proscription or exile, or in which he temporarily or permanently renounces the practice of any definite profession, industry, or commerce.

A labour contract shall call only for the performance of a specified service for the time fixed by law, and may not exceed one year to the injury of the worker, and in no sense may it be extended to the forfeiture, loss, or impairment of any political or civil rights.

[64]

Failure on the part of the worker to comply with said contract shall oblige him only for the corresponding civil responsibility and in no case may his person be subject to coercion.

Netherlands, Constitution of

Article 181

All Netherlands subjects who are able shall be bound to collaborate for the maintenance of the independence of the Realm and for the defence of its territory. This obligation may also be laid upon inhabitants who are not Netherlands subjects.

Norway, Constitution of

Article 109

Every citizen of the state shall, as a general rule, for a certain time, be liable to military service, without regard to birth or fortune.

The application of this principle and the restrictions it may become subject to, shall be determined by law.

Paraguay, Constitution of 10 July 1940

Article 24

No personal service is mandatory except by virtue of law. . .

Article 33

. . . There are no slaves in the Republic of Paraguay.

*Peru, Constitution of the Republic of**Article 55*

No one may be obliged to give personal labour without his free consent and without just recompense.

*Philippines, Constitution of the (Bill of Rights)**Article III*

Section 1. (13) No involuntary servitude in any form shall exist except as a punishment for crime whereof the party shall have been duly convicted.

*Poland, Constitution of**Article 97*

(Par. 4) The means of compulsory service by which the administrative authorities may enforce their orders are determined in statutes.

Article 91

“All citizens are subject to military service. . .”
[65]

*Turkey, Constitution of**Article 73*

Torture, bodily mistreatment, confiscation and forced labour are prohibited.

*Ukraine, Constitution of**Article 12 and Article 131*

See the Union of Soviet Socialist Republics Constitution, Article 12 and Article 132.

*Union of Soviet Socialist Republics, Constitution of**Article 12*

“In the Union of Soviet Socialist Republics work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle:

‘He who does not work, neither shall he eat.’

The principle applied in the Union of Soviet Socialist Republics is that of socialism: ‘From each according to his ability, to each according to his work.’”

Article 132

“Universal military service is law. Military service in the Workers’ and Peasants’ Army is an honourable duty of the citizens of the USSR.”

*United States of America, Constitution of**Article*¹⁵⁶*13th Amendment, Sect. 1*

Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

*Yugoslavia, Constitution of**Article 32*

“It is the duty of every citizen to work according to his abilities; he who does not contribute to the community cannot receive from it.”

Article 34

“The defence of the fatherland is the supreme duty and honour of every citizen. High treason is the greatest crime towards the people. Military service is universal for all citizens.”

[66]

Article 33

“It is the duty of citizens to perform conscientiously the public duties to which they have been elected or which are entrusted to them.”

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

*American Federation of Labor**Article 10*

Involuntary servitude in any shape, manner or form or under any guise shall be outlawed and discontinued by all nations and all peoples.

Article 12

The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if -

(b) There is to be no peacetime conscription or militarization of workers protesting or striking against conditions of labour which they consider as unfair or unsatisfactory.

[67]

¹⁵⁶ No article number is provided.

Article 9

“Subject to any general law adopted in the interest of national welfare or security, there shall be liberty of movement and free choice of residence within the borders of each State.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Mora (Uruguay):

“We need to protect the right of freedom of movement in order that any man would have freedom of movement from one part of a territory of the State to another. . . .”*

Mrs. Mehta (India):

“With regard to the right of freedom of movement, there was another freedom that I wish to mention to you. It is not freedom of migration only, but freedom of movement within the State itself. There are laws today in many States which restrict individuals from one part of the country going into the other part of the country. Therefore, there must be freedom of movement within the State itself. That is very important.”**

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article II (paragraph 2)

The right to personal liberty includes the right to freedom of movement from one part of the territory of the State to another and it includes also freedom to establish a residence in any part of the territory, subject only to the restrictions that may be imposed by general laws looking to the public order and security of the State.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

[*] H.R. Com. – 1st session – 8th meeting – pages 43–50

[**] H.R. Com. – 1st session – 14th meeting – page -E-21

Section III. National Constitutions*Argentine, Constitution of**Article 14*

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely: of working and practising any legal industry; of navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

*Bolivia, Constitution of**Article 6*

Every person has the following fundamental rights in conformity with the laws that regulate their exercise: 1st. To enter the national territory, remain there, move about, or leave.

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic: 15th. The liberty to dwell at any point in the Republic, to remove from one place to another. . . under the condition that police regulations be observed, and excepting always injury to a third party; . . .

*China, Constitution of**Article 10*

The people shall have the freedom of domicile and of change of domicile.

*Costa Rica, Constitution of**Article 28*

Every Costa Rican can move to any point in the Republic or outside of it, provided that he is free of all responsibility, and may return when he desires.

*Cuba, Constitution of the Republic of**Article 30*

Any person may enter and remain in the national territory, leave it, move from one place to another, and change residence without the necessity of a letter of security, passport, or other similar requirement, except for what is provided in the laws of immigration and the duties of the [69] authorities in cases of criminal responsibility.

No person shall be obliged to change his domicile or residence, except by order of a judicial authority and in the cases and subject to the requirements stipulated by law.

No Cuban may be expatriated or be prohibited entrance into the territory of the Republic.

Czechoslovakia, Constitution of

Article 108

“1. Every citizen of the Czechoslovak State may take up his abode wheresoever he will in the Czechoslovak Republic. . .”

2. This right shall only suffer restriction in the public interests and on the basis of law.

Dominican Republic, Constitution of

Article 6

10th. Freedom of transit, except for restrictions that result from the execution of penalties imposed judicially, or of immigration and health laws.

Ecuador, Constitution of

Article 187

“The State shall guarantee to the inhabitants of Ecuador: . . . (5) freedom to travel throughout the Republican Territory, to change their residence. . .”

Egypt, Royal Rescript No. 42

Article 7

Egyptians. . . may not be prohibited from staying in any particular locality, or compelled to reside in a specified place, save in cases prescribed by law.

El Salvador, Constitution of

Article 13

Every person has the right to remain in the place that he may prefer; and that of travelling, emigrating, and returning without a passport, except in case of an executed sentence and without prejudice to what is provided in Article 28 of this Constitution.

Ethiopia, Constitution of

Article 22

Ethiopian subjects have the right to move freely from one place to another within the limits prescribed by law.

[70]

*Guatemala, Constitution of**Article 25*

No one may be obliged to change domicile or residence except by decree of a judicial authority, in the special cases and with the requirements that the law indicates.

*Honduras, Constitution of**Article 67*

Any person may enter the territory of the Republic; leave it, travel within its boundaries, and change residence, in conformity with the laws.

*Iran, The Supplementary Fundamental Laws**Article 14*

No Persian can be exiled from the country, or prevented from residing in any part thereof, or compelled to reside in any specified part thereof, save in such cases as the Law may explicitly determine.

*Mexico (United Mexican States), Constitution of**Article 11*

Any person has the right to enter the Republic, leave it, travel through its territory, and change residence without the necessity of a letter of security, passport, safe conduct, or similar requirements. The exercise of this right shall come under the jurisdiction of the judicial authority in cases of criminal and civil responsibility and under the jurisdiction of the administrative authority insofar as it related to the limitations that the laws impose on emigration, immigration, and the general health of the Republic, or on undesirable aliens residing in the country.

*Nicaragua, Constitution of**Article 120*

All persons may travel freely within the national territory and choose therein their residence and domicile without being compelled to change it unless it be by virtue of an executed sentence. The right of [sic] emigrate and immigrate is recognized, under the limitations that the law established.

*Panama, Constitution of the Republic of**Article 27*

Any person may travel freely through the national territory and change residence without other limitations than those imposed by travel, fiscal, health, and immigration laws and regulations.

[71]

*Peru, Constitution of the Republic of**Article 68*

No one may be exiled from the territory of the Republic, or removed from the place of his residence, except by an executed sentence or by application of the law of alienage.

*Philippines, Constitution of**Article III Section 1*

(4) The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired.

*Poland, Constitution of**Article 101*

Every citizen has the liberty of selecting on the territory of the state his place of residence and abode, to move about. . . These rights may be restricted only by statute.

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Sweden, Constitution of**Article 16*

. . . The King shall not banish any person from any place to another. . .

*Syria, Constitution of**Article 11*

It is likewise forbidden to deport Syrians from their national territory or to compel them, or forbid them, to reside in any other place, except as provided by law.

*Turkey, Constitution of**Article 70*

Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

*Turkey, Constitution of**Article 78*

Travel is subject to no restriction whatsoever except in cases of general mobilization, martial law, or legislative restrictions of a hygienic nature necessitated by epidemics.
[72]

*United States, Constitution of the**Article IV Section 2*

Clause 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

14th Amendment, 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. . .

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor – No provision

[73]

Article 10

“The right of emigration and expatriation shall not be denied.”

***Section I. Observations Made by Members
of the Human Rights Commission***

Mr. Mora (Uruguay):

“We need to protect the right of freedom of movement in order that any man would have freedom of movement from one part of a territory of the State to another and the right to leave the State itself limited only by law of immigration in other countries.”*

Mr. Cassin (France):

mentions “the right of migration”.**

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article II (paragraph 2)

The right to personal liberty. . . includes. . . the right to leave the State itself. . .

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

[*] H.R. Com. – 1st session – 8th meeting – pages 43–50, see also 14th meeting – page 2

[**] H.R. Com. – 1st session – 13th meeting – page E-101

[74]

Section III. National Constitutions

Argentine, Constitution of

Article 14

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely; of working and practising any legal industry; of navigating and trading; or petitioning the authorities; of entering, remaining in, travelling through and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

Article 25

The federal Government shall develop European immigration; and shall not be able to restrict, limit or burden with any tax whatsoever the entrance into Argentine territory of aliens who arrive with the object of tilling the ground, improving the industries, and introducing and teaching the sciences and arts.

Bolivia, Constitution of

Article 6

Every person has the following fundamental rights in conformity with the laws that regulate their exercise:

1st. To enter the national territory, remain there, move about, or leave.

Brazil, Constitution of

Article 142

Any person may, in time of peace, enter the national territory with his goods and remain therein or depart therefrom, respecting the precepts of the law.

Article 141

No. 13. There shall be no penalty of banishment, . . .

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic: 15th. The liberty to . . . leave the territory, under the condition [75] that police regulations be observed, and excepting always injury to a third party; . . .

*Costa Rica, Constitution of**Article 28*

Every Costa Rican can move to any point in the Republic or outside of it, provided that he is free of all responsibility, and may return when he desires.

*Cuba, Constitution of the Republic of**Article 30*

Any person may enter and remain in the national territory, leave it, move from one place to another, and change residence without the necessity of a letter of security, passport, or other similar requirement, except for what is provided in the laws on immigration and the duties of the authorities in cases of criminal responsibility.

. . . No Cuban may be expatriated or be prohibited entrance into the territory of the Republic.

Article 76

The law shall regulate immigration in keeping with the national economic system and with social necessities. The importation of contract labour, as well as all immigration tending to debase the condition of labour, is prohibited.

*Czechoslovakia, Constitution of**Article 110*

The right to emigrate abroad may be restricted only by law.

*Ecuador, Constitution of**Article 187*

The State shall guarantee to the inhabitants of Ecuador: . . . (5) freedom . . . to leave and return to Ecuador including removal of belongings, without prejudice to what the law may prescribe in regard to the national artistic heritage and protection of the currency. . . .

*Egypt, Royal Rescript No. 42**Article 7*

Egyptians may not be expelled from Egyptian territory.
[76]

*El Salvador, Constitution of**Article 13*

Every person has the right to remain in the place that he may prefer; and that of travelling, emigrating, and returning without a passport, except in case of an executed sentence and without prejudice to what is provided in Article 28 of this Constitution.

*Guatemala, Constitution of**Article 25*

Every person has the freedom to enter, to remain in the territory of the Republic, and to leave it, except for the limitations that the law establishes. . .

*Honduras, Constitution of**Article 67*

Any person may enter the territory of the Republic; leave it, travel within its boundaries, and change residence, in conformity with the laws.

*Iraq, Constitution of**Article 7*

. . . Torture and the deportation of Iraqis from the Kingdom of Iraq are absolutely forbidden.

*Mexico (United Mexican States), Constitution of**Article 11*

Any person has the right to enter the Republic, leave it, travel through its territory, and change residence without the necessity of a letter of security, passport, safe conduct, or similar requirements. The exercise of this right shall come under the jurisdiction of the judicial authority in cases of criminal and civil responsibility and under the jurisdiction of the administrative authority insofar as it relates to the limitations that the laws impose on emigration, immigration, and the general health of the Republic, or on undesirable aliens residing in the country.

*Nicaragua, Constitution of**Article 120*

All persons may travel freely within the national territory and choose therein their residence and domicile without being compelled to change it unless it be by virtue of an executed sentence. The right to [77] emigrate and immigrate is recognized, under the limitations that the law establishes.

*Panama, Constitution of the Republic of**Article 72*

The law will regulate immigration, paying attention to the national economic system and to social needs.

Contracting for a day labourer who may cut down the conditions of work or the living standards of the national worker is prohibited.

Article 30

There is no penalty of death, expatriation, or confiscation of property.

*Peru, Constitution of the Republic of**Article 67*

The right of entering, travelling in, and leaving the territory of the Republic is free, with the limitations that may be established by the penal, sanitary, and alienage laws.

Article 68

No one may be exiled from the territory of the Republic, or removed from the place of his residence, except by an executed sentence or by application of the law of alienage.

*Poland, Constitution of**Article 101*

Every citizen has the liberty. . . to emigrate. . .

*Uruguay, Constitution of**Article 36*

Any person is free to enter the territory of the Republic, to remain in it, or to leave with his property, observing the laws, and without injury to third parties.

Immigration shall be regulated by law, but in no case shall an immigrant who suffers from physical, mental, or moral defects that may injure society, be admitted.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor

Article 7

The right to migrate or leave temporarily or permanently a country in which a citizen does not want to remain must be assured, limited only by the laws of immigration of the country which he may wish to visit.

[78]

Article 11

“No one shall be subjected to arbitrary searches or seizures, or to unreasonable interference with his person, home, family relations, reputation, privacy, activities, or personal property. The secrecy of correspondence shall be respected.”

(See Article 6 of Panama Draft copy of International Declaration)

***Section I. Observations Made by Members
of the Human Rights Commission***

– None –

***Section II. Drafts of International Declarations or Proposals
to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article X (paragraph 1)

Every person has the right to be free from interference in his family relations.

Article II (paragraph 3)

The right to personal liberty includes the inviolability of the domicile of the individual and of his personal correspondence.

Cuba

Article 6

The right to protection from unjustified interferences with his person, family, home, reputation or private activities.

*Panama (American Law Institute)**Article 6*

Freedom from unreasonable interference with his person, home, reputation, privacy, activities, and property is the right of everyone.

The state has a duty to protect this freedom.

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions*Afghanistan, Fundamental Principles of the Government**Article 16*

The residence of every Afghan subject is safe from every sort of interference. No official or other person may enter a private residence [79] without an order under Shariat law or the law of the land.

Article 109

Immunity of correspondence is one of the rights of the people. Letters and other communications from the public on which postage has been paid will not be opened by any post office or at any other place, except under an order of search from a court, but will be delivered closed to the addressee.

*Argentine, Constitution of**Article 18*

No inhabitant of the Nation may be punished without previous trial, based on an earlier law than the date of the offence, nor tried by special commissions, nor removed from the judges designated by law before the date of the trial. No one can be compelled to testify against himself or be arrested except by virtue of a written order from a competent authority. The defence, by trial, of the person and of rights is inviolable. The domicile is inviolable, as also epistolary correspondence and private papers, and a law shall determine in what cases and for what reasons their search and seizure will be allowed. The penalty of death for political offences, all kinds of torture, and whipping, are forever abolished. The prisons of the Nation shall be healthy and clean, for the safety and not for the punishment of the prisoners confined in them; and any measure that under pretext of precaution inflicts on them hardship beyond what the Nation demands, will bring responsibility upon the judge who authorizes it.

Article 19

The private actions of men that in no way offend public order or morality, nor hurt a third party, are reserved only to God, and are exempt from the authority of the magistrates.

*Belgium, Constitution of**Article 10*

The private domicile is inviolable; no search of premises can take place except in cases provided for by law and according to the form therein prescribed.

Article 22

The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of letters entrusted to the post.
[80]

*Bolivia, Constitution of**Article 15*

... Epistolary correspondence and private papers are inviolable; they shall not be seized except in the cases determined by law and by virtue of written orders issued by the proper authority. Letters and private papers intercepted or sequestered have no legal effect.

Article 35

... 5th. Likewise, censure of correspondence in general may be imposed and the use of transit passports be required for persons who enter or leave the territory in siege.

In case of international war, censorship shall be established over correspondence and all methods of publicity.

Article 16

Every house is an inviolable asylum; no person may enter at night without the consent of its inhabitants, and by day entrance without permission may be effected only by a written order issued by the proper authority except in cases *in flagrante delicto*.

*Brazil, Constitution of**Article 141*

No. 6. The secrecy of correspondence is inviolable.

No. 15. The home is the inviolable asylum of the individual. No one may enter therein at night, without the consent of the dweller, unless it be to succour the victims of crime or disaster, or by day, except in the cases established by law.

*Byelorussia, Constitution of**Article 102, Article 103*

See Article 127 and Article 128 of the Constitution of Union of Soviet Socialist Republics.

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

12th. Inviolability of the home.

The house of any person living in Chilean territory may be forcibly entered only for a special purpose, determined by law, and by virtue of an order from a [81] competent authority. 13th. Inviolability of epistolary and telegraphic correspondence. Documents or public securities shall not be opened, intercepted, or examined, except in the cases expressly designated by the law.

*China, Constitution of**Article 12*

The people shall have the freedom of secrecy of correspondence.

*Colombia, Constitution of**Article 23*

No one shall be molested in his person or his family, imprisoned, or apprehended, or have his domicile searched, except by virtue of a written warrant from a competent authority, with all legal formalities, and for an offence previously defined in the law.

Article 24

An offender caught *in flagrante delicto* may be arrested and taken before a judge by any person. If the agents of the authority pursue him and he takes refuge in his own dwelling, they may enter it for the purpose of arresting him; but if he seeks asylum in the dwelling of another person, the consent of the owner or tenant thereof must be previously obtained.

Article 38

Private correspondence by mail or telegraph is inviolable. Letters and private papers shall not be intercepted or examined, except by authority, by means of an order by a competent official, and in the cases and with formalities that the law may establish, and for the sole purpose of seeking legal evidence.

Presentation of account books and other papers relating thereto may be required for levying taxes and in cases of intervention by the State.

The circulation of printed matter through the mails may be taxed, but may never be prohibited in time of peace.

Costa Rica, Constitution of

Article 30

The domicile of the inhabitants of the Republic is inviolable, and one cannot enter a house forcibly except in the cases and with the formalities that the law prescribes.

[82]

Article 31

The private papers of the inhabitants of the republic may in no case be seized or even examined.

Article 32

The secrecy of written and telegraphic correspondence is inviolable, and whatever is removed cannot be exhibited for legal purposes.

Cuba, Constitution of the Republic of

Article 32

The secrecy of correspondence and other private documents is inviolable, and neither the former nor the latter may be held or examined except by officials of official agents in pursuance of a written order from a competent judge. In all cases secrecy shall be maintained regarding matters not pertaining to the object of the seizure or examination. Under the same provisions, the privacy of telegraphic, telephonic, and cable communication is also declared inviolable.

Article 34

The domicile is inviolable and, in consequence, no person may make entry at night into the domicile of another person without the consent of its resident, except in order to succour victims of a crime or disaster, or during the days except in the cases and in the form determined by law.

In case of suspension of this guarantee, it shall be indispensably required that entry into the domicile of a person be made by proper competent authority, upon written order or resolution, an authentic copy of which shall be presented to the resident, his family, or nearest neighbour, according to the case. When authority is delegated to any of his agents the same procedure shall be followed.

Czechoslovakia, Constitution of

Article 112

1. Domestic rights are inviolable.

Article 116

1. Inviolability of matter entrusted to the mail is guaranteed.

[83]

*Denmark, Constitution of**Article 79*

A person's dwelling is inviolable. House search, seizure and examination of letters and other papers can only be undertaken on an order of the court, unless a special exception is authorized by the law.

*Dominican Republic, Constitution of**Article 6*

5th. . . The law will establish penalties applicable to those who act against the honour of persons, . . .

The following are established as inherent to the human personality:

8th. Inviolability of correspondence and other private documents, which cannot be seized or inspected except by means of legal proceedings in the substantiation of matters that are examined in the courts. Secrecy of telegraphic, telephonic, and cable communication is equally inviolable.

9th. Inviolability of the home. No search of a house may be carried out except in cases foreseen by the law, and with the formalities that it prescribes.

*Ecuador, Constitution of**Article 187*

The State shall guarantee to the inhabitants of Ecuador:

. . . (6) inviolability of the home; no one may enter a house against the owner's will, unless presenting a warrant signed by the competent authority; and, without such warrant, only in cases expressly laid down by law.

. . . (7) inviolability of correspondence, postal or other. Consequently it is forbidden to intercept, open or examine another person's correspondence, except in the cases prescribed by law. . .

*Egypt, Royal Rescript No. 42**Article 8*

The sanctity of the home shall be inviolable. No search may be carried out in the home, save in the cases provided for and in accordance with the procedure prescribed by law.

Article 11

The privacy of letters, telegrams and communications by telephone shall be inviolable, except in the cases prescribed by law.

[84]

*El Salvador, Constitution of**Article 21*

Inspection or search of a person may be undertaken only to prevent or investigate crimes or offences. . .

The domicile is inviolable, and its invasion may not be decreed except for the investigation of crimes or the pursuit of offenders, in the form and in the cases determined by law.

Article 30

Correspondence by letter and telegraph is inviolable. Intercepted correspondence cannot be given faith and cannot figure in any kind of action.

*Ethiopia, Constitution of**Article 25*

Except in the cases provided for by law, no search may be carried out in the home.

Article 26

Except in the cases provided for by law, no person shall be entitled to violate the privacy of the correspondence of Ethiopian subjects.

*Greece, Constitution of**Article 12*

The dwelling is inviolable. Domiciliary visits can only be made when and as the law directs.

Offenders against these provisions are punished for abuse of authority and are bound fully to indemnify the injured party, and further to compensate him in a sum of money fixed at the discretion of the Law Court, but never less than one hundred drachmas.

Article 20

The secrecy of letters is absolutely inviolable.

*Guatemala, Constitution of**Article 35*

The correspondence of all persons, and their private papers and books, are inviolable. . . they may be seized or examined only by virtue of a decree by a competent judge and with the legal formalities. . .

Article 37

The domicile is inviolate. No one may enter it without the permission of [85] the proprietor, except by the written order of a competent judge. . .

*Haiti, Constitution of**Article 14*

No house search and no seizure of papers may take place except by virtue of the law and in the forms thereby prescribed.

Article 28

The secrecy of correspondence shall be inviolable.

The law shall prescribe what officers shall be held responsible for the secrecy of letters entrusted to the mails.

*Honduras, Constitution of**Article 46*

No person shall be harassed or persecuted because of his opinions. Private actions that do not disturb public order, or that do not cause injury to a third person, shall always be outside of the action of the law.

Article 48

The residence of every person is an inviolable asylum, that shall not be entered except by authority, in the following cases:

- 1st. To remove a criminal surprised *in flagrante delicto*.
- 2nd. Because an offence is being committed inside the habitation, because of scandalous disorder that requires immediate remedy, or because of a complaint from the interior of the house.
- 3rd. In case of fire, earthquake, flood, epidemic, or other analogous situations; and to make any visit or inspection for purely sanitary purposes.
- 4th. To free a person held illegally.
- 5th. To obtain articles sought for a suit, regarding which there is at least some proof of the existence of said articles; and to execute a legally decreed judicial provision.
- 6th. To apprehend an accused person, whose order for arrest or imprisonment has been obtained previously, some proof being established that he is hidden in the house to be searched.
- 7th. In the last two cases, search of a house may not be made without a written order from a competent authority.

[86]

Article 49

If the domicile to be searched is not the dwelling of the accused person, the authority or its agents shall, before entering, request permission to enter from the person residing therein.

Article 50

Searching of domiciles shall not be made from seven at night until six in the morning without permission of the head of the house.

Article 51

Correspondence by letter and telegraph and private papers are inviolable, except for what is especially provided by the law of state of siege.

Neither the Executive nor his agents may remove, open, or detain such correspondence. If it has been taken from the mails or from any other place, it may not be introduced in a trial.

Article 52

Private correspondence, papers, or books may only be seized by the order of a competent judge, for the civil or criminal suits determined by law, and shall be registered in the presence of the owner, or, in his absence, of two witnesses; all papers having no relation to the investigation shall be returned.

*Iceland, Constitution of**Article 66*

A man's dwelling is inviolable. Domiciliary search, seizure and examination of letters and other papers can only take place in accordance with a judicial decision or pursuant to special legal authority.

*Iran, The Supplementary Fundamental Laws**Article 9*

All individuals are protected and safeguarded in respect to their lives, homes. . . from every kind of interference, and none shall molest them save in such case and in such way as the laws of the land shall determine.

Article 9

All individuals are protected and safeguarded in respect of their. . . honour, from every kind of interference, and none shall molest them save in such a case and in such a way as the laws of the land shall determine.

[87]

Article 13

Every person's house and dwelling is protected and safeguarded, and no dwelling place may be entered save in such case and in such a way as the law has decreed.

Article 22

Correspondence passing through the post is safeguarded and exempt from seizure or examination, save in such exceptional cases as the law lays down.

Article 23

It is forbidden to disclose or detain telegraphic correspondence without the express permission of the owner, save in such cases as the law lays down.

Iraq, Constitution of

Article 8

The inviolability of all places of residence is guaranteed. They may not be entered or searched except in such circumstances and in such a manner as may be prescribed by law.

Article 15

All postal and telegraphic correspondence and all telephonic communications shall be secret and free from censorship or detention, except in such circumstances and in such manner as may be prescribed by law.

Lebanon, Constitution of

Article 14

Dwellings shall be inviolable. No one may enter therein except in the circumstances and in the manner prescribed by law.

Liberia, Constitution of

Article 1, Section 9

No place shall be searched, nor person seized on a criminal charge, or suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search.

Luxembourg, Constitution of

Article 15

The sanctity of the home shall be inviolable. No search may be carried out in the home except in the cases provided for and in accordance with the procedure prescribed by law.
[88]

Article 28

The privacy of correspondence shall be inviolable.

The law shall determine who are the officers responsible for the privacy of letters entrusted to the mails.

The law shall regulate the guarantee of the privacy of telegrams.

Mexico (United Mexican States), Constitution of

Article 10

The inhabitants of the United Mexican States have the liberty of possessing arms of any kind for their security and legitimate defence, except such arms as those

expressly prohibited by law, and those that the Nation reserves for the exclusive use of the army, navy, and national guard; but, these may not be carried in towns, without complying with police regulations.

Article 16

No person, his family, domicile, papers, or possessions may be molested except by virtue of a written order by a competent authority establishing and supporting the legal basis of the proceeding.

Article 16

... Every search warrant, which may be issued only by judicial authority and always in writing, shall state the place to be inspected, the person or persons to be apprehended, and the objects to be sought, to which the search should be exclusively limited, and upon the conclusion of said search a circumstantial report shall be drawn up in the presence of two witnesses proposed by the occupant of the place searched, or, in his absence or at his refusal, by the officer making the investigation. . .

Article 16

Administrative officials may enter domiciles only to assure themselves that sanitary and police regulations have been complied with; and to require the exhibition of books and papers necessary to prove that fiscal regulations have been respected, subject to these cases to the respective laws and to the formalities prescribed for searches.

Article 25

Sealed correspondence sent by mail shall be free from all investigation, and its violation shall be punishable by law.

[89]

Article 26

No member of the army may, in time of peace, be lodged in a private house without the consent of the owner, nor may any levies be imposed. Members of the army may, in time of war, exact lodging, supplies, food, and other levies on the terms that the corresponding martial law establishes.

Netherlands, Constitution of the

Article 159

To enter a dwelling against the occupant's will shall only be permitted on cases determined by law, by virtue of a special or general order given by an authority designed by law. The forms to which the exercise of this power shall be bound shall be regulated by law.

Article 160

The secrecy of letters entrusted to the postal service or to other public institutions of conveyance shall be inviolable, except by order of a judge in the cases described by law.

*Nicaragua, Constitution of**Article 123*

The State guarantees the inviolability of the home. The habitation of all persons in Nicaraguan territory may be broken into by the authorities on [sic] in the following cases:

- 1st. In the actual pursuit of an offender.
 - 2nd. To remove a criminal surprised *in flagrante delicto*.
 - 3rd. When the tenant requests it, when an offence is committed therein or when a serious disturbance has been created therein that requires prompt remedy.
 - 4th. In case of fire, earthquake, flood, epidemic, or other analogous emergency.
 - 5th. For any visit or inspection of a statistical, sanitary, or hygienic character.
 - 6th. To release a person unlawfully held.
 - 7th. To remove, by virtue of a writ, objects sought, when there is sufficient proof of the existence of said objects therein.
 - 8th. In order to execute a judicial decision, mandate, or order.
- [90]
- 9th. To arrest a criminal whose detention or imprisonment has been ordered, provided that there is sufficient proof that he is concealed in the place to be entered.

The entrance shall not be effected in the four cases last mentioned except on written order issued by a competent authority.

When the domicile to be entered is not that of the criminal pursued, the authority or his agents will previously ask the permission of the tenant.

The entering of a domicile in the cases in which a written order by a competent authority is required shall not be made between the hours of seven at night and six in the morning without the consent of the head of the household.

Article 131

The secrecy of epistolary, telegraphic, telephonic, or of any other kind of correspondence, as well as of private documents and papers, is inviolable. They may never be opened, examined or intercepted except in conformity with the laws exacted for reasons of general interest, and by a previous order from a competent authority. Every examination of this material must be made in the presence of the recipient or possessor of the

same, or, in his absence, before two witnesses, returning the correspondence, documents, or papers that have no relation to the matter under investigation.

Article 132

Any correspondence, documents, and papers removed from post-offices, or from any other place, in contravention of the law, will have no legal effect in court proceedings or out of court.

Norway, Constitution of

Article 102

Domiciliary visits shall not be made except in criminal cases.

Panama, Constitution of the Republic of

Article 26

The domicile is inviolable. No one may enter that of another without the consent of its proprietor unless on the written order of a competent authority or in order to succour the victims of crimes or disasters.

Labour, social welfare, and sanitation officials may, after previous [91] announcement, perform domiciliary or inspection visits to working places for the purpose of seeing to the fulfilment of the social and public health laws.

Article 29

Correspondence and other private documents are inviolable and may not be seized or examined except by provision of a competent authority and by means of legal formalities. In all cases discretion shall be observed about matters foreign to the object of the seizure or examination.

Inspection of papers shall always be performed in the presence of the interested party or of a member of his family or, in their absence, of two reputable neighbours of the same place.

Paraguay, Constitution of

Article 26

... Guilt or dishonour that persons may incur does not affect their relatives.

Article 27

... The domicile, written correspondence, and private papers are also inviolable. The law shall determine in what cases the inviolability of domicile and correspondence may be suspended.

*Peru, Constitution of the Republic of**Article 61*

The domicile is inviolable. It may not be entered unless a written order authorized by a judge or a competent authority has previously been shown.

Article 66

Correspondence is inviolable. Letters and private papers may not be seized, intercepted, or recorded, except by judicial authority in the cases and in the form established by law.

Letters and private papers that have been violated or removed have no legal effect.

*Philippines, Constitution of the**Article III, Section 1*

(3) The right of the people to be secure in their persons, houses, papers, [92] and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

(5) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when public safety and order require otherwise.

*Poland, Constitution of**Article 100*

The home and hearth of the citizen are inviolable. Infringements of this right by entering the home, searching it and taking papers or movables may, apart from the necessity of executing administrative orders based on specific statutory authorization, take place only by order of judicial authorities in the manner and in the cases prescribed by the protection of statute.

Article 106

The secrecy of letters and other correspondence may be infringed upon only in cases provided by law.

Article 124

A temporary suspension of citizen's rights of inviolability of home and hearth (Article 100) . . . of secrecy of correspondence (Article 106) . . . may take place for the whole territory of the state or for localities in which it may prove necessary for reasons of public safety. . .

*Sweden, Constitution of**Article 16*

The King shall not disturb or allow to be disturbed the peace of any person in his home. . .

*Syria, Constitution of**Article 12*

Dwellings shall be inviolable; no one may enter therein, except in the circumstances and in the manner prescribed by law.

Article 18

Postal, telegraphic and telephonic communications shall be inviolable [93] and may not be delayed or censored, except as provided by law.

*Turkey, Constitution of**Article 71*

The life, property, honour and residence of each individual are inviolable.

Article 76

No one's domicile may be entered or his person searched except as in the manner and under the conditions stipulated by law.

Article 81

Documents, letters and all kinds of parcels delivered to the postal authorities may not be opened without a decision by a competent examining magistrate and tribunal. Likewise the secrecy of telegraphic and telephonic conversation may not be violated.

*Uruguay, Constitution of**Article 7*

Inhabitants of the Republic have the right to be protected in the enjoyment of life, honour, liberty, security, work, and property. No person shall be deprived of these rights except in conformity with the laws that may be established for reasons of general interest.

Article 11

The home is an inviolable haven. No person may enter it at night without the consent of the owner, and by day only by express order in writing from an authorized judge and in the cases determined by law.

Article 27

The papers of private persons and their correspondence by letter, telegraph, or any other means, are inviolable, and their inspection, examination, or interception is prohibited except in conformity with laws that may be established for reasons of general interest.

Ukrainia [sic], Constitution of

Article 127, Article 128

See Article 127 and Article 128 of the Constitution of the Union of Soviet Socialist Republics.

[94]

Union of Soviet Socialist Republics, Constitution of

Article 127

Citizens of the Union of Soviet Socialist Republics are guaranteed inviolability of the person. . . .

Article 128

The inviolability of the homes of citizens and privacy of correspondence are protected by law.

United States, Constitution of the

4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Yugoslavia, Constitution of

Article 29

The dwelling is inviolable.

Nobody may enter another person's dwelling or premises, or search them against the occupant's will without a legal search warrant.

A search may only be made in the presence of two witnesses. The occupant of the premises has the right to be present during the search of his dwelling or premises.

Article 30

The privacy of letters and other means of communication is inviolable except in cases of criminal enquiry, mobilization or war.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision
[95]

Article 12

“Everyone has the right to a legal personality. No one shall be restricted in the exercise of his civil rights except for reasons based on age or mental condition or as a punishment for a criminal offence.”

**Section I. Observations Made by Members
of the Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile – No provision

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Belgium, Constitution of

Article 13

Total deprivation of civil rights (*mort civile*) is abolished and shall not be re-established.

Bolivia, Constitution of

Article 132

The law does not recognize inequality among children; all have the same rights.

Article 23

Every person enjoys civil rights; their exercise is regulated by civil law.

Article 25

Punishment by disgrace or by loss of civil rights shall not exist.

*Colombia, Constitution of**Article 50*

The law shall determine matters relative to the civil status of persons and their consequent rights and duties. Likewise, family patrimonies, which are inalienable and free from attachment, may be established.

[96]

*Cuba, Constitution of**Article 43*

3. Marriage may be dissolved by agreement of the husband and wife, or in the petition of either of the two, for the reasons and in the form established in the law.

4. The married woman enjoys the full advantages of equal civil capacity, with no necessity for marital permission or authorization in order to manage property, freely to engage in trade, to enter industry or a profession, to practise an art, to hold office, and to dispose of the product of her labour.

Article 44

Parents are obliged to support, tend, educate and instruct their children, and the latter to respect and assist their parents. The law shall assure the fulfilment of these duties with guarantees and adequate penalties.

Children born out of wedlock to a person who at the time of conception may have been able to contract marriage, have the same rights and duties as are stipulated in the preceding paragraph, except for what the law prescribes in regard to inheritance. For this purpose, children born out of wedlock, of married person, when the latter acknowledge the children, or when the filiation is established by declaration, shall also have equal rights. The law shall regulate the investigation of paternity.

All qualifications on the nature of filiation are abolished. No statement may be made differentiating between births, either upon the civil status of the parents in the written records of the latter, or in any registry of baptism or certificate preferring to the filiation.

*El Salvador, Constitution of**Article 15*

No one shall be obliged to give work or personal services without just compensation and without his full consent, except for reasons of public necessity or utility established by law. The law cannot authorize any act or contract that may have for its object the loss or irrevocable sacrifice of the liberty of man, whether by reason of work, education, or religious vows. Nor can it authorize agreements in which a man contracts his prescription or exile.

[97]

*Greece, Constitution of**Article 18*

Civil death is abolished. The penalty of death for political offences, except complex crimes, is abolished.

*Mexico (United Mexican States), Constitution of**Article 5*

The State may not permit to be carried into effect any contract, pact, or agreement that has as its object the impairment, loss, or irrevocable sacrifice of the liberty of man, whether by reason of occupation, education, or religious vow. Consequently, the law does not permit the establishment of monastic orders, whatever may be the denomination or the object for which they presume to be established.

*Nicaragua, Constitution of**Article 83*

The law will procure for illegitimate children the same advantages for their physical, spiritual, and social development as for legitimate ones.

*Panama, Constitution of**Article 58*

Parents have the same duties toward children born outside of wedlock as toward those born in it. All children are equal before the law and have the same hereditary rights in intestate succession.

*Peru, Constitution of**Article 44*

Any stipulation in a labour contract that may restrict the exercise of civil, political, and social rights is prohibited.

*Turkey, Constitution of**Article 70*

Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

*Uruguay, Constitution of**Article 41*

Parents shall have the same obligations toward children born out of wedlock as toward those born in marriage.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category***

American Federation of Labor – No provision
[98]

Article 13

“Everyone has the right to contract marriage in accordance with the laws of the State.”

***Section I. Observations Made by Members
of the Human Rights Commission***

Mr. Lebeau (Belgium):

“... The right to marriage, establish a home and have children...”*

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article X (paragraph 1)

Every person has the right to be free from interference in his family relations.

(paragraph 2)

It is the duty of the State to respect and to protect the reciprocal rights of husband and wife in their mutual relations.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision*United States* – No provision***Section III. National Constitutions****Belgium, Constitution of**Article 16*

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

[*] H.R. Com. – 1st session – 13th meeting – page E-82.

[99]

*Cuba, Constitution of**Article 43*

1. The family, motherhood, and marriage are under the protection of the State.
2. Only marriages authorized by officials having legal capacity to effect them are valid. Civil marriage is gratuitous and shall be recognized by the law.
3. Marriage is the legal basis of the family, and rests upon absolute equality of rights of both husband and wife. The economic relationship between husband and wife shall be regulated in accordance with this principle.
5. Marriage may be dissolved by agreement of the husband and wife, or in the petition of either of the two, for the reasons and in the form established in the law.

*Nicaragua, Constitution of**Article 78*

The State fosters the organization of the family on the legal basis of matrimony.

*Panama, Constitution of**Article 56*

A union in fact between persons legally capacitated to contract matrimony, maintained during ten consecutive years in conditions of singularity and stability, will have all the effects of civil matrimony.

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor – No provision

[100]

Article 14

“There shall be freedom of conscience and belief and of private and public religious worship.”

***Section I. Observations Made by Members
of the Human Rights Commission***

– None –

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article IV (paragraph 1, 2, 3, 4)

Every person has the right to freedom of religious belief and worship.

This right includes freedom of religious worship in public as well as in private; freedom of religious worship by groups as well as by individuals; freedom to maintain churches and other places of public worship and to assemble in them without restraint; freedom of parents to educate children in their particular religious belief; freedom of religious propaganda in spoken or written form.

The only restrictions which the state may place upon the right of freedom of religious worship are those called for by the requirements of public health, safety and good morals; and all such restrictions must be in accordance with general laws and administered without discrimination.

A distinction is recognized between strictly religious activities and other activities of an economic or financial character associated with the maintenance of religious worship but not forming an essential part of it. These economic or financial activities may be regulated by the state in accordance with the general laws governing such activities.

Cuba

Article 4

The right to choose and profess freely his religion without any restriction other than that imposed by respect for morality and public order.

Panama (American Law Institute)

Article 1

Freedom of belief and of worship is the right of everyone. The state has a duty to protect this freedom.

B. Proposals

India

Article 1(a)

Every human being is entitled to the right of liberty, including the right to freedom of worship.

[101]

United States

Article II (2)

Among the categories of rights which the United States suggests should be considered are the following:

- (a) personal rights such as freedom of . . . religion . . .

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 1

The faith of Afghanistan is the sacred faith of Islam, and the official religion and that of the population in general is the Hanafi religion. The King of Afghanistan should be a follower of this religion. Followers of other religions such as Hindus and Jews, who live in Afghanistan, provided they do not infringe the ordinary rules of conduct and propriety, also enjoy protection.

Argentine, Constitution of

Article 2

The federal Government supports the Roman Catholic Apostolic Church.

Article 14

All inhabitants of the Nation enjoy the following rights in accordance with the laws that regulate their exercise, namely: of working and practising any legal industry; of navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

*Belgium, Constitution of**Article 14*

Religious liberty and the freedom of public worship are guaranteed, unless crimes are committed in the use of these liberties.

Article 15

No one shall be compelled to join in any manner whatever in the forms and ceremonies of any religion, nor to observe its days of rest.

[102]

Article 16

The state shall not interfere either in the appointment or in the installation of the ministers of any religion whatever, nor shall it forbid them to correspond with their superiors or publish their proceedings, subject to the ordinary responsibility of the press and of publication. . .

Article 16

. . . Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

*Bolivia, Constitution of 28 October 1938**Article 156*

Schools of a private character shall be subject to the same authorities, plans, programmes, and official rules. Liberty of religious instruction is recognized.

Article 2

The State recognizes and supports the Roman Catholic Apostolic religion, guaranteeing the public exercise of all religions.

*Brazil, Constitution of 18 September 1946**Article 141*

No. 7. The liberty of conscience and creed is inviolable, and the free exercise of religious sects is assured, except that they shall not be contrary to public order or good morals. Religious associations shall acquire juridical personality in the form of the civil law.

No. 8. No one shall be deprived of any of his rights by reason of religious, philosophic, or political conviction, unless he shall invoke it in order to exempt himself from any obligation, duty, or service required by the law of Brazilians in

general, or shall refuse those which the same law may establish as substitutes for those duties in order to meet an excuse of conscience.

Article 168

Religious instruction shall be a part of the teaching schedule of official schools, and shall be administered in accordance with the religious confession of the pupil, manifested by him, if he is capable, or by his legal representative or person responsible for him.

[103]

Article 141

No. 10. Cemeteries shall have a secular character and shall be administered by the municipal authorities. All religious confessions shall be permitted to practise their rites therein. Religious associations may maintain private cemeteries, in the form of the law.

Byelorussia, Constitution of

Article 99

See Article 124 of the USSR Constitution.

China, Constitution of

Article 13

The people shall have the freedom of religious belief.

Colombia, Constitution of 4 August 1886

Article 53

The State guarantees liberty of conscience. No person shall be molested by reason of his religious opinion, or be compelled to profess beliefs or observe practices contrary to his conscience.

Liberty is guaranteed for all forms of worship that are not contrary to Christian morals or to the laws. Acts contrary to Christian morality or subversive of the public order, engaged in on the occasion or under the pretext of the exercise of religion, shall be subject to the common law.

The Government may negotiate conventions with the Holy See, subject to the subsequent approval of the Congress, to regulate, on the basis of reciprocal deference and mutual respect, the relations between the State and the Catholic Church.

*Costa Rica, Constitution of**Article 66*

The Roman Catholic Apostolic Religion is that of the State, which contributes to its maintenance, without preventing the free ministry in the Republic of any other worship that is not opposed to universal morality or good customs.

*Cuba, Constitution of the Republic of**Article 35*

The profession of all religions is free, as well as the exercise of all kinds of worship, without other limitation than respect for Christian morality and public order.

[101]

The Church shall be separated from the State, which shall not grant a subvention to any religion.

*Czechoslovakia, Constitution of**Article 121*

Liberty of conscience and religious creed is guaranteed.

Article 122

All inhabitants of the Czechoslovak Republic enjoy in the same degree as the citizens of the Republic, the right to profess and exercise publicly and privately any creed, religion or faith whatsoever, so far as the exercise of the same is not in conflict with public law and order or with morality.

*Denmark, Constitution of**Article 3*

The Evangelical-Lutheran Church is the Danish national church and as such receives State support.

Article 73

The constitution of the State Church is prescribed by law.

Article 74

Citizens shall have the right to unite in assembly for divine worship in the manner corresponding to their convictions, but nothing may be taught or practised which is contrary to morality or public order.

Article 75

No person is obliged to make personal contributions to any other form of worship than that which is his own.

Article 76

Detailed regulations regarding religious communities other than the State Church shall be laid down by law.

Article 77

No person may by reason of his religious faith be denied full enjoyment of civic and political rights or evade the fulfilment of any general civic duty.
[105]

*Dominican Republic, Constitution of 10 January 1942**Article 6*

3rd. Freedom of conscience and of worship, without any other limitation than the respect owed to public order and good customs.

*Ecuador, Constitution of**Article 168*

Freedom of conscience is guaranteed in all its forms and aspects, in so far as it is compatible with morality and public order. The law shall make no discrimination on religious, ideological or racial grounds.

Article 187

“The State shall guarantee to the inhabitants of Ecuador: . . . (8) the right of every citizen not to be compelled to declare, for any purpose, his political convictions or religious beliefs, nor to be molested for those professed, except in the cases specified in the Constitution and the laws. . .”

*Egypt, Royal Rescript No. 42 of 1923**Article 12*

Freedom of conscience is absolute.

Article 13

The State protects, in conformity with the customs established in Egypt, the free practice of all religions and beliefs, provided that they are not prejudicial to public order and morals.

*El Salvador, Constitution of**Article 12*

The free exercise of all religions, without further restriction than that required by morality and public order, is guaranteed. No religious act shall serve to establish the civil status of persons.

Churches and their dependencies shall be exempt from every kind of tax on real property.

The State recognizes the juridical personality of the Catholic Church, representative of the religion that the majority of Salvadorians profess. Other churches may obtain recognition of their juridical personality in conformity with the law.

[106]

*France, Declaration of the Rights of Man and of the Citizen, 1789**Article 10*

No man is to be interfered with because of his opinions, not even because of religious opinions, provided his avowal of them does not disturb public order as established by law.

*Greece, Constitution of**Article 1*

The established religion in Greece is that of the Eastern Orthodox Church of Christ. Every other known religion is tolerated, and the forms of its worship are carried out without hindrance under the protection of the laws, proselytism and all other interference with the established religion being prohibited.

Article 2

... The ministers of all recognized religions are subjected to the same superintendence on the part of the State as the ministers of the established religion. . .

*Guatemala, Constitution of**Article 29*

The profession of all religions is free, as well as the practice of all cults, without any preference and in the interior of churches; this right does not extend to the execution of subversive acts or practices incompatible with peace and public order, and does not excuse the fulfilment of civil, social and political obligations.

Religious societies and groups or their members as such, and ministers of cults, may not intervene in politics or in questions related to the organization of labour.

Article 24

(Paragraph 5) No official or public employer may be molested or persecuted for his political, social or religious opinions.

*Haiti, Constitution of**Article 22*

All forms of worship and all religions are equally free and recognized. Every person has the right to profess his religion and to practise his own form of worship provided that he does not thereby interfere with public order.

[107]

*Honduras, Constitution of**Article 57*

The Church is separate from the State.

The free exercise of all religions that are not opposed to the laws of the country is guaranteed.

Subsidies for denominations or for religious instruction are prohibited.

Article 58

No religious act shall serve to establish the civil status of a person.

Article 65

Entails in favour of, or entire estates given to, religious institutions are prohibited.

*Iceland, Constitution of**Article 62*

The Evangelical Lutheran Church shall be the national church of Iceland and shall as such be supported by the State. This may be modified by law.

Article 63

Citizens have a right to unite in communities to worship God in the way which tallies best with their conviction, but they must not teach or undertake anything which is against morality or public order.

Article 64

No one can be deprived of the full enjoyment of his civil and political rights or evade the fulfilment of any duty as a citizen on account of his creed.

No one shall be obliged to give any personal contribution to any other divine worship than his own.

Anyone outside the national church shall pay to the University of Iceland or to a sustention fund attached to that college the same contributions as he would otherwise have given to the State Church provided, however, that he does not belong to any other religious community acknowledged in the country.

Amendments may be made by law.

[108]

Iraq, Constitution of

Article 13

Islam is the official religion of the State. Freedom to practise the rites of the different sects of that religion, as observed in Iraq is guaranteed. Complete freedom of conscience and freedom to practise the various forms of worship, in conformity with accepted customs, is guaranteed to all inhabitants of the country, provided such forms of worship do not conflict with the maintenance of order and discipline or public morality.

Lebanon, Constitution of

Article 9

There shall be complete freedom of conscience. While acknowledging the Most High, the Government shall respect all creeds and safeguard and protect the free exercise of all forms of worship on condition that public order is not interfered with. It also guarantees that the personal status and religious interests of the populations, to whatever creed they belong, shall be respected.

Liberia, Constitution of

Article 1

Section 3. All men have a natural and inalienable right to worship God according to the dictates of their own conscience, without obstruction or molestation from others; all persons demeaning themselves peaceably and not obstructing others in their religious worship, are entitled to the protection of law in the free exercise of their own religion, and no sect of Christianity shall have exclusive privileges or preference over any other sect; but all shall be alike tolerated; and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right.

Luxembourg, Constitution of

Article 21

Civil marriage must always precede the religious ceremony.

Article 19

The freedom of religion and public worship, and the right of every man [109] to express his religious opinions are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

Article 20

No person may in any way be forced to observe the acts or ceremonies of a religion or its days of rest.

Article 22

The intervention of the State in the appointments and the induction of heads of religion, the method of appointment and dismissal of other ministers of religion, the freedom for such persons to correspond with their superiors and to publish their documents, and the relations between Church and State, shall be regulated by agreements which shall be submitted to the Chamber of Deputies in respect of these provisions which require its intervention.

*Mexico (United Mexican States), Constitution of**Article 24*

Every man is free to profess the religious belief which is most pleasing to him and to practise the ceremonies, rites, or acts of the respective cult in places of worship or in his private residence, provided they do not constitute a crime or offence punishable by law.

Any religious rite of public worship shall be confined entirely within places of worship, which shall always be under the supervision of the authorities.

Article 27

. . . 2nd – Religious associations called churches, whatever may be their belief, in no case have the capacity to acquire, possess, or administer real estate or capital invested therein; the properties that they hold at present directly or through some intermediary, shall pass to the domain of the Nation, the people being allowed the right to denounce properties that they find in such case. The ground of presumption shall be sufficient to declare the denouncement established. Churches dedicated to public worship [110] are the property of the Nation, represented by the federal Government, which shall determine those that should continue in use. The headquarters of bishops, parish houses, seminaries, asylums, or academies of religious associations, convents, or any other buildings that may have been constructed or intended for the administration, propagation, or instruction of any religious creed, shall pass immediately, by full right, to the direct domain of the Nation, to be

dedicated exclusively to the public services of the Federation or of the States, in their respective jurisdictions. Churches that may be erected in the future for public worship shall be the property of the Nation. . .

Article 130

The federal powers shall exercise the supervision required by law in affairs relating to religious denominations and external discipline. Other authorities shall act as auxiliaries of the Federation.

The Congress cannot enact laws establishing or prohibiting any religion.

. . . Marriage is a civil contract. This and other acts of a civil nature, concerning persons, are within the exclusive competence of the civil officials and authorities, in the manner prescribed by law, and shall have the force and validity defined by said law.

. . . The law does not recognize any personality in religious groups called churches.

Ministers of denominations shall be considered as persons who exercise a profession and shall be directly subject to the laws enacted on such matters.

Only the legislatures of the States shall have the power to determine the maximum number of ministers of denominations necessary to local needs.

To practice the ministry of any denomination in the United Mexican States, it is necessary to be a Mexican by birth. . .

Permission to dedicate new locations open to the public for religious [111] purposes must be obtained from the office of the Secretary of Government, with previous consent of the government of the State. There must be a representative in every church building who is responsible to the authorities for compliance with the laws on religious discipline in said building, and for the objects pertaining to the worship. . .

No privilege shall be granted, or for any reason confirmed, or any other step assigned that has as its purpose to give validity in the official course of studies to studies made in establishments intended for the professional instruction of ministers of denominations. The authority who infringes this provision shall be criminally responsible, and the privilege or step referred to shall be null and shall cause in itself the nullification of the professional degree for the attainment of which the infraction of this provision may have been made. . .

A minister of any denomination may not himself or by means of a proxy inherit or receive any real estate occupied by any association for religious propaganda or for religious or philanthropic purposes. Ministers of denominations are legally incapacitated to be testamentary heirs of the ministers of the same denominations or of any private person who is not related to them, within the fourth degree.

Netherlands, Constitution of

Article 169

All religious communities in the realm shall be afforded equal protection.

Article 170

The professors of the several religions shall all enjoy the same civil and civic rights, and shall have equal claims to the holding of dignities, offices and employment.

Article 168

Every person shall profess his religious opinions with perfect liberty, without prejudice to the protection of society and its members against the violation of the penal laws.

[112]

Article 173

The King shall see that all religious communities keep within the limits of obedience to the laws of the State.

*Nicaragua, Constitution of**Article 58*

The register of civil status is under the exclusive jurisdiction of the State.

Article 59

Public cemeteries have a secular character. Ministers of any religious belief may practice their respective rites in them.

Article 73

Houses of worship and annexes, dedicated exclusively to the practice of a religion, are exempt from taxation.

No edifice or object of worship, used in the practice of a religion, may be assigned by the State to any other use. The churches, organizations, and religious institutions of any faith will have the same rights as the law grants and recognizes in case of private individuals with regard to property.

Article 74

The enactment of laws that protect or restrict specified faiths is prohibited.

Article 100

The law recognizes the following rights of workers and employees:

1st. Independence of moral and civic conscience.

Article 135

Liberty of conscience, the expression of all beliefs, and the practice of all religions that do not oppose morality, good habits, and the public order, are guaranteed. Practices of religion incompatible with the life and physical integrity of the human being are forbidden.

Acts contrary to morality or subversive to the public order, that are [113] performed on the occasion or pretext of the exercise of a religion, are subject to the common law.

Article 136

No one may be compelled to declare officially his religious beliefs unless it is for a statistical questionnaire ordered by the law.

*Norway, Constitution of**Article 2*

The Evangelical-Lutheran religion shall remain the public religion of the State. The inhabitants professing it shall be bound to bring up their children in the same. Jesuits shall not be tolerated.

*Panama, Constitution of the Republic of**Article 36*

It is recognized that the Catholic religion is that of the majority of the Panamanians. It will be taught in the public schools, but its learning and attendance at acts of religious worship will not be obligatory for pupils when their parents or guardians so request it. The law will provide the assistance that must be given to said religion for missions to the indigenous tribes and for other analogous purposes.

Article 35

The profession of all religions is free, as well as the exercise of all faiths, without other limitations than respect for Christian morality and public order.

Article 37

Religious associations have juridical capacity and order and administer their property within the limits indicated by the law, the same as other juridical persons.

*Paraguay, Constitution of**Article 19*

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: . . . to profess their faith freely; . . .

Article 3

The religion of the State is the Roman Catholic Apostolic, but other [114] faiths, which may not be opposed to morality and the public order, are tolerated. The head of the Paraguayan Church and the bishops must be native born citizens.

*Peru, Constitution of the Republic of**Article 59*

Freedom of conscience and of belief is inviolable. No one may be persecuted by reason of his ideas.

Article 232

Respecting the sentiments of the national majority, the State protects the Apostolic Roman Catholic Religion. Other religions enjoy freedom for the exercise of their respective faiths.

*Philippines, Constitution of the Republic of the**Article III*

Section 1, (7) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.

*Poland, Constitution of**Article 111*

Freedom of conscience and of religion is guaranteed to all citizens. No citizen may suffer a limitation of the rights enjoyed by other citizens, by reason of his religion or religious convictions.

All inhabitants of the Polish State have the right of freely professing their religion in public as well as in private, and performing the commands of their religion or rite, in so far as this is not contrary to public order or public morality.

*Siam, Constitution of**Article 13*

Every person is entirely free to profess any religion or creed and to exercise the form of worship in accordance with his own belief, provided that it is not contrary to the duties of a national or to public order or public morals.

*Sweden, Constitution of**Article 16*

. . . The King shall not constrain or allow to be constrained the conscience [115] of any person, but shall protect anyone in the free exercise of his religion, provided he does not thereby disturb public order or occasion general offence. . .

*Syria, Constitution of**Article 15*

There shall be absolute liberty of conscience; the State shall respect all creeds and religions established in the country; it shall guarantee and protect the free exercise of all forms of worship consistent with public order and good morals; it shall also guarantee for all peoples, of whatever creed they may belong, the respect of their religious interests and their personal rights.

*Turkey, Constitution of**Article 75*

No one may be censured for the philosophical creed, religion, or doctrine to which he may adhere. All religious services not in contravention to public order and morals and the laws are authorized.

Article 70

Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

*Ukraine, Constitution of**Article 123*

See USSR Constitution Article 124

*Union of Soviet Socialist Republics, Constitution of the**Article 124*

In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

*United States, Constitution of the**1st Amendment*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, [116] or of the

press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article VI

3, – . . . but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Uruguay, Constitution of

Article 5

All religious denominations are free in Uruguay. The State does not support any religion. It recognizes ownership by the Catholic Church of all churches that have been wholly or partially constructed with funds of the national treasury, except chapels intended for the service of asylums, hospitals, jails, or other public institutions. It declares, likewise, that churches consecrated to the worship of various religions are exempt from all kinds of taxation.

Yugoslavia, Constitution of

Article 25

“Freedom of conscience and freedom of religion are guaranteed to citizens.

The Church is separate from the State.

Religious communities, whose teaching is not contrary to the Constitution, are free in their religious affairs and in the performance of religious ceremonies. Religious schools for the education of priests are free and under the general supervision of the State. The abuse of the Church and of religion for political purposes and the existence of political organizations on a religious basis are forbidden. The State may extend material assistance to religious communities.”

***Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A***

American Federation of Labor

Article 5

Freedom of religion and right to religious worship are indispensable to a truly democratic society.

[117]

Article 15

“Everyone has the right to form, to hold, to receive and to impart opinions.”

***Section I. Observations Made by Members
of the Human Rights Commission***

– None –

***Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments***

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article III (paragraphs 1 – 2)

Every person has the right to freedom of speech and of expression.

This right includes freedom to form and to hold opinions and to give expression to them in private and in public, and to publish them in written or printed form.

Cuba

Article 3

The right to free investigation to enable him to form his opinions, and to express these opinions freely, subject to his being held responsible for his actions.

Panama (American Law Institute)

Article 2

Freedom to form and hold opinions and to receive opinions and information is the right of everyone.

The State has a duty to protect this freedom.

B. Proposals

India

Article I (a)

Every human being is entitled to the right of liberty including the right to . . . freedom of opinion. . .

United States – No provision

Section III. National Constitutions

Brazil, Constitution of

Article 141

No. 5. The manifestation of thought is free, and shall not be dependent upon censorship, except as regards public spectacles and amusements. . .

[118]

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

No. 2. Practice of all beliefs, liberty of conscience and the free exercise of all religions that may not be contrary to morality, to good usage, or to public orders; therefore, the respective religious bodies have the right to erect and maintain houses of worship and their dependencies under the conditions of security and hygiene fixed by the laws and regulations.

The churches, creeds, and religious institutions of whatever faith shall have those rights in respect to their property as the laws now in force may grant and recognize, but they will be subject, within the guarantees of this Constitution, to the common law in the exercise of ownership of their future acquired property.

Churches and their dependencies, intended for the service of any sect, are exempt from taxation.

*Ecuador, Constitution of**Article 187*

“The State shall guarantee to the inhabitants of Ecuador:

. . . (8) the right of every citizen not to be compelled to declare, for any purpose, his political convictions or religious beliefs, nor to be molested for those professed, except in the cases specified in the Constitution and the laws. . .”

*Egypt, Royal Rescript**Article 14*

Freedom of opinion is guaranteed. Within the limits of the law, every person has the right to express his thoughts freely, on word, in writing, pictorially, or otherwise.

*France, Declaration of the Rights of Man and of the Citizen**Article 10*

No man is to be interfered with because of his opinions, not even because of religious opinions, provided his avowal of them does not disturb public order as established by law.

France, Constitution of

5. . . . No one may suffer in his work or his employment by reason [119] of his origins, his opinions or his beliefs.

*Honduras, Constitution of**Article 46*

No person shall be harassed or persecuted because of his opinions. Private actions that do not disturb public order, or that do not cause injury to a third person, shall always be outside of the action of the law.

*Iraq, Constitution of**Article 12*

Freedom of *expression of opinion* is guaranteed to all Iraqis within such limits as may be prescribed by law.

*Nicaragua, Constitution of**Article 128*

No one may be molested or persecuted for his opinions, but he will be subject to the sanction of the laws if the opinions are contrary to public order, to the fundamental institutions of the State, to the republican and democratic form of Government, to the established social order, to morals and good habits, or if they may cause injury to a third party.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

*American Federation of Labor**Article 12*

The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if -

... (c) All economic or political discrimination and punishment for differences of political opinion or religious belief and practices are to be eliminated. The threat of being sent to concentration or labour camps as a punishment for difference of opinion with any government authority or dominant political party must be completely removed.

[120]

Article 16

“There shall be free and equal access to all sources of information both within and beyond the borders of the State.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Dukes (United Kingdom):

“... Freedom of information is a fundamental right and the touchstone of all the freedom to which the United Nations is consecrated.”*

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article III (paragraph 4)

The right to freedom of speech and expression include freedom of access to the sources of information both domestic and foreign.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

United States, Constitution of

1st Amendment

Congress shall make no law... abridging the freedom... of the press...

[*] H.R. Com. – 1st session – 8th meeting – page 4

[121]

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor

Article 9

The more full and complete knowledge of the world is extended and realized by the peoples of all nations, the less will be the distance and misunderstanding

between nations and people. Therefore, the right of the free access to, and exchange of information – scientific, economic, social, religious and political, the promotion of knowledge and of cultural relations, the full and free dissemination of news by radio and press must be assured.

[122]

Article 17

“Subject only to the laws governing slander and libel, there shall be freedom of speech and of expression by any means whatsoever, and there shall be reasonable access to all channels of communication. Censorship shall not be permitted.”

Section I. Observations Made by Members of the Human Rights Commission

–None–

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article III (paragraph 1, 2, 3, 5, 6, 7)

Every person has the right to freedom of speech and of expression. This right includes freedom to form and to hold opinions and to give expression to them in private and in public, and to publish them in written or printed form.

The right to freedom of speech and of expression extends to the use of whatever means of communication are available: freedom to use the postal service, the public utilities of telegraph, telephone and radio communication; freedom to use the graphic arts, the theatre, the cinema and other agencies for the dissemination of ideas.

The right to freedom of speech and of expression includes the special and highly privileged right to freedom of the press.

The only limitations which the state may impose upon this freedom are those prescribed by general law looking to the protection of the public peace against slanderous or libellous defamation of others, and against indecent language or publications, and language or publications directly provocative of violence among the people.

Censorship of the cinema may be in advance of publication, taking into account the particular form of publication and the necessity of protecting the public against matters offensive to accepted standards of conduct. The state may not retain a monopoly of radio broadcasting so as to deny to the individual the opportunity for the free expression of opinion through that instrumentality of communication.

*Cuba**Article 3*

The right to free investigation to enable him to form his opinions, and to express these opinions freely, subject to his being held responsible for his actions.

[123]

*Panama (American Law Institute)**Article 2*

Freedom of expression is the right of everyone.

The state has a duty to refrain from arbitrary limitation of this freedom and to prevent denial of reasonable access to channels of communication.

B. Proposals

India

I (a)

Every human being is entitled to the right of liberty including the right to . . . freedom of opinion. . .

United States

II. (2)

Among the categories of rights which the United States suggests should be considered are the following:

- (a) personal rights, such as freedom of speech, information. . .

Section III. National Constitutions*Afghanistan, Fundamental Principles of the Government**Article 23*

Publications and newspapers of Afghanistan, such as are not against religion, are under no restrictions save as provided by the special law relating to them. The right of publishing news belongs only to the Government, and to Afghan subjects. The entry into Afghanistan of foreign newspapers which do not contain matter against religion and the policy of the Afghan government is unrestricted.

*Argentine, Constitution of**Article 14*

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely: of working and practising any legal industry; of

navigating and trading, of petitioning the authorities; of entering, remaining in, traveling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property, of associating for useful purposes; of freely professing their religion; of teaching and learning.

Article 32

The federal Congress shall not enact laws that restrict the liberty [124] of the press or that establish federal jurisdiction over it.

Belgium, Constitution of

Article 18

The press is free; no censorship shall ever be established; no caution money shall be exacted of writers, publishers, or printers.

In case the writer is known and is a resident of Belgium, the publisher, printer or distributor cannot be prosecuted.

Bolivia, Constitution of

Article 6

3rd. To express freely his ideas and opinions by any means of diffusion.

Brazil, Constitution of

Article 141

No. 5. . . The publication of books and periodicals shall not be dependent upon license from the public power. However, propaganda for war, or violent processes to subvert the political and social order, or prejudices of race or of class shall not be tolerated.

Byelorussia, Constitution of

Article 100

See Constitution of Union of Soviet Socialist Republics, Article 125

Chile, Constitution of

Article 10

The Constitution insures to all the inhabitants of the Republic:

3rd. Freedom to express their opinions without previous censorship, by word or in writing, through the medium of the press or in any other form, without prejudice to the liability of answering for offences and abuses that may be committed in the exercise of this liberty, in the form and in the cases determined by law.

*China, Constitution of**Article 11*

The people shall have the freedom of speech, academic instruction, writing and publication.

*Colombia, Constitution of**Article 42*

- (1) The press shall be free in times of peace; but responsible, in accordance with the law, when it may attack personal honour, the social order, or public tranquillity.
- (2) No newspaper publication shall, without the permission of the [125] Government, receive a subvention from other governments or from foreign corporations.

*Costa Rica, Constitution of**Article 37*

Everyone can communicate his thoughts by word of mouth or by writing and publish them by means of the press, without previous censorship, remaining responsible for the abuses that he may commit in the exercise of this right, in the cases and in the manner that the law establishes.

*Cuba, Constitution of The Republic of**Article 33*

All persons shall have freedom to express their thoughts by speech, writing, or any other graphic or oral means of expression without subjection to previous censure, utilizing for this purpose any and all means of dissemination available.

Editions of books, pamphlets, disks, films, periodicals, or publications of whatever nature, that attack the good reputation of persons, the social order, or the public peace, may be suppressed only after prior determination thereof by competent judicial authority, without affecting the responsibilities consequent upon the criminal act committed.

In the cases referred to in this article, the use and enjoyment of places, equipment, or instruments that the organ of publicity in question may utilize, may not be held or interrupted, except under civil liability.

*Czechoslovakia, Constitution of**Article 117*

1. Every person may within the limits of the law express his or her opinion by word, in writing, in print, by picture, *etc.*

2. The same applies to legal persons within the limits of their competence.
3. No one shall suffer in the sphere of his work or employment for exercising this right.

Article 113

1. Freedom of the press . . . is guaranteed. It is therefore in principle impossible to place the press under preliminary censorship. . .
3. Restrictions may be imposed by law. . . The law shall also state what restrictions shall be placed on the principles of the foregoing [126] paragraphs in time of war or in case of events taking place within the State seriously threatening the republican form of government, the Constitution or public peace and order.

Article 118

Scientific research and the publication of its results, as well as art is free so far as it does not violate the penal code.

Denmark, Constitution of

Article 84

Every person is entitled to publish his ideas in print, but is responsible to the courts. Censorship and other preventive regulations may not at any time be re-introduced.

Dominican Republic, Constitution of

Article 6

The following are established as inherent to the human personality:

5th. The right to express thoughts without subjection to previous censorship.

Ecuador, Constitution of

Article 187

The State shall guarantee to the inhabitants of Ecuador:

(11) freedom of expression of thoughts, and of speech, through the press or other means of utterance or diffusion, provided that such statements imply no abuse, calumny, personal insult, or meaning which is immoral or contrary to the national interest; otherwise the offender shall be liable to the penalties or proceedings prescribed by law.

Article 94

In the event of imminent threat of foreign invasion or of international conflict or internal disturbance, the Executive (President) shall apply to Congress. . . in order that. . . it may grant some or all of the following Extraordinary Powers.

(13) to establish prior censorship, exclusively of news items in the press and radio. . .

[127]

Egypt, Royal Rescript No. 42

Article 15

The press is free within the limits laid down by law. Preventive censorship is prohibited. Warnings, suspension or suppression of newspapers by administrative procedure are likewise prohibited, except where it may be necessary to have recourse to these measures for the protection of the social order.

El Salvador, Constitution of

Article 29

Every man may freely express, write, print, and publish his thoughts, without previous examination, censorship, or bond; but he must answer before a jury for any offence he may commit.

France, Declaration of The Rights of Man And of The Citizen 1789

Article 11

The unrestrained communication of thoughts or opinions being one of the most precious rights of man, every citizen may speak, write and publish freely provided he be responsible for the abuse of this liberty in the cases determined by law.

Greece, Constitution of

Article 14

Everybody may publish his opinions by speech, by writing, or by printing, observing the laws of the Realm. The press is free. Censorship and every other preventive measure is prohibited. The seizure of newspapers and other printed treatises, whether before or after publication is likewise prohibited. Exceptionally seizure after publication is permitted on account of insult to the Christian religion or to the person of the King, or, in cases determined by law, on account of indecent publications manifestly offending public decency; but in such case, within twenty-four hours after the seizure both the Public Prosecutor must submit the case to the Judicial Council and the Council must decide whether the seizure is *de jure* raised. Appeal is allowed against the order only to the publisher of the article seized, and not to the Public Prosecutor.

[128]

The publication of news or communications relating to military movements or to the fortifications of the country may be prohibited in such manner as the law shall direct, under threat of seizure and criminal prosecution. In case of seizure the provisions above stipulated are applied.

Both the publisher of a newspaper and the author of a reprehensible publication relating to private life, in addition to the penalty imposed according to the terms of the criminal law, are civilly and conjointly liable fully to redress any loss occasioned, and to indemnify the injured party in a sum of money fixed at the discretion of the Judge, but never less than two hundred drachmas. Only Greek citizens are allowed to publish newspapers.

Haiti, Constitution of

Article 21

Every person has the right to express his opinions on all subjects by every means in his power. The expression of ideas in every form cannot be subjected to any previous censorship except in the case of a declared state of war.

Abuses of the right of expression shall be defined and punished by law, provided freedom of expression is not thereby jeopardized.

Honduras, Constitution of

Article 59

Every person may freely, without previous censure, express his opinions orally or in writing, by means of the press or by any other procedure, without exemption from the responsibility for the offences and abuses that he commits in the exercise of this liberty, in the form and cases determined by law.

In no case may the printing press or other accessories be confiscated as instruments of the offence.

Iceland, Constitution of

Article 72

Every person has the right to publish his thoughts in print; he is, [129] however, responsible to the courts. Censorship and other hindrances of the freedom of the press can never be established by law.

Iran, The Supplementary Fundamental Laws

Article 20

All publications, except heretical books and matters hurtful to the perspicuous religion (of Islam) are free, and are exempt from censorship. If, however, anything

should be discovered in them contrary to the Press law, the publisher or writer is liable to punishment according to that law. If the writer be known, and be resident in Persia, then the publisher, printer and distributor shall not be liable to prosecution.

Iraq, Constitution of

Article 12

. . . liberty of publication. . . is guaranteed to all Iraqis within such limits as may be prescribed by law.

Lebanon, Constitution of

Article 13

Freedom of speech and of writing shall be guaranteed within the limits laid down by the law. . . the freedom of the press. . . shall be guaranteed within the limits laid down by the law.

Liberia, Constitution of

Article 1, Section 15

The liberty of the press is essential to the security of freedom in a state; it ought not, therefore, to be restrained in this Republic. The press shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions, is one of the invaluable rights of men, and every citizen may freely speak, write and print, on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers, investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libel, the jury shall have right to determine the law and [130] the facts, under the direction of the court, as in other cases.

Luxembourg, Constitution of

Article 24

Freedom of speech on all subjects and the freedom of the press are guaranteed, subject to the power to punish offences committed in the exercise of these liberties. A censorship shall never be established.

*Mexico (United Mexican States), Constitution of**Article 6*

Expression of ideas shall not be the object of any judicial or administrative investigation, except in the case of an attack on the principles or rights of third parties, or where it may provoke some crime or disturb public order.

Article 7

Freedom to write and publish articles on any subject is inviolable. No law or authority may establish a previous censorship, or exact a bond from the authors or printers, or restrict the freedom of the press, which has no further limits than respect for private life, morals, and public peace. In no case may the printing press be sequestered as an instrument of the crime.

The organic laws shall prescribe whatever provisions may be necessary to prevent the imprisonment, under pretext of offences of the press, of distributors, paper vendors, workers, and other employees of the establishment from which has issued the denounced writing, unless the responsibility of said persons has been previously demonstrated.

Article 130

The federal powers shall exercise the supervision required by law in affairs relating to religious denominations and external discipline. Other authorities shall act as auxiliaries of the Federation.

Periodical publications of religious character, whether they be such because of their plan, their title, or simply because of their general [131] tendencies, may not comment on national political matters or publish information on acts of the authorities of the country or of private persons directly related to the functioning of public institutions.

*Netherlands, Constitution of**Article 7*

No person shall require previous permission to publish thoughts or feelings by means of the printing press, without prejudice to every person's responsibility according to law.

*Nicaragua, Constitution of**Article 129*

The State guarantees liberty of the press and of speech. All have the right of freely expressing their ideas and opinions, orally, by writing, by printing, by cartoons, or by any other medium of diffusion, without prejudice to answering for offences and abuses committed in the exercise of this right, in the form and cases determined by

the law; this responsibility concerns the author and editor or printer of the punishable publication or distribution thereof, to the extent of adequate satisfaction by indemnification to the person injured.

Article 130

Previous censorship may not exist, but the law may establish exceptions to this principle in respect to cinematographic films, public theatrical presentations, or spectacles, in the protective interest of childhood, of youth, and of good habits. The law may also enact measures against immoral and pornographic literature and against war propaganda and violent means of subverting the political and social order.

Norway, Constitution of

Article 100

There shall be liberty of the press. No person may be punished for any writing, whatever its contents may be which he has caused to be printed and published, unless he wilfully and manifestly has either himself shown or incited others to disobedience to the laws, contempt of religion or morality or the constitutional powers, or resistance to their orders, or has advanced false and defamatory accusations against any other person.

[132]

Everyone shall be free to speak his mind frankly on the administration of the State or on any other subject whatsoever.

Panama, Constitution of the Republic of

Article 38

Every person may freely express his thoughts, by word, in writing or in any other medium, without subjection to previous censorship.

Paraguay, Constitution of

Article 19

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: . . . to publish their ideas by the press without prior censorship, provided they refer to matters of general interest;. . .

Article 31

The issuing and publication of books, pamphlets, and periodicals shall be regulated by law. Anonymous publication is not permitted.

*Peru, Constitution of The Republic of**Article 63*

The State guarantees freedom of the press. Everyone has the right freely to express his ideas and his opinions by means of printing or by any other method of diffusion under the responsibility established by the law. Responsibility for libellous publication shall pertain to the author and the editor, who shall collectively be responsible for the indemnification due the injured person.

Article 64

The ordinary tribunals shall have jurisdiction over crimes of the press.

Article 65

Public spectacles are subject to review.

*Philippines, Constitution of The**Article III, Section 1*

(8) No law shall be passed abridging the freedom of speech, or of the press.

*Poland, Constitution of**Article 104*

Every citizen has the right to express freely ideas and convictions in so far as he does not thereby violate legal provisions.

[133]

Article 105

Freedom of the press is guaranteed. Censorship or the system of licensing printed matter, may not be introduced. . .

Article 124

A temporary suspension of citizens' rights. . . of freedom of the press (Article 105). . . may take place for the whole territory of the state or for localities in which it may prove necessary for reasons of public safety. . .

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Sweden, Constitution of**Article 85*

The following shall be considered fundamental laws; the present Constitution, the Riksdag Law, the Succession Law, and the Law, and the law relating to the freedom of the press, which shall be adopted by the King, and the Riksdag jointly in accordance with the principles laid down by the present constitution.

Article 86

By “freedom of the press” is understood the right of every Swede to publish his writings without any previous interference on the part of the public authorities; that of only being prosecuted afterwards before a regular court on account of the contents of his publication, and that of not being punished unless such contents are in conflict with a law enacted to preserve the public peace, without interfering with public enlightenment.

Article 108

Every fourth year the Riksdag in ordinary session shall, in manner prescribed by the Riksdag law, appoint six persons of known intelligence and erudition, who, together with the Procurator for Judicial Affairs as [134] president, shall watch over the liberty of the press. These Commissioners of whom two in addition to the Procurator for Judicial Affairs, shall be lawyers, shall have the following duty: In case an author or printer, before printing, submits a manuscript to them and asks their advice as to whether it would be subject to an action under the law relating to the freedom of the press, the Procurator for Judicial Affairs, and not fewer than three members of the Committee, of whom one shall be a lawyer, shall give such opinion in writing. If they declare that the manuscript may be printed, both author and publisher shall be free from all responsibility, which shall fall on the Commissioners.

*Syria, Constitution of**Article 16*

Freedom of thought shall be guaranteed; all persons shall be entitled to express their views verbally, in writing, in speeches or graphically, subject to the limitations provided by law.

Article 17

Freedom of the press, and of printing shall be guaranteed, subject to the conditions laid down by the law.

*Turkey, Constitution of**Article 70*

Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

Article 77

The press shall enjoy freedom within the framework of the law and shall not be subject to any censorship or control prior to publication.

*Ukraine, Constitution of**Article 124*

See Constitution of Union of Soviet Socialist Republics Article 125

*Union of Soviet Socialist Republics, Constitution of**Article 125*

In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the USSR are guaranteed by law:

[135]

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations (printing) presses, stocks of paper, public building, the streets, communication facilities and other material requisites for the exercise of these rights.

*United States, Constitution of the**First Amendment*

Congress shall make no law . . . abridging the freedom of speech, or of the press . . .

*Uruguay, Constitution of**Article 28*

The communication of thought by word, written privately, or published in the press, or by any other method, without necessity of previous censorship, is entirely free; authors and, as the case may be, printers or distributors, remaining liable, according to law, for abuses that may be committed.

*Yugoslavia, Constitution of**Article 27*

Citizens are guaranteed the freedom of the press, freedom of speech, freedom of association, freedom of assembly, the freedom to hold public meetings and demonstrations.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

*American Federation of Labor**Article 2*

Freedom of expression and association is vital to the preservation of the basic liberties and the enhancement of the spiritual and material progress of the human race. These rights must be inviolate for those who oppose, no less than for those who support, a ruling party or a regime at any specific moment.

Article 8

There must be freedom of opinion and expression and full access to the opinions of others.

[136]

Article 12

The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if -

... (d) Freedom from censorship of books, press, radio and art, having due regard to the requirements of morals and decency.

[137]

Article 18

“There exists a duty towards society to present information and news in a fair and impartial manner.”

**Section I. Observations Made by Members
of the Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile – No provision

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Ecuador, Constitution of

Article 187

The State shall guarantee to the inhabitants of Ecuador:
 . . . (11) freedom of expression, of thought . . . through the press or other means . . .
 The law shall govern the exercise of this freedom, bearing in mind that the primary
 aim of journalism is to defend the national interests and that it constitutes a social
 service worthy of the respect and support of the State . . .

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision
 [138]

Article 19

“There shall be freedom of peaceful assembly.”

**Section I. Observations Made by Members
of the Human Rights Commission**

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article V

Every person has the right to assemble peaceably with others as a means of giving expression to views upon matters of common interest.

The state has the duty to permit the use of public places for purposes of general assembly. It has the right to be informed of meetings to be held in public places, to designate convenient localities, and to impose conditions upon the use of such places in the interest of the public order and safety. Similar conditions may be imposed upon assemblies in public and in private buildings. But the conditions imposed by the state upon the holding of public meetings must not be such as to impair substantially the right itself to hold such meetings; and no conditions shall be required for the assembly of small groups of persons whether in public or in private places.

The right of assembly includes the right to hold public parades, subject to the same restrictions to which assemblies are subject.

Cuba

Article 15

The right to meeting and associating with his fellow men for fostering the pursuit of permissible aims.

Panama (American Law Institute)

Article 4

Freedom to assemble peaceably with others is the right of everyone. The state has a duty to protect this freedom.

B. Proposals

India

I (a)

Every human being is entitled to the right of liberty including the right to ... freedom of assembly ...

United States of America – No provision

[139]

Section III. National Constitutions*Belgium, Constitution of**Article 19*

Belgian citizens have the right to assemble peaceably, and without arms, when conforming to the laws which regulate this right, and without previous authorization.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

*Bolivia, Constitution of**Article 6*

4. To meet (and associate) for various purposes not contrary to the security of the State.

*Brazil, Constitution of**Article 141*

11. All may assemble, without arms, and the police shall not intervene to assure public order. With this object in view, the police may designate the place of the assembly, provided that by thus proceeding, they do not hamper the assembly or render it impossible.

*Byelorussia, Constitution of**Article 100*

See Article 125 of the Union of Soviet Socialist Republics Constitution.

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

4. The right of uniting without previous permission and without arms. In plazas, streets, and other places of public use, assemblies will be governed by the general police regulations.

*China, Constitution of**Article 14*

The people shall have freedom of assembly . . .

*Colombia, Constitution of**Article 46*

Any number of people shall be permitted to assemble or congregate peacefully. The authorities may dissolve any assembly that degenerates into disorder or obstructs the public roads.

[140]

*Costa Rica, Constitution of**Article 33*

All of the inhabitants of the Republic have the right to gather peacefully and without arms, whether with the object of occupying themselves with private affairs, or with that of discussing political matters and examining the public conduct of officials.

*Cuba, Constitution of**Article 37*

The inhabitants of the Republic have the right to assemble peacefully and without arms, and the right to hold processions and associate with one another for all the legitimate purposes of life, in conformity with the corresponding legal standards, without further limitation than may be necessary to assure public order.

*Czechoslovakia, Constitution of**Article 113*

1. . . . the right to assemble peaceably and without arms . . . is guaranteed. The manner in which . . . the right of free assembly shall be exercised shall be determined by law.

3. Restrictions may be imposed by law especially in case of assembly in places which serve as public thoroughfares . . . The law shall also state what restrictions shall be placed on the principles of the foregoing paragraphs in time of war or in case of events taking place within the State seriously threatening the republican form of government, the Constitution or public peace and order.

*Denmark, Constitution of**Article 86*

Citizens have the right of unarmed assembly. The police have the right to attend public meetings. Open-air meetings may be forbidden when there is reason to fear that they are a danger to the public peace.

Article 87

In the case of riot, armed forces, if not attacked, may only intervene after the crowd has been called upon three times in the name of the King and the law to disperse.

[141]

*Dominican Republic, Constitution of**Article 6*

The following are established as inherent to the human personality:

(6) Freedom of association and of assembly for pacific ends.

*Ecuador, Constitution of**Article 187*

The State shall guarantee to the inhabitants of Ecuador:

... (13) freedom of assembly ... without weapons, for purposes not prohibited by law ...

*Egypt, Royal Rescript**Article 20*

Egyptians have the right to assemble peaceably and without arms. The police shall not be entitled to attend assemblies, and it shall not be necessary to give notice thereof to the police. This provision shall not apply to public assemblies which are subject to statutory provisions and shall not preclude or restrict the taking of any measures requisite for the protection of the social order.

*El Salvador, Constitution of**Article 14*

Similarly, the inhabitants of El Salvador may associate and assemble peacefully, and without arms, for any lawful purpose.

*Greece, Constitution of**Article 10*

The Greeks have the right to meet quietly and unarmed; only at public assemblages the police may be present. Assemblages in the open air may be prohibited if danger to public security is imminent from them.

*Guatemala, Constitution of**Article 31*

The right of assembling peacefully and without arms is recognized. The law regulates the right of assembly in open air and that of demonstration. Religious demonstrations outside of churches are permitted and are governed by the respective law.

*Haiti, Constitution of**Article 25*

Haitians have the right of unarmed peaceful assembly even to deal with political matters, subject to observance of such laws as may govern the exercise of that right but without previous permission being required.

[142]

This regulation does not apply to public meetings, which are subject entirely to the police laws.

*Honduras, Constitution of**Article 61*

Freedom of assembly without arms and that of association for any legitimate purpose are guaranteed.

The establishment of any kind of monastic association is prohibited. The entrance into the country of individuals belonging to these associations shall be regulated by law.

*Iceland, Constitution of**Article 74*

Citizens have a right to assemble unarmed. The police have a right to be present at public assemblies. Open-air meetings may be prohibited should it be feared that danger of disturbances might ensue.

*Iraq, Constitution of**Article 12*

Freedom of . . . meeting together . . . is guaranteed to all Iraqis within such limits as may be prescribed by law.

*Lebanon, Constitution of**Article 13*

. . . freedom to assemble . . . shall be guaranteed within the limits laid down by the law.

*Liberia, Constitution of**Article 1, Section 5*

The people have a right at all times, in an orderly and peaceable manner to assemble and consult upon the common good, to instruct their representatives, and to petition the government, or any public functionaries for the redress of grievances.

*Luxembourg, Constitution of**Article 25*

Luxembourg nationals have the right to assemble peaceably and without arms without previous authorization, provided that they comply with the laws regulating the exercise of these rights. This provision shall not apply to political, religious and other open-air meetings, which shall continue to be subject to the police laws and regulations in every respect.

[143]

*Mexico (United Mexican States), Constitution of**Article 9*

The right of associating or meeting peacefully for any lawful purpose shall not be infringed, but only citizens of the Republic may exercise it in taking part in the political affairs of the country. No armed assembly has the right of deliberating.

An assembly or meeting that has as its object the formulating of a petition or the presenting of a protest regarding some act of an authority shall not be considered illegal and may not be dissolved, provided insults are not voiced against authority nor any violence or threats used to intimidate or oblige him to decide in the manner that they desired.

Article 35

4. Privileges of citizens are:
3. To assemble for the discussion of the political affairs of the country . . .

Article 9

The right of association and assembly of citizens is recognized. The exercise of this right shall, in the interest of public order be regulated and limited by law.

*Nicaragua, Constitution of**Article 124*

The right to assemble peacefully, without previous permission and without arms, is guaranteed.

Article 125

The right to assemble in the open air and that of demonstration will be regulated by police laws.

*Norway, Constitution of**Article 99*

2. The Government is not entitled to employ military force against subjects of the State, except in accordance with the form prescribed by law, unless any meeting should disturb the public peace and do not immediately disperse after the articles of the Statute book relating to riots have been read out loud three times by the civil authority.

[144]

*Panama, Constitution of**Article 39*

All inhabitants of the Republic have the right to assemble peacefully and without arms for lawful purposes. Manifestations or assemblies in open air are not subject to permission. Only a previous announcement to the local administrative authorities, twenty-four hours in advance, is required to effect them.

The authorities may take police measures to prevent or suppress abuses in the exercise of this right, when the form in which it is exercised causes or may cause disturbance in traffic, commotion in public order, or violation of the rights of third parties.

*Paraguay, Constitution of**Article 19*

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: to assemble peaceably; . . .

*Peru, Constitution of**Article 62*

Everyone has the right to assemble peacefully without arms and without compromising the public order. The exercise of the right of assembly shall be regulated by law.

*Philippines, Constitution of**Article III, Section 1*

(8) No law shall be passed abridging the right of the people peaceably to assemble.

*Poland, Constitution of**Article 108*

Citizens have the right of . . . meeting . . . The exercise of these rights is defined by statutes.

Article 124

A temporary suspension of citizen's rights of . . . meeting . . . may take place for the whole territory of the state or for localities in which it may prove necessary for reasons of public safety . . .

[145]

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Syria, Constitution of**Article 25*

Freedom of assembly and association shall be guaranteed in the manner prescribed by the law.

*Turkey, Constitution of**Article 79*

The limits imposed on the liberty of making contracts, of labour, of ownership, of meeting and associating, and of incorporation shall be determined by law.

*Ukraine, Constitution of**Article 124*

See Article 125 of the Union of Soviet Socialist Republics Constitution.

*Union of Soviet Socialist Republics, Constitution of**Article 125*

In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the Union of Soviet Socialist Republics are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations (printing) presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

*United States of America, Constitution of**1st amendment*

Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble.

*Uruguay, Constitution of**Article 37*

The right to assemble peacefully and without arms is guaranteed.

[146]

The exercise of this right cannot be prohibited by any official of the Republic, except by virtue of a law, and only then for reasons of public health, security, and order.

*Yugoslavia, Constitution of**Article 27*

Citizens are guaranteed the freedom of the press, freedom of speech, freedom of association, freedom of assembly, the freedom to hold public meetings and demonstrations.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[147]

Article 20

“There shall be freedom to form associations for purposes not inconsistent with this Bill of Rights.”

**Section I. Observations Made by Members
of the Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article VI

Every person has the right to associate with other persons for the protection and promotion of legitimate interests.

The state has the right to adopt regulations governing the activities of associations, provided they are applied without discrimination against a particular group, and provided they do not impair substantially the right of association.

Article XIV (paragraph 2)

... Associated with the right to work is the right to form labour and professional unions.

Cuba

Article 15

The right to meeting and associating with his fellow-men for fostering the pursuit of permissible aims.

Panama (American Law Institute)

Article 5

Freedom to form with others associations of a political, economic, religious, social, cultural, or any other character for purposes not inconsistent with these articles is the right of everyone.

The state has a duty to protect this freedom.

B. Proposals

*India**I (a)*

Every human being is entitled to the right of liberty, including the right to . . . freedom of assembly and *association* . . .

United States – No provision

[148]

Section III. National Constitutions*Argentine, Constitution of**Article 14*

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely, of working and practising any legal industry; of navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

*Belgium, Constitution of**Article 20*

Belgian citizens have the right of association; this right shall not be restricted by any preventive measure.

*Bolivia, Constitution of 28 October 1938**Article 6*

. . . 4th. To meet and associate for various purposes not contrary to the security of the State.

Article 125

Free professional and trade union association is guaranteed and the collective bargaining contract is recognized.

*Brazil, Constitution of 18 September 1946**Article 141*

No. 12. Freedom of association for legitimate purposes is guaranteed. No association may be compulsorily dissolved except by virtue of judicial sentence.

Article 141

No. 13. The organization, registration, or functioning of any political party or association, the programme or action of which may be contrary to the democratic regime, based upon plurality of parties and guarantee of the fundamental rights of men, is prohibited.

[149]

Article 159

Professional or trade union association is free, the form of organization, the legal representation in the collective labour contracts and the exercise of functions delegated by the public power, being regulated by law.

Byelorussian [sic], Constitution of

Article 101

See USSR Constitution – Article 126.

Chile, Constitution of 18 September 1925

Article 10

The Constitution insures to all inhabitants of the Republic:
5th. The right of association without previous permission and in conformity with the law.

China, Constitution of

Article 14

The people shall have freedom of . . . association.

Colombia, Constitution of 4 August 1886

Article 47

Popular political organizations of a permanent character are prohibited.

Article 44

(1) The formation of companies, associations, and foundations that are not contrary to the legal order is permitted. Associations and foundations may obtain recognition as juridical persons.

(2) Religious associations must, in order to remain under the protection of the laws, file, before the civil authority, the authorization issued in their favour by their respective ecclesiastical superiors.

*Costa Rica, Constitution of**Article 55*

All employers, as well as all workers, may organize freely for the exclusive purposes of their economic-social activities, in accordance with the law.

*Cuba, Constitution of the Republic of**Article 37*

The formation and existence of political organizations contrary to the democratic representative system of government of the Republic, or [150] which in any way seek to subvert complete national sovereignty, is unlawful.

*Cuba, Constitution of**Article 69*

The right of organization is recognized for employers, private employees, and workers, for the exclusive purposes of their economic-social activity.

The competent authority shall have a period of thirty days in which to admit or refuse to admit the registry of a workers' or employers' association. The registration shall determine the juridical personality of the workers' or employers' association. The law shall regulate everything concerned with the recognition of the association by the employers and by the workers respectively.

Association may not be finally dissolved until a provisional decision has been made by the tribunals of justice.

The officials of these associations shall be exclusively Cubans by birth.

*Czechoslovakia, Constitution of**Article 113*

1. . . . the right . . . to form associations is guaranteed . . .

3. Restrictions may be imposed by the law especially . . . in cases of the participation of foreigners in political associations. The law shall also state what restrictions shall be placed on the principles of the foregoing paragraphs in time of war or in case of events taking place within the State seriously threatening the republican form of government, the Constitution or public peace and order.

Article 114

1. The right of association to safeguard and ameliorate conditions of employment and economic conditions shall be guaranteed.

2. All acts of individuals or societies which constitute an intentional violation of this right, are prohibited.

[151]

*Denmark, Constitution of**Article 85*

Citizens are entitled, without previous permission, to form associations for any lawful purpose. No association can be dissolved by a government measure. An association may, however, be provisionally prohibited, but a suit for dissolution shall immediately be brought against it.

*Dominican Republic, Constitution of**Article 6*

The following are established as inherent to the human personality:
6th. Freedom of association and of assembly for pacific ends.

Article 103

The organization of political parties and associations is free, in accordance with the law, providing their tendencies conform with the principles established in the second article of this Constitution.

*Ecuador, Constitution of**Article 187*

The State shall guarantee to the inhabitants of Ecuador:
... (13) freedom of ... association ... for purposes not prohibited by law ...

Article 188

With respect to Ecuadorians, the following special guarantees shall be established:

... (4) The right to join parties and other political associations which are not contrary to the Constitution, with the purpose of taking part in national politics ...

*El Salvador, Constitution of**Article 32*

No permanent civil or ecclesiastical corporation, whatever its character, denomination, or object may be, shall have the legal capacity to own real property in fee simple or to administer it for itself, with the single exception of that intended immediately and directly for the service or the purpose of the institution.

[152]

Article 35

The right of association is guaranteed, and the establishment only of conventual congregations and all kinds of monastic institutions is prohibited.

Article 14

Similarly, the inhabitants of El Salvador may associate and assemble peacefully, and without arms, for any lawful purpose.

*France, Constitution of**Paragraph 6*

Every man may defend his rights and interests by trade-union action and may join the union of his choice.

*Greece, Constitution of**Article 11*

The Greeks possess the right of association, conforming with the laws of the State, and in no case can the laws subject this right to previous permission on the part of the Government.

An association cannot be dissolved for infractions of the provisions of the laws except by judicial decision.

*Guatemala, Constitution of**Article 32*

The right of association for the different purposes of human life is guaranteed, in conformity with the law. The establishment of conventual congregations and of all kinds of monastic institutions or associations, as well as the formation and functioning of political organizations of an international or foreign character is prohibited. Organizations that propose Central American Union or Pan-American doctrines or continental solidarity are not included in this prohibition.

Article 33

Guatemalans have the right to be organized in political parties, which must be inscribed in conformity with what the electoral law determines . . .

*Haiti, Constitution of**Article 26*

Haitians have the right of association and of forming political parties, trade unions and co-operatives.

This right cannot be subordinated to any preventive measures. Moreover, nobody can be compelled to join a political association or party.

[153]

The law governs the conditions of operation of these bodies.

Honduras, Constitution of

Article 61

Freedom of assembly without arms and that of association for any legitimate purpose are guaranteed. The establishment of any kind of monastic association is prohibited. The entrance into the country of individuals belonging to these associations shall be regulated by law.

Iceland, Constitution of

Article 73

Citizens have a right to establish associations for every lawful purpose, without obtaining permission. No society can be dissolved by a Government measure. A Society can nevertheless be provisionally prohibited, but action must immediately be brought against it for its dissolution.

Iran, The Supplementary Fundamental Laws of

Article 21

Societies (anjumans) and associations (ijtimalat) which are not productive of mischief to Religion of the State, and are not injurious to good order, are free throughout the whole Empire, but members of such associations must not carry arms, and must obey the regulations laid down by the Law on this matter. Assemblies in the public thoroughfares and open spaces must likewise obey the police regulations.

Iraq, Constitution of

Article 12

Freedom of forming and joining associations is guaranteed to all Iraqis within such limits as may be prescribed by law.

Lebanon, Constitution of

Article 13

... freedom of association shall be guaranteed within the limits laid down by the law.

*Luxembourg, Constitution of**Article 26*

Luxembourg nationals have the right of association. This right shall not be made subject to any preliminary permit.

The founding of any religious corporation must be authorized by a law.

*Mexico (United Mexican States), Constitution of the**Article 9*

The right of associating or meeting peacefully for any lawful purpose [154] shall not be infringed, but only citizens of the Republic may exercise it in taking part in the political affairs of the country. No armed assembly has the right of deliberating . . .

Article 28

Associations of workers formed to protect their own interests shall not constitute monopolies.

Nor are associations or co-operative societies of producers to be considered monopolies when, in defence of their own interests or of the general interest, they sell directly in foreign markets the national or industrial products that are the principal source of wealth in the region where they are produced and which are not articles of prime necessity, provided that said associations are under the supervision or protection of the federal Government or of the States and that previous authorization be obtained from the respective legislatures in each case. Those same legislatures, on their own initiative or at the proposal of the Executive, may revoke the authorization granted for the establishment of the associations herein referred to, whenever public necessity so requires.

Article 123

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles:

16th. Both employers and employees shall have the right to organize for the defence of their respective interests, forming unions, professional associations, *etc.*

Article 130

The federal powers shall exercise the supervision required by law in affairs relating to religious denominations and external discipline. Other authorities shall act as auxiliaries of the Federation.

The formation of all kinds of political groups, the name of which has any word or indication whatever that it is related to any religious denomination [155] is strictly prohibited. Meetings of a political character may not be held in places of worship.

Netherlands, Constitution of the

Article 9

The right of association and assembly of citizens is recognized. The exercise of this right shall, in the interest of public order be regulated and limited by law.

Nicaragua, Constitution of

Article 50

The State does not recognize the legal existence of political parties of international organization. Individuals belonging to such may not discharge any public function. Only parties recommending the union of Central America are excepted.

Article 126

All persons have the right to form unions or associations, whatever may be the purpose that they pursue, provided that it is not an association declared illegal by the law, but it is incumbent on the State to authorize corporative, moral, cultural, or economic organizations.

Panama, Constitution of

Article 67

The right of organizations of employers, employees, workers, and professional persons of all classes is recognized for the exclusive ends of their economic-social activity.

The Executive will have an unextendable period of thirty days for accepting or rejecting the inscription of a workers' or employers' union. The inscription will determine the juridical personality of the union. The law will regulate everything that concerns the recognition by the Executive of unions of employers, employees, workers, and professional persons.

The Executive may not dissolve a union except when it has departed from its exclusive purposes and is so declared by a competent tribunal by a final decree.

The management of these associations will be composed exclusively of Panamanians.

[156]

Article 40

It is permitted to form companies, associations, or foundations that are not contrary to morality or the legal order, which may obtain their recognition as juridical persons.

*Paraguay, Constitution of**Article 19*

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: . . . to associate with one another for legitimate purposes; . . .

Article 32

The State shall oversee and regulate the organization, the functioning, and the activities of groups or bodies of a public character.

*Peru, Constitution of**Article 27*

The State recognizes liberty of association and of contract. The conditions for its exercise are regulated by the law.

Article 53

The State does not recognize the legal existence of political parties of international organization. Those who may belong to such political parties must not discharge any political function.

*Philippines, Constitution of**Article 3, Section 1*

(6) The right to form associations or societies for purposes not contrary to law shall not be abridged.

*Poland, Constitution of**Article 108*

Citizens have the right of combining, meeting and forming associations and unions. The exercise of these rights is defined by statutes.

Article 124

A temporary suspension of citizen's rights . . . of combining, meeting and forming associations (Article 108), may take place for the whole territory of the state or for localities in which it may prove necessary for reasons of public safety . . .

[157]

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Syria, Constitution of**Article 25*

Freedom of assembly and association shall be guaranteed in the manner prescribed by the law.

*Turkey, Constitution of**Article 70*

Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

Article 79

The limits imposed on the liberty of making contracts, of labour, or ownership, of meeting and associating, and of incorporating shall be determined by law.

*Ukraine, Constitution of the**Article 125*

See USSR Constitution – Article 126

*Union of Soviet Socialist Republics, Constitution of**Article 126*

In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the USSR are ensured the right to unite in public organizations – trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies . . .

*Uruguay, Constitution of**Article 38*

All persons have the right to associate, whatever may be the object that they pursue, provided they do not form an assembly declared illegal by law.

Article 56

The law shall promote the organization of trade unions, granting them [158] franchises and enacting standards for the recognition of their juridical personality. It shall promote, furthermore, the creation of tribunals of conciliation and arbitration.

Yugoslavia, Constitution of

Article 27

Citizens are guaranteed the freedom of the press, freedom of speech, freedom of association, freedom of assembly, the freedom to hold public meetings and demonstration.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor

Article 2

Freedom of expression and association is vital to the preservation of the basic liberties and the enhancement of the spiritual and material progress of the human race. These rights must be inviolate for those who oppose, no less than for those who support, a ruling party or a regime at any specific moment.

Genuine freedom means the right of association and organization into various, into differing, educational, religious, economic, political and trade union organizations, without fear of the threat of direct or indirect control and compulsion by governmental or any other agencies.

[159]

Article 21

“Everyone has the right to establish educational institutions in conformity with conditions laid down by the law.”

**Section I. Observations Made by Members
of the Human Rights Commission**

Mr. Cassin (France):

... He points out that the right to education and liberty of teaching are two different things which must not be confused.

Note:

This draft carefully distinguishes these two questions. Freedom of education is dealt with in Article 21 while right to education is dealt with in Article 36.

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XVII (paragraph 4–5)

The state has the right to fix general standards to which educational institutions must conform, provided that these standards are in accord with other fundamental rights and are the same for public and for private schools.

The right to education involves the right to teach, subject to the restrictions which accompany the right to education.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

[160]

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 21

In Afghanistan, instruction in the knowledge of Islam is unrestricted. Every Afghan subject is permitted to impart Islamic religious instruction. Foreigners, however, with the exception of those engaged to teach arts, industries and foreign languages, are not permitted to open and conduct schools in the Kingdom of Afghanistan.

Article 22

The public schools of Afghanistan are under the supervision of the Government, so that the education and culture imparted by these institutions may, without infringing the articles of the Islamic faith, provide the benefits which accrue from the study of literature, art and science. But there will be no interference with principles of education which are concerned with the faith and religion of the “Ahl-i-Zimma.”

*Argentine, Constitution of**Article 14*

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely: of working and practising any legal industry; of navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

*Bolivia, Constitution of**Article 6*

Every person has the following fundamental rights in conformity with the laws that regulate their exercise:

... 6th. To teach under the supervision of the State.

Article 156

Schools of a private character shall be subject to the same authorities, plans, programmes, and official rules. Liberty of religious instruction is recognized.

[161]

Article 157

Schools maintained by charitable institutions shall have the co-operation of the State.

Article 158

Primary, secondary, normal, and special educational shall be regulated by the national council of education, which shall have technical and administrative autonomy. The law shall determine its organization and duties.

*Brazil, Constitution of**Article 166*

Education is the right of everyone, and shall be administered at home and in the school. It shall be inspired by the principles of liberty, and the ideals of human solidarity.

Article 167

Teaching in the different branches shall be administered by the public authorities, and private initiative is free, provided the laws that regulate teaching are respected.

*Chile, Constitution of**Article 10*

The Constitution insures to all inhabitants of the Republic:
7th. Freedom of instruction. Public education is preferentially an affair of the State.

*China, Constitution of**Article 11*

The people shall have the freedom of speech, academic instruction, writing and publication.

*Colombia, Constitution of**Article 41*

(1) The freedom of instruction is guaranteed. However, the State shall inspect and maintain the greatest vigilance over institutions of learning, both public and private, in order to attain the fulfilment of the social purposes of culture and for the better intellectual, moral and physical development of students.

[162]

*Costa Rica, Constitution of**Article 68*

Every Costa Rican or alien is free to give or receive instruction that he may desire in establishments that are not sustained with public funds.

*Cuba, Constitution of**Article 47*

Culture in all of its manifestations constitutes a primary interest of the State. Scientific investigation, artistic expression, and the publication of their results, as well as education, and, in this regard, free, without prejudice to the inspection and regulation by the State, established by law.

Article 54

Official or private universities and any other institutions and centres of higher learning may be created. The conditions by which they may be regulated shall be determined by law.

Article 55

Official instruction shall be laic. Centres of private instruction shall be subject to regulation and inspection by the State; however, in all cases the right shall be preserved of imparting, separate from technical instruction, the religious education that may be desired.

Article 56

In all teaching centres, public or private, the teaching of Cuban literature, history and geography, civics and the Constitution, must be imparted by teachers who are Cuban by birth, and by means of textbooks by authors who have the same qualification.

*Czechoslovakia, Constitution of**Article 120*

1. Private establishments for instruction and education are permitted to be set up only within the limits of the law.

2. The supreme authority and control over all instruction and education shall be in the hands of the State.

*Ecuador, Constitution of**Article 171*

... Municipalities may subsidize private instruction given free of charge ...
[163]

*Egypt, Royal Rescript**Article 17*

The right to give instruction is free to all in so far as the instruction given is not contrary to public order or morals.

*Greece, Constitution of**Article 16*

... Private persons and corporations are allowed to establish private schools conducted in accordance with the Constitution and the laws of the Realm.

*Guatemala, Constitution of**Article 81*

Private centres of instruction are subject to inspection by the State ...

*Honduras, Constitution of**Article 60*

Freedom of instruction is guaranteed. Teaching maintained, by public funds shall be laical, and primary instruction, furthermore, shall be free of charge, obligatory, paid for by the municipalities, and subsidized by the State.

*Lebanon, Constitution of**Article 10*

There shall be no interference with public instruction as long as it is not contrary to public order and morals and does not affect the dignity of the various creeds.

*Mexico (United Mexican States), Constitution of**Article 3*

Only the State – Federation, States, or municipalities – shall impart primary, secondary, and normal instruction. Individuals desiring to instruct in any of the three preceding grades shall be granted authorization, subject in all cases to the following rules:

1st. The activities and instruction of private educational institutions shall be adjusted, without any exception, to the precepts of the initial paragraph of this article and shall be in charge of persons who, in the opinion of the State, have sufficient professional preparation, the proper morality, and an ideology in accord with these precepts. Therefore, religious organizations, ministers of religious denominations, corporations exclusively or primarily engaged in educational activities, and associations or societies, connected [164] directly or indirectly with the propaganda of any religious belief, shall not participate in any form in the primary, secondary, or normal schools, nor may they contribute financially to the same.

2nd. The formation of plans, programmes, and methods of instruction shall in every case belong to the State.

3rd. No private institution of learning may function without previously having obtained, in every case, express authorization from the public authorities.

4th. The State may at any time revoke the authorizations granted. There shall be no redress or judicial appeal against this revocation.

These same standards shall govern education of any type or grade that may be imparted to industrial workers or farm labourers. . .

The State may, at its discretion and at any time, withdraw the recognition of official validity of studies given to private institutions of learning. . .

*Nicaragua, Constitution of**Article 56*

The granting of academic and professional degrees belongs exclusively to the State which will establish the proofs and requirements necessary to obtain them.

Article 87

The system of instruction is under the technical inspection of the State.

Article 90

The law will regulate professional education, determining the professions that require a previous license for their practice, and the formalities for obtaining them.

Article 133

The State guarantees the liberty of higher education.
[165]

Article 134

The sciences, letters, and arts, as well as their instruction, are free when they are not contrary to good habits and public order.

*Panama, Constitution of**Article 79*

Liberty of instruction is guaranteed. The State may, nevertheless, intervene in private teaching establishments to see that the national and social purposes of culture and the better intellectual, moral, civic, and physical development of those educated are complied with in them.

Article 81

Instruction in the history of the Fatherland and in civic education will always be under the charge of national professors.

Instruction in foreign languages will not be imported in private educational establishments without the permission of the ministry of education, granted for competent reasons of public interest.

Programmes of primary instruction in private schools will be the same as in public schools; but they may be granted permission for the establishment of additional courses in any language.

It is obligatory for private schools to include in their secondary programmes instruction in the history and geography of the Fatherland and in civic education.

Article 85

Only the academic and professional degrees issued by the State or authorized by the latter in accordance with legal provisions may be recognized.

Article 88

Freedom of professorship is recognized without other limitations than those that the university statute establishes for reasons of public order.

*Paraguay, Constitution of**Article 19*

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: . . . to instruct.

[166]

Article 20

. . . The regulation and inspection of instruction is a charge of the State.

*Peru, Constitution of**Article 80*

The State guarantees academic freedom.

*Poland, Constitution of**Article 117*

. . . Every citizen has the right to teach, to found a school or educational institution, and to direct it if he complies with the requirements laid down by statutes concerning the qualifications of teachers, the safety of the child entrusted to him, and a loyal attitude toward the state. All school and educational institutions, public as well as private, are subject to supervision by state authorities within the limits prescribed by statutes.

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Syria, Constitution of**Article 19*

Education shall be free, in so far as it is not contrary to public order and good morals and is not detrimental to the dignity of the country or of religion.

Article 20

Education shall be directed to raising the moral and intellectual standard of the people on lines best suited to the national characteristics, and the promoting concord and a fraternal spirit among all citizens.

*Turkey, Constitution of**Article 80*

Instruction of any kind is free within the limits laid down by law under the supervision and control of the State.

*Uruguay, Constitution of**Article 59*

Freedom of instruction is guaranteed.

[157]

A law shall regulate intervention by the State for the sole purpose of maintaining hygiene, morality, security, and public order.

Every parent or guardian has the right to select teachers or institutions he prefers for the instruction of his children or wards.

Article 60

Private institutions of learning that provide classes gratuitously to a number of students and in the form that the law shall determine, as well as cultural institutions, shall be exempted from national and municipal taxes as a subvention for their services.

*Yugoslavia, Constitution of**Article 38*

Schools are State-owned. The founding of private schools may be permitted only by law and their work is controlled by the State.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[168]

Article 22

“Everyone has a right to own personal property. His right to share in the ownership of industrial, commercial and other profit-making enterprises is governed by the law of the State within which such enterprises are situated. The State may regulate the acquisition and use of private property and determine those things that are susceptible of private appropriation.

No one shall be deprived of his property without just compensation.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Hodgson (Australia):

“... What do we mean when we speak of human rights? We refer to, or we have in mind, minorities, nationalities, statelessness, rights of options, *property*. . .”*

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article VIII (paragraph 1, 3, 4, 5)

Every person has the right to own property.

The state may determine by general laws the limitations which may be placed upon the ownership of property, looking to the maintenance of social justice and to the promotion of the common interest of the community.

The right of private property, includes the right to the free disposal of property, subject, however, to limitations imposed by the state in the interest of maintaining the family patrimony.

The right of private property is subject to the right of the state to expropriate property in pursuance of public policy, just compensation being made to the owner.

Cuba

Article 16

The right to immunity from expropriation other than in pursuance of legal proceedings or for the benefit of the community.

[*] H.R. Com. – 1st session – 14th meeting – page 2.

*Panama (American Law Institute)**Article 10*

Everyone has the right to own property under general law. The state shall not deprive anyone of his property except for a public purpose and with just compensation.

B. Proposals

India

I.c/

Every human being has the right of security including ... and the right to property, subject only to the overriding consideration of public weal when the State or its appropriate organs acquire it after paying equitable compensation.

United States

II. (2)

Among the categories of rights which the United States suggests should be considered are the following:

- (a) ... and rights of property.

Section III. National Constitutions*Afghanistan, Fundamental Principles of the Government**Article 15*

In Afghanistan the movable and immovable property of everyone is protected. In the event of any immovable property being required by Government in the public interests, the value of it will be paid to the owner according to Shariat law and the special code concerned, before it is taken over.

Article 17

Confiscation of both movable and immovable property is forbidden, with the exception of that belonging to persons residing abroad making propaganda or intrigues against the Afghan Government.

*Argentine, Constitution of**Article 14*

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely: of working and practising any legal industry; of

navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

[170]

Article 17

Property is inviolable, and no inhabitant of the Nation can be deprived thereof except by virtue of a sentence founded on law. Expropriation for reasons of public utility must be authorized by law and previously compensated. The Congress alone imposes the taxes mentioned in Article 4. No personal service can be required except by virtue of a law or sentence based on law. All authors or inventors are exclusive proprietors of their work, invention, or discovery for the term granted them by law. The confiscation of property is stricken out forever from the Argentine penal code. No armed body may make requisitions, or demand assistance of any kind.

Belgium, Constitution of

Article 11

No one may be deprived of his property except for the public good and according to the forms established by law, and in consideration of a just compensation previously determined.

Article 12

Punishment by confiscation of property shall not be established.

Bolivia, Constitution of

Article 121

Work and capital, as factors of production, enjoy the protection of the State.

Article 17

... ; expropriation may be effected for purpose of public utility as determined by law and with previous just indemnification.

Property is inviolable provided it fulfils a social function;

Article 15

Confiscation of property shall never be applied as a political punishment.

*Brazil, Constitution of**Article 156*

The law shall facilitate the settlement of men in the fields, establishing plans for the colonization and use of public lands. For this purpose, nationals, and among them, those living in poor zones and [171] the unemployed, shall have preferences.

Article 141

No. 16. The right of property is guaranteed, except for the case of expropriation for public necessity or utility, or for social unrest, with prior and just indemnification in money. The competent authorities may use private property, in case of imminent peril, such as war or domestic commotion, if the public good so requires, with the right to later indemnification being, nevertheless, assured.

No. 31. There shall be no penalty of . . . confiscation.

. . . The law shall provide for the sequestration and loss of property, in the case of illicit enrichment, through influence or through abuse of public office of function, or of employment in an autarchic entity.

No. 17. Industrial inventions belong to their authors, to whom the law shall guarantee temporary privilege, or, if divulging of the invention should be in the collective interest, it shall grant a just reward.

No. 18. Ownership of industrial and commercial trademarks is assured, as well as monopoly in the use of a commercial name.

No. 19. The exclusive right of reproduction shall belong to the authors of literary, artistic, or scientific works. The heirs of authors shall enjoy this right for such time as the law may determine.

Article 147

The use of property shall be conditioned upon social welfare. The law may, with observance of the provisions of Article 141, No. 16, promote the just distribution of property, with equal opportunities for everyone.

Article 146

The Union may, by means of a special law, intervene in the economic sphere or monopolize specified industries or activities. The intervention shall be based upon the public interest, and shall be limited by the fundamental rights assured by this Constitution.

Article 154

Usury, in all forms, shall be punished by law.
[172]

*Byelorussian [sic], Constitution of**Articles 9 and 10*

See USSR Constitution – Articles 9 and 10

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

10th. Inviolability of all property, without distinction. No one can be deprived of property under his control, or of any part thereof, or the right he may have to it, except by virtue of a judicial decree or of an expropriation by reason of public interest, conformable to a law. In this case, indemnification, as may be agreed on, or as may be fixed by a corresponding judicial sentence, shall be paid the owner previously.

The exercise of the right of property is subject to the limitations or rules that the maintenance and advancement of the social order demand, and, in this sense, the law may impose obligations or servitudes for public benefit in favour of the State, of the health of the citizens, and of the public welfare.

11th. Exclusive property in every discovery or production, for the time that the law may concede. If the law shall exact expropriation, the author or inventor shall be given suitable indemnification.

Article 18

. . . nor in any case may the penalty of confiscation of property be imposed, except forfeiture in the cases established by law.

*China, Constitution of**Article 15*

The right of existence, the right of work and the right of property shall be guaranteed to the people.

Article 142

National economy shall be based on the Principle of the People's livelihood for equitable distribution of land ownership and control of [173] capital in order to obtain a well-balanced development of public economy and private livelihood.

Article 143

All land within the territory of the Republic of China shall in principle belong to the whole body of citizens. Private ownership of land, acquired by the people in accordance with law, shall be protected and restricted by law. Privately owned land shall be liable to taxation according to its value and the government may buy such land according to its value.

If any land has an increase in its value, not through the exertion of labour and the employment of capital, the state shall levy thereon an increment tax, the proceeds of which shall be enjoyed by the people in common.

In the distribution and adjustment of land, the state shall, as a principle, assist self-farming landowners and persons who make use of the land by themselves, and shall also regulate their appropriate areas of operation.

Colombia, Constitution of

Article 30

Private property and other rights acquired by just title by natural or juridical persons are guaranteed, in accordance with the civil law, and may not be disavowed or injured by later laws. When the application of a law enacted for reasons of public benefit or social interests results in a conflict of the rights of private persons with the necessity recognized by the same law, the private interest must give way to the public or social interest.

Property is a social function that implies obligations.

Expropriation may be undertaken, for reasons of public benefit or social interest defined by the Legislature, by means of a judicial decision and with previous indemnification.

Nevertheless, the Legislature, for reasons of justice, may determine [174] the cases in which there is not ground for indemnification by a favourable vote of an absolute majority of the members of each Chamber.

Article 35

Literary and artistic property shall be protected as transferable property, during the lifetime of the author and for eighty years thereafter, by means of the formalities prescribed by law.

The same guarantee shall be extended to the owners of works published in countries using the Spanish language, provided that the respective Nations recognize in their legislation the principle of reciprocity, and without the necessity of including any international conventions for this purpose.

Article 34

The penalty of confiscation shall not be inflicted.

Article 33

In case of war, and only for the purpose of re-establishing public order, the need of expropriation may be decreed by authorities who do not belong to the Judiciary, and without previous indemnification.

Real estate alone may be temporarily occupied, in the case mentioned, either to meet the necessities of war or to reserve its products for war, as a pecuniary penalty imposed on its owners in accordance with the law.

The Nation shall always be responsible for expropriations made by the Government directly or by means of its agents.

Article 37

No real estate shall be inalienable or obligations irredeemable in Colombia.

Costa Rica, Constitution of

Article 23

The Republic does not recognize hereditary titles, or venal positions, nor permit the establishment of entailed estates.

Article 29

Property is inviolable; no one can be deprived of his if it is not in the public interest legally proved, and without previous indemnification in [175] conformity with the law. In case of war or internal disturbance, it is not necessary that the indemnification be paid previously.

The Congress may, for reasons of public necessity, by the vote of two-thirds of all of its members, impose limitations on property for social interest.

Cuba, Constitution of

Article 24

Confiscation of goods is forbidden. No one may be deprived of his property except by competent judicial authority and for a cause justified by public utility of social interest, and with mandatory prior payment of the proper indemnification in cash, in the amount judicially determined. In case of failure in compliance with these requirements, the person whose property has been expropriated shall have the right of protection by the tribunals of justice, and as the case may warrant, that of the restoration of his property.

In case of contradiction, the tribunals of justice shall have the power to decide upon the necessity of expropriation, for reasons of public utility or social interest.

Article 46

Within the restrictions stipulated in this Constitution, Cubans shall be free to bequeath one-half of their inheritance.

Article 75

The formation of co-operative enterprises, whether commercial, agricultural, industrial, of the consumer, or any other type, shall be subject to regulation by the law; but the latter shall regulate the definition, constitution, and functioning of such enterprises in order that they shall not serve to evade or abridge the provisions that this Constitution establishes for the regulation of labour.

Article 87

The Cuban State recognizes the existence and legitimacy of private property in the fullest concept of its social function, and with no further [176] limitations than those that may be established by law for reasons of public necessity or social interest.

Article 88

The subsoil belongs to the State, which may make concessions for its exploitation, in conformity with what the law may establish. Mining property granted and not exploited within the period that the law may fix shall be declared null and shall revert to the State.

Land, forests, and concessions for the exploitation of the subsoil, utilization of waters, means of transportation, and every other enterprise of public service, must be exploited in a manner favourable to the social welfare.

Article 90

Latifundia are outlawed, and in order to effect their disappearance the law shall stipulate the maximum extent of property that each person or corporation may possess for each type of exploitation for which the land may be employed, at the same time taking into account individual circumstances.

Article 95

The property of charitable institutions is declared to be imprescriptible.

Article 96

Those areas of land given by persons of old Spanish nobility for the founding of a town or community, and effectively employed for this purpose, acquiring the character of a municipal government, though afterward occupied or held by the heirs or inheritors of the donor, are declared to be in the nature of a public utility and therefore subject to expropriation by the State, the Province, or the municipality.

The inhabitants of such a town or city, who possess buildings or occupy lots in the settled part, may obtain ownership or possession of the estates or sections of land

that they may be occupying, by payment of a fair proportionate price through the expropriating body empowered to transfer the said property to them.

[177]

Article 90

The law shall restrictively limit acquisition and possession of land by foreign persons and companies, and shall adopt measures tending to revert the land to Cuban ownership.

Article 91

The father of a family who lives upon, cultivates, and directly exploits a rural property that he owns, provided that the value of the latter does not exceed 2,000 pesos, may declare it of irrevocable character as family property as soon as it may be essential for his living and subsistence, . . . and said property shall be exempt from taxes and shall be unattachable and inalienable except for responsibilities incurred prior to this Constitution. Improvements that exceed the sum above mentioned shall pay the corresponding taxes in the manner that the law may establish. In order to exploit the said property the owner may mortgage it, or give sowings, plantings, fruits, or products of the same as guarantee.

Article 92

Every author or inventor shall enjoy exclusive ownership of his work or invention, with the limitations stipulated by law as to time and form.

Article 93

No perpetual charges on property in the character of perpetual interest payments or other charges of an analogous nature may be imposed, and, furthermore, the establishment of such charges is prohibited. The Congress shall approve a law regulating the liquidation of the existing charges within a period of three legislative terms.

Perpetual interest payments, or charges established, or which may be established, to the benefit of the State, Province, or municipality, or in favour of public institutions of all kinds or of private institutions of beneficence are excepted from the stipulations of the preceding paragraph.

[178]

Czechoslovakia, Constitution of

Article 109

1. Private ownership may be restricted only by law.
2. Expropriation is possible only in the basis of law.

Compensation shall be given in all cases unless it is or shall be provided by law no compensation be given.

Denmark, Constitution of

Article 50

Regulations are prescribed by law regarding the right of aliens to possess fixed property in this country.

Article 80

Property ownership is inviolable. No person may be obliged to cede his property unless the public interest so demands. Such session may only occur in accordance with the law and against total compensation.

Dominican Republic, Constitution of

Article 6

The following are established as inherent to the human personality:

11th. The exclusive ownership, for the time and the form that the law determines, of inventions and discoveries, as well as scientific, artistic, and literary productions.

7th. The right of property. This, however, can be taken for a duly justified reason of public utility or social interest, and with previous just indemnification. In cases of public calamity, the indemnification need not be given previously. General confiscation of goods remains prohibited, except as a penalty for persons guilty of treason or espionage in favour of the enemy in time of war with a foreign Nation.

Ecuador, Constitution of

Article 183

The right of private property is guaranteed in so far as this is compatible with the social function of such property . . .

No one may be deprived of the 'ownership or possession of his estate, save by virtue of a judicial mandate or by legally confirmed expropriation on ground of public expediency . . .

[179]

Egypt, Royal Rescript

Article 9

Property shall be inviolable. No person may be deprived of his property except for reasons of public utility in the cases and in the manner prescribed by law and in consideration of fair compensation.

Article 10

Punishment by general confiscation of property is prohibited.

Article 21

Egyptians have the right of association. The law shall lay down rules governing the exercise of this right.

*El Salvador, Constitution of**Article 5*

All property is transferable in the manner that the laws determine, and in consequence, all kinds of entails are prohibited, except the following:

1st. Trusts, when they may be established in favour of the Nation, of charitable or cultural institutions of the country that exist or that may be created, of incompetent natural persons in conformity with the law for the management of their interests, or of persons who may not have been born but are already in the maternal womb.

2nd. Family property.

Article 18

Confiscation, whether as a penalty, or in any other way, is prohibited. The authorities who violate this provision shall answer at all times with their persons and property for the damage caused; the things confiscated are imprescriptible.

Article 31

Property is inviolable. No person may be deprived of his property except by reasons of public utility, legally proved and after just indemnification. In cases of war, public calamity, the opening of new highways or the modification of existing ones, and the supply of water, the indemnification need not be previous.

When the necessities of an international war may require it, the State [180] may intervene in the administration of property belonging to nationals of enemy countries; it may dispose of it and apply its income as indemnity of war, according to circumstances and a previous decree in which reasons are expressed. The law shall regulate the form of making these provisions effective.

Article 34

All industry is free, and may be monopolized only for the benefit of the Nation, with the aguardiente, saltpetre, gunpowder business to be administered by the Executive.

There shall be no other monopoly of any kind, or any prohibitions on industrial liberty, even for protection. There are excepted only those relative to the coining of

money and to the privileges that, for a limited time, are granted by law to inventors or to those improving any industry.

Ethiopia, Constitution of

Article 27

No person shall have the right to take from an Ethiopian subject any real or personal property in his possession, except in cases of public expediency specified by law.

France, Declaration of the Rights of Man and of the Citizen, 26 August 1789

Article 2

The purpose of all civil association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression.

Article 17

The right to property being inviolable and sacred, no one shall be deprived of it except in cases of evident public necessity, legally ascertained and on condition of a previous just indemnity.

France, Constitution of

Paragraph 9

All property and all business whose exploitations have acquired the characteristics of a national public service or a monopoly in fact should become the property of the community.

[181]

Greece, Constitution of

Article 17

No one may be deprived of his property except for the public benefit duly proven, when and as the law directs and always after indemnification. The indemnification is always fixed through the judicial channel. In case of urgency it may be provisionally fixed judicially after the beneficiary has been heard or summoned, and the beneficiary may be obliged, at the discretion of the Judge, to give a proportionate guarantee in the manner defined by law. Until the final or provisional indemnification fixed is paid, all the rights of the proprietor are maintained intact, dispossession not being permitted.

Special laws settle the details respecting the proprietorship and disposal of mines, quarries, archaeological treasures, and mineral and running waters.

*Guatemala, Constitution of**Article 90*

The State recognizes the existence of private property and guarantees it as a social function, without further limitations than those determined by law, for reasons of public necessity or utility or of national interest.

Article 28

All persons may dispose freely of their property, provided that in doing so they do not contravene the law. . .

*Haiti, Constitution of**Article 17*

The right of citizens to possess property is guaranteed. Expropriation on grounds of legally established public expediency may only take place on previous payment or assignment to the owner of a proper indemnity.

Possession of property also involves obligations. It must be utilized in the common interest.

The property owner owes a duty to the community to cultivate, work and protect the soil, especially against erosion.

Penalties for non-observance of that obligation shall be prescribed by law.

[182]

Property rights do not extend to springs, rivers and other watercourses which belong to the State domain.

The condition governing the use of such waterways shall be prescribed by law.

The law shall limit the maximum extent of this property right.

*Honduras, Constitution of**Article 62*

Industry and commerce are free; but alcohol, aguardiente, saltpetre, gunpowder, firearms, munitions of war, and explosives used in military practice are to be monopolized for the benefit of the State.

Traffic in sedatives or drugs derived from heroin shall be regulated by law or by international conventions.

Article 63

There shall be no monopolies in favour of private individuals.

Privileges may be granted for a period that does not exceed ten years. A term limited to ninety years may be granted concessions to promote the introduction or

improvement of new industries, for immigration, institutions of credit, the opening or routes of communication, or colonization projects.

In the cases above mentioned, only the established regulations and taxes may be suspended, but the public charges for establishment may not be abolished in any case or in any way, in concessions and treaties.

In the concessions it grants or the treaties it makes, the State may not dispense with the payment of municipal taxes.

When the term of a concession relative to colonization, immigration, or the opening of means of communication has elapsed, the enterprise, in full operation and with all its accessories, shall pass to the ownership of the State, without any remuneration.

Article 64

Any person may acquire property and dispose of it by any title, within the limitations established by law.

[183]

Article 73

No person shall be deprived of his property except by virtue of a law or by a sentence founded on law.

Article 74

Expropriation of real property, for reasons of public necessity or utility, shall be determined by law or by a judgment founded on law, and shall not be executed without previous indemnification.

Article 75

The right to own property shall not prejudice the right of eminent domain of the State within its territorial boundaries, nor can it supersede the rights maintained by national institutions or works of a national character.

Article 76

Every inventor shall enjoy exclusive property rights in his work or discovery, for the period that the law determines.

Article 77

The right to regain possession of confiscated property is imprescriptible.

*Iceland, Constitution of**Article 67*

The right of possession is inviolable. No one can be obliged to surrender his property, unless for the benefit of the public weal; this can only be done by law and on full compensation being paid.

Article 68

Paragraph 2. A foreigner's right to possess real property in the country shall be regulated by law.

*India, Constitution of**Article 299*

1. No person shall be deprived of his property in British India save by authority of law.
2. Neither the Federal nor a Provincial Legislature shall have power to make any law authorizing the compulsory acquisition for public purposes of any land, or any commercial or industrial undertaking, or any interest in, [184] or in any company owning, any commercial or industrial undertaking, unless the law provides for the payment of compensation for the property acquired and either fixes the amount of the compensation, or specifies the principles on which, and the matter in which, it is to be determined.
3. No Bill or amendment making provision for the transference to public ownership, of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion, or, in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion.
4. Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act.
5. In this section "land" includes immovable property of every kind and any rights in or over such property, and "undertaking" includes part of an undertaking.

*Iran, The Supplementary Fundamental Laws**Article 17*

To deprive owners or possessors of the properties or possessions controlled by them on any pretext whatever is forbidden, save in conformity with the law.

Article 16

The confiscation of the property or possessions of any person under the title of punishment or retribution is forbidden, save in conformity with the law.

Article 15

No property shall be removed from the control of its owner save by legal sanction, and then only after its fair value has been determined and paid.

Article 9

All individuals are protected and safeguarded in respect to their . . . property . . . , from every kind of interference, and none shall molest them save in such case and in such a way as the laws of the land shall determine.

[185]

*Iraq, Constitution of**Article 10*

3rd . . . the general confiscation of movable property are absolutely forbidden.

1. Rights of ownership shall be safeguarded. No person's goods or property shall be expropriated except for the public benefit, and in the circumstances and in the manner prescribed by law, and on condition that just compensation is paid.
2. Forced loans may not be imposed, nor may goods or property be seized or prohibited goods confiscated, except in accordance with law.

*Lebanon, Constitution of**Article 15*

Rights of ownership shall be protected by law. No person may be expropriated except on grounds of public utility, in the circumstances defined by law and on condition that fair compensation is paid beforehand.

*Liberia, Constitution of**Article 14*

The purchase of any land by any citizens or citizens from the aborigines of this country for his or their own use, or for the benefit of others as estate or estates in fee-simple shall be considered null and void to all intent and purpose.

Section 13

Private property shall not be taken for public use without just compensation.

*Luxembourg, Constitution of**Article 16*

No person may be deprived of his property, except for reasons of public utility, in the cases and in the manner prescribed by law and in consideration for just and prior compensation.

Article 17

The penalty of confiscation of property shall not be established.

*Mexico (United Mexican States), Constitution of**Article 22*

... confiscation of property, or any other uncommon or unusually severe penalties are prohibited.

[186]

The complete or partial application by the judicial authority of the property of a person to the payment of a civil liability resulting from the commission of a crime or for the payment of taxes or fines, shall not be considered as confiscation of property.

Article 27

Ownership of the lands and waters included within the boundaries of the national territory belongs originally to the Nation, which has held and still holds the right to transfer ownership of them to private persons, thereby constituting private property.

Expropriation may be effected only for reasons of public utility and by means of indemnification.

The Nation shall at all times have the right to impose on private property the measures that the public interest dictates, as well as that of regulating the exploitation of natural resources susceptible for use, in order to insure an equitable distribution of public wealth and to guard its conservation. To this end, the necessary measures shall be taken for the sub-division of large rural estates; for the creation of new centres of agricultural population with the lands and waters that may be necessary; for the encouragement of agriculture and the prevention of the destruction of natural resources and property damage detrimental to society. Population centres that may lack lands and waters or do not possess a sufficient amount for the needs of their people shall have the right to be supplied with them, taking them from the surrounding estates, but always respecting the small agricultural properties under cultivation.

The Nation has direct ownership of all minerals or substances.

The waters of territorial seas, to the extent and in the manner fixed by international law, are also the property of the Nation.

The laws of the Federation and of the States in their respective jurisdiction shall determine the cases where the occupation of private property may be of public utility, and, in accordance with said laws, the administrative authority shall make the necessary declaration. The price that [187] shall be fixed as indemnification for the property expropriated shall be based on its assessed value as recorded in the offices of the census or tax collectors, whether this value may have been declared by the owner or simply accepted by him in a tacit manner by having paid taxes on this basis.

14th. The owners affected by decisions that may have been issued in favour of towns, or that in the future may be issued, for apportioning or restoring ejidos or waters shall not have any right of redress or ordinary legal recourse, nor may they institute suit of amparo.¹⁵⁷

Those affected by the apportionment of lands shall have only the right of applying to the Federal Government in order that the respective indemnification may be paid. Those interested must exercise this right within the term of one year, counting from the date on which the respective resolution was published in the *Diario Oficial* of the Federation. After expiration of this term no claim shall be admitted . . .

Article 28

There shall be in the United Mexican States no monopolies, restraints of trade of any kind, exemption from taxes, prohibitions under the title of protection to industry, excepting only those relative to the coinage of money, to the mails, telegraphs, and wireless telegraphy, the emission of currency by means of a single bank that shall be controlled by the Federal Government.

. . . and the privileges that may be conceded for a limited time to authors and artists for the reproduction of their works and those granted to inventors for the exclusive use of their inventions and those who perfect inventions of any kind.

Consequently, the law shall severely punish and the authorities shall diligently prosecute any monopoly or concentration in the hands of one or a few, of articles of prime necessity, that has as its object the obtaining of an increase in prices; also any act or measure restraining or tending to restrain free competition in production, industry, commerce, or public services; any agreement or combination of any kind made by producers, [188] industrialists, merchants, or carriers, or by those engaged in any other service, for the purpose of restraining competition among themselves and obliging consumers to pay exorbitant prices; and, in general, whatever constitutes an undue, exclusive advantage in favour of one or more specified persons to the injury of the public in general or of any social class.

¹⁵⁷ Amparo is a remedy in Latin American legal systems that is similar in some respects to *habeas corpus*. It enables judicial intervention when matters of fundamental rights are involved.

Article 19

... any tax or contribution in penal institutions are abuses which shall be corrected by law and repressed by the authorities.

Article 123

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles:

28th. The laws shall determine the property that constitutes the family patrimony, property that shall be inalienable, that which cannot be subjected to real taxes or attachment and which shall be transmissible by deed of inheritance with simplification of the formalities of inheritance.

*Netherlands, Constitution of the**Article 161*

The general forfeiture of the goods belonging to an offender may not be inflicted as penalty for any crime.

Article 152

Expropriations for reasons of public utility cannot take place except after a previous declaration by law that public utility requires expropriation and against previous received or previously assured compensation, all in accordance with rules laid down by law.

It shall be determined by law in which cases the previous declaration by law shall not be required.

The requirement that the compensation shall be paid or assured beforehand shall not apply if war, danger of war, riot, fire or flood require that possession be taken immediately.

[189]

Article 153

When in the public interest the public authority has to destroy property or render it unserviceable either permanently or temporarily, this shall take place against compensation, unless the contrary is stipulated by law. The use of property for the preparation and effecting of military inundations, if required on account of war or danger of war, shall be regulated by law.

*Nicaragua, Constitution of**Article 39*

Monopoly for private interest is prohibited, as well as all classes of commercial and industrial control of the market.

Only the law may establish monopolies of the State in the exclusive national interest.

Article 53

The State may nationalize enterprises of public service, by previous indemnification and in conformity with the law.

Article 60

There will be no confiscation of property except from the nationals of an enemy country that confiscates property of Nicaraguans.

The right of recovery of property confiscated in contravention of this guarantee is imprescriptible.

In no case may property be sequestered or interfered with for reasons or offences of a political character.

Offending authorities will at all times answer to this with their persons and property to the extent of the damage inflicted.

Article 61

All the artistic and historical wealth of the country, irrespective of who may be the owner, constitutes the cultural treasure of the Nation, and enjoys the protection and special care of the State. The latter prohibits its exportation and alienation and may order legal expropriation for its defence and conservation.

Article 62

The State recognizes freedom of contract, of commerce, and industry.
[190]

The law will designate the requirements to which their exercise is subject and the guarantee accorded them. The law may, when they concern public security or necessity, establish limitations or reservations regarding said exercise, or may authorize the Executive to establish them, seeing to it that such restrictions do not in any case have a personal character or a confiscatory one.

Article 63

Property is inviolable. No one may be deprived of his possessions except by virtue of judicial sentence, general taxation, or because of public utility or social

interest determined by law or by a sentence based on law, with proper price indemnification.

In the event of national war, internal disturbance, or public calamity, competent authorities may use private property where the public welfare requires it, always respecting the right to later indemnification.

Article 64

The State guarantees and protects intellectual property, the rights of the author, of the inventor, and the artist. The law regulates their exercise and duration, and if it demands their expropriation, it will be by means of prior appraised indemnification.

Article 65

Property, by virtue of its social function, imposes obligations. The amount of these, their nature, and extent are fixed by the law.

Article 66

The right of property, as concerns its exercise, is subject to the limitations that the maintenance and progress of the social order impose. In harmony with this principle, the law may impose obligations or services of public utility on property in favour of the general interest of the State, of the health of the citizens, and of the public health.

Article 67

Property, regardless of who may be its owner, is exclusively controlled by the laws of the Republic and is subject to the maintenance of public needs, in accordance with the Constitution and the laws.

[191]

Article 68

Aliens may in no case demand exceptional treatment in respect to property.

Article 69

The law may, for reasons of public or social interest, establish restrictions or prohibitions on the acquirement and transfer of specified kinds of property, by reason of its nature, condition, or location in the country.

Article 70

The State will be inclined toward the proper division of uncultivated land, and will favour the establishment and diffusion of medium and small rural holdings.

Article 72

Everyone may freely dispose of his property by any legal title whatsoever; but entailment of property is prohibited, as is endowment in favour of mortmain, excepting only those established in order to constitute a family patrimony or in favour of charitable institutions.

Article 85

The law will control the organization and regulation of family inheritance, on the basis that it shall be inalienable, not subject to seizure, and exempt from all public burdens.

Article 94

Usury is prohibited. The law which sets the maximum rate of interest for money is for the benefit of the public. The same law will determine the penalty to be applied to violators.

*Norway, Constitution of**Article 104*

Forfeiture of lands and goods shall be abolished.

Article 105

If the welfare of the State shall demand that any person shall surrender his movable or immovable property for the public use, he shall receive full compensation from the Exchequer.

*Panama, Constitution of**Article 49*

In case of war, grave disturbance of public order, or of urgent social interest, that demand rapid measures, the Executive may decree expropriation of occupation of [192] private property and the indemnification need not be prior.

When restitution of the object seized may be feasible, the seizure will be only for the time in which the circumstances that caused it continue.

The State is always responsible for every expropriation thus carried out by the Executive and for the damage and injuries caused by the seizure and will pay its value as quickly as the reason determining the expropriation or seizure may have ended.

Article 50

Every author or inventor enjoys exclusive property in his work or invention during the time and in the form that the law establishes.

Article 46

There may be expropriation, for reasons of public utility or social interest defined by the law, by means of a judicial decree and previous indemnification.

Article 47

When the application of a law enacted for reasons of public utility or social interest may result in conflict of the rights of private individuals with the need recognized by the law itself, the private interest must give way to the public or social interest.

Article 30

There is no penalty of death, expatriation, or confiscation of property.

Article 45

Private property acquired in accordance with the law by juridical or natural persons is guaranteed, and it may not be denied or injured by later laws.

Private property implies obligations for its proprietor by reason of the social function that it must fulfil.

*Paraguay, Constitution of**Article 21*

... The law may fix the maximum extent of lands of which one single individual or legally constituted corporation may be owner, and the excess must be sold at public auction or be expropriated by the State for distribution.

The Constitution guarantees private property, the contents and limits of which shall be fixed by law, with reference to its social function. No one may be deprived [193] of his property except by virtue of a decision based on law. Property in any kind of goods may legally be transferred by means of expropriation for reasons of social utility defined by the law, which shall likewise determine the form of the indemnification.

Article 19

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: ... to dispose of their property ...

Article 15

The State shall regulate the national economic life ... The State may, with indemnification, nationalize the public services, and may monopolize the production, circulation, and sale of articles of primary necessity.

Article 25

In no case may the death penalty be applied for political reasons, or the penalty of confiscation of property.

Article 24

. . . Every author or inventor is the owner of his work, invention, or discovery for the term the law may decide.

*Peru, Constitution of**Article 16*

Monopolies and combines in restraint of trade and industry are prohibited. The law shall fix the penalties to be imposed upon offenders. The law alone may establish State monopolies and privileges in the exclusive national interest.

Article 17

Mercantile companies, national or foreign, are subject without restrictions to the laws of the Republic. In any contract between the State and aliens, or in the concessions that the former may grant in favour of aliens, the express submission of the latter to the laws and tribunals of the Republic and their renunciation of all diplomatic claims must be made clear.

Article 33

Public properties used by everyone, such as rivers, lakes, and public roads, are not subject to private ownership.

[194]

Article 31

Property, whoever may be the owner, is governed exclusively by the laws of the Republic and is subject to the taxes, charges, and limitations established in the laws themselves.

Article 34

Property must be used in harmony with the social interest. The limits and nature of the right of property shall be fixed by law.

Article 35

The law may, for reasons of national interest, establish special restrictions and prohibitions for the acquisition and transference of specified kinds of property, on account of the nature, condition, or location of such property in the country.

Article 47

The State shall favour the preservation and growth of moderate and small rural ownership; it may, by means of a law, and prior indemnification, expropriate lands of private ownership, especially those not being exploited, in order to subdivide them or transfer them under conditions that may be regulated by law.

Article 36

Aliens may not, within fifty kilometres of the frontiers, acquire or possess, by any title, lands, waters, mines, or combustibles, directly or indirectly, individually or corporatively, under penalty of losing the acquired property, to the benefit of the State, except in a case of national necessity declared by an express law.

Article 37

Mines, lands, forests, waters, and, in general, all natural sources of wealth belong to the State, except for rights legally acquired. The conditions of their utilization by the State, or their concession, in ownership or usufruct, to private parties, shall be fixed by law.

Article 38

The State, may, by means of a law, take under its charges or nationalize land, maritime, river, lake, and aerial transportation, or other public services of private ownership, with prior indemnification and in conformity with the existing laws.
[195]

Article 41

The State shall receive part of the proceeds of mining enterprises, in the amount and proportion that shall be determined for alienating them under the conditions fixed by law.

Article 49

In extraordinary circumstances of social necessity, laws may be enacted or authorized by the Executive for adopting provisions tending to lower the cost of living. In none of these cases may property be expropriated without just indemnification.

Article 29

Property is inviolable, whether material, intellectual, literary, or artistic. No one may be deprived of his property except by reason of legally established public utility and after justly appraised prior indemnification.

Article 30

The State guarantees and protects the rights of authors and inventors. Their exercise shall be regulated by law.

Article 32

The same provision regarding property applies to aliens as well as Peruvians, except that in no case may said aliens make use of their exceptional positions or resort to diplomatic appeals.

Article 82

Archaeological, artistic, and historical treasures are under the safeguard of the State.

*Philippines, Constitution of**Article 13*

Section 1. All agricultural, timber and mineral lands of the public domain, waters minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this [196] Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant.

Section 2. No private corporation or association may acquire, lease or hold public agricultural lands in excess of one thousand and twenty-four hectares, nor may any individual acquire such lands by purchase in excess of one hundred and forty-four hectares, or by lease in excess of one thousand and twenty-four hectares or by homestead in excess of twenty-four hectares. Lands adapted to grazing, not exceeding two thousand hectares, may be leased to an individual, private corporation, or association.

Section 3. The National Assembly may determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold, subject to rights existing prior to the enactment of such law.

Section 6. The State may, in the interest of national welfare and defence, establish and operate industries and means of transportation and communication, and, upon

payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

Section 5. Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except by individuals, corporations or associations qualified to acquire or hold lands of the public domain of the Philippines.

Section 4. The National Assembly may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals.

Article 14

Section 4. The exclusive right to writings and inventions shall be secured to authors and inventors for a limited period.

[197]

Article 3

Section 1. (2) Private property shall not be taken for public use without just compensation.

Section 1. (19) Excessive fines shall not be imposed.

Poland, Constitution of

Article 99

(Paragraph 1) The Republic of Poland recognizes all property, whether belonging personally to individual citizens or collectively to associations of citizens, institutions, self-government organizations, or the state itself, as one of most important bases of social organization and legal order, and guarantees to all citizens, institutions and associations, protection of their property, permitting only in cases provided by a statute the abolition or limitation of property, whether personal or collective, for reasons of higher utility, against compensation. Only a statute of public utility, shall form the exclusive property of the state, and in how far rights of citizens and of their legally recognized associations to use freely land, waters, minerals, and other treasures of nature, may be subject to limitations for public reasons.

Siam, Constitution of

Article 14

Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Sweden, Constitution of**Article 16*

. . . The King shall not deprive anyone or allow anyone to be deprived of any real or personal property without trial and judgment in accordance with the provisions of the Swedish law and statutes. . .

*Syria, Constitution of**Article 13*

Rights of ownership shall be protected by law, no person may be expropriated, except on grounds of public utility and in the circumstances defined by law, and on condition that fair compensation is paid beforehand.

Article 14

General confiscation of property is forbidden.
[198]

*Turkey, Constitution of**Article 70*

Personal immunity, freedom of conscience, of thought, of speech, and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

Article 71

The life, property, honour and residence of each individual are inviolable.

Article 73

Torture, bodily mistreatment, confiscation and forced labour are prohibited.

Article 74

No person may be deprived of his possessions and property or have them expropriated unless he has first been indemnified in cash for the value of the property in accordance with the pertinent laws.

The expropriation indemnity and the manner of payment of such indemnity and land or forest to be expropriated in order to make the farmer proprietor of land and to place administration of forests under the State, shall be determined by special laws.

No person shall be constrained to make any sort of sacrifice except such as may be imposed in kind, or money, or in the form of labour in extraordinary circumstances and in conformity with the law.

*Ukraine, Constitution of**Articles 9 and 10*

See USSR Constitution – Articles 9 and 10.

*Union of Soviet Socialist Republics, Constitution of**Article 9*

Alongside the socialist system of economy, which is the predominant form of economy in the Union of Soviet Socialist Republics, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

[199]

Article 10

The rights of citizens to personal ownership of their incomes from work and of their savings, of their dwelling houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

*United States of America, Constitution of**5th Amendment*

. . . nor shall private property be taken for public use without just compensation.

*Uruguay, Constitution of**Article 47*

The right of succession shall be guaranteed within the limits established by law. The direct ascending and descending lines shall have preferential treatment in positive law.

Article 32

Intellectual work, the right of an author, an inventor, or an artist, shall be recognized and protected by law.

Article 31

Property is an inviolable right, but subject to the provisions of the laws that may be established for reasons of general interest.

No person shall be deprived of his right to own property except in cases of public necessity or utility established by law, and always first receiving just compensation from the national treasury.

When expropriation is declared because of public necessity or utility, property owners shall be indemnified for the injuries and damage they suffer by reason of the delay in effecting the expropriation or not doing so.

Article 14

Punishment by confiscation of property shall not be inflicted for reasons of a political character.

Article 33

All artistic or historic wealth of the country, regardless of who may be its maker, constitutes the cultural treasure of the Nation; it shall be [200] under the guardianship of the State, and the law shall determine what is considered necessary for its protection.

Article 51

Usury is prohibited. The law that provides the maximum rate of interest on loans is of a public character. It shall determine the penalty to be applied to transgressors . . .

Yugoslavia, Constitution of

Article 18

Private property and private initiative in economy are guaranteed.

The inheritance of private property is guaranteed. The right of inheritance is regulated by law.

No person is permitted to use the right of private property to the detriment of the people's community.

The existence of private monopolist organizations such as cartels, syndicates, trusts and similar organizations created for the purpose of dictating prices, monopolizing the market and damaging the interests of the national economy, is forbidden.

Private property may be limited or expropriated if the common interest requires it, but only in accordance with the law. It will be determined by law in which cases and to what extent the owner shall be compensated.

Under the same conditions individual branches of national economy or single enterprises may be nationalized by law if the common interest requires it.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision
[201]

Article 23

“No one should be required to pay any tax or be subjected to any public charge that has not been imposed by the law.”

**Section I. Observations Made by Members of
the Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile – No provision

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 25

Fixed revenues and taxes are recovered in accordance with a separate Code.

Article 26

Nothing may be recovered from anyone beyond what is laid down in the Government Codes.

Argentine, Constitution of

Article 17

The Congress alone imposes the taxes mentioned in Article 4.

[202]

*Bolivia, Constitution of**Article 20*

No tax is obligatory unless it has been established by the Legislature in conformity with the prescriptions of this Constitution. Plaintiffs may establish suit before the respective judicial authority against illegal taxes. Municipal taxes are obligatory when the requirements formulated by this Constitution have been observed in their establishment.

Article 21

All persons are equally obliged to pay taxes and public charges. Their creation, distribution, and abolition shall have a general character and should be determined in relation to the financial capacity of those contributing.

*Brazil, Constitution of**Article 141*

No. 34. No tax shall be demanded or increased except as the law shall establish; and none shall be collected without previous budgetary authorization in each fiscal year, excepting, however, the customs tariff and taxes levied by reason of war.

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

9th. The equal apportionment of imposts and taxes in proportion to property, or in graduation or form as fixed by law; and the equal apportionment of other public charges.

Direct or indirect taxes may be imposed only by law, and without its special authorization every authority of the State and every individual is prohibited from imposing them, even though it be under pretext of urgency, of being in voluntary form, or of any other nature . . .

*China, Constitution of**Article 19*

The people shall have the duty of paying taxes in accordance with law.

*Colombia, Constitution of**Article 43*

Only the Congress, the departmental assemblies, and the municipal councils may, in time of peace, impose taxes.

[203]

*Czechoslovakia, Constitution of**Article 111*

1. Taxation and public levies generally may be imposed only by law.
2. Likewise only by law may fines and punishment be prescribed and imposed.

*Ecuador, Constitution of**Article 182*

Taxes or other public charges may be levied only by virtue of a law and in proportion to the economic capacity of the taxpayer.

*El Salvador, Constitution of**Article 6*

No taxes shall be levied except by virtue of a law, and for the public service.

*France, Declaration of the Rights of Man and of the Citizen, 26 August 1789**Article 14*

Every citizen has a right, either of himself or his representative, to a free voice in determining the necessity of public contribution, the appropriation of them and their amount, mode of assessment and duration.

Article 13

A common contribution being necessary for the support of the public force and for defraying the other expenses of government, it should be divided equally among the members of the community according to their abilities.

*Honduras, Constitution of**Article 72*

Proportionality shall be the basis of direct taxes.

Article 78

Only the Congress may impose taxes and other public charges.

*Iceland, Constitution of**Article 77*

Taxation shall be regulated by law.

*Iran, Constitution of**Article 11*

No tax or duty shall be imposed except by law, the provisions whereof shall include all the persons liable to pay the tax.

*Liberia, Constitution of**Article 1*

Section 16. No subsidy, charge, impost or duties ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the Legislature.

[204]

*Netherlands, Constitution of**Article 175*

No taxes may be levied on behalf of the Exchequer of the Realm, except by virtue of a law.

*Nicaragua, Constitution of**Article 38*

There will be no personal privileges in the matter of taxes and other public charges. Imposts and taxes will be established in proportion to the value of property or in the progression or form that the law fixes.

The tax system will tend toward direct levy.

Article 37

Only for reasons of public interest or service, and by virtue of a law, may taxes be levied and their payment exempted either in whole or in part.

Article 221

When the Republic finds itself involved in an international war or in an internal civil war, or there exists the danger that one or the other may occur, or in case of epidemic, earthquake, or any other public calamity, or when for any other reason the defence, peace, and security of the Nation or of its institutions or forms of government may require it, the President of the Republic, in Council of Ministers, may, by decree, restrict or suspend, in all or a part of the national territory, the exercise of the constitutional guarantees, with the exception in all cases of those relating to:

- 1st. The inviolability of human life.
- 2nd. The prohibition against being tried before judges not recognized by the law.
- 3rd. The prohibition against inflicting infamous penalties, including those of whipping and of any kind of torture whatever.
- 4th. The prohibition against retroactive or confiscatory laws; and
- 5th. The levying of taxes.

In respect to taxes, the President, in Council of Ministers, may, by decree, levy taxes of a general character if an international or civil war has already started.

[205]

Nicaragua, Constitution of (continued)

Article 221

Such decree will state:

- 1st. The reason for justifying its issue.
- 2nd. The designation of the guarantee or guarantees restricted or suspended; and
- 3rd. The territory affected by the suspension or restriction . . .

Article 51

Every service must be remunerated except those that must be furnished gratuitously by virtue of the law or of a sentence founded on it.

Panama, Constitution of the Republic of

Article 48

No one is obliged to pay a tax or impost that is not legally established and the collection of which is not made in the form prescribed by the laws.

Article 41

No tax or assessment will be established for the exercise of the liberal professions, trades, and arts.

Paraguay, Constitution of

Article 7

Equality is the basis of public taxation. The Government provides for the expenses of the State by the proceeds of the imposts, contributions, and assessments created by law, the sale or leasing of public lands, the exploitation of mines, the utilities arising from public services and monopolies under the charge of the State, and loans and other credit operations.

*Peru, Constitution of the Republic of**Article 8*

The law may create, alter, or suppress taxes, and exempt their payment in whole or in part for public services only.

Article 31

Property, whoever may be the owner, is governed exclusively by the laws of the Republic and is subject to the taxes, charges, and limitations established in the laws themselves.

[206]

Article 40

The State recognizes the freedom of commerce and industry. The law shall indicate the requisites to which the exercise of such freedom is subject and the guarantees granted it. When public security or necessity require it the law may establish limitations or reservations in said exercise, or may authorize the Executive to establish them, but in no case may such restrictions have a personal or confiscatory character.

*Sweden, Constitution of**Article 57*

The ancient right of the Swedish nation to tax themselves shall be exercised by the Riksdag alone.

The manner in which separate communities shall tax themselves for their own needs shall be determined by communal laws to be enacted by the King and the Riksdag jointly.

*Turkey, Constitution of**Article 85*

Taxes may be levied and collected only by virtue of a law. However, the collecting of such taxes as have been customarily levied by the State or by provincial and municipal administrations shall be continued pending the enactment of new laws.

Article 84

Taxes shall be understood to be the participation of the people in the general expenditures of the State. The collection of toll, tithes, or any kind of taxes in a manner incompatible with the aforesaid principle by individuals or corporations or on their behalf is prohibited.

United States of America, Constitution of

8th Amendment

Excessive bail shall not be required, nor excessive fines imposed . . .

Article 1, Section 8, Clause 2

The Congress shall have the power to lay and collect taxes . . .

16th Amendment

The Congress shall have power to lay and collect taxes on incomes . . .
[207]

Uruguay, Constitution of

Article 34

No person shall be obliged to render aid, of any kind whatever, to armies, or to offer his house for the quartering of soldiers, unless on the order of a civil magistrate according to law, and he shall receive an indemnification from the Republic for the losses suffered in such cases.

Yugoslavia, Constitution of

Article 42

All citizens shall pay taxes in proportion to their economic capacity. Public taxes and duties and exemptions from them are established only by law.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision
[208]

Article 24

“There shall be equal opportunity of access to all vocations and professions not having a public character.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XIV (paragraph 2)

This right includes the right to choose freely a vocation, insofar as the opportunities of work available make this possible, as well as the right to transfer from one employment to another and to move from one place of employment to another. Associated with the right to work is the right to form labour and professional unions.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 12

Afghan subjects are free, within the limits of the appropriate regulations, in all matters relating to trade, industry and agriculture.

Bolivia, Constitution

Article 6

Every person has the following fundamental rights in conformity with the laws that regulate their exercise:

2. To engage in work, commerce, or industry under conditions that do not injure the collective welfare.

Brazil, Constitution

Article 141

No. 14. The practice of any profession shall be free, observing the conditions of capacity that the law may establish.

[209]

Article 161

The law shall regulate the exercise of the liberal professions, and the revalidation of diplomas issued by foreign educational institutions.

Article 146

The Union may, by means of a special law, intervene in the economic sphere or monopolize specified industries or activities. The intervention shall be based upon the public interest, and shall be limited by the fundamental rights assured by this Constitution.

*Colombia, Constitution of**Article 40*

Only those who have a professional degree may in the future be inscribed as attorneys.

No one may legally represent his own or another's case if he is not an inscribed attorney. Nevertheless, the law may establish exceptions.

Article 39

Every person is free to choose a profession or trade. The law may require certificates of competence and may regulate the exercise of professions.

The authorities shall inspect professions and trades in matters relating to morality, safety, and public health.

The law may restrict the production and consumption of liquors and alcoholic beverages.

The law may also order the revision and supervision of rates and regulations for transportation enterprises and other public services.

*Costa Rica, Constitution of**Article 62*

Under equality of conditions employers and public or private enterprises have the obligations of giving preference to Costa Rican workers. In the cases occurring, the law shall fix the minimum proportion of native workers, giving consideration not only to their number but also to the total amount of salaries or wages paid them.

[210]

*Cuba, Constitution of**Article 70*

Official obligatory collective organization is established in the practice of university-trained professions. The law shall determine the form of the organization and functioning of such bodies, by a higher organization of national character, and by the local organizations that may be necessary, in a manner such that they may be regulated with full authority by the majority of their colleagues.

The law shall also regulate the obligatory collective organization of the other professions recognized officially by the State.

Article 73

The majority of persons participating in labour shall be Cubans by birth as much as regards total amount of wages and salaries as in the distinct categories of labour, in the form determined by law.

Protection shall also be extended to naturalized Cubans with families born in the national territory, with preference over naturalized citizens who do not meet these conditions, and over aliens.

The stipulations in the preceding paragraphs concerning aliens shall not be applied in the filling of indispensable technical positions, subject to the prior formalities of the law, and with provision that apprenticeship in the technical work in question be facilitated for native Cubans.

*Czechoslovakia, Constitution of**Article 108*

Every citizen of the Czechoslovak State may . . . carry on any calling for the purpose of earning profits within the limits of the law.

This right shall only suffer restriction in the public interests and on the basis of law.

*Denmark, Constitution of**Article 81*

All restrictions on free and equal access to employment which are not justified by the public welfare shall be abolished by law.

*Ecuador, Constitution of**Article 181*

The freedom of exercising professions is guaranteed or prescribed by law . . .

[211]

Article 187

The State shall guarantee to the inhabitants of Ecuador:
 (10) freedom of work, trade and industry . . . no one shall be compelled to work without a contract and the corresponding remuneration . . .

El Salvador, Constitution of

Article 24

All the industry is free, and may be monopolized only for the benefit of the Nation, with the *aguardiente*, saltpetre, and gunpowder business to be administered by the Executive.

There shall be no other monopoly of any kind, or any prohibitions on industrial liberty, even for protection. There are excepted only those relative to the coining of money and to the privileges that, for a limited time, are granted by law to inventors or those improving any industry.

Haiti, Constitution of

Article 18

The freedom of labour shall be exercised under the control and supervision of the State and subject to the conditions prescribed by law. Nevertheless, only natural born Haitians may engage in retail trade, practice handicrafts and pursue all other commercial and professional activities as determined by law.

Honduras, Constitution of

Article 63

There shall be no monopolies in favour of private individuals.

Privileges may be granted for a period that does not exceed ten years. A term limited to ninety years may be granted concessions to promote the introduction or improvement of new industries, for immigration, institutions of credit, the opening of routes of communication, or colonization projects.

In the cases above mentioned, only the established regulations and taxes may be suspended, but the public charges for establishment may not be abolished in any case or in any way, in concessions and treaties.

In the concessions it grants or the treaties it makes, the State may not dispense with the payment of municipal taxes.

When the term of a concession relative to colonization, immigration, or the opening of means of communication has elapsed, the enterprise, in [212] full operation and with all its accessories, shall pass to the ownership of the State, without any remuneration.

*Iceland, Constitution of**Article 69*

No restrictions on the freedom of trade can be made except by law or for reasons of public welfare.

*Mexico (United Mexican States), Constitution of**Article 4*

No person may be prevented from engaging in the profession, industry, commerce, or labour which suit him, provided it is lawful. The exercise of this liberty may be suspended only by judicial action, when the rights of third parties are attacked, or by governmental order issued in the terms that the law indicates when the rights of society are infringed. No one may be deprived of the product of his labour except by judicial determination.

The law shall determine in each State which are the professions that require a license for their practice, the conditions that must be fulfilled to obtain it, and the authorities to issue it.

Article 57

The acceptance of foreign professionals must be made on the basis of possible reciprocity. The law will regulate this provision.

Article 96

The State guarantee, within this concept, freedom of labour in order that one may freely dedicate himself to the profession, industry, or trade that each finds suitable, provided that it does not oppose public morality, health, and security.

Vagrancy is punishable.

Article 52

The State may, for purposes of general interest, intervene in the exploitation and control of enterprises of public service.

*Norway, Constitution of**Article 101*

New and permanent privileges implying restrictions on the freedom of trade and industry may not be granted to anyone in the future.

[213]

*Panama, Constitution of**Article 41*

Every person is free to exercise any profession or occupation. Their exercise remains subject to the regulations that the law establishes relative to capacity, morality, security, and public health.

*Paraguay, Constitution of**Article 33*

Nationals are admissible to any employment with no other condition than that of fitness, and aliens are subject to the limitations that the laws may establish.

Article 19

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: to choose an occupation . . .

Article 20

The law shall determine which are the professions that need diplomas for their practice, the conditions that must be fulfilled in order to obtain said diplomas, and the authority that shall confer them.

Article 19

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: to work and to practise any legitimate trade or industry, except for the limitations that, for social and economic reasons of national interest, the law may impose.

*Peru, Constitution of**Article 42*

The State guarantees freedom of labour. Any profession, industry or business that may not be opposed to morality, health, or public security, may be practised freely.

*Poland, Constitution of**Article 101*

Every citizen has the liberty . . . to choose his occupation and profession . . . These rights may be restricted only by statute.

*Siam, Constitution of**Article 14*

Subject to the provisions of the law, every person enjoys full liberty [214] of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

*Uruguay, Constitution of**Article 35*

Every person has the right to devote himself to work, cultural pursuits, industry, commerce, a profession, or any other lawful activity, within the limitations of the general interest that the laws may establish.

**Section IV. Draft International Declarations Presented by
Non-Governmental Organizations in Category A**

American Federation of Labor – No provision
[215]

Article 25

“Everything that is not prohibited by the law is permitted”.

**Section I. Observations Made by Members
of the Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile – No provision

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions*Argentina, Constitution of**Article 19*

No inhabitant of the Nation shall be obliged to do what the law does not command nor deprived of what it does not forbid.

The private actions of men that in no way offend public order or morality, nor hurt a third party, are reserved only to God, and are exempt from the authority of the magistrates.

*Bolivia, Constitution of**Article 29*

No person shall be obliged to do what the Constitution and the laws do [216] not require, not be deprived of what they do not prohibit.

Article 33

The declarations, rights, and guarantees that this Constitution enumerates shall not be understood as a denial of other rights and guarantees not mentioned, which may originate in the sovereignty of the people and in the republican form of Government.

*Brazil, Constitution of**Article 144*

The specification of the rights and guarantees expressed in this Constitution does not exclude other rights and guarantees flowing from the regime and from the principles which it adopts.

Article 141

#2. No one may be obliged to do or refrain from doing anything except by virtue of the law.

*Colombia, Constitution of**Article 20*

Private persons are responsible to the authorities only for infraction of the Constitution or of the laws. Public officials are also responsible for the same infractions and for exceeding their powers or for omissions in the exercise of them.

*Costa Rica, Constitution of**Article 36*

No one can be disturbed or prosecuted for any act that does not infringe the law, or for the declaration of his political opinions.

No one, however, may deliver, in any form, political propaganda, through clergymen or laymen, invoking motives of religion or making use, as a means, of the religious beliefs of the people.

Article 50

Private actions that do not touch public morality or order, or that do not produce harm or injury to a third party, are outside of the jurisdiction of the law.

*Dominican Republic, Constitution of**Article 7*

The enumeration contained in Article 6 is not restrictive, and [217] therefore does not exclude the existence of other rights of similar nature.

Note: Article 6 refers to individual rights.

Article 88

No one can be obliged to do that which the law does not command, or be impeded from doing that which the law does not prohibit.

*France, Declaration of the Rights of Man and of the Citizen 1789**Article 5*

The law ought to prohibit only actions hurtful to society. What is not prohibited by the law should not be hindered; nor should anyone be compelled to that which the law does not require.

Article 8

The law should impose only such penalties as are absolutely and evidently necessary; and no one ought to be punished but by virtue of the law promulgated before the offence and legally applied.

*Guatemala, Constitution of**Article 23*

2. No person may be hindered in that which the law does not prohibit.

*Nicaragua, Constitution of**Article 41*

No person will be obliged to do that which the law does not order, or be prevented from doing that which it does not prohibit.

*Paraguay, Constitution of**Article 30*

No inhabitant shall be obliged to do anything the law does not command him to do, nor shall he be deprived of what the law does not prohibit.

*Peru, Constitution of**Article 24*

No one is obliged to do that which the law does not require, or may be impeded from doing what it does not prohibit.

*Uruguay, Constitution of**Article 63*

The enumeration of rights, duties, and guarantees made by the Constitution does not exclude others that are inherent in the human personality or that may be derived from the republican form of government.

[218]

Article 10

Private actions of persons not interfering in any way with public order or injuring a third party are exempt from the authority of the magistrates.

No inhabitant of the Republic shall be obliged to do what the law does not command, nor be prevented from doing what it does not prohibit.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[219]

Article 26

“No one shall be convicted of crime except by judgment of a court of law for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.”

**Section I. Observations Made by Members
of the Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XII

Every person accused of crime shall have the right to a fair public hearing of the case, to be confronted with witnesses, and to be judged by established tribunals and *according to the law in force at the time the act was committed*. No fines shall be imposed except in accordance with the provisions of general laws.

Cuba

Article 18

The right to trial without undue delay, to self-defence, and to protection from sentences except in pursuance of laws in force prior to the act with which he is charged.

Panama (American Law Institute)

Article 9

No one shall be convicted of crime except for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

B. Proposals

India – No provision

United States – No provision

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Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 11

There is no interference with personal liberty. No one is imprisoned or punished without an order in accordance with the Shariat or the appropriate laws. The practice

of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

Argentine, Constitution of

Article 18

No inhabitant of the Nation may be punished without previous trial, based on an earlier law than the date of the offence, nor tried by special commissions, nor removed from the judges designated by law before the date of the trial. No one can be compelled to testify against himself or be arrested except by virtue of a written order from a competent authority. The defence, by trial, of the person and of rights is inviolable. The domicile is inviolable, as also epistolary correspondence and private papers; and a law shall determine in what cases and for what reasons their search and seizure will be allowed. The penalty of death for political offences, all kinds of torture, and whipping, are forever abolished. The prisons of the Nation shall be healthy and clean, for the safety and not for the punishment of the prisoners confined in them; and any measure that under pretext of precaution inflicts on them hardship beyond what the Nation demands, will bring responsibility upon the judge who authorizes it.

Belgium, Constitution of

Article 9

No penalty shall be established or enforced except in pursuance of law.

Article 7, paragraph 2

No one may be prosecuted except in cases provided for by law and in the form therein prescribed.

Article 8

No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

[221]

Bolivia, Constitution of

Article 14

No person is obliged to testify against himself in criminal cases, nor shall his relatives to the fourth degree of consanguinity inclusive or of the second of affinity be so required.

Article 31

The law provides only for future circumstances and does not have retroactive effect.

Article 24

Only the Legislature has power to amend and modify the codes, as well as to enact regulations and provisions regarding judicial proceedings.

Article 13

No person shall be tried by special commission or submitted to judges other than those previously designated for such suits.

*Brazil, Constitution of**Article 141*

27. No one shall be prosecuted or sentenced except by a competent authority and in the form of a previous law.

Article 14

29. Penal law shall be retroactive only when it shall so benefit the accused.

Article 141

28. The institution of the jury is maintained with the organization that the law may give to it, provided that the number of its members shall be always odd and the secrecy of its voting shall be guaranteed, as shall be the fullness of the defence of the accused and the sovereignty of the verdicts. The judgment of treacherous crimes against life shall obligatorily be within its competence.

*Colombia, Constitution of**Article 28*

No person shall, even in time of war, be punished *ex post facto* except in accordance with a law, order, or decree in which the act has been previously prohibited and corresponding punishment determined.

[222]

If there are serious reasons to fear a disturbance of the public order, this provision shall not prevent, even in time of peace, the arrest and detention, by order of the Government upon previous advice of Ministers, of any person suspected with good reason of attempting to disturb the public peace.

Article 26

. . . In criminal matters, the law favourable to the defendant, even if enacted after the commission of the alleged offence, shall be applied in preference to the restrictive or unfavourable law.

*Costa Rica, Constitution of**Article 26*

The law has no retroactive effect.

Article 38

Jurisdiction in civil and criminal trials is exclusive in the authorities established by law. No commission, tribunal, or judgeship may be created for specified trials, nor shall anyone be subjected to military jurisdiction except individuals of the army and only for the crimes of sedition and rebellion, and for those who committed them while being in active service or when required to lend such service; also for offences against discipline, and any others committed in campaign, in which cases they shall be judged according to the military ordinance.

Article 42

No one shall be made to suffer any punishment without having been heard, and convicted in a trial, and without having been sentenced by an executory sentence by a judge or competent authority. Bodily restraint, non-appearance and other matters of this nature in civil cases and those of fine or arrest in police cases are excepted.

Article 43

Punishment can be imposed on no one except by a pre-existent law that names the crime or offence committed.

[223]

Article 39

In a criminal matter, no one is obliged to testify against himself; nor can he testify in the status of a witness against his mate, ancestors, descendants, or other relatives within the third degree of consanguinity or the second of affinity.

*Cuba, Constitution of the Republic of**Article 22*

No other laws shall have retroactive effect unless the law itself so provides for reasons of public order, social utility, or national necessity, as may be expressly stipulated in that law by a vote of two-thirds of the total number of members of each co-legislative body. If the basis of the retroactivity should be impugned as unconstitutional, it shall be within the jurisdiction of the tribunal of constitutional and social guarantee to decide upon the same, without the power of refusing to render decision because of form or for any other reason.

In every case the same law shall concurrently establish the degree, manner, and form of indemnification for injuries, if any, and of retroactivity affecting rights legitimately acquired under the protection of prior legislation.

The law giving the protection afforded by this article shall not be valid if it produces effects contrary to the provisions of Article 24 of this Constitution.

Article 21

Penal laws shall have retroactive effect when favourable to the offender. This advantage is denied in cases of perpetration of fraud by public officials or employees who may be delinquent in the exercise of their office, and of persons responsible for electoral crimes and crimes against the individual rights guaranteed by this Constitution. The penalties and qualifications of the law in force at the moment of the offence shall be applied to those found guilty of these crimes.

[224]

Czechoslovakia, Constitution of

Article 94

2. No one shall be tried other than before his legal judge.

Ecuador, Constitution of

Article 169

... No one may be removed from the jurisdiction of his proper judges; nor punished without previous trial; in accordance with a law passed prior to the act committed ... nor deprived of the right of defence at any stage of his trial.

Article 187

The State shall guarantee to the inhabitants of Ecuador:

... (2) the right of every individual. . . to be considered innocent unless proved guilty according to the laws.

Egypt Royal Rescript No. 42 of 1923

Article 6

No offence and no penalty may be established, save in pursuance of the law.

Article 6

Penalties may only be inflicted in respect of offences committed after the law providing for them has been promulgated.

*El Salvador, Constitution of**Article 20*

No person may be deprived of his life, or his liberty, or of his property without previously being heard and convicted in a trial in accordance with the laws; nor may anyone be prosecuted twice, civilly or criminally, for the same cause.

Article 22

No individual shall be tried in another jurisdiction than that where the crime was committed, except in the cases determined by law, or in those in which the law itself authorizes the court of justice to designate another jurisdiction.

Article 24

The laws cannot have retroactive effect, except in penal matters when the new law may be more favourable to the offender.

[225]

Article 27

No power or authority may remove pending cases to another court or open terminated cases.

Article 25

No one may be tried except by laws enacted prior to the offence and by a tribunal that the law had previously established.

Article 26

The same judge may not take cognizance of the same case on appeal.

*Ethiopia, Constitution of**Article 24*

No Ethiopian subject may, against his will, be deprived of the right to trial by the legally established tribunal.

*France, Declaration of the Rights of Man and of the Citizen 1789**Article 8*

The law should impose only such penalties as are absolutely and evidently necessary; and no one ought to be punished but by virtue of the law promulgated before the offence and legally applied.

Article 7

No one shall be accused, arrested or imprisoned save in the cases determined by law and according to the form which it has prescribed. All who solicit, promote, execute or cause to be executed arbitrary orders ought to be punished and every citizen summoned or apprehended by virtue of the law ought immediately to obey and becomes culpable if he resists.

*Greece, Constitution of**Article 7*

No punishment may be inflicted unless previously fixed by law.

*Guatemala, Constitution of**Article 52*

No one may be condemned without having been accused, heard and brought to trial.

Article 49

Acts of omission or commission that are not qualified as crimes or offences and subject to a penalty by a law prior to their perpetration are not punishable. Penal laws shall have retroactive effect when they may be [226] favourable to the offender. Other laws shall not have retroactivity, except for reasons of public order and social utility, or of national necessity, expressly indicated in the law by a vote equal to two-thirds part of the total number of deputies that compose the Congress.

*Haiti, Constitution of**Article "D"*

The principle of non-retroactivity of laws does not preclude all such measures of reconstruction and punishment as are dictated by the national interest being taken within legal limits and in respect of the period of five years immediately preceding the present Constitution.

Article 15

No law may have retroactive effect except in penal cases where it favours the delinquent.

Article 13

No person may be removed from the jurisdiction of his proper judges under the constitution or the law. Accordingly, a civilian cannot be tried by any military court whatsoever, nor may a military person be tried elsewhere than in the common law

courts for common law offences; and an exception is made in the case of a legally declared state of emergency.

Article 16

Penalties may only be established by law and may be applied only in the cases determined by law.

Article 24

Juries shall be established in the cases prescribed by law in respect of crimes and of political offences committed through the medium of the press or otherwise.

Honduras, Constitution of

Article 54

No law shall have retroactive effect, except in criminal matters when the new law favours the offender or indicted person.

Article 43

No person shall be tried by special commissions or by other judges than those designated by law.

[227]

Article 45

In criminal suits no person shall be obliged to testify against himself, against his spouse, or against his relatives within the fourth degree of consanguinity, or the second of affinity.

Lebanon, Constitution of

Article 8

No offence may be established and no penalty imposed except by law.

Liberia, Constitution of

Article I

Section 6. Every person injured shall have remedy therefor, by due course of law; justice shall be done without sale, denial or delay; and in all cases, not arising under martial law, or upon impeachment the parties shall have state right to a trial by jury, and to be heard in person or by counsel, or both.

Section 7. No person shall be held to answer for a capital or infamous crime, except in cases of impeachment, cases arising in the army or navy, and petty

offences, unless upon presentment by a grand jury; and every person criminally charged, shall have a right to be seasonably furnished with a copy of the charge, to be confronted with the witness against him, to have compulsory process for obtaining witnesses in his favour; and to have a speedy, public and impartial trial by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself; and no person shall for the same offence, be twice put in jeopardy of life and limb.

Section 8. No person shall be deprived of life, liberty, property or privilege, but by judgment of his peers or the law of the land.

Section 18. No person, can in any case, be subject to the law martial, or to any penalties or pains, by virtue of that law (except those employed in the army or navy, and except the militia in actual service) but by the authority of the Legislature.

Luxembourg, Constitution of

Article 13

No person may against his will be removed from the jurisdiction of the judges assigned to him by law.

[228]

Article 14

No penalty may be introduced or applied except in pursuance of the law.

United Mexican States, Constitution of the

Article 14

No law shall be given retroactive effect to the prejudice of any person.

No person may be deprived of life, liberty, or his property, possessions, or rights except by means of a direct judgment before previously established tribunals, in which the essential formalities of procedure are complied with, and in conformity with laws enacted previous to the commission of the act.

In cases of a criminal nature, it is forbidden to impose, either because of simple analogy or by a prior evidence, any punishment that is not decreed by a law exactly applicable to the crime involved.

In cases of a civil nature, the final sentence must be according to the letter or a judicial interpretation of the law, and in the absence of the latter, it shall be founded on the general principles of the law.

Article 13

No person may be judged by private laws or special tribunals. No person or corporation may have special privileges, nor enjoy greater emoluments than those that may be compensation for public services and are fixed by law. The military code

exists for crimes and offences against military discipline; but the military tribunals may in no case and for no cause extend their jurisdiction over persons who do not belong to the army. Should a civilian be implicated in crime or offence of a military character, the proper civil authority shall hear the case.

Article 17

No person may take justice into his own hands or resort to violence to claim his right. Tribunals shall be prepared to administer justice at the time and in the manner that the law determines; their service shall be free and, consequently, judicial charges are prohibited.

Article 19

Each case shall necessarily be instituted for the offence or offences [229] indicated in the warrant of formal arrest. Should it appear from the result of a trial that there has been committed an offence distinct from the one being prosecuted, it shall be the object of a separate accusation, without prejudice to the subsequent decreeing of the accumulated penalty, if deemed advisable.

Article 23

No criminal suit may have more than two appeals. No person, whether acquitted or convicted, shall be tried two times for the same offence. The practice of leaving a case in abeyance until new evidence is presented is prohibited.

Article 130

The federal powers shall exercise the supervision required by law in affairs relating to religious denominations and external discipline. Other authorities shall act as auxiliaries of the Federation.

Suits for violation of the above provisions shall never be heard before a jury.

Netherlands, Constitution of

Article 162

All judgments shall state the grounds upon which they are based, and in penal cases they shall indicate the legal provisions upon which the condemnation is based.

The pronouncement of sentence shall take place with open doors. Without prejudice to the exceptions made by law, the hearings shall be public.

In the interest of public order and morality the judge may depart from this rule.

For punishable acts designated by law, the provisions of the first and second paragraphs may also be departed from.

*Nicaragua, Constitution of**Article 43*

No law may have a retroactive force or effect except in a penal matter in favour of the offender.

[230]

Article 44

Only acts and transgressions declared punishable by laws prior to their commission may be punished.

Article 221

When the Republic finds itself involved in an international war or in an internal civil war, or there exists the danger that one or the other may occur, or in case of epidemic, earthquake, or any other public calamity, or when for any other reason the defence, peace, and security of the Nation or of its institutions or forms of government may require it, the President of the Republic, in Council of Ministers, may, by decree, restrict or suspend, in all or a part of the national territory, the exercise of the constitutional guarantee, with the exception in all cases of those relating to:

- 1st. The inviolability of human life.
- 2nd. The prohibition against being tried by judges not recognized by the law.
- 3rd. The prohibition against inflicting infamous penalties, including those of whipping and of any kind of torture whatever.
- 4th. The prohibition against retroactive or confiscatory laws; and
- 5th. The levying of taxes.

*Norway, Constitution of**Article 96*

No one may be convicted except according to law, or be punished except according to judicial sentence.

Article 97

No law may be given retroactive effect.

*Panama, Constitution of the Republic of**Article 31*

Only acts declared punishable by a law prior to their perpetration and exactly applicable to the act imputed will be punished.

Article 33

The following may inflict punishment without previous trial and in the cases and within the precise terms of the law:

[231]

1st. Officials who exercise command jurisdiction, who may impose fines or arrest anyone who harms them or is disrespectful in the acts by which the functions of his office are discharged or by reason of the discharging of the same.

2nd. Chiefs of police, who may impose the penalty of arrest on their subordinates in order to restrain insubordination or mutiny; and

3rd. Ship captains who, being outside of port, have the power to restrain insubordination or mutiny or to maintain order on board, and to detain provisionally any actual or presumed offender.

Article 32

No one will be judged except by a competent authority and in conformity with the legal procedure, nor more than once for the same reason.

Article 25

No one is obliged to testify in a criminal, correctional, or police matter against himself, his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

Article 44

Laws do not have retroactive effect, except those of public order or of social interest. In criminal matters a law favourable to the criminal always has preference and retroactivity, even though sentence may have been executed.

*Paraguay, Constitution of**Article 26*

No law may have retroactive effect. No inhabitant may be punished except by a prior judgment founded upon some law prior to the violation under prosecution, nor may be judged by special tribunals. . .

Article 26

. . . Guilt or dishonour that persons may incur does not affect their relatives.
[232]

Article 26

. . . No one may be obliged to testify against himself . . .

*Peru, Constitution of the Republic of**Article 25*

No law has retroactive force or effect.

Article 57

No one may be condemned for an act or an omission which at the time of being committed was not qualified in the law in an express and unequivocal manner as a punishable violation, or be judged except by tribunals established by the laws. Any declaration obtained by violence is without value.

The penalty of confiscation of property may not be imposed.

Article 64

The ordinary tribunals shall have jurisdiction over crimes of the press.

*Philippines, Constitution of the**Article 3, Section 1*

(1) No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

(11) No *ex post facto* law or bill of attainder shall be enacted.

(15) No person shall be held to answer for a criminal offence without due process of law.

(17) In all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses in his behalf.

(18) No person shall be compelled to be a witness against himself.

[233]

(20) No person shall be twice put in jeopardy of punishment for the same offence. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

*Poland, Constitution of**Article 98*

No one may be deprived of the court to which he is subject by law. Exceptional courts are admissible only in cases determined by statutes, which statutes must have been issued before the offence was committed. A citizen may be prosecuted and punishment inflicted only by virtue of statute actually in force . . .

*Sweden, Constitution of**Article 16*

The King shall cause everyone to be tried by a court to the jurisdiction of which he is properly subject.

*United States of America, Constitution of**Article I*

Section 9, Clause 3 – No bill of attainder or *ex post facto* law shall be passed.

Section 10, Clause 1 – No State shall . . . pass any bill of attainder, *ex post facto* law or law impairing the obligation of contracts . . .

7th Amendment

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

*Uruguay, Constitution of**Article 12*

No person shall be punished or confined without a legal form of trial and sentence.

*Yugoslavia, Constitution of**Article 28*

Paragraph 3: No person may be punished for a criminal act except by sentence of a competent court on the basis of the law establishing competence of the court and defining the offence.

[234]

Paragraph 4: Punishments may be determined pronounced only on the basis of the law.

Paragraph 6: Punishments for infringements of legal prescriptions may be pronounced by the organs of the State administration only within the limits set by law.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[235]

Article 27

“There shall be access to independent and impartial tribunals for the determination of rights and duties under the law. Everyone has the right to consult with and to be represented by counsel.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile – No provision

Cuba

Article 17

The right to protection from competent courts free from all influence contrary to justice.

Panama (American Law Institute)

Article 7

Everyone has the right to have his criminal civil liabilities and his rights determined without undue delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing.

The state has a duty to maintain adequate tribunals and procedures to make this right effective.

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 24

The settlement of personal disputes and other matters between subjects falls within the province of the courts of justice and other official [236] departments

connected therewith, and such persons as are not satisfied with a decision and order of a court may appeal to higher authorities up to the Ministry concerned and, if still not satisfied, to the Prime Minister and His Majesty the King.

Argentine, Constitution of

Article 24

The Congress shall promote the amendment of the present legislation in all its branches, and the establishment of trials by juries.

Belgium, Constitution of

Article 7

Individual liberty is guaranteed.

Article 8

No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

Article 24

No previous authorization is necessary to bring action against public officials for the acts of their administration, except as provided for cabinet ministers.

Brazil, Constitution of

Article 141

No. 4 The law shall not exclude any injury to individual rights from consideration by the judiciary.

No. 35 Public authorities shall grant judicial assistance to the needy in the manner that the law may establish.

Byelorussia, Constitution of

Article 88

See Article 112 of the Union of Soviet Socialist Republics Constitution.

China, Constitution of

Article 8

. . . No person may be tried or punished except by a law court in accordance with legal procedure . . .

Article 16

The people shall have the right to file complaints or institute legal proceedings.
[237]

*Costa Rica, Constitution of**Article 20*

Public officials are responsible for the infraction of the Constitution or of the laws. Action in order to accuse them is open to the public.

Article 47

All Costa Ricans or aliens, having recourse to the law, shall find a remedy for injuries or damages that they may have received in their persons, property, or honour. Justice must be rendered promptly, completely, and without hesitation, and in strict conformity with the law.

Article 49

The same judge cannot serve in various appeals, provided that the decision deals with the same point.

*Cuba, Constitution of**Article 28*

There shall be no prosecution or sentence except by a competent judge or tribunal, acting under laws enacted prior to the commission of crime, and with the formalities and guarantees that these laws may establish. No sentence shall be pronounced against any prosecuted person in his absence, nor shall anyone be condemned in a criminal matter without being heard. Neither shall any person be obliged to testify against himself, or against his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

No violence or coercion of any kind shall be practised on persons in order to force them to testify. Any statement obtained in violation of this provision shall be null, and those responsible shall incur the penalties fixed by law.

Article 40

Provisions of a legal, governmental, or any other nature that regulate the exercise of the rights guaranteed by this Constitution, shall be null if they abridge, restrict, or corrupt said rights.

Adequate resistance for the protection of individual rights previously guaranteed, is legitimate.

Violations of this title shall be prosecuted by public action, without [238] precaution or formality of any kind, and by simple denunciation.

The enumeration of the rights guaranteed in this title does not exclude others established in this Constitution, or other rights of an analogous nature, or those that are derived from the principle of the sovereignty of the people and from the republican form of government.

Czechoslovakia, Constitution of

Article 98

All judges shall be independent in the exercise of their conscience and they shall be bound only by law.

El Salvador, Constitution of

Article 7

Everyone who exercises any public office is directly and immediately responsible for the acts that he commits in the exercise of his functions. The law shall determine the manner of making this responsibility effective.

Article 37

Every person has the right to ask and obtain protection from the Supreme Court of Justice or the chamber of second instance, when any authority or individual may restrict his personal liberty of the exercise of the other individual rights that the present Constitution guarantees. A special law shall regulate the manner of making this right effective.

France, Declaration of the Rights of Man and of the Citizen 1789

Article 2

The purpose of all civil association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression.

Greece, Constitution of

Article 8

No one may be withdrawn without his consent from the jurisdiction of the Judge assigned to him by law.

*Guatemala, Constitution of**Article 36*

... Expression of thought by any means of diffusion is free without previous censoring ...

Article 40

The inhabitants of the Republic have free access to tribunals to [239] prosecute their suits in the form that the laws indicate.

*Haiti, Constitution of**Article 12*

Individual liberty is guaranteed.

No person may be prosecuted, arrested or detained except in the cases provided for and in accordance with the procedure prescribed by law.

Furthermore, arrest and detention shall only take place on the warrant of a legally authorized official.

For such warrant to be executed:

- (1) It must formally state the reason for detention and the provision under the law which punishes the alleged act;
- (2) It must be served on the person concerned and a copy of it left with him at the time of his detention, except in cases of *flagrante delicto*.

No person may be kept in custody unless he has been brought within forty-eight hours after arrest before a judge authorized to decide the question of the legality of arrest. Such jurisdiction shall be organized by the law.

All unnecessary harshness or constraint in apprehending a person or keeping him in custody, as well as all moral pressure or physical violence, especially during interrogation, are prohibited.

All violations of this provision are arbitrary acts against which the injured parties may, without previous authorization, appeal to the competent courts and prosecute those authorizing or committing the said acts, whatever may be their rank and duties.

*Honduras, Constitution of**Article 33*

Any person has the right to request protection against transgression or arbitrary action of which he may be the victim, and to require the exercise of all the guarantees that this Constitution establishes, when he may be unduly prevented in

the enjoyment of these guarantees by laws or acts of any authority, agent, or public official.

Article 85

If the Executive violates any of the provisions contained in this chapter, the injured party, or any person in his name, may have recourse for protection.

[240]

Article 189

Public employees and officials who violate any of the rights and guarantees stated in this Constitution shall be criminally and civilly responsible, and they cannot obtain a pardon or commutation during the currency of the following term.

Prescription of the offences and penalties incurred shall not begin until after said terms.

Iraq, Constitution of

Article 9

No person shall be prevented from having recourse to the Courts, or be obliged to have recourse to a Court other than the Court competent to deal with his case, except in accordance with law.

Liberia, Constitution of

Article I, Section 17

Suits may be brought against the Republic in such manner, and in such cases as the Legislature may by law direct.

Luxembourg, Constitution of

Article 30

No prior authorization is required for instituting proceedings against public officials for acts committed in their administration, subject to the provisions relating to Members of the Government.

Nicaragua, Constitution of

Article 40

Individuals are responsible before the authorities for violations of the Constitution and the laws. Public officials are responsible for the same causes, or for overstepping the limits of their functions, or for neglect in the exercise of the latter.

Article 42

In the case of violation of a constitutional precept to the detriment of any person, the superior of the official bringing it about may not exempt him from the responsibility incurred. Soldiers in service are excepted from this provision. The responsibility in respect to them will fall on the superior who gives the order.

[241]

Article 45

No one may be refused access to a legal court, or his case be removed to a special jurisdiction without such prescription by a previous law.

Article 46

The law may establish a trial by jury in criminal and civil cases.

Article 47

No one may be deprived of the right of defence.

Article 48

No public agency or official may transfer cases pending before a competent authority to other courts.

Article 49

Closed trials or processes may in no case be reopened. The offender in criminal cases may be allowed recourse to revision of closed cases when the penalty imposed may have been greater than merely correctional. The law will regulate the exercise of this right.

Article 112

Court proceedings will be public. The Council for the defence will have the right to be present at all summary judicial proceedings, including the declaration of the defendant.

Article 113

No one will be obliged in a criminal, correctional, or police case to declare against himself, his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

Article 221

When the Republic finds itself involved in an international war or in an internal civil war, or there exists the danger that one or the other may occur, or in case of

epidemic, earthquake, or any other public calamity, or when for any other reason the defence, peace, and security of the Nation or of its institutions or forms of government may require it, the President of the Republic, in Council of Ministers, may, by decree, restrict or suspend, in all [242] or a part of the national territory, the exercise of the constitutional guarantees, with the exception in all cases of those relating to:

- 1st. The inviolability of human life.
- 2nd. The prohibition against being tried by judges not recognized by the law.
- 3rd. The prohibition against inflicting infamous penalties, including those of whipping and of any kind of torture whatever.
- 4th. The prohibition against retroactive or confiscatory laws; and
- 5th. The levying of taxes.

Article 319

Public officials are personally responsible for violation of the Constitution for lack of administrative honesty, and for any other offence or failure in the exercise of their functions, all in conformity with the law.

Article 320

Public officials are personally responsible for the damages they may cause through negligence, omission, or abuse in the exercise of their offices.

Panama, Constitution of

Article 20

Private individuals are responsible before the authorities only for violation of the Constitution or of the law. Public officials are responsible for that same reason and also for exceeding their functions or for omissions in the exercise of the latter.

Article 34

In case of a manifest violation of a legal or constitutional precept to the detriment of any person, a superior order does not excuse from responsibility the agent who executes it. Individuals of the public force are excepted when they are in service, in which case the responsibility falls solely on the hierarchical superior who gives the order.

Paraguay, Constitution of

Article 17

All superior authorities, officials, and public employees are individually [243] responsible for the offences and crimes that they may commit in the exercise of their functions, without prejudice to the indirect responsibility of the State, which

may be exercised by the law. In no case may they exercise functions foreign to their jurisdiction, and their acts must always be in conformity with the law.

Article 27

The defence of the person or rights by trial is inviolable.

Article 34

No person may take justice into his own hands, or employ violence to reclaim his rights. The people do not deliberate or govern except by means of their representatives and the authorities created by this Constitution. Any armed force or assemblage of persons that assumes the rights of the people, and petitions in the name of the latter, commits the crime of sedition.

Peru, Constitution of

Article 19

Acts of those who usurp public functions and positions without the requisites prescribed by the Constitution and the laws are null.

Article 20

Those who discharge public office are directly and immediately responsible for the acts practised in the exercise of their functions. The manner of making this responsibility effective shall be determined by the law. The fiscal ministry is obliged to see to the fulfilment of the provisions of this article.

Poland, Constitution of

Article 98

2. No statute may deprive a citizen of access to the courts for the purpose of demanding reparation for injury or damage.

Article 121

Every citizen has the right to compensation for damage inflicted upon him by civil or military organs of state authorities, by an official act not in accordance with the rights or duties of the service. The state is responsible for the damage, jointly with the guilty organs; actions may be brought against the state and against officials, independently of any permission by a [244] public authority. Communes and other self-government bodies as well as their organs, are responsible in the same manner.

Special statutes will define the application of this principle.

*Turkey, Constitution of**Article 83*

No one may be summoned before or taken to a court other than to that court having jurisdiction in the question in accordance with the law.

*Ukraine, Constitution of**Article 111*

See Article 112 of the Union of Soviet Socialist Republics Constitution.

*Union of Soviet Socialist Republics, Constitution of**Article 112*

Judges are independent and subject only to the law.

*United States, Constitution of**6th Amendment*

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . . and to have the assistance of counsel for his defence.

Article III, Section 2, C1.3 – The trial of all crimes . . . shall be by jury . . .

5th Amendment

. . . nor be deprived of life, liberty, or property, without due process of law . . .

*Uruguay, Constitution of**Article 23*

All judges are responsible before the law for the slightest violation of the rights of individuals, as well as for deviating from the order of procedure established by it.

Article 24

All officials who, in the exercise of the public function which may have been entrusted to them, and with neglect of the duties that the office imposes on them, cause injury to a third party, shall be civilly liable.

The State, municipalities, autonomous entities or decentralized services, or any public agency employing said official, shall answer in a subsidiary manner for his neglect of duty, and said agencies shall constitute a [245] necessary party in the suite instituted for this purpose, and shall have the right to take action against the official in the event he is found guilty.

Article 57

Public officials are in service of the Nation and not of a political party. In the places and during the hours of work, political activity shall be illegal, and as such, shall be suppressed by law.

The law shall establish the statute for public officials on the fundamental principle that the official was chosen for his office and not that the office was created for the official . . .

*Yugoslavia, Constitution of**Article 39*

2. Citizens have the right of appeal against the decisions of the organs of the State administration and the irregular proceedings of official persons. The procedure for lodging an appeal will be prescribed by law.

Article 40

Every citizen has the right to file a suit against official persons before a competent tribunal on account of criminal acts committed by them in their official work.

Article 41

Subject to conditions prescribed by law, citizens have the right to seek indemnity from the State and from official persons for damage resulting from the illegal or irregular discharge of official functions.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision
[246]

Article 28

“Everyone has the right, either individually or in association with others, to petition the government of his State or the United Nations for redress or grievances.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article VII

Every person has the right, whether exercised by individual action or in conjunction with other, to petition the government for redress of grievances or to petition in respect to any other matter of public or private interest.

The publication of such petitions shall not be made a ground for penalizing in any way, directly or indirectly, the person or persons making the petition.

Cuba – No provision

Panama – No provision

B. Proposals

India

I (a)

Every human being is entitled to the right of liberty, including . . . the right to access to the United Nations, without risk of reprisal, whenever there is an actual or threatened infringement of human rights.

United States – No provision

[247]

Section III. National Constitutions

Argentine, Constitution of

Article 14

All inhabitants of the Nation enjoy the following rights, in accordance with the laws that regulate their exercise, namely: of working and practising any legal industry; of navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

*Belgium, Constitution of**Article 21*

Anyone has the right to address petitions to the public authorities signed by one or more persons.

The constituted authorities alone have the right to address petitions in the name of the people collectively.

*Bolivia, Constitution of**Article 6*

Every person has the following fundamental rights in conformity with the laws that regulate their exercise:

... 5th. To make individual or collective petitions.

*Brazil, Constitution of**Article 141*

No. 37. The right is assured to any person whomsoever to make representation against abuses by authorities and hold them responsible, by petition addressed to the public powers.

Article 194

Juridical persons of public law are civilly responsible for any harm that their employees, as such, may cause to third parties.

These persons shall enjoy recourse of action against the employees causing the harm, if the latter are found to have been guilty.

*Chile, Constitution of**Article 10*

The Constitution insures to all inhabitants of the Republic:

6th. The right of presenting petitions to the constituted authority [248] upon any matter of public or private interest, without other limitation than that of using respectful and suitable language.

*China, Constitution of**Article 16*

The people shall have the right to present petitions, file complaints or institute legal proceedings.

*Colombia, Constitution of**Article 45*

Any person shall have the right to present respectful petitions to the authorities, on subjects either of general or private interest, and obtain a prompt decision.

*Costa Rica, Constitution of**Article 35*

The right of petition may be exercised individually or collectively.

*Cuba, Constitution of the Republic of**Article 36*

Every person has the right to direct petitions to the authorities, and the right to have said petitions heeded and determined within a period not longer than forty-five days, with the further right to be apprised of the decision thereon.

At the expiration of the legal period, or in default of the above stipulations, the interested party may seek redress in the manner authorized by law as if his petition had been denied.

*Czechoslovakia, Constitution of**Article 115*

The right to petition shall be enjoyed by every person. Legal persons and corporations shall enjoy the right only within the bounds of their competence.

*Ecuador, Constitution of**Article 187*

The State shall guarantee to the inhabitants of Ecuador: . . .
 . . . (12) freedom of petition in writing, individual or collective, to any authority or corporation, with the right to obtain a decision . . .

Article 188

With respect to Ecuadorians, the following special guarantees shall be established:
 . . . (2) the right of petition to the Government verbally and collectively, [249] by processions or other public demonstrations, peaceful and unarmed, with the previous permission of the competent authority . . .

*Egypt, Royal Rescript**Article 22*

Egyptians have the right to apply to the public authorities by means of signed petitions. Constituted authorities and bodies corporate alone have the right to address petitions collectively.

*El Salvador, Constitution of**Article 16*

Every person has the right to address his petition to the legally established authorities, provided that they are made in a decorous manner; and to have them acted upon and to be informed of the decision reached regarding them.

*Ethiopia, Constitution of**Article 28*

All Ethiopian subjects have the right to address petitions to the Government in due legal form.

*Greece, Constitution of**Article 9*

Each individual or many together possess the right, on conforming with the laws of the Realm, to address petitions in writing to the public authorities, who are bound to take prompt action and to furnish the petitioner with an answer in writing in accordance with the provisions of the law. Only after the final decision of the authority to whom the petition was addressed, and by leave of that authority, may enquiry be made as to responsibility on the part of the petitioner for offences contained in the petition.

*Guatemala, Constitution of**Article 30*

The inhabitants of the Republic have the right, individually or collectively, to direct their petitions to the authorities, who are obliged to decide them in conformity with the law and without delay, and to communicate the decisions to those interested. The armed force may not deliberate or exercise the rights of petition or of suffrage.

*Haiti, Constitution of**Article 27*

The right of petition may be exercised personally to one or more[253] individuals but never on behalf of any association.

*Honduras, Constitution of**Article 66*

Any person or assembly of persons has the right to direct their petitions to legally established authorities for consideration, and to have the decision communicated to them.

*Iran, The Supplementary Fundamental Laws**Article 11*

No one can be forcibly removed from the tribunal which is entitled to give judgment on his case to another tribunal.

Article 32

Any individual may submit in writing to the Petition Department of the Archives of the Assembly a statement of his own case, or of any criticisms or complaints. If the matter concerns the Assembly itself, it will give him a satisfactory answer; but if it concerns one of the Ministries, it will refer it to that Ministry, which will enquire into the matter and return a sufficient answer.

*Iraq, Constitution of**Article 14*

Iraq nationals have the right to present petitions of complaints and memorials, in matters concerning themselves personally, or in public matters, to the King and to Parliament and to the public authorities, in the manner and in the circumstances to be prescribed by law.

It is not permitted, except to official bodies and juristic persons, to address the authorities in the name of a number of persons.

*Liberia, Constitution of**Article I*

Section 5. The people have a right at all times, in an orderly and peaceable manner to assemble and consult upon the common good, to instruct their representatives, and to petition the government, or any public functionaries for the redress of grievances.

*Luxembourg, Constitution of**Article 27*

Everyone has the right to address petitions to the public authorities signed by one or more persons.

[251]

Legally constituted authorities alone have the right to address petitions under a collective name.

Mexico (United Mexican States), Constitution of the

Article 8

Public officials and employees shall respect the exercise of the right of petition, provided it is formulated in writing and in a respectful and peaceful manner; but in political matters only citizens of the Republic may make use of this right.

A written decision shall be given to all petitions by the authority to whom they have been directed, who has the obligation of notifying the petitioners of the decisions as soon as possible.

Article 35

Privileges of citizens are:

5th. To exercise the right of petition in any matter.

Netherlands, Constitution of

Article 8

Every person shall have the right to present petitions to the competent authority, always provided he does so in writing.

Incorporated bodies may present petitions to the competent authority, but only on matters appertaining to their particular sphere of activity.

Nicaragua, Constitution of

Article 119

Every person has the right to demand protection in order to make effective the guarantees that the Constitution and the constitutional laws establish, when they are unduly retrained in the enjoyment of those guarantees by laws, decrees, decisions, orders, commands, or acts on the part of any authority, official, or agents of the same.

Article 127

All persons have the right to present written petitions or claims to the public agencies and to the authorities, and to have them decided and to be informed of the result.

This right may be exercised individually or collectively.

*Panama, Constitution of the Republic of**Article 42*

Every person has the right to present respectful petitions and complaints [252] to public officials, for reasons of social or private interest, and to obtain a prompt answer.

An official to whom a petition, question, or complaint is presented must decide it within a period of thirty days.

The law will indicate the penalties that apply to violation of this precept.

Article 51

Every person against whom is issued or executed, by any public official, an order to act or not to act that violates the rights and guarantees that this Constitution consecrates, will have the right to petition, by himself or through any other person, that the order may be revoked. The law will determine the form of this summary procedure of appeal of the constitutional guarantees.

The recourse to which this article refers will always be within the competence of the judicial tribunals.

*Paraguay, Constitution of**Article 19*

All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: . . . to petition the authorities. . .

*Peru, Constitution of the Republic of**Article 26*

Claims regarding infractions of the Constitution may be brought before the Congress.

Article 60

The right of petition may be exercised individually or collectively. It may not be exercised by the armed force.

*Philippines, Constitution of the**Article III*

Section 1. (8) No law shall be passed abridging. . . the right of the people to assemble and petition the Government for redress of grievances.

*Poland, Constitution of**Article 107*

Citizens have the right of presenting individual or collective petitions to all state and self-government representative bodies and public authorities.

[253]

*Syria, Constitution of the State of**Article 27*

All Syrians shall be entitled to submit requests or petitions, in conformity with the law, to the authorities or to Parliament, whether collectively or individually, and in regard to business, personal or general matters.

*Turkey, Constitution of**Article 82*

Turkish citizens shall have the right, should they notice any instances which are in contravention to the laws and regulations in force, to report such cases or complaints, individually or collectively, either in their own interest or in the interest of the Assembly. The reply to a personal application must be communicated to the petitioner in written form.

*United States of America, Constitution of**1st Amendment*

Congress shall make no law respecting . . . the right . . . to petition the government for a redress of grievances.

*Uruguay, Constitution of**Article 29*

Every inhabitant has the right of petition to each and every official of the Republic.

*Yugoslavia, Constitution of**Article 39 (paragraph 1)*

Citizens have the right to address requests and petitions to the organs of the State authorities.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[254]

Article 29

“Everyone has the right, either individually or with others, to resist oppression and tyranny.”

**Section I. Observations Made by Members
of the Human Rights Commission**

- None -

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile – No provision

Cuba

Article 20

“The right to resist any form of oppression.”

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

El Salvador, Constitution

Article 36

The right of insurrection shall in no case produce the abrogation of the laws, its effects being limited to the removal, as may be necessary, of persons discharging governmental office and the provisional appointment of those who shall substitute for them until the vacancies are filled in the manner established by the Constitution.

France, Declaration of the Rights of Man and of the Citizen

Article 2

The purpose of all civil association is the presentation of the natural and imprescriptible rights of man. These rights are liberty, property, security and [255] resistance to oppression.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision
[256]

Article 30

“Everyone has the right to take an effective part in the government of the State of which he is a citizen. The State has a duty to conform to the wishes of the people as manifested by democratic elections. Elections shall be periodic, free and fair.”

(See Article 16 of the Draft of International Declaration submitted by Panama)

**Section I. Observations Made by Members
of the Human Rights Commission**

Mr. Mora (Uruguay):

Proposes to grant to human beings a certain degree of world citizenship and to offer them the possibility of participating personally in the international organization of the community, namely: United Nations – abstraction made of the right of petitioning United Nations.*

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XIII

Every person, national of the state, has the right to participate in the election of the legislative and executive officers of the government in accordance with the provisions of the national constitution. The practical exercise of this right may, however, be conditioned by the duty of the person to show that he is competent to understand the principles upon which the constitution is based. The constitution of the state shall provide for a government of the people, by the people and for the people.

This right presupposes the right to form political parties.

Cuba

Article 22

The right to choose his ruler and to share in the government of his country.

[*] H.R. Com. – 1st session – 14th meeting – page 2.

[257]

*Panama (American Law Institute)**Article 16*

Everyone has the right to take part in the government of his state. The state has a duty to conform to the will of the people as manifested by democratic elections.

B. Proposals

India

I (c)

Every human being has the right of security including. . . the right to participate in government. . .

United States

II 2. d/

Among the categories of rights which the United States suggests should be considered are the following: . . .

d/ political rights, such as the right to citizenship and the right of citizens to participate in their government.

Section III. National Constitutions*Argentine, Constitution of**Article 5*

Each Province shall adopt for itself a constitution, under the republican, representative system, in accordance with the principles, declarations, and guarantees of the national Constitution, insuring its administration of justice, municipal government, and primary education. Under these conditions, the federal Government guarantees to each one of the Provinces the enjoyment and exercise of its institutions.

Article 22

The people do not deliberate or govern except through their representatives and authorities created by the Constitution. Any armed forces or meeting of persons assuming the rights of the people and petitioning in the latter's name, commits the crime of sedition.

*Belgium, Constitution of**Article 4*

Belgian citizenship is acquired, maintained and lost according to regulations established by the civil law.

The present constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

[258]

Bolivia, Constitution of

Article 4

The people shall not deliberate or govern except by means of their representatives and by the authorities created by law.

Any armed force or association of persons usurping the rights of the people commits the crime of sedition.

Byelorussia, Constitution of

Articles 109–115

See USSR Constitution Articles 134–140.

China, Constitution of

Article 1

The Republic of China, founded on the San Min Chu I (Three People's Principles), is a democratic republic of the people, for the people and governed by the people.

Article 3

Persons possessing the nationality of the Republic of China are citizens of the Republic of China.

Article 17

The people shall have the right of election, recall, initiative and referendum.

Article 18

The people shall have the right to take public examinations and to hold public offices.

Article 129

The election stipulated in the Constitution, except when otherwise provided for by the Constitution, shall be universal, equal and direct suffrage and by secret ballot.

Article 130

Any citizen of the Republic of China having attained the age of twenty years shall have the right of election in accordance with law. Unless otherwise provided by the

Constitution and laws, any citizen having attained the age of twenty-three years shall have the right of being elected in accordance with law.

[259]

Cuba, Constitution of the Republic of

Article 38

All acts by which a citizen is prohibited or limited in his participation in the political life of the Nation are declared punishable.

Czechoslovakia, Constitution of

Article 9

The right to vote for the Chamber of Deputies appertains to all Citizens of the Czechoslovak Republic without distinction of sex, who are twenty-one years of age and comply with the other provisions of the electoral regulations.

Article 14

The right to vote for the Senate appertains to all citizens of the Czechoslovak Republic without distinction of sex, who are twenty-six years of age and who comply with the other provisions of the law concerning the constitution and the rights and powers of the Senate.

Denmark, Constitution of

Article 30

Every man and woman possessing nationality rights, who has reached the age of twenty-five years and is domiciled in this country, is entitled to vote for the Folketing, unless he or she:

- (a) has been tried and found guilty of an act regarded by public opinion as dishonourable and has not been rehabilitated,
- (b) is receiving or has received poor relief, which has been neither remitted nor repaid,
- (c) has not free disposal of his personal property because he has been declared bankrupt or incapable of managing his affairs.

Article 31

Every person who by virtue of Article 30 has the right to vote for the Folketing is eligible for election to that House.

*Ecuador, Constitution of**Article 188*

“with respect to Ecuadorians, the following special guarantees shall be established:
 . . . (l) the right to elect freely and to be elected for public office, according to the law . . .”

[260]

*France, Declaration of the Rights of Man and of the Citizen 1789**Article 6*

The law is an expression of the common will. All citizens have a right to concur either personally or by their representation in its formation. It should be the same for all whether it protects or punishes; and all being equal in its right are equally eligible to all honours; places and employment according to their different abilities without any other distinction than that of their virtues and talents.

Article 3

The nation is essentially the source of all sovereignty; nor shall anybody of men or any individual exercise authority which is not expressly derived from it.

*France, Constitution of the Republic of**Article 3*

National sovereignty belongs to the French people.

No section of the people nor any individual may assume its exercise.

The people shall exercise it in constitutional matters by the vote of their representatives or by the referendum.

In all other matters they shall exercise it through their deputies in the National Assembly, elected by universal, equal, direct and secret suffrage.

Article 4

All French citizens and nationals of both sexes, who are majors and enjoy civil and political rights, may vote under conditions determined by the law.

*Guatemala, Constitution of**Article 34*

Every act by which a citizen is hindered or limited in participating in the political life of the Nation or in exercising his rights as a citizen, except for the restrictions that this constitution establishes, is punishable.

[261]

Article 30

... “The armed force may not deliberate or exercise the rights of petition or of suffrage.”

*Liberia, Constitution of**Article I*

Section 5. The people have a right at all times, in an orderly and peaceable manner to assemble and consult upon the common good, to instruct their representatives, and to petition the government, or any public functionaries for the redress of grievances.

All elections shall be by ballot; and every male citizen of twenty-one years of age, possessing real estate, shall have the right of suffrage.

All power is inherent in the people; all free governments are instituted by their authority and for their benefit and they have a right to alter and reform same when their safety and happiness require it.

Section 19. In order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods, and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life, and to fill up vacant places, by certain and regular elections and appointments.

*Mexico, (United Mexican States, Constitution of the)**Article 35*

Privileges of citizens are:

1st. . . To vote in popular election. . .

Article 36

The duties of a citizen of the Republic are:

3rd. To vote in the popular elections in the electoral district to which he belongs.

4th. To discharge the popularly elective offices of the Federation or of the States, which shall in no case be uncompensated; and

5th. To discharge the public office of the municipality where he resides and to perform all electoral and jury services.

[262]

Article 38

The rights and privileges of citizens may be suspended:

1st. For failure to comply without justifiable cause, with any of the obligations imposed by Article 36. The suspension shall last one year and shall be imposed in addition to the other penalties prescribed by law for the same offence.

2nd. For being subjected to criminal prosecution for an offence punishable by imprisonment, such suspension to be reckoned from the time of the order for formal commitment.

3rd. During the term of imprisonment.

4th. For vagrancy or habitual intoxication, as declared in the manner that the laws prescribe.

5th. For being a fugitive from justice, from the time when the order of arrest is issued until the proscription of the criminal action, and

6th. By an executory sentence imposing such suspension as a penalty.

The law shall define those cases in which citizenship shall be lost and others in which the rights of citizenship shall be suspended, as well as the manner of regaining them.

Netherlands, Constitution of the

Article 81

The members of the Second Chamber shall be chosen directly by the citizens being Netherlands subjects or recognized by law as Netherlands subjects, who have reached the age fixed by law, which age may not be under twenty-three years.

...

Those persons shall be debarred the right of exercising elective franchise to whom that right has been denied by irrevocable sentence of court of law.

[263]

Article 85

To be eligible as a member of the Second Chamber a person is required to be a Netherlands subject or recognized by law as a Netherlands subject, to have completed the age of thirty years, not to be deprived of eligibility or excluded from the exercise of elective franchise by virtue of the regulation made on the subject pursuant to the third paragraph of Article 81. . .

Norway, Constitution of

Article 50

The right of voting shall belong to Norwegian citizens, men and women, who have completed their twenty-first year, have been domiciled in this country for five years and are resident there. . .

Article 61

No one may be elected as a representative unless he is thirty years of age, has resided in the Kingdom for ten years, and has the right of voting in the district for which he is nominated. . .

*Panama, Constitution of the Republic of**Article 21*

Political rights are reserved to nationals, except for what is provided in Article 192.

*Ukraine, Constitution of the**Articles 133–139*

See USSR Constitution Articles 134–140.

*Union of Soviet Socialist Republics, Constitution of the**Article 134*

“Members of all Soviets of Working People’s Deputies of the Supreme Soviet of the USSR, the Supreme Soviets of the Union Republics, the Soviets of Working People’s Deputies of the Territories and regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People’s Deputies of Autonomous Regions, area, district, city and rural (stanitsa, village, hamlet, kishlak, aul) Soviets of Working People’s Deputies – are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.”

[264]

Article 135

“Elections of deputies are universal, all citizens of the Union of Soviet Socialist Republics who have reached the age of eighteen, irrespective of race or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.”

Article 136

“Elections of deputies are equal: each citizen has one vote. All citizens participate in elections on an equal footing.”

Article 137

“Women have the right to elect and be elected on equal terms with men.”

Article 138

“Citizens serving in the red Army have the right to elect and be elected on equal terms with all other citizens.”

Article 139

“Elections of deputies are direct: All Soviets of Working People’s Deputies, from rural and city Soviets of Working People’s Deputies, to the Supreme Soviet of the Union of Soviet Socialist Republics inclusive, are elected by the citizens by direct vote.”

Article 140

“voting at elections of deputies is secret.”

*United States, Constitution of the**Article I*

Section 1, Clause 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States. . .

Article II

Section 1, Clause 1. . . . The (President) shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected. . .

17th Amendment. The Senate of the United States shall be composed of two senators from each State, elected by the people thereof. . .

[265]

15th Amendment, Section 1. The right of Citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude.

19th Amendment. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any other State on account of sex.

Article VI

. . . but no religious test shall ever be required as a qualification to any office or public trust under the United States.

*Yugoslavia, Constitution of**Article 23*

“All citizens regardless of sex, nationality, race, creed, degree of education or place of residence, who are over eighteen yews of age, have the right to elect and to be elected to all organs of State authority.

Citizens in the ranks of the Yugoslav army have the same right to elect and to be elected as other citizens.

The suffrage is universal, equal and direct and is carried out by secret ballot.

The suffrage is not enjoyed by persons under guardianship, persons deprived of electoral rights by sentence of a court of law for the duration of the sentence, and persons who have lost their electoral rights in accordance with federal law.”

Section IV. Draft International Declarations Presented by Governments in Category A

American Federation of Labor – No provision
[266]

Article 31

“Everyone shall have equal opportunity of access to all public functions in the State of which he is a citizen.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Chang (China):

He refers to Article 18 of the Chinese Constitution concerning the right to take public examinations.

“. . . that is one of the political devices towards social democracy that has been worked out by humankind”.*

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XIII (paragraph 3)

No person shall be denied the right to hold public office, or to be appointed to any of the public services of the state of which he is a national, upon grounds of race or religion or sex or any other arbitrary discrimination; and the administration of the public services of the state shall, in respect to appointments and terms and conditions of service, be without favour or discrimination.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision*United States* – No provision**Section III. National Constitutions***Afghanistan, Fundamental Principles of the Government**Article 14*

Any Afghan subject, according to his ability and capacity, is taken into Government service as required.

[*] H. R. Comm. – 1st session – 13th meeting – page E-84

[267]

*Argentine, Constitution of**Article 16*

The Argentine nation does not admit prerogatives of blood or of birth; in it there are no personal privileges, nor titles of nobility. All its inhabitants are equal before the law, and admissible for employment without any other requisite than fitness. Equality is the basis of taxation and of the public burdens.

*Belgium, Constitution of**Article 6*

There shall be no distinction of classes in the State. Belgian citizens are equal before the law; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

*Chile, Constitution of**Article 10*

The Constitution insures to all inhabitants of the Republic:
8th Admission to all public employments and offices without other conditions than those imposed by the law.

*China, Constitution of**Article 18*

The people shall have the right to take public examinations and to hold public offices.

Article 130

... Unless otherwise provided by the Constitution and laws, any citizen having attained the age of twenty-three years shall have the right of being elected in accordance with law.

*Colombia, Constitution of**Article 54*

The profession of the priesthood is incompatible with the discharge of public office. Nevertheless, Catholic priests may be employed in public instruction and social work.

*Cuba, Constitution of the Republic of**Article 39*

Public functions that imply jurisdiction shall be discharged only by Cuban citizens.

Article 82

Only Cubans by birth and naturalized Cubans who have held their status [268] as such for five years or more prior to the date of their seeking authorization to practise, may practice professions that require official title, except as provided in Article 57 of this Constitution. However, the Congress may, by special law, grant temporary suspension of this provision when, for reasons of public utility, the co-operation of foreign professionals and technicians shall be necessary or convenient in the development of public or private undertakings of national interest. Such a special law shall fix the limits and period of the authorization.

In the fulfilment of this provision, as well as in cases in which, by any law or regulation, the practice of any new profession, art, or official may be regulated, the working rights acquired by persons who, until that time may have practised the profession, art, or office in question, shall be respected, and the principles of international reciprocity shall be observed.

*Czechoslovakia, Constitution of**Article 10*

All citizens of the Czechoslovak Republic without distinction of sex who are 30 years of age and comply with the conditions of the suffrage law may be elected as Deputies to the Chamber.

Article 15

All citizens of the Czechoslovak Republic without distinction of sex, who are 45 years of age and who comply with the other conditions concerning the constitution and the rights and powers of the Senate are eligible to the Senate.

Article 128

2. Difference in religion, belief, confession or language shall within the limits of the common law constitute no obstacle to any citizen of the Czechoslovak Republic particularly in regard of entry into the public service and offices, of attainment to any promotion or dignity, or in regard to the exercise of any trade or calling.

*Denmark, Constitution of**Article 31*

Every person, who by virtue of Article 30 has the right to vote for the [269] Folketing is eligible for election to that House.

Article 35

Every person entitled to vote for the Landsting is eligible for election to that House, provided that he (or she) is domiciled in the Landsting constituency concerned.

*Ecuador, Constitution of**Article 188*

With respect to Ecuadorians, the following special guarantees shall be established:

- (1) the right to elect freely and to be elected for public office, according to the law. . .

*El Salvador, Constitution of**Article 5*

No hereditary offices or privileges are recognized in the Republic.

*Ethiopia, Constitution of**Article 19*

All Ethiopian subjects, provided they fulfil the conditions laid down by the law and satisfy the decrees promulgated by His Majesty the Emperor, may be appointed officers in the Army or civil servants or be called upon to assume any other duties or functions in the service of the State.

*France, Declaration of the Rights of Man and of the Citizen 1789**Article I*

Men are born and remain free and equal in respect of rights. Social distinction shall be based solely upon public utility.

Article 6

The law is an expression of the common will. All citizens have a right to concur either personally or by their representation in its formation. It should be the same for all whether it protects or punishes; and all being equal in its right are equally eligible to all honours, places and employment according to their different abilities without any other distinction than that of their virtues and talents.

*Greece, Constitution of**Article 3*

... Only Greek citizens are admissible to all public employments saving the special exceptions introduced by special laws. . .

[270]

*Guatemala, Constitution of**Article 38*

All Guatemalans, without distinction of sex are admissible to public offices and employment according to their merit and capacity, except for the incompatibilities that the laws indicate and the limitations that this Constitution establishes.

*Haiti, Constitution of**Article 11*

Haitians are equal before the law, subject to the advantages conferred on natural-born Haitians. They shall also be eligible, without any discrimination, for civil and military employment under the conditions established by law.

*Honduras, Constitution of**Article 71*

Ministers of the various religions shall not exercise public offices.

*Iraq, Constitution of**Article 18*

... To them alone (*i.e.* to Iraq nationals) shall public appointments, civil or military, be entrusted, and foreigners may not hold such appointment except in the exceptional circumstances to be prescribed by law.

*Lebanon, Constitution of**Article 12*

All forms of public employment shall also be open to all Lebanese citizens in accordance with the conditions laid down by law, preference being given solely to merit and capacity. The conditions applicable to State officials shall be embodied in a special Statute, according to the department to which they belong.

*United Mexican States, Constitution of the**Article 35*

Privileges of citizens are:

2nd. To be eligible to all popularly elective offices and be qualified for any other position or commission, provided they have the qualifications prescribed by law.

*Netherlands, Constitution of**Article 5*

Every Netherlands subject shall be eligible for appointment to any office in the service of the State.

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No alien shall be eligible for such appointment save in accordance with the provisions of the law.

*Panama, Constitution of the Republic of**Article 43*

Ministers of religious faiths may not exercise public office, civil or military, with the exception of those that may be related to social welfare or public instruction.

*Poland, Constitution of**Article 96*

Public offices are accessible in equal measure to all, on conditions prescribed by the law.

*Sweden, Constitution of**Article 28*

In pursuance of the rules approved by the King and the Riksdag, women may be appointed and promoted to the posts and services set out above, but no woman may be appointed to the priestly office, unless otherwise prescribed in accordance with Article 87, paragraph 2.

In all promotions the King shall take into consideration only the merit and ability of the candidates, but not their birth.

Syria, Constitution of

Article 26

All Syrians shall have access to public employment, without any other distinction than that due to their qualifications or capacity, subject to the conditions laid down by the law.

Union of Soviet Socialist Republics, Constitution of

Article 135

Elections of deputies are universal: all citizens of the USSR who have reached the age of eighteen, irrespective of race, or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Article 137

Women have the right to elect and be elected on equal terms with men.
[272]

Article 138

Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens.

Yugoslavia, Constitution of

Article 33

Paragraph 1. All public offices are equally accessible to all citizens in accordance with the conditions of the law.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[273]

Article 32

“Everyone is entitled to the nationality of the State where he is born unless and until on attaining majority he declares for the nationality open to him by virtue of descent.

“No one shall be deprived of his nationality by way of punishment or be deemed to have lost his nationality in any other way unless he concurrently acquires a new nationality.”

“Everyone has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another State.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Cassin (France):

He remarks that the right to a nationality is not specified in the National Bill of Rights and adds that such a right is to be mentioned in an international Bill of Rights.*

He also mentions the “right of a nationality”.**

Mr. Mora (Uruguay):

He proposes to proclaim the right of changing nationality.***

Mr. Hodgson (Australia):

What do we see when we speak of human rights? We refer to, or we have in mind, minorities, nationality, statelessness, right of option. . .****

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article IX

Every person has the right to a nationality.

No state may refuse to grant its nationality to persons born upon its soil of parents who are legitimately present in the country.

No person may be deprived of his nationality of birth unless by his own free choice he acquires another nationality.

[*] H.R. Com. – 1st session – 8th meeting – p. 82

[**] H.R. Com. – 1st session – 13th meeting – p. E-101

[***] H.R. Com. – 1st session – 14th meeting – p. E-3

[****] H.R. Com. – 1st session – 2nd meeting – p. 42

[274]

Every person has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another state.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision*United States* – No provision**Section III. National Constitutions***Afghanistan, Fundamental Principles of the Government**Article 9*

All persons residing in the Kingdom of Afghanistan are called Afghan subjects without any distinction of creed and religion. Afghan nationality is acquired or lost in accordance with the nationality laws.

*China, Constitution of**Article 3*

Persons possessing the nationality of the Republic of China are citizens of the Republic of China.

*Egypt, Royal Rescript**Article 2*

Egyptian nationality shall be determined by law.

*Ethiopia, Constitution of**Article 1*

The territory of Ethiopia as a whole is throughout its extent subject to the Government of His Majesty the Emperor. All natives of Ethiopia subjects of the Empire form the Ethiopian nation.

Article 18

The law shall lay down the conditions required for holding Ethiopian nationality.

*France, Constitution of**Article 80*

All nationals of the Overseas Territories shall have the status of citizens, [275] in the same capacity as French nationals of Metropolitan France or the Overseas Territories. Special laws shall determine the conditions under which they may exercise their rights as citizens.

Article 81

All citizens and nationals of territories within the French Union shall have the status of citizens of the French Union, which ensures them the enjoyment

of the rights and liberties guaranteed by the Preamble of the present Constitution.

Article 82

Those citizens who do not have French civil status shall retain their personal status so long as they do not renounce it.

This status may in no case constitute a ground for refusing or restricting the rights and liberties pertaining to the status of French citizen.

Iceland, Constitution of

Article 68

No foreigner can acquire nationality except by law.

Iraq, Constitution of

Article 5

Iraq nationality and the rules applicable thereto will be prescribed by law.

Lebanon, Constitution of

Article 6

Lebanese nationality and the manner in which it is acquired, retained and lost shall be determined in accordance with the law.

Liberia, Constitution of

Article 13

None but negroes or persons of negro descent shall be eligible for citizenship in this Republic.

Luxembourg, Constitution of

Article 9

The status of Luxembourg national is acquired, retained and lost in accordance with the rules laid down by civil law. The present Constitution and the other laws relating to political rights shall determine what are the conditions necessary for the exercise of these rights, apart from the aforesaid status.

Article 10

Naturalization shall be granted by the legislative power. By such naturalization an alien is placed on the same footing as a Luxembourg national as [276] regards the exercise of political rights.

Where the father has been naturalized, such naturalization shall extend to his child under age where the latter within two years of attaining majority makes a declaration of his desire to claim this benefit.

United Mexican States, Constitution of the

Article 34

All those who, in addition to being Mexicans, also possess the following qualifications, are citizens of the Republic:

- 1st. Those who have reached the age of eighteen years and are married or twenty-one if they are not; and
- 2nd. Those who have an honest means of livelihood.

Article 37

1st. Mexican nationality shall be lost:

- (a) by the voluntary acquisition of a foreign nationality,
- (b) by accepting or using titles of nobility that imply submission to a foreign State,
- (c) by residing continuously for five years in the country of his birth, although being a Mexican by naturalization, and
- (d) by representing himself as an alien in any public instrument, being a Mexican by naturalization, or by obtaining and using a foreign passport.

2nd. Mexican citizenship shall be lost:

- (a) by accepting or using titles of nobility that do not imply submission to a foreign Government,
- (b) by voluntarily serving a foreign Government officially, without permission of the federal Congress or of its permanent committee,
- (c) by accepting or using foreign decorations without permission from the federal Congress or its permanent committee,
- (d) by receiving titles or offices from the Government of another country without previous permission from the federal Congress or from its permanent committee, excepting literary, scientific, or humanitarian honours, which may be freely accepted,

[277]

- (e) by aiding a foreigner or a foreign Government against the Nation, in any diplomatic claim or before an international tribunal, and
- (f) in the other cases established by law.

*Netherlands, Constitution of**Article 6*

It shall be declared by law who are Netherlands subjects and who are citizens. Naturalization shall take place by or in virtue of a law. The consequence of naturalization in respect of the wife and children under age of the naturalized person shall be regulated by law.

*Philippines, Constitution of the**Article 4*

The following are citizens of the Philippines:

1. Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
2. Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
3. Those whose fathers are citizens of the Philippines.
4. Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
5. Those who are naturalized in accordance with law.

Philippine citizenship may be lost or reacquired in the manner provided by law.

*Poland, Constitution of**Article 87*

A Polish citizen may not be at the same time a citizen of another state.

Article 88

Polish citizenship is acquired:

1. by birth if the parents are Polish citizens,
2. by naturalization granted by the competent State authority. Special statutes define other rules as to Polish citizenship, its acquisition and loss.

[278]

*Syria, Constitution of**Article 5*

The conditions under which Syrian nationality may be acquired or forfeited shall be laid down by law.

*Turkey, Constitution of**Article 88*

Any person born of a Turkish father, in Turkey or elsewhere, as well as any person born of an alien father domiciled in Turkey and who, residing in Turkey, formally assumes Turkish citizenship upon attaining majority, as well as any person granted Turkish citizenship by law, are Turks. Turkish citizenship may be lost under circumstances defined by law.

*United States of America, Constitution of**14th Amendment*

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

Article IV, Section 2, Clause 1

The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

*Union of Soviet Socialist Republics, Constitution of**Article 21*

A single Union citizenship is established for all citizens of the Union of Soviet Socialist Republics.

Every citizen of a Union Republic is a citizen of the Union of Soviet Socialist Republics.

*Yugoslavia, Constitution of**Article 28*

Paragraph 9. Federal law determines in which cases and in what manner citizens of the Federal Peoples Republic of Yugoslavia may be deprived of their citizenship.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[279]

Article 33

“No alien who has been legally admitted to the territory of a State may be expelled therefrom except in pursuance of a judicial decision or recommendation as a punishment for offence laid down by law as warranting expulsion.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

**Section II. Drafts of International Declarations or Proposals
Submitted to the Commission by Governments****A. Drafts of International Declarations***Chile* – No provision*Cuba* – No provision*Panama* – No provision**B. Proposals***India* – No provision*United States* – No provision**III. National Constitutions***Brazil, Constitution of**Article 143*

The federal Government may expel from the national territory an alien injurious to the public order, unless he has married a Brazilian and has a Brazilian child dependent upon paternal support.

*Cuba, Constitution of the Republic of**Article 31*

In case of the expulsion of an alien from national territory, in conformity with the Constitution and the law, such expulsion shall not be made to the territory of the State that may reclaim him if political asylum is involved.

[280]

*Denmark, Constitution of**Article 50*

No alien may acquire naturalization except in accordance with the law.

*Guatemala, Constitution of**Article 26*

Extradition of persons accused of political offences is prohibited.

When expulsion of an alien from the national territory is agreed to, it shall not be effected to a State that would persecute him, if political asylum is involved.

Iran, The Supplementary Fundamental Laws

Article 24

Foreign subjects may become naturalized as Persian subjects, but their acceptance or continuance as such, or their deprivation of this status, is in accordance with a separate Law.

Netherlands, Constitution of

Article 4

All persons who are on the territory of the Realm, shall have equal rights to protection of their person and goods.

The admission and expulsion of aliens and the general conditions under which, in respect of their extradition, treaties may be concluded with foreign powers, shall be regulated by law.

Nicaragua, Constitution of

Article 121

It is the province of the law to determine the rules and conditions for the expulsion of aliens from national territory.

Paraguay, Constitution of

Article 36

Aliens shall not be obliged to assume citizenship.

If they shall make attempts against the security of the Republic or disturb public order, the Government may effect their expulsion from the country, in conformity with the regulatory laws.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision
[281]

Article 34

“Every State shall have the right to grant asylum to political refugees.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Cassin (France):

He mentions the “right of asylum”.*

Mr. Dukes (United Kingdom)

He affirms that the right of a nation to claim the extradition of its criminals ought to be preserved.**

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile – No provision

Cuba

Article 21

The right to sanctuary in a foreign country when escaping from persecution of a political, religious or racial nature.

Panama – No provision

B. Proposals

India – No provision

United States – No provision

[*] H.R. Com. – 1st session – 13th meeting – p. E-101

[**] H.R. Com. – 1st session – 14th meeting – p. E-20

[282]

Section III. National Constitutions

Brazil, Constitution of

Article 141

31. There shall be no penalty of . . . banishment. . .

33. Extradition of an alien shall not be granted for political crimes or crimes of opinion, nor extradition of a Brazilian, in any case.

Byelorussia, Constitution of

Article 104

See Article 129 of the Union of Soviet Socialist Republics, Constitution.

*Cuba, Constitution of**Article 31*

The Republic of Cuba offers and recognizes the right of asylum to those persecuted for political reasons provided that persons thus sheltered respect the national sovereignty and the laws.

The State shall not authorize the extradition of persons guilty of political crimes, nor shall it attempt to extradite Cubans guilty of these crimes who may have taken refuge in foreign territory. . .

*Egypt, Royal Rescript**Article 151*

The extradition of political refugees is prohibited, without prejudice to the international agreements aiming at the protection of special order.

*El Salvador, Constitution of**Article 11*

The Republic is a sacred asylum for the alien who may reside in its territory, except for those guilty of common offences who are claimed by another Nation by virtue of existing treaties in which extradition is provided.

Extradition shall never be stipulated, in any case, with respect to nationals, nor, with respect to aliens, for political crimes, even though in consequence a common crime may result from them.

France, Constitution of

4. Anyone persecuted because of his acts in favour of liberty has the right of asylum on the territories of the Republic.

*Guatemala, Constitution of**Article 26*

Guatemala recognizes and offers the right of asylum to politically persecuted persons, provided that they respect national sovereignty and laws.

[283]

*Haiti, Constitution of**Article 30*

The right of asylum of political refugees is acknowledged on condition that they comply with the country's laws.

Article 31

Extradition on political grounds shall be neither allowed nor requested.

Mexico (United Mexican States), Constitution of

Article 11

Any person has the right to enter the Republic, leave it, travel through its territory, and change residence without the necessity of a letter of security, passport, safe conduct, or similar requirements. The exercise of this right shall come under the jurisdiction of the judicial authority in cases of criminal and civil responsibility and under the jurisdiction of the administrative authority in so far as it relates to the limitations that the laws impose on emigration, immigration, and the general health of the Republic, or on undesirable aliens residing in the country.

Article 15

The negotiation of treaties for the extradition of political offenders or those covering civil delinquents who may have been slaves in the country where they committed the offence shall not be authorized; nor shall conventions or treaties be made by virtue of which guarantees and rights established for the individual and the citizen by this Constitution are altered.

Panama, Constitution of

Article 23

The State may not be obliged to surrender its own nationals by any international extradition treaty.

Nor will extradition be granted for aliens who are pursued for political offences.

Ukraine, Constitution of

Article 128

See Article 129 of the Union of Soviet Socialist Republics, Constitution.
[284]

Union of Soviet Socialist Republics, Constitution of

Article 129

The Union of Soviet Socialist Republics, affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

*Yugoslavia, Constitution of**Article 31*

Foreign citizens persecuted on account of their struggle for the principles of democracy, for national liberation, the rights of the working people, or the freedom of scientific and cultural work, enjoy the rights of asylum in the Federal Peoples Republic of Yugoslavia.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

*American Federation of Labor**Article 6*

The right of asylum is to be guaranteed by all nations. No human being who is a refugee from any political regime he disapproves is to be forced to return to territory under the sovereignty of that regime.

[285]

Article 35

“Everyone has the right to medical care. The State shall promote public health and safety.

**Section I. Observations Made by Members of the
Human Rights Commission**

Mrs. Mehta (India):

“... with regard to the third group of rights, right to medical care is not enough. The real wording is right to health, because the individual expects not merely medical care from the State but also such preventive measures as would protect his health. Therefore, right to health is the recognized terminology and I would like you to substitute it for the right to medical care.”*

Mr. Tepliakov (Union of Soviet Socialist Republics)

“... I had some remarks in connection with the last remarks of the representative from India on the right to medical care. The right to medical care was written into this paper and she moved to change this wording to “the right to health”. It is quite vague to say “the right to health”. No one has denied that, but again, that is the question of how you enjoy this right and what you mean under this particular point.

In my point of view, the right to medical care might be left in here. But if it is necessary to make it more explicit, I would say “the right to maintenance in old age, sickness and loss of capacity for labour.” It means that all men and women have the right as such, to the maintenance of their health during their life, but health as a general expression is too wide and depends upon many, many circumstances from the very day of the beginning of one’s life.”**

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XVI

... the state must promote measures of public health. . .

Cuba

Article 13

The right to live in surroundings free from avoidable diseases.

Article 14

The right to adequate medical assistance.

Panama (American Law Institute)

Article 15

Everyone has the right to social security.

[*] H.R. Com. – 1st session – 14th meeting – page E/64

[**] H.R. Com. – 1st session – 14th meeting – page E/71

[286]

The state has a duty to maintain or insure that there are maintained comprehensive arrangements for the promotion of health, for the prevention of sickness and accident, and for the provision of medical care and of compensation for loss of livelihood.

B. Proposals

India

I (c)

Every human being has. . . the right to health.

United States – No provision

Section III. National Constitutions

Bolivia, Constitution of

Article 124

The State shall enact measures for protecting the health and life of working men, employees, and farm labourers; it shall see that these have healthy lodgings and it

shall promote the construction of cheap houses; it shall also provide technical education for manual labourers. . .

. . . The authorities shall likewise control the conditions of security and public health that must be maintained in professions or trades, as well as work on farms and in mines.

Brazil, Constitution of

Article 157

14th. . . Sanitation assistance, including hospitalization and preventive medicine, to the worker and to the expectant mother.

Byelorussia, Constitution of

Article 95

See USSR Constitution Article 120.

Chile, Constitution of

Article 10

The Constitution insures to all the inhabitants of the Republic:

14th. . . It is the duty of the State to care for the public health and hygienic welfare of the country. It must provide each year an amount of money sufficient to maintain a national health service.

China, Constitution of

Article 157

The State, in order to improve national health, shall extensively establish sanitation and infant health protection enterprises and a system of socialized medical service.

[287]

Cuba, Constitution of the Republic of

Article 80

Social assistance shall be established under the direction of the ministry of health and social assistance; this assistance shall be organized by special legislation, which shall appropriate funds to provide for the necessary reserves.

Hospital, sanitary, medical examiners and other positions that may be necessary in organizing the corresponding official services in an adequate manner, shall be established. . .

*Honduras, Constitution of**Article 196*

Safeguarding public health and hygienic welfare of the nation is a duty of the State.

*Panama, Constitution of the Republic of**Article 92*

It is an essential function of the State to watch out for public health. The individual has the right to the protection, preservation, and restitution of his health and the obligation of preserving it.

In consequence, the State will develop principally activities that are detailed in continuation:

- 1st. To combat transmissible diseases by means of individual treatment and improvement of the environment.
- 2nd. To protect maternity and reduce infant mortality by means of medical assistance and adequate nutrition.
- 3rd. To supplement the feeding of needful students and to supply school children with the service of medical supervision.
- 4th. To establish hospitals, dental clinics, and dispensaries, in accordance with the needs of each region, in which services are given and free medicines supplied to those who lack pecuniary resources; and
- 5th. To popularize systematically the principles of scientific nutrition, personal hygiene, and home sanitation.

The National Assembly will enact a sanitary code.

[288]

*Paraguay, Constitution of**Article 11*

Care for the health of the population, and social assistance, as well as the moral, spiritual, and physical education of youth, are fundamental duties of the State.

*Peru, Constitution of the Republic of**Article 50*

The State has in its charge public health, and it cares for individual health, enacting the laws for hygiene and sanitary control that may be necessary, as well as those that favour the physical, moral, and social improvement of the population.

*Ukrainian Soviet Socialist Republic, Constitution of the**Article 119*

See USSR Constitution Article 120.

*Union of Soviet Socialist Republics, Constitution of**Article 120*

“Citizens of the USSR have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

“This right is ensured by the extensive development of social insurance of workers and employees at state expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.”

*Uruguay, Constitution of**Article 43*

The State shall legislate on all questions relating to public health and hygiene, to obtain the physical, moral, and social improvement of all inhabitants of the country.

All inhabitants have the obligation of taking care of their health, as well as that of being given assistance in case of illness. The State shall freely provide means of prevention against illness, and medical aid, to those who are indigent or who lack sufficient means.

*Yugoslavia, Constitution of**Article 36*

“The State promotes the improvement of public health by organizing and controlling health services, hospitals, pharmacies, sanatoria, nursery and convalescent homes and other health institutions.”

[289]

“The State extends its care to the physical education of the people, especially of young people in order to increase the health and the working capacity of the people and the power of defence of the State.”

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[290]

Article 36

“Everyone has the right to education. Each State has the duty to require that every child within its territory receive a primary education. The State shall maintain adequate and free facilities for such education. It shall also promote facilities for higher education without distinction as to the race, sex, language, religion, class or wealth of the persons entitled to benefit therefrom.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Lebeau (Belgium):

“the right to education for children”.*

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XVII

Every person has the right to education.

The right of children to education is paramount.

The State has the duty to assist the individual in the exercise of the right to education, in accordance with the resources of the State. The opportunities of education must be open to all upon equal terms in accordance with their natural capacities and their desires to take advantage of the facilities available.

Cuba

Article 8

The right to education which will enable him to improve himself in every respect and will lead to his becoming a useful member of society and sharing in all the material and spiritual benefits of civilization.

Panama (American Law Institute)

Article 11

Everyone has the right to education.

The State has a duty to require that every child within its jurisdiction receive education of the primary standard; to maintain or insure that there are maintained facilities for such education which are adequate and free; and to promote the

development of facilities for further education which are adequate and effectively available to all its residents.

[*] H.R. Com. – 1st session – 13th meeting – p. E/82

[291]

B. Proposals

India

Article I (c)

Every human being has . . . the right to education.

United States

2.

Among the categories of rights, the United States suggests should be considered are the following:

c/. . . the right to enjoy minimum standards of economic, social and *cultural wellbeing*.

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 20

Primary education for the children of Afghan subjects is compulsory.

Article 22

The public schools of Afghanistan are under the supervision of the Government, so that the education and culture imparted by those institutions may, without infringing the articles of the Islamic faith, provide the benefits which accrue from the study of literature, art and science. But there will be no interference with principles of education which are concerned with the faith and religion of the “Ali-i-Zimma”.

Argentine, Constitution of

Article 5

Each Province shall adopt for itself a constitution, under the republican, representative system, in accordance with the principles, declarations, and guarantees of the national Constitution, insuring its administration of justice, municipal government, and primary education. Under these conditions, the Federal Government guarantees to each one of the Provinces the enjoyment and exercise of its institutions.

*Belgium, Constitution of**Article 17*

There shall be freedom of opinion in teaching; all measures preventing this are forbidden; the repression of offences shall be regulated only by law.

Public instruction given at the expense of the State shall likewise be regulated by law.
[292]

*Bolivia, Constitution of**Article 6*

Every person has the following fundamental rights in conformity with the laws that regulate their exercise:

... 6th. To receive instruction.

Article 154

Education is the highest function of the State. Public instruction shall be organized according to the single school system. School attendance for children between the ages of seven and fourteen years is obligatory. Primary and secondary instruction by the State is free.

Article 155

The State shall economically aid apt students who do not have access to higher education for lack of funds, so that vocation and capacity may be the conditions that prevail over the social or economic position of individuals.

Article 162

Education is subject in all grades to the protection of the State, exercised by mediation of the Minister of Education.

*Brazil, Constitution of**Article 168*

Teaching legislation shall adopt the following principles:

- 1st. Primary schooling is obligatory and may be given only in the national language.
- 2nd. Primary schooling is official and gratuitous for everyone; the official schooling subsequent to the primary shall be free for whomever proves lack or insufficiency of means.
- 3rd. Industrial, commercial and agricultural establishments, in which more than 100 persons work, are obligated to maintain gratuitous primary teaching for their employees and the children of the latter.

7th. Liberty of teaching posts is guaranteed.

[293]

Article 166

Education is the right of everyone, and shall be administered at home and in the school. It shall be inspired by the principles of liberty, and the ideals of human solidarity.

Chile, Constitution of

Article 10

The Constitution insures to all the inhabitants of the Republic:
7th. . . . Primary education is obligatory. There shall be a superintendency of public education in the charge of which will be the inspection of national instruction and its direction, under the authority of the Government.

China, Constitution of

Article 21

The people shall have the right and duty of receiving citizen's education.

Article 158

Education and culture shall have as its aim the development among citizens of national spirit, a democratic spirit, national morality, sound and healthy physique, of sciences and of the knowledge and ability to earn a living.

Article 159

Citizens shall have equal opportunity to receive education.

Article 160

All children of the school age from six to twelve years shall receive primary education free and those who are poor shall be supplied with textbooks by the Government.

All citizens beyond school age who have not received primary education shall receive supplementary education free, and shall also be supplied with textbooks by the Government.

Article 164

Expenditure for educational, scientific and cultural purposes shall be, in case of the Central Government, not less than fifteen per cent of the total national budget,

in case of the provinces, not less [294] than 25 per cent of the total national budget. . .

Colombia, Constitution of

Article 41

2. Primary instruction shall be free in the schools of the State and obligatory to the degree that the law prescribes.

Costa Rica, Constitution of

Article 61

The State shall watch over the technical training of workers, for the purpose of obtaining the greatest efficiency in their labour and of gaining an increase in national production.

Article 67

Primary instruction is obligatory, free, and sustained by the Nation. The direction of it belongs to the Executive.

The State will maintain the schools of primary instruction and academies of secondary education that the necessities of the country may require, and will create revenue for the support of the University.

Cuba, Constitution of the Republic of

Article 45

2. Childhood and youth are protected from exploitation and from moral and material neglect. The State, the Provinces, and the municipalities shall organize adequate institutions for this purpose.

Article 48

Primary instruction is obligatory for minors of school age, and its dispensation shall be the obligation of the State, without lessening the co-operative responsibility falling to municipal initiative.

Both primary and pre-primary instruction shall be gratuitous when imparted by the State, Province, or municipality. The necessary teaching materials shall likewise be gratuitous.

Secondary basic instruction, and all higher instruction imparted by the State or the municipalities, exclusive of specialized pre-university and university studies, shall be gratuitous.

In institutes created, or which may be created in the future in the pre-university category, the law may maintain or establish the payment of a moderate co-operation

fee for matriculation that shall be [295] designated for the up-keep of each establishment.

As far as possible, the State shall offer fellowships for the enjoyment of non-gratuitous official instruction to students who, having determined their vocations and having exceptional aptitudes, are prevented, by insufficiency of resources, from carrying on such studies on their own account.

Article 49

The State shall maintain a system of schools for adults, especially dedicated to the elimination and prevention of illiteracy; rural schools predominantly practical, organized with a view to the interest of small communities of agricultural, maritime, or any other type; art schools, and technical institutes of agriculture, industry and commerce, oriented in a manner to respond to the necessities of the national economy. All of these kinds of instruction shall be gratuitous and the Provinces and municipalities shall collaborate in their maintenance to the extent of their means.

Article 50

The State shall maintain the normal schools necessary for the technical preparation of the teachers in charge of primary instruction in the public schools. No other educational centre may issue degrees for primary teachers, with the exception of the school of pedagogy of the universities.

The previous provisions do not exclude the right of schools created by law, to issue pedagogical degrees relating to special matters that may be the subject of their instruction.

Article 51

Public instruction shall be organized in an organic form, so that adequate articulation and continuity may obtain for all grades, including the higher. The official system shall provide vocational stimulus and the development in the light of the multiplicity of the [296] professions, and taking into account the cultural and practical necessities of the Nation.

All instruction, public or private, shall be inspired by a spirit of Cubanism and human solidarity, tending to form in the minds of those being educated a love for their Fatherland, its democratic institutions, and for those who have fought for one or the other.

Article 52

All public instruction shall be provided for in the budgets of the State, the Provinces, or the municipalities, and shall be under the technical and administrative direction of

the Minister of Education, with the exception of departments of instruction that, because of their special character, are subordinate to other ministries. . .

. . . The budget of the ministry of education shall not be less than the normal budget of any other ministry except in case of emergency declared by law.

The monthly salary of a teacher of primary instruction must not be, in any case, less than a millionth part of the total budget of the Nation.

Persons holding official teaching positions have the rights and duties of public officials.

Appointments, promotions, transfers, and dismissals of public teachers and professors, inspectors, technicians, and other school officials, shall be regulated in such a manner that no considerations other than strictly technical ones may apply, but this stipulation shall not affect the vigilance over the moral conduct to which such officials must conform.

Article 59

A national council of education and culture shall be created which, presided over by the Minister of Education, shall be in charge of the encouragement, technical direction, or inspection of the educational, scientific, and artistic activities of the Nation.

The opinion of this body shall be heard by the Congress on every bill relating to matters within its competence.

[297]

Positions on the national council of education and culture shall be honorary and uncompensated.

Denmark, Constitution of

Article 83

Children whose parents are without means to provide for their education, are entitled to free education in the elementary schools. Parents or guardians who themselves make provision for the children's receiving an education comparable with general requirements in elementary schools, are not obliged to have the children educated at elementary schools.

Dominican Republic, Constitution of

Article 6

4th. Freedom of education. Primary instruction will be subject to the revision of the State and will be obligatory for the scholastic minor, in the form that the law establishes. This instruction will be gratuitous in official institutions, the same as with that which is given in schools of agriculture, manual arts, and domestic economy.

*Ecuador, Constitution of**Article 177*

. . . Education and instruction, in so far as they are compatible with morality and republican institutions, shall be free. . . Elementary education, either public or private, shall be compulsory.

In private or public free establishments, school social services shall be available, without discrimination, to pupils who require them. . .

Article 173

The State shall found and maintain special free training establishments for arts and crafts, trade, agriculture and other types of remunerative work.

*Egypt, Royal Rescript No. 42 of 1923**Article 19*

Elementary education is compulsory for young Egyptians of both sexes. It is given free of charge in the public maktab.

Article 18

Public education shall be regulated by law.
[298]

*El Salvador, Constitution of**Article 33*

Instruction is free; primary instruction, moreover, is obligatory. Instruction that is given in establishments supported by the State shall be gratuitous and subject to proper regulations.

*France, Constitution of**Article 14*

The nation guarantees equal access of the child and the adult to instruction, to vocational training and to culture. The organization of free and nuclear public education at all stages is a duty of the State.

*Greece, Constitution of**Article 16*

Education, which is under the supreme supervision of the State, is conducted at the State expense.

Elementary education is obligatory for all, and is given free by the State.

Private persons and corporations are allowed to establish private schools conducted in accordance with the Constitution and the laws of the Realm.

Guatemala, Constitution of

Article 81

There shall be a minimum (standard) of common instruction, obligatory, for all inhabitants of the country, within the limits of age and conforming to the plans and programmes affixed by the respective law. . .

Article 82

The following are declared to be of social utility; the campaign for national literacy; the free offering of the minimum of official common, agricultural, industrial, artistic, and normal instruction. . .

Article 85

The State guarantees freedom of educational judgement.

Haiti, Constitution of

Article 23

Freedom of instruction may also be exercised as provided by law under the control and supervision of the State, which is concerned with the moral and civic training of citizens.

[299]

Public education is a responsibility of the State and of the communes.

Elementary instruction is compulsory.

Public instruction shall be free of charge in all grades without prejudice to the conditions of admission.

Honduras, Constitution of

Article 60

Freedom of instruction is guaranteed. Teaching maintained by public funds shall be laical, and primary instruction, furthermore, shall be free of charge, obligatory, paid for by the municipalities and subsidized by the State.

Iceland, Constitution of

Article 71

Should parents not possess means to provide for the education of their children, or should the children be orphans or poor, their instruction and maintenance shall be provided for out of public funds.

*Iran, The Supplementary Fundamental Laws**Article 18*

The acquisition and study of all science, arts and crafts is free, save in the case of such as may be forbidden by the ecclesiastical law.

Article 19

The foundation of schools at the expense of the government and the nation, and compulsory instruction, must be regulated by the Ministry of Sciences and Arts, and all schools and colleges must be under the supreme control and supervision of that Ministry.

*Liberia, Constitution of**Article I*

Section 15. The improvement of the Native tribes and their advancement in the arts of agriculture and husbandry being a cherished object of this Government, it should be the duty of the President to appoint in each country some discreet person whose duty it shall be to make regular and periodical tours through the country for the purpose of calling the attention of the Natives to those wholesome branches of industry, and of instructing them in the same and the Legislature, shall as soon as can conveniently be done, make provision for these purposes by the appropriation of money.

[300]

*Luxembourg, Constitution of**Article 23*

The State shall ensure that every Luxembourg national receives elementary education. It shall establish institutions for intermediate instruction and courses for higher education as may be necessary.

The law shall prescribe the manner in which the cost of public instruction shall be met, and the conditions for the supervision of education by the Government and the communes; it shall lay down rules respecting all other matters relating to education. Every Luxembourg national is free to study in the Grand Duchy or abroad and to attend any University which he may choose, subject to the provisions of the law relating to the conditions for admission to employment or to the exercise of certain professions.

*Mexico (United Mexican States), Constitution of**Article 3*

Primary education shall be obligatory and the State shall impart it freely.

The education that the State imparts shall be socialistic and besides excluding all religious doctrine, it shall combat fanaticism and prejudices, for which purpose the school shall organize its instruction and activities in a form that may permit the creation in youth of a rational and exact concept of the universe and of social life.

Article 31

It shall be the duty of all Mexicans:

1. To see to it that their children or wards less than fifteen years of age attend public or private schools to obtain a primary, elementary, and military education during the time prescribed by the law of public instruction in each State.

Netherlands, Constitution of

Article 195

Education shall be an object of constant solicitude on the part of the Government.
[301]

The imparting of education shall be free, saving superintendence by the Government and, moreover, in so far as general education, elementary as well as secondary, is concerned, saving the examination with regard to the ability and morality of the teacher, the whole to be regulated by law.

Public education shall be regulated by law, every person's religious views being duly respected.

In each municipality the authorities shall impart sufficient public general elementary education in an adequate number of schools.

According to rules to be laid down by law, deviation from this provision may be permitted, provided that opportunity is given for such education to be received.

Nicaragua, Constitution of

Article 86

Public education is the special interest of the State.

Article 88

Primary instruction is obligatory, and, when supported by the State and public bodies, it is free and secular.

Article 89

The State promotes instruction in the secondary and superior grades.

Article 93

The profession of official education is a public career and enjoys the rights fixed by the law.

Article 92

The moral education of youth will be fostered in all schools, as well as the development of civic sentiment and personal and professional honesty.

Article 91

The State promotes technical education for workers, and schools for agricultural and industrial education.

Article 99

Agriculture or industrial enterprises that are located outside the radius of urban schools and that embrace more than thirty children of [302] school age will be obliged to maintain a school adequate for primary elemental teaching.

*Panama, Constitution of the Republic of**Article 77*

The service of national education in its intellectual, moral, civic, and physical aspects is an essential duty of the State. National education will be inspired by democratic doctrine and ideals of national aggrandizement and human solidarity.

It is a function of the State to fix the bases of education, which will be organized in a form in which unity, articulation, and continuity exist in all its grades.

Every educational institution is of public and social utility.

Article 78

Primary education is obligatory. Public pre-school, primary, and secondary education, in all its grades and types, will be gratuitous. The gratuity of pre-school and primary instruction implies the obligation for the State of providing for the pupil all the equipment that may be necessary for his learning. The gratuity of secondary instruction does not prevent the establishment of a matriculation fee.

Article 90

The State will develop popular culture by all possible means and will maintain a system of gratuitous complementary courses for adults, intended to prevent and eliminate illiteracy and to the practical preparation of the working classes.

Article 91

The law will create a department of physical culture which will have the mission of diffusing said culture in teaching institutions and among the masses of the people.

Article 87

In order to make effective the economic autonomy of the university, the State will give it what is indispensable for its installation, functioning, and future development, as well as the patrimony that is [303] spoken of in the preceding article and the means necessary for increasing it.

Article 86

The official university of the Republic is autonomous. Juridical personality, its own patrimony, and the right of administering it are recognized. It has the power to organize its studies and to designate and separate its personnel in the form that the law determines. It will include in its activities the study of national problems and the diffusion of popular culture.

Article 89

The State will promote the establishment of special technical, industrial and professional, and stock-raising and commercial schools, adapting them to the specific needs of the Nation. The law will establish, after the primary school, services of professional orientation that allow discovering the aptitudes and capacities of the students and guiding them toward their better individual and social utilization.

Article 84

Expenditures that are required for the sustaining of the service of education will have preference over any others whatever. The organic law of the branch will determine the proportion of the revenues that must be designated for that service.

Article 83

The law will establish the necessary incentives for the publication of national didactic works and standards for their adoption as official texts.

Article 82

Only the State may grant scholarships or financial aid to students who have won in competition or public contests or who may have obtained in their studies the qualifications that, in conformity with the law, make them deserving of the assistance of the State.

[304]

Under equality of excellence, preference shall be given to those participants whose economic means do not permit them to attend to the studies for which they may be presented in the competition.

Article 74

It is the duty of industrial enterprises, in the spheres of their specialization, to create schools for apprentices intended to promote labour education among the children of their operatives or associates. The law will regulate this matter.

Paraguay, Constitution of

Article 11

Care for health of the population, and social assistance, as well as the moral, spiritual and physical education of youth, are fundamental duties of the State.

Article 10

Primary education is obligatory and free; the Government shall develop secondary, professional, and university instruction.

Article 19

All the inhabitants of the public enjoy the following rights, in conformity with the laws that may regulate their exercise: . . . to learn. . .

Peru, Constitution of the Republic of

Article 71

The technical direction of education belongs to the State.

Article 72

Primary instruction is obligatory and gratuitous.

Article 73

There shall be at least one school in each locality in which the school population is thirty pupils.

Complete primary instruction shall be apportioned in each capital of a province and of a district.

Article 52

The protection of the physical, mental, and moral health of infancy is a primary duty of the State. The State protects the right of the [305] child to home life, education, vocational orientation, and ample assistance when in a situation of

neglect, illness or misfortune. The State shall commit the fulfilment of the provisions of this article to adequate technical organizations.

Article 75

The State encourages instruction in the secondary and higher grades with a tendency toward making it gratuitous.

Article 77

The State encourages the technical instruction of workers.

Article 78

The State encourages and contributes to the support of pre-school and post-school education and of schools for retarded or abnormal children.

Article 79

Moral and civic education of children is obligatory and shall necessarily be inspired by the national growth and human solidarity.

Article 74

Schools that may function in industrial, agricultural, or mining centres, shall be supported by the respective proprietors or enterprises.

Article 76

There shall be at least one school of industrial orientation in each Department.

Article 83

The minimum amount of the income intended for the support and diffusion of instruction, and the proportion by which it must annually be increased, shall be stipulated by the law.

Philippines, Constitution of the

Article 14

Section 4. The State shall promote scientific research and invention. Arts and letters shall be under its patronage. The exclusive right to writings and inventions shall be secured to authors and inventors for a limited period.

[306]

Section 5. All educational institutions shall be under the supervision of and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at

least free public primary instruction, and citizen training for adult citizens. All schools shall aim to develop moral character, personal discipline, civil conscience, and vocational efficiency, and to teach the duties of citizenship. Optional religious instruction shall be maintained in the public schools as now authorized by law. Universities established by the State shall enjoy academic freedom. The State shall create scholarships, in arts, science and letters for special gifted citizens.

Poland, Constitution of

Article 118

Within the limits of the elementary school, instruction is compulsory for all citizens of the State. A statute will define the period, limits and manner of acquiring such education.

Article 119

Teaching in State and self-government schools is gratuitous.

The State will insure to pupils who are exceptionally able, but not well-to-do, scholarships for their maintenance in secondary and academic schools.

Article 120

Instruction in religion is compulsory for all pupils in every educational institution, the curriculum of which includes instruction of youth under eighteen years of age, if the institution is maintained, wholly or in part by the State, or by self-government bodies. The direction and supervision of religious instruction in schools belong to the respective religious communities, reserving to the State educational authorities the right of supreme supervision.

Saudi Arabia, Constitution of

Article 25

A law for public education shall be decreed and shall be brought into force gradually. Elementary education shall be free of cost throughout the Kingdom of the Hojaz.

[307]

Syria, Constitution of the State of

Article 21

Primary education shall be compulsory for all Syrians of both sexes, and shall be given free of charge in the public schools.

Article 22

The curriculum for public education shall be laid down by a law and shall ensure educational uniformity.

Article 23

All schools shall be placed under Government supervision.

Turkey, Constitution of

Article 87

Primary education is compulsory for all Turks and is free in public schools.

Union of Soviet Socialist Republics, Constitution of

Article 121

Citizens of the Union of Soviet Socialist Republics have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of State stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organization in the factories, state farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Uruguay, Constitution of

Article 61

Primary education is obligatory. The State shall provide what is necessary for its enforcement.

Article 62

Official free primary, intermediate, superior, industrial, and artistic instruction, and physical education is declared a social need; also the creation of scholarships for cultural, scientific, and industrial improvement and specialization, as well as the establishment of popular libraries.

All institutions of learning shall provide especially for the formation of the moral and civic character of the students.

[308]

Yugoslavia, Constitution of

Article 38

In order to raise the general cultural standard of the peoples, the State ensures the accessibility of schools and other educational and cultural institutions to all classes of the people.

The State pays special attention to the young and protects their education.

Schools are State-owned. The founding of private schools may be permitted only by law and their work is controlled by the State.

Elementary education is compulsory and free.

The School is separate from the Church.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[309]

Article 37

“Everyone has the right and the duty to perform socially useful work.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Dukes (United Kingdom):

“...I am referring now to the top of page (c) where it reads “Prohibition of slavery and compulsory labour”... .

“I see difficulty in making any attempts to provide or to place on a country the obligation to provide for the right to work, if that right is to be implemented only on one side. What is to happen in the case of the individual who may decline, and, assuming that he is in a state of penury? Is he to have the right to throw his economic burden upon the state without his having any obligation to the State within which he claims, alternatively either the work or the right to absent himself from work?”*

Mr. Tepliakov (USSR)

“...the principle of an obligation or duty of the citizens to work for the common purpose of the community and in the country and in the United Nations, must be provided.”**

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XIV (paragraphs 1–3)

Every person has the right to work as a means of supporting himself and of contributing to the support of his family.

Every person has the duty to work as a contribution to the general welfare of the state.

Cuba

Article 7

The right to equal opportunity with others in shaping his life, raising the standard of living, and fulfilling a useful function in society.

[*] H.R. Com. – 1st session – 14th meeting – page E/20

[**] H.R. Com. – 1st session – 14th meeting – page E/22

[310]

Panama (American Law Institute)

Article 12

Everyone has the right to work. The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity for useful work.

B. Proposals

India

I. (c)

Every human being has the right of security including the right to work. . .

United States

II. 2.

Among the categories of rights which, the United States suggests should be considered are the following:

c/ social rights such as the right to employment. . .

Section III. National Constitutions

Brazil, Constitution of

Article 145

. . . Everyone is assured work that enables a dignified existence. Work is a social obligation.

*Byelorussia, Constitution of**Articles 93 and 12*

See USSR Constitution Articles 118 and 12.

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

14th. . . No kind of labour or industry may be prohibited unless it is contrary to good usage, the public security, or public health, or as the national interest may demand and law so declare. . .

*China, Constitution of**Article 15*

The right of existence, the right of work and the right of property shall be guaranteed to the people.

*Colombia, Constitution of**Article 17*

Labour is a social obligation and shall enjoy a special protection of the State.

*Costa Rica, Constitution of**Article 52*

Labour is a social duty and enjoys the special protection of the law [311] with the purpose that in its fulfilment it gives the individual the right to a suitable existence and agrees with his abilities and aptitudes.

*Cuba, Constitution of the Republic of**Article 60*

Labour is an inalienable right of the individual. The State shall employ all the resources in its power to provide an occupation for everyone who lacks such, and shall assure the economic conditions necessary for a proper existence to every worker, manual or intellectual.

*Ecuador, Constitution of**Article 170*

Work shall be compulsory for all members of the Ecuadorian community, subject to consideration of age, sex, health, etc. . . and allowing freedom of choice. . .

Article 187

“The State shall guarantee to the inhabitants of Ecuador: . . . (10) freedom of work, trade and industry. . . no one shall be compelled to work without a contract and the corresponding remuneration. . .”

France, Constitution of

Paragraph 5 – Everyone has the duty to work and the right to obtain employment.

*Guatemala, Constitution of**Article 55*

Labour is a right of the individual and a social obligation. Vagrancy is punishable.

*Nicaragua, Constitution of**Article 97*

The possibility of earning a living by means of productive work should be procured for all inhabitants, with preference to nationals.

*Paraguay, Constitution of**Article 22*

All inhabitants of the Republic are obliged to earn their living by legitimate work.

*Poland, Constitution of**Article 102*

Paragraph 1 – Labour is the main basis of the wealth of the Republic, and should remain under the special protection of the State.

[312]

*Turkey, Constitution of**Article 70*

Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part the rights and liberties of Turkish citizens.

*Ukrainian Soviet Socialist Republic, Constitution of the**Articles 117 and 12*

See USSR Constitution Articles 118 and 12.

*Union of Soviet Socialist Republics, Constitution of the**Article 118*

“Citizens of the USSR have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

“The right to work is assured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.”

Article 12

“In the USSR work is a duty and a matter of honour for every able-bodied citizen. In accordance with the principle:

“He who does not work, neither shall he eat.”

The principle applied in the USSR is that of socialism:

“From each according to his ability, to each according to his work.”

*Uruguay, Constitution of**Article 52*

Labour is under the special protection of the law.

Every inhabitant of the Republic, without jeopardizing his liberty, has the obligation of applying his intellectual or physical energies in such form as to redound to the benefit of society, and the latter shall endeavour to offer, with preference to citizens, the possibility of earning a living by means of the development of economic activity.

Article 54

The law shall provide an impartial and equitable distribution of work.
[313]

*Yugoslavia, Constitution of**Article 32*

“It is the duty of every citizen to work according to his abilities; he who does not contribute to the community cannot receive from it.”

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[314]

Article 38

“Everyone has the right to good working conditions”.

Section I. Observations Made by Members of the Human Rights Commission

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments**A. Drafts of International Declarations**

Chile (Inter-American Juridical Committee)

Article 14 (para. 4)

The state has the duty to assist the individual in the exercise of his right to work when his own efforts are not adequate to secure employment; it must make every effort to promote stability of employment and to insure proper conditions of labour, and it must fix minimum standards of just compensation.

Cuba

Article 9

The right to work under conditions fitting to his status as a human being and to receive, in return, a remuneration in proportion to the value of his contribution to the community.

Panama (American Law Institute)

Article 13

Everyone has the right to reasonable conditions of work. The state has a duty to take such measures as may be necessary to insure reasonable wages, hours, and other conditions of work.

B. Proposals

India – No provision

United States

II 2. c/

Among the categories of rights which, the United States suggests should be considered are the following:

c/ social rights such as the right to employment and social security and the right to enjoy *minimum standards of economic social and cultural well-being*.¹⁵⁸

Section III. National Constitutions

Bolivia, Constitution of

Article 121

Work and capital, as factors of production, enjoy the protection of the State.

Article 125

Free professional and trade union association is guaranteed and the collective bargaining contract is recognized.

[315]

Article 126

The right to strike, according to law, is recognized as a means of defence for labourers.

Article 127

The law shall determine the system of participation of employees and workers in the profits of concerns.

Article 129

The rights and benefits recognized by law in favour of labourers and employees may not be renounced. Agreements to the contrary or which tend to contravene its effects are void.

Brazil, Constitution of

Article 157

Labour legislation and that of social welfare shall obey the following precepts, in addition to others aiming to improve the conditions of workers:

- 1st. A minimum wage capable of satisfying, in conformity with the conditions of each region, the normal needs of the worker and his family.
- 3rd. A wage for night work higher than that for day work.
- 5th. Daily work not exceeding eight hours, except in the cases and conditions provided by law.
- 8th. Sanitation and safety of labour.
- 9th. Prohibition of work for minors under fourteen years of age; of work in unhealthy industries, for women and for minors under eighteen years of age; and of

¹⁵⁸ The emphasis is in the original.

night work, for minors under eighteen years of age; respecting, in every case, the conditions established by law and the exceptions granted by a competent judge.

13th. Recognition of collective labour agreements.

Article 158

The right to strike is recognized, the exercise of which the law shall regulate.

Chile, Constitution of

Article 10

The Constitution insures to all the inhabitants of the Republic:

14th. Protection of labour, industry, and the works of social welfare. . .
[316]

The state, in order to improve the livelihood of labourers and farmers and to increase their productive technical skill, shall enact laws and carry out the policy of their protection.

Women and children engaged in labour, shall, according to their age and physical condition, be accorded special protection.

Costa Rica, Constitution of

Article 53

All manual or intellectual labour has the right to a minimum wage or salary that shall cover the material, moral, and cultural necessities of his home, and that shall be fixed periodically, with reference to the nature of his work and to the particular condition of each region and of each activity, intellectual, industrial, commercial, stock-raising, or agricultural.

Article 54

The regular working period shall not exceed eight hours in the daytime, six hours at night, and forty-eight hours a week. Work for additional hours shall be remunerated with fifty percent more of the stipulated wage or salary. Nevertheless, these provisions shall not be applied in exceptional cases, very limited, determined by law.

Article 56

The right of employers to the lockout and of workers to the strike is recognized, except in the public services, in accordance with the specification that the law makes regarding them and in conformity with the regulations that the law itself establishes, which must disavow all acts of coercion or violence.

Article 57

Collective labour agreements and contracts that are negotiated in accordance with the law between employers and legally organized workers' unions shall have the force of law.

Article 60

Every employer must adopt conditions necessary for hygiene and the [317] safety of the worker in his enterprise.

Article 64

There shall be a special jurisdiction of labour for the better solution of conflicts that may arise in the relations between employers and workers. All labour tribunals shall be subordinate to the judiciary and the law shall determine their number and organization; in greater part they shall be composed of a representative of the State, who shall preside over them, and of a representative of the employers, and another of the workers.

*Cuba, Constitution of the Republic of**Article 61*

Every worker, manual or intellectual, in public or private enterprise of the State, Province, or municipality shall have a guaranteed minimum salary or wage, which shall be determined in keeping with the conditions of each region and the normal necessities of the worker, from material, moral, and cultural considerations, and considering him as the head of the family.

The law shall establish the manner of periodically regulating the minimum salaries or wages by means of committees with equal representation for each branch of labour, according to the standards of living, the peculiarities of each region, and each individual, commercial, or agricultural activity.

In labour performed by the complete task, it shall be obligatory that the minimum wage for a day's work be reasonably assured.

The minimum of all salaries or wages is unattachable, except in case of responsibility [sic] for payment of allowances in support of other persons in the form that the law may establish. The tools of labour belonging to workers are also unattachable.

Article 68

No wage differential may be established between married women and single women.

The law shall regulate the protection of motherhood of working women, [318] extending this protection to women who are employed.

A pregnant woman may not be separated from her employment within three months before childbirth, or be required to do work that may require considerable physical effort.

During the six weeks immediately preceding childbirth and the six weeks following, a woman shall enjoy obligatory vacation from work on pay at the same rate, retaining her employment and all the rights pertaining to such employment and to her labour contract. During the nursing period, two extraordinary daily rest periods of a half hour each shall be allowed her to feed her child.

Article 66

The maximum working day shall not exceed eight hours. This maximum may be reduced to six hours a day for persons more than fourteen and less than eighteen years of age.

The maximum working week shall be forty-four hours, equivalent to forty-eight hours in pay, with the exception of industries which, because of their nature, must carry on uninterrupted production within a certain period of the year, until the specific regulation in these exceptional cases is determined by law.

Labour and apprenticeship is prohibited to persons less than fourteen years of age.

Article 71

The right of workers to strike and the right of employers to the lockout is recognized, in conformity with the regulations that the law may establish for the exercise of both rights.

Article 72

The law shall regulate the system of collective contracts of labour, the fulfilment of which shall be obligatory for both employers and workers.

Stipulations implying renunciation, diminution, impairment, or relinquishment of any right in favour of the worker that is recognized in this Constitution or in the law, even if expressed in a labour contract or [319] in any other pact, shall be null and shall not obligate the contracting parties.

Article 77

No enterprise may discharge a worker except for good reason and with the other formalities that the law which determines the just causes for dismissal shall establish.

Article 78

The employer shall be responsible for compliance with the social laws, even when labour is contracted by an intermediary agency.

In all industries and kinds of labour in which technical knowledge is required, apprenticeship shall be obligatory in the form that the law may establish.

Article 83

The law shall regulate the manner in which factories and shops may be transferred for the purpose of avoiding debasement of the conditions of labour.

Article 84

Problems arising from the relations between capital and labour shall be submitted to committees of conciliation, composed of equal representation of employers and workers. The law shall stipulate the judicial officials who shall preside over the said committees, and the national tribunal before which their decisions are appealable.

Article 85

In order to assure compliance with social legislation, the State shall provide for the supervision and inspection of enterprises.

Ecuador, Constitution of

Article 185

The State shall see that justice is done in relations between employers and workers, that the dignity of the worker is respected, that he is ensured a decent existence and given fair wages to meet his personal and family requirements. . .

(e) the maximum working day shall be eight hours. . .

Night work shall be paid overtime, and may not be performed by women or [320] minors under eighteen years of age. For underground work, the maximum daily time shall be six hours and the total working day shall in no case exceed seven hours.

(m) in order to safeguard the health and lives of the workers, hygiene and safety measures shall be prescribed.

France, Constitution of

Paragraph 7

The right to strike is exercised within the framework of the laws that govern it.

Paragraph 8

Every worker, through this delegates, participates in collective bargaining on working conditions as well as in the management of business.

*Haiti, Constitution of**Article 19*

Every worker has the right to participate through his representatives in the collective settlement of working conditions. Every worker has the right to rest and leisure.

Even man has the right to defend his interests by collective action. Each individual may join the trade union pertaining to his professional activities, or may refrain from doing so.

Annual leave with pay is compulsory.

*Honduras, Constitution of**Article 191*

The maximum obligatory day's work for wages shall be eight hours. For each six days of work there shall be one of rest.

Article 192

Unhealthful or dangerous work is prohibited, and industrial night work for women and for minors under sixteen years of age. Said persons shall not work in commercial establishments after six o'clock in the afternoon.

Article 193

The work of minors under twelve years of age shall not be the object of contract, and that of those over that age and less than sixteen years of age [321] shall have a maximum day's work of six hours.

Article 195

Large industrial concerns are obliged to establish hospitals in the place of their activities to attend to the accidents or illness of their operatives.

*Mexico (United Mexican States), Constitution of**Article 123*

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and in a general manner, to all labour contracts without contravening the following basic principles:

- 1st. The maximum duration of work for one day shall be eight hours.
- 2nd. The maximum length of night work shall be seven hours. Unhealthy or dangerous work is forbidden for women in general and for young persons less than sixteen years of age. Industrial night work is also forbidden for

these two classes; and they may not work in commercial establishments beyond ten o'clock at night.

3rd. Young persons more than twelve and less than sixteen years of age shall have six hours as a maximum day's work. The labour of children under twelve years of age is not subject to contract.

11th. When, because of extraordinary circumstances, the regular working hours during a day are increased, one hundred percent shall be added to the amount paid for the normal hours of work as compensation for the extra time worked. Overtime work shall never exceed three hours daily, nor shall it occur three times consecutively. Youths under sixteen years of age and women of any age may not be admitted to this class of labour.

Article 123

The Congress of the Union shall formulate labour laws, which shall apply to workers, day labourers, office holders, domestics, and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles: [322]

12. In all agricultural, industrial, or mining business or in any other kind of enterprise, employers shall be obliged to furnish workingmen comfortable and hygienic living quarters for which they may collect rent that shall not exceed one-half percent monthly of the assessed valuation of the property. They also must establish schools, hospitals, and any other services necessary to the community. If the enterprises are situated within towns and furnish employment for more than one hundred workers, they shall be responsible for the first of the above obligations.

17th. The laws shall recognize strikes and lockouts as rights of the workingmen and employers.

18th. Strikes shall be legal when they have as their purpose the attaining of equilibrium among the various factors of production, harmonizing the rights of labour with those of capital. It shall be obligatory in public services for the employees to give ten days' notice to the board of conciliation and arbitration of the date agreed upon for the suspension of work. Strikes shall be considered illegal only when the majority of the strikers engage in acts of violence against persons or property, or in case of war, when those acts are committed against establishments and utilities of the Government. Workers in governmental military factories of the Republic are not included in the provisions of this fraction, because they are assimilated into the national army.

Article 123

19th. Lockouts shall be legal only when an excess of production make it necessary to suspend work to maintain prices at an approximate level with costs, and with the previous approval of the board of conciliation and arbitration.

20th. The differences or conflicts between capital and labour shall be subject to the decision of a board of conciliation and arbitration, formed by an equal number of representatives or workingmen and employers, with one from the government.

[323]

21st. Should the employer refuse to submit his differences to arbitration or to accept the decision rendered by the board, the labour contract shall be considered terminated and he shall be obliged to indemnify the workers in the amount of three months' wages and shall incur the liability resulting from the conflict; should this refusal be on the part of the workers, the labour contract shall be considered terminated.

22nd. The employer who dismisses a worker without justifiable cause or because he has entered an association or union, or for having taken part in a legal strike, shall be obliged, at the choice of the worker, either to complete the contract or to indemnify him in the amount of three months' wages. He shall also be bound by this obligation when the worker retires from work because of lack of honesty on the part of the employer or because he received bad treatment from him, whether it be to his person, or that of his wife, parents, children, or brothers. The employer may not excuse himself from this responsibility when the bad treatment is due to his subordinates or servants who may work with his consent or permission.

Article 123

23rd. Credits in favour of workers for salary or wages earned in the last year, and for indemnifications, shall have preference over all other obligations in case of cession of property or bankruptcy.

24th. The worker alone shall be responsible for debts contracted by himself payable to his employer, his associates, members of his household, or dependents, and in no case and for purpose may payment be exacted from members of the worker's family, nor are said debts payable for an amount exceeding the salary of the employee for one month.

25th. The services of employment placement for workers shall be gratuitous, whether such services be performed by municipal offices, labour exchanges, or any other official or private institution.

*Nicaragua, Constitution of**Article 98*

Labour in its diverse forms, industry, and works of charity and social [324] welfare are under the protection of the law.

Article 100

The law recognizes the following rights of workers and employees:

- 4th. A minimum wage based on the cost of living and the conditions and the needs of the different regions and capable of assuring the worker a state of wellbeing compatible with human dignity.
- 5th. The payment of all wages within the period fixed in the contract, in national legal money, on a working day, and at the place where the worker is engaged in that work, with the prohibition of payment of merchandise, vouchers, counters, or any other substitute for money.
- 6th. The payment of daily wages within periods no greater than a fortnight.

*Mexico (United Mexican States), Constitution of**Article 100*

- 11th. Prohibition of attachment of minimum wages.
- 8th. Regulation of the work of women and children.

Article 102

Tribunals of conciliation will be established for the resolution in equitable form of the differences that may arise between employment and workers.

*Panama, Constitution of the Republic of**Article 63*

Labour is a right and a duty of the individual. The State will employ the resources that are within its ability to provide employment to all who may lack it and to assure to every worker the economic conditions necessary to a decent existence.

Article 64

A minimum salary or wage is guaranteed to every worker in the service of the State or of public or private enterprises or of private individuals.

Article 65

The law will establish the manner of periodically adjusting the minimum salary or wage for the purpose of improving the standard of living of the worker and with

attention to the peculiarities of each region and of each industrial, commercial, or agricultural activity.

It is obligatory that in work by contract or lump payment the minimum [325] wage for a working day remain assured.

The minimum of every wage or salary is unattachable, except for obligations for food in the form that the law establishes. Working tools of labourers are also unattachable.

Article 66

Any equal salary or wage always belongs to equal work, under identical conditions whoever may be the persons who perform it, without distinction of sex or nationality.

Article 68

The right of strike and of lockout is recognized. The law will regulate its exercise and may subject it to special restrictions in the public services that it determines.

Article 69

The maximum working day is of eight hours and the working week up to forty-eight hours. Maximum night work will not be greater than seven hours. Extra hours will be remunerated with overtime.

The maximum working day may be reduced to six hours daily for those more than fourteen and less than eighteen years of age. Work by those less than fourteen and night work by those less than sixteen years of age is prohibited, save for the exceptions that the law establishes. The employment of minors up to twelve years of age in the status of domestic servants and work by minors and by women in unhealthful occupations is similarly prohibited.

Article 70

Stipulations that imply renunciation, diminution, corruption, or relinquishment of any right recognized in favour of the worker are null and, therefore, do not oblige the contracting parties, even though they may be expressed in a labour contract or any other pact. The law will regulate everything relative to the labour contract.

Article 75

A labour jurisdiction is established, to which shall be submitted all [326] controversies that originate in the relations between capital and labour. The law will

establish the standards belonging to said jurisdiction and the entities that put it into practice.

Article 76

Relations between capital and labour are matters for the regular law, arranging them on a basis of social justice in a manner that, without injuring any of the parties, the conditions necessary for a normal life are guaranteed to the worker, and to capital a compensation equitable to its investment.

Paraguay, Constitution of

Article 14

In order to assure to every worker a standard of living compatible with human dignity, the system of contracts of labour and social insurance, and the conditions of safety and hygiene of buildings, shall be under the watchful and critical supervision of the State. The exploitation of man by man is outlawed. . .

Peru, Constitution of the Republic of

Article 43

The State shall legislate upon the collective bargaining of labour.

Article 45

The State shall favour a system of participation by employees and workers in the benefits of enterprises, and shall legislate upon other aspects of the relations between capital and labour, and upon the protection of employees and workers in general.

Articles 46

The State shall legislate upon the general organization and the safeguards of industrial labour and upon the guarantees for life, health, and hygiene as related to it. The maximum conditions of labour, the compensation for services and for accidents, as well as for minimum salaries in relation to age, sex, the nature of the work, and the conditions and necessities of the various regions of the country, shall be regulated by law.

Philippines, Constitution of the

Article XIV, Section 6

The State shall afford protection to labour, especially to working [327] women and minors, and shall regulate the relations between landowner and tenant,

and between labour and capital in industry and in agriculture. The State may provide for compulsory arbitration.

Poland, Constitution of

Article 102

Labour is the main basis of the wealth of the Republic, and should remain under the special protection of the state.

Every citizen has the right to state protection for his labour. . .

Article 103

Children under fifteen years of age may not be wage earners; neither may women be employed at night, or young labourers be employed in industries detrimental to their health.

Uruguay, Constitution of

Article 53

The law shall recognize the independence of the moral and civic conscience of those who may be in a relation of labour or service as working men or employees and shall provide for their just remuneration, the limitation of their working hours, their weekly rest, and their physical and moral hygiene.

The work of women and of minors under eighteen years of age shall be especially regulated and limited.

Article 56

The law shall promote the organization of trade unions, granting them franchises and enacting standards for the recognition of their juridical personality.

It shall promote, furthermore, the creation of tribunals of conciliation and arbitration.

It is here declared that the strike is a right of trade unions. Its methods and practice shall be regulated on this basis.

Yugoslavia, Constitution of

Article 20

By economic and other measures the State assists the people to associate and organize themselves for their protection against economic exploitation.

The State protects persons who are engaged as workers or employees [328] especially by assuring them the right of association, by limiting the working day,

by ensuring the right to paid annual holidays, by controlling working conditions, by devoting attention to housing conditions and social insurance.

Minors in employment enjoy the special protection of the State.

**Section IV. Draft International Declarations
Presented by Non-Governmental Organizations in Category A**

American Federation of Labor

Article 3

The right to organize and work for a constantly more equitable distribution of the national income and wealth and the right to strive for the enhancement of the moral and material wellbeing of the people – for better health and security against the ravages of unemployment, accidents, sickness and old age – are to be considered inalienable.

Article 4

Raise labour standards throughout the world. There is no more effective way of stimulating the revival of reproduction and the international expansion of markets than by increasing the purchasing power of the great mass of people in every country.

[329]

Article 39

“Everyone has the right to such equitable share of the national income as the need for his work and the increment it makes to the common welfare may justify.”

**Section I. Observations Made by Members of the
Human Rights Commission**

- None -

**Section II. Drafts of International Declarations or
Proposals Submitted to the Commission by Governments**

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article VIII (paragraph 2)

The State has the duty to co-operate in assisting the individual to attain in minimum standard of private ownership of property based upon the essential

material needs of a decent life, looking to the maintenance of the dignity of the human person and the sanctity of home life.

Cuba

Article 9

The right to work under conditions fitting to his status as a human being and to receive, in return, a remuneration in proportion to the value of his contribution to the community.

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Bolivia, Constitution of

Article 10

The economic system must correspond essentially to the principles of social justice that tend to secure for all inhabitants a standard of living proper for a human being.

Brazil, Constitution of

Article 157

[330]

4th. Obligatory and direct participation of the worker in the profits of concerns, under the terms and in the form determined by law.

Article 145

The economic order shall be organized in conformity with principles of social justice, conciliating the liberty of initiative with the value of human labour. . .

Byelorussia, Constitution of

Article 93

See Union of Soviet Socialist Republics Constitution, Articles 118 and 12.

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

14th. . . The State shall incline toward the suitable division of estates and the creation of family holdings. . .

*Guatemala, Constitution of**Article 57*

. . . “The fundamental principles of the organization of labour. . . are:

. . . 15th. The conditions of safety and hygiene in which work shall be undertaken. Regulations and provisions for hygiene and health shall be strictly observed in working establishments. Employees are obliged to adopt proper measures to protect their workers against accidents in the use of machinery, instruments, and materials of labour.”

*Mexico (United Mexican States), Constitution of the**Article 123*

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles:

- 4th. The minimum compensation that should be received by a working man shall be what is considered sufficient, in view of the conditions of each region, to satisfy the normal needs of his life, his education, and his honest pleasures, considering him as the head of the family. In every agricultural, commercial, manufacturing or mining enterprise, the workers shall have the right to a participation in the profits, that shall [331] be regulated as indicated in Fraction IX (*i.e.*, 9th Clause, below). . . .
- 8th. The minimum wage shall be exempt from attachment, compensation, or discount.
- 9th. The establishment of a minimum wage and participation in profits, referred to in Fraction VI (*i.e.*, 6th Clause, above) shall be made by special committees, that, shall be formed in each municipality, subordinate to the central board of conciliation and arbitration that shall be established in each state. In the absence of these committees, the minimum wage shall be fixed by the respective central board of conciliation and arbitration.

*Paraguay, Constitution of**Article 15*

The State shall regulate the national economic life... The State may, with indemnification, nationalize the public services, and may monopolize the production, circulation, and sale of articles of primary necessity.

*Ukrainian Soviet Socialist Republic, Constitution of the**Article 117*

See Union of Soviet Socialist Republic Constitution, Articles 118 and 12.

Union of Soviet Socialist Republics, Constitution of the Article 118

“Citizens of the Union of Soviet Socialist Republics have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.”

“The right to work is assured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.”

Article 12

“In the Union of Soviet Socialist Republics work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle:

‘He who does not work, neither shall he eat.’

The principle applied in the Union of Soviet Socialist Republics is that of socialism: ‘From each according to his ability, to each according to his work.’”

[332]

*Yugoslavia, Constitution of**Article 32*

“It is the duty of every citizen to work according to his ability; he who does not contribute to the community cannot receive from it.”

**Section IV. Draft International Declarations by Non-Governmental
Organizations in Category A**

American Federation of Labor

Article 3

... The right to strive for the enhancement of the moral and material wellbeing of the people – for better health and security against the ravages of unemployment, accidents, sickness and old age – are to be considered inalienable.

[333]

Article 40

“Everyone has the right to such public assistance as may be necessary to make it possible for him to support his family.”

**Section I. Observations Made by Members of the
Human Rights Commission**

Mr. Lebeau (Belgium):

“... the right to economic security and a sufficient security to insure independence and the stability of family life. Therefore, this does not overlap with the elements of social security which we have here.”

**Section II. Drafts of International Declarations or Proposals Submitted to the
Commission by Governments**

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article X (paragraph 4)

It is the duty of the state to assist parents in the maintenance of adequate standards of child welfare within the family circle, and to promote as far as possible the ownership of individual homes as a means of fostering better family relations.

Cuba

Article 10

The right to receive adequate maintenance in the event of unemployment, sickness or chronic illness, to meet his own and his family’s material and spiritual needs.

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Bolivia, Constitution of

Article 134

Defence of the physical, mental, and moral health of infancy is the prime duty of the State. The State defends the rights of the child to [334] a home, to education, and to ample assistance when it is abandoned, sick, or in trouble. The State shall commit the fulfilment of the provisions of this article to adequate technical organizations.

Article 131

Matrimony, the family, and maternity are under the protection of the law.

Article 133

The laws shall organize the family patrimony so that it cannot be seized.

Brazil, Constitution of

Article 164

Assistance to motherhood, to infancy, and to adolescence is obligatory in all of the national territory. The law shall provide assistance to families with numerous offspring.

Chile, Constitution of

Article 10

The Constitution insures to all the inhabitants of the Republic:

14th. . . and economic conditions of living in a form to give to each inhabitant a minimum of wellbeing adequate for the satisfaction of his personal necessities and those of his *family*. . .

China, Constitution of

Article 156

The state, in order to secure the foundation of national existence and development, shall protect motherhood and carry out the policy of promoting the welfare of women and children.

*Colombia, Constitution of**Article 19*

Public relief is a function of the State. Those lacking means of subsistence and without the right of demanding it from other persons, and those physically incapacitated for work, should be aided.

The law shall determine the form of administering relief and the cases in which it should be given directly by the State.

*Costa Rica, Constitution of**Article 51*

The State will work for the greatest wellbeing of Costa-Ricans, protecting in a special way the family, the basis of the Nation; [335] assuring aid to mothers, children, the aged, and the destitute ill, and organizing and stimulating production and the most adequate distribution of wealth.

*Cuba, Constitution of**Article 45*

Budgets, insurance, and social assistance shall be employed in accordance with standards of protection for the family, established in this Constitution.

*Czechoslovakia, Constitution of**Article 126*

Wedlock, family and motherhood shall be under the special protection of the law.

*Denmark, Constitution of**Article 82*

Any person who is unable to maintain himself or his family, and whose maintenance is not incumbent on any other person is entitled to the assistance of the public authorities, subject, however, to his observing the obligations which the law prescribes in this connection.

*Ecuador, Constitution of**Article 185*

(c) the state shall . . . establish family allowances. . .

Article 162

The State shall provide maternity assistance and protect mother and child, without regard to antecedents.

The State shall make adequate arrangements for the protection and development of children under fourteen years of age who lack family and economic protection.

Article 185

(j) working mothers shall be subject to particular care. Women in pregnancy shall not be obliged to work during the period prescribed by law, before and after birth, but shall be entitled to full remuneration. In addition, nursing mothers shall be allowed the necessary time off work for feeding their children.

(k) work shall be prohibited for minors under fourteen, except as prescribed by law, and regulations shall be established for the employment of minors under eighteen. . .

[336]

France, Constitution of

Paragraph 10

The nation assures to the individual and to the family the conditions necessary to their development.

Guatemala, Constitution of

Article 57

. . . Fundamental principles of the organization of labour. . . are:

. . . 2nd. The periodic fixation of the minimum wage that workers of all classes must receive, paying attention to. . . their obligations as heads of families. . .

Article 72

The family, maternity, and matrimony have the protection of the State. . .

Article 78

Fathers of poor families, with six or more minor children, shall receive special protection from the State. In circumstances of equal competence, they shall enjoy preference in the discharge of public positions.

Article 57

. . . The law shall regulate the protection of maternity among working women, from whom no work requiring considerable physical exertion may be demanded during the three months previous to childbirth. Working mothers shall enjoy a remunerated obligatory rest for one month before and forty-five days after childbirth; in the time of lactation they have the right to two daily periods of special rest, of one-half hour each for feeding the child.

*Honduras, Constitution of**Article 197*

The family, as the basis of society, shall be under the protection of the State.

Consequently, the State shall provide for the organization of its patrimony, for effective aid to maternity, and protection to minors.

[337]

*Mexico (United Mexican States), Constitution of**Article 123*

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and in a general manner, to all labour contracts without contravening the following basic principles:

5th. During the three months previous to parturition, women shall not perform physical labour that requires excessive material effort. In the month following childbirth they shall necessarily enjoy the benefit of rest and shall receive their entire salary and retain their employment and the rights that they may have acquired through the labour contract. In the period of lactation, they shall have two special periods of rest each day, of one-half hour each, to nurse their infants.

*Netherlands, Constitution of the**Article 196*

Poor relief shall be an object of constant solicitude on the part of the Government, and shall be regulated by law.

*Nicaragua, Constitution of**Article 77*

Matrimony, the family, and maternity are under the protection and defence of the State.

Article 79

The State and the municipalities will safeguard the health and social betterment of the family.

Article 81

The education of the offspring is the first duty and natural right of parents with respect to their children, in order that the latter may reach the best physical, intellectual, and social development.

Parents without economic resources to assist them have the right to apply for aid to the State for the education of their offspring.

Article 82

The State will procure the grant of special subsidies for families with numerous children.

[338]

Panama, Constitution of

Article 55

Patrimony is the legal foundation of the family, resting on the equality of rights of the spouses, and it may be dissolved in accordance with the law.

Article 54

The State protects matrimony, maternity, and the family and guarantees the rights of the child up to his adolescence. The law will determine what relates to the civil status.

Article 60

The State will watch over the social and economic development of the family and will organize the family patrimony, determining the nature and amount of the property that must constitute it, on the basis that it is inalienable and unattachable.

Article 61

The State will provide breeding and education to minors whose parents or guardians are economically incapacitated to do it or who lack relatives obliged to provide it for them.

Paraguay, Constitution of

Article 11

Care for the health of the population, and social assistance, as well as the moral, spiritual, and physical education of youth, are fundamental duties of the State.

Peru, Constitution of

Article 51

Marriage, the family, and maternity are under the protection of the law.

*Poland, Constitution of**Article 103 (paragraph 3)*

Special statutes determine the protection of motherhood.

*Uruguay, Constitution of**Article 39*

The State shall safeguard the social developments of the family.

Article 40

... Those who may have numerous offspring in their charge have the right to compensating assistance provided they need it for them.

[339]

... Concerning maternity, whatever may be the condition or class of a woman, she has the right to the protection of society and to assistance in case of need.

Article 48

Family, welfare, its foundation, preservation, enjoyment, and transmission, shall be the purpose of special protective legislation.

*Yugoslavia, Constitution of**Article 26 (paragraph 1)*

Matrimony and the family are under the protection of the State. The State regulates by law the legal relations of marriage and the family.

Article 24 (paragraph 3)

The State especially protects the interests of mothers and children by the establishment of maternity hospitals, children's homes and day nurseries and by the right of mothers to a leave with pay before and after childbirth.

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[340]

Article 41

“Everyone has the right to social security. The State shall maintain effective arrangements for the prevention of unemployment and for insurance against the

risks of unemployment, accident, disability, sickness, old age and other involuntary or undeserved loss of livelihood.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XVI

Every person has the right to social security.

The state has the duty to assist all persons to attain social security. To this end the state must promote measures of public health and safety and must establish systems of social insurance and agencies of social co-operation in accordance with which all persons may be assured an adequate standard of living and may be protected against the contingencies of unemployment, accident, disability and ill-health and the eventuality of old age.

Every person has the duty to co-operate with the state according to his powers in the maintenance and administration of the measures taken to promote his own social security.

Cuba

Article 10

The right to receive adequate maintenance in the event of unemployment, sickness or chronic illness, to meet his own and his family’s material and spiritual needs.

Panama (American Law Institute)

Article 15

Everyone has the right to social security.

The state has a duty to maintain or insure that there are maintained comprehensive arrangements for the promotion of health, for the prevention of sickness and accident, and for the provision of medical care and of compensation for loss of livelihood.

B. Proposals

India

I. c/

Every human being has *the right of security* including the right to work, the right to education. . .

[341]

United States

2. c/

Among the categories of rights which the United States suggests should be considered are the following:

. . . c/ social rights such as the right to employment and *social security*. . .

Section III. National Constitutions*Bolivia, Constitution of**Article 130*

Social aid is a function of the State. The law shall delimit the conditions of this assistance. Sanitation is of a coercive and obligatory character.

Article 122

The law shall regulate obligatory insurance for sickness, accidents, involuntary unemployment, physical disability, old age, maternity, and death, eviction from lodgings and indemnification to working men and day labourers, the work of women and minors, the maximum number of working hours, minimum wage, rest on Sundays and holidays, medical and perpetual vacations with pay, medical and hygienic care, and other social benefits for the protection of workers.

*Brazil, Constitution of**Article 157*

16th. Social security, by means of contribution from the Union, from the employer, and from the employee, for the benefit of motherhood, and against the consequences of old age, invalidity, illness and death.

15th. Assistance to the unemployed.

12th. Security of employment, in concerns or in rural developments, and indemnification of the dismissed worker, in the cases and under the conditions that the law may establish.

10th. The right of an expectant mother, to rest before and after childbirth, with no prejudice to her job or wage.

China, Constitution of

Article 152

The State shall provide opportunity of employment to people who are capable of work.

[342]

Article 155

The State, in order to promote social welfare, shall enforce a social insurance system. To the aged, the infirm and crippled among the people who are unable to earn a living, and to victims of unusual calamities, the State shall extend appropriate assistance and relief.

Costa Rica, Constitution of

Article 63

Social insurance for the benefit of manual and intellectual workers is established, regulated by a system of compulsory triple contributions by the State, by the employer, and by the worker, for the purpose of protecting the latter against the hazards of illness, invalidity, maternity, old age, death, and other contingencies determined by law. . .

Cuba, Constitution of the Republic of

Article 65

Social insurance benefits are established as irrenounceable and imprescriptible of workers, with the equitable co-operation of the State, the employers, and the workers themselves, for the purpose of protecting the latter in an effective manner against illness, old age, unemployment, and the other exigencies of labour, in the form that the law may determine. The rights of old-age pensions and death benefits are likewise established.

The administration and governing of the institutions to which the first paragraph of this article refers shall be the duty of organizations elected with equal representation by employers and workers, with the participation of a representative of the State, in the form determined by law, except in the case of that created by the State for the bank of social insurance.

Insurance covering accidents of work and for occupational diseases, at the exclusive expense of the employer and under the control of the State, is declared equally obligatory.

Social insurance funds or reserves may not be transferred, and may not be used for any purposes other than those that determined their creation.

[343]

Article 80

Charitable institutions of the State, Province, and municipality shall offer services of a gratuitous character only to the poor.

Dominican Republic, Constitution of

Article 6

2. Freedom of labour, prohibiting, consequently, the establishment of monopolies for the benefit of private persons. The law may, as the general interest may require, establish the maximum working day, days of rest and vacation, minimum wages and salaries and their methods of payment, social insurance, preponderant participation of nationals in all labour, and, in general, all the measures of protection and assistance of the State that are considered necessary in support of the workers.

Ecuador, Constitution of

Article 174

It shall also be the duty of the State:

- (a) to provide work for the unemployed. . .

Article 188

With respect to Ecuadorians, the following special guarantees shall be established:

(3) the right of State assistance to invalids lacking means of subsistence, if they are unable to procure them by working and there is no person legally bound and able to provide for them. . .

France, Constitution of

Paragraph 11

It guarantees to all, and notably to the child, to the mother and to the aged workers protection, for health, material security, rest and leisure.

Paragraph 12

Every human being who, by reason of his age, physical, or mental condition, or economical situation, finds himself incapable of work has the right to obtain from the community the means of decent living.

Paragraph 13

The nation proclaims the solidarity and equality of all French citizens with regard to the burden resulting from national calamity.

[344]

*Guatemala, Constitution of**Article 22*

It is the function of the State to conserve and improve the general conditions of the Nation, to procure the wellbeing of its inhabitants and to increase wealth by means of the creation and development of institutions of credit and social welfare.

Article 57

The fundamental principles of the organization of labour are:

14th. The means of . . . social welfare necessary for workers. . .

Article 63

Obligatory social insurance is established. . .

It should include at the least, insurance against invalidity, old age, death, illness, and industrial accidents. . .

Article 57

The State will employ the resources that are within its ability to provide employment to all who may lack it.

*Honduras, Constitution of**Article 191*

A law on accidents during work shall establish the responsibilities of the employer and the conditions under which they shall become effective.

*Iceland, Constitution of**Article 70*

Anyone who is unable to support himself or his family, and whose maintenance is not the obligation of another person, is entitled to receive relief

from public funds, but shall in this case be subject to such obligations as the law prescribes.

United Mexican States, Constitution of the

Article 123

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles:

14. Employers shall be responsible for labour accidents and for occupational diseases of workers, contracted because of, or in the exercise of, [345] the profession of work that they perform; therefore, the employers shall pay the corresponding indemnification whether death or only temporary or permanent incapacity to work has resulted, in accordance with what the laws determine. This responsibility shall exist even in the case in which the employer contracts for the work through an intermediary.
15. The employer shall be obliged to observe, in the installation of his establishments, the legal regulations on hygiene and health, and to adopt adequate measures for the prevention of accidents in the use of machines, instruments, and the materials of labour, as well as to organize the same in such a manner as to insure the greatest possible guarantee for the health and safety of the workers compatible with the nature of the work, under the penalties established by law in this respect.
29. The passage of the law of social security shall be considered of public interest and it shall include security against disability, of life, from involuntary stoppage of work, against sickness and accidents, and others with analogous purposes.

Nicaragua, Constitution of

Article 80

Maternity has the right of assistance from the State.

Article 100

The law recognizes the following rights of workers and employees:

7. Indemnification of accidents of labour in the cases and form determined by law
9. Medical and hygienic assistance to the worker and to the pregnant woman, assuring the latter, without loss of income, a period of rest before and after childbirth.

Article 104

The State will procure the creation of a national institution of social insurance.

Article 105

The law will regulate the form of establishing an insurance fund in favour of wage earners, through reasonable agreement of the beneficiary and the [346] employer, to cover the risks of sickness, invalidity, old age, and unemployment.

*Panama, Constitution of the Republic of**Article 62*

Abandoned physically or mentally deficient, wayward, or delinquent minors are subject to special legislation for supervision, rehabilitation and protection.

Article 71

Maternity in the working class is protected. The woman in a state of pregnancy may not be separated from her employment for this reason. During the six weeks that precede childbirth and the eight that follow it she shall enjoy an obligatory rest, remunerated in the same manner as her work, and she will retain her employment and all the rights belonging to her contract.

Article 93

Every individual has the right to the security of his economic means of subsistence in case of incapacity for working or obtaining remunerated work. Services of social insurance will be given and administered by autonomous entities and will cover cases of illness, maternity, family subsidies, old age, widowhood, orphanage, forced suspension of work, labour accidents, and occupational illnesses, and all other contingencies that may affect the capacity to work and consume. The law will provide for the establishment of such services in the measure that social necessities may require it.

The State will create institutions of social assistance and welfare. The economic and moral rehabilitation of dependent sectors, and attention to the mentally incapacitated, the chronic infirm, and invalids lacking economic resources are fundamental tasks of these.

The State will promote, furthermore, the establishment of cheap dwellings for workers.

*Paraguay, Constitution of**Article 14*

... In order to assure to every worker a standard of living compatible with human dignity, the system of contracts, of labour and social insurance, and the conditions of safety and hygiene of buildings, shall be under the watchful [347] and critical supervision of the State.

*Peru, Constitution of the Republic of**Article 48*

A system providing for the economic consequences of unemployment, age, illness, disability, and death shall be established by law. The law shall encourage institutions of social solidarity, establishments for savings and insurance, and co-operatives.

*Poland, Constitution of**Article 102*

Paragraph 2. Every citizen has the right to State protection for his labour, and in case of lack of work, illness, accident, or disability, to the benefits of social insurance which will be determined by a special statute.

*Union of Soviet Socialist Republics, Constitution of**Article 118*

... The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises and the abolition of unemployment.

Article 120

Citizens of the Union of Soviet Socialist Republics have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive development of social insurance of workers and employees at state expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

*Uruguay, Constitution of**Article 45*

The State shall care for indigents or those lacking sufficient resources who, because of chronic physical or mental inferiority, are incapacitated for work.

Article 54

The law shall provide an impartial and equitable distribution of work.
[348]

Article 58

General retirement funds and social security measures shall be organized in such form as to guarantee to all workingmen, employers, employees, and day labourers adequate retirement pensions and subsidies for cases of accident, sickness, incapacity, enforced unemployment, *etc.*; and in case of death, a corresponding insurance payment to their families.

An old-age pension is the right of one who has reached the limit of a productive age after long residence in the country, if he lacks resources to provide for his vital needs.

Yugoslavia, Constitution of

Article 20

Paragraph 2. The State protects persons who are engaged as workers or employees especially by assuring them the right of association, by limiting the working day, by ensuring the right to paid annual holidays, by controlling working conditions, by devoting attention to housing conditions and social insurance.

Article 35

The State ensures disabled ex-service men a decent living and free occupational training. The children of fallen soldiers and of war-victims are under the special care of the State.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor

Article 3

The conditions of work under modern large-scale industry make it especially necessary for the working people to have an effective system of social legislation which will provide minimum wages; maximum working hours; guarantee against the employment of child labour; adequate medical care; accident, unemployment and old-age insurance and other such vital measures making for effective social security of the population.

[349]

Article 42

“Everyone has the right to good food and housing and to live in surroundings that are pleasant and healthy.”

**Section I. Observations Made by Members of the
Human Rights Commission**

– None –

**Section II. Drafts of International Declarations or Proposals Submitted to the
Commission by Governments**

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee) – No provision

Cuba

Articles 11, 12, 13

The right to adequate food.

The right to hygienic living conditions and to clothing suitable for the climate in which he lives.

The right to live in surroundings free from avoidable diseases.

Panama (American Law Institute)

Article 14

Everyone has the right to adequate food and housing. The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity to obtain these essentials.

B. Proposals

India – No provision

United States of America – No provision

Section III. National Constitutions

Bolivia, Constitution of

Article 124

The State shall enact measures for protecting the health and life of working men, employees, and farm labourers; it shall see that these have healthy lodgings and it

shall promote the construction of cheap houses; it shall also provide technical education for manual labourers. . .

[350]

Chile, Constitution of

Article 10

The Constitution insures to all the inhabitants of the Republic:
14th. Protection. . . , especially as referring to sanitary dwellings. . .

Costa Rica, Constitution of

Article 58

The State shall promote the creation of co-operatives as a means of facilitating better living conditions for workers.

Article 59

The State shall assist in the construction of cheap houses for urban workers and shall create a family patrimony for the rural worker.

Cuba, Constitution of the Republic of

Article 79

The State shall support the creation of low-cost dwellings for workers.

The law shall determine the enterprises that, by employing workers outside of population centres, are obliged to provide adequate housing for workers, as well as schools, infirmaries, and other services and advantages on behalf of the physical and moral wellbeing of the worker and his family.

The conditions which shops, factories, and places of work of all kinds must maintain shall likewise be regulated by law.

Guatemala, Constitution of

Article 67

“Construction of cheap housing and districts for workers shall be developed. . .”

Mexico (United Mexican States), Constitution of the

Article 123

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles:

13th. Furthermore, in these same centres of work, when the population exceeds 200,000 inhabitants, a tract of land of not less than 5,000 square metres must be reserved for the establishment of public markets, the erection of buildings destined for municipal services and centres of recreation. Establishments for the sale of intoxicating liquors as well as houses for [351] playing games of chance are prohibited in all work centres.

30th. Furthermore, co-operative societies established for the construction of inexpensive and hygienic houses intended to be acquired on instalments as the property of workingmen, shall be considered of social utility.

Nicaragua, Constitution of

Article 103

The law will foster hygienic and economical housing for the worker. It will also favour the construction of dwellings and districts that combine those conditions.

Paraguay, Constitution of

Article 14

. . .In order to assure to every worker a standard of living compatible with human dignity, the system of contracts of labour and social insurance, and the conditions of safety and hygiene of buildings, shall be under the watchful and critical supervision of the State.

Uruguay, Constitution of

Article 44

The law shall provide for hygienic and economic lodging for working men, sponsoring the construction of living quarters and districts that possess these conditions.

Article 55

Every undertaking, the nature of which requires the residence of the personnel in the respective establishment, shall be obliged to provide adequate food and lodging under conditions established by law.

Yugoslavia, Constitution of

Article 20 (paragraph 2)

“The State protects persons who are engaged as workers or employees especially by assuring them the right of association, by limiting the working day, by ensuring

the right to be paid annual holidays, by controlling working conditions, by devoting attention to housing conditions and social insurance.”

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision
[352]

Article 43

“Everyone has the right to a fair share of rest and leisure.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile – No provision

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. National Constitutions

Brazil, Constitution of

Article 157

6th. Weekly rest with pay, preferably on Sundays, and within the limits of the technical requirements of the concerns, on the civil and religious holidays, in accordance with the local tradition.

7th. Annual leave with pay.

*Byelorussia, Constitution of**Article 94*

See USSR, Constitution Article 119.

*Costa Rica, Constitution of**Article 54*

(2) All manual or intellectual workers shall have the right to paid annual vacations, the extent and time of which shall be regulated by law but the duration of which may not be fixed in a proportion less than two weeks for each fifty weeks of continuous service.

[353]

*Cuba, Constitution of the Republic of**Article 67*

The right of all manual and intellectual workers to one month of vacation on pay for every eleven months of work in every natural year is established. Those who, on account of the type of work or other circumstances, may not have worked the eleven months, shall have the right to vacation on pay for a period proportional to the time worked.

When workers stop work on account of a national holiday or mourning, employers must guarantee them the corresponding wages for this time.

There shall be only four days of national holiday and mourning on which the closing of industrial or commercial establishments or those of public entertainment is obligatory. The remaining official holiday or mourning days shall be celebrated without suspension of the economic activities of the Nation.

*Ecuador, Constitution of**Article 185*

“(f) every worker shall enjoy a weekly rest of forty-two continuous hours, and also annual holidays. Wages shall be paid for these vacations, as well as for weekly days of rest and legal holidays. . .”

*Guatemala, Constitution of**Article 57*

“. . . Fundamental principles of the organization of labour. . . are:

... 2nd. ... the worker or employee has the right to one day of rest, remunerated, for each six of work. Days of vacation recognized by law also be remunerated [sic];

...5th. ... Paid annual vacations for workers after one year or more of uninterrupted service. . .”

Honduras, Constitution of

Article 191

The maximum obligatory day's work for wages shall be eight hours. For each six days of work there shall be one of rest.

Mexico (United Mexican States), Constitution of the

Article 123

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics and artisans, and, [354] in a general manner, to all labour contracts without contravening the following basic principles:

4th. The employee shall enjoy at least one day of rest for each six days of labour.

Nicaragua, Constitution of

Article 100

The law recognizes the following rights of workers and employees:

3rd. A maximum limit to the working day determined and regulated by law, in accordance with the nature of the same.

10th. Overtime for night work except in cases it is effected periodically by shifts.

2nd. An obligatory weekly day of rest. . .

12th. A month of vacation with pay after a year of continuous work.

Panama, Constitution of the Republic of

Article 69

In addition to a weekly rest, every worker will have the right to remunerated vacations.

Ukraine Soviet Socialist Republic, Constitution of the

Article 118

See USSR Constitution Article 119.

Union of Soviet Socialist Republics, Constitution of the

Article 119

“Citizens of the USSR have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoriums, rest homes and clubs for the accommodation of the working people.”

Yugoslavia, Constitution of

Article 20 (Paragraph 2)

“The State protects persons who are engaged as workers or employees especially by assuring them the right of association, by limiting the working day, by ensuring the right to paid annual holidays, by controlling working conditions, by devoting attention to housing conditions and social insurance.

[355]

**Section IV. Draft International Declarations Presented
by Non-Governmental Organizations in Category A**

American Federation of Labor – No provision

[356]

Article 44

“Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.”

**Section I. Observations Made by Members of
the Human Rights Commission**

– None –

Section II. Drafts of International Declarations or Proposals Submitted to the Committee by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XV

Every person has the right to share in the benefits accruing from the discoveries and inventions of science, under conditions which permit a fair return to the industry and skill of those responsible for the discovery of invention.

The state has the duty to encourage the development of the arts and sciences, but it must see to it that the laws for the protection of trademarks, patents and copyrights are not used for the establishment of monopolies which might prevent all persons from sharing in the benefits of science. It is the duty of the state to protect the citizen against the use of scientific discoveries in a manner to create fear and unrest among the people.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States

II. 2.

Among the categories of rights which, the United States suggests should be considered is the right “to enjoy minimum standards of economic, social and cultural wellbeing”.

[357]

Section III. National Constitutions

Bolivia, Constitution of 28 October 1938

Article 163

Artistic, historic, and archaeological wealth and that proceeding from religious membership is the cultural treasure of the Nation; it shall be under the protection of the State and may not be exported. Buildings and places declared to have historic or artistic value shall be preserved by the State.

Article 164

The State shall promote the culture of the people.

Brazil, Constitution of 18 September 1946

Article 173

The sciences, letters, and arts are free.

Article 174

Support of culture is a duty of the State.

Sole Paragraph. The law shall promote the creation of research institutes, particularly in connection with establishments of higher education.

Saudi Arabia, Constitution of 29 August 1926

Article 23

Higher education comprises the diffusion of science, education and the arts, and the opening of libraries, schools and religious institutes, great care and attention being taken to act in accordance with the foundations of religions in all the Kingdom of the Hejaz.

Article 24

The Directorate of Public Education should be attached to the office of the Agent-General.

Uruguay, Constitution of 24 March 1934 (amended 1942)

Article 62

Official free primary, intermediate, superior, industrial, and artistic instruction, and physical education is declared a social need; also the creation of scholarships for cultural, scientific, and industrial improvement and specialization, as well as the establishment of popular libraries.

[358]

All institutions of learning shall provide especially for the formation of the moral and civic character of the students.

Yugoslavia, Constitution of

Article 37 (paragraph 2)

“The State assists science and art with a view to developing the people’s culture and prosperity.”

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision
[359]

Article 45

“No one shall suffer any discrimination whatsoever because of race, sex, language, religion, or political creed. There shall be full equality before the law in the employment of the rights enunciated in this Bill of Rights.”

Section I. Observations Made by Members of the Human Rights Commission

Mr. Tepliakov (USSR):

“... the equality of rights of human beings is understandable, first of all, as citizens of the respective countries of the United Nations this equality of rights must be recognized and proclaimed in the Bill. . . .”*

Mr. Cassin (France):

He shares this opinion and asks for a brief affirmation of the principles of equality of men “not only in their respective states, but in the eyes of international law and in the eyes of the law of the United Nations.”**

Mr. del Rio (Chile):

“... I am prepared to vote in favour of including the rights of equality before the law with reference to certain points mentioned in the paper .4/W,¹⁵⁹ provided we simplify them. . . .”***

Mr. Hodgson (Australia):

He declares that he is of the same opinion as the Chilean representative.****

Dr. Chang (China):

He mentions the international aspect of the principle of equality.*****

[*] H.R. Com. – 1st session 13th meeting – p. 42.

[**] H.R. Com. – 1st session 13th meeting – p. 51.

¹⁵⁹ The reference appears to be to E/CN.4/W.4.

[***] H.R. Com. – 1st session 13th meeting – p. 52.

[****] H.R. Com. – 1st session 13th meeting – p. 52.

[*****] H.R. Com. – 1st session 13th meeting – p. 56–60.

[360]

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XVIII (paragraph 1–4)

All persons shall be equal before the law in respect to the enjoyment of their fundamental rights. There shall be no privileged classes of any kind whatsoever.

All restrictions imposed upon fundamental rights must be such only as are required by the maintenance of public order; and they must be general in character and applicable to all persons within the same class.

Cuba

Article 5

The right to equality before the law without distinction as to race, religion, colour, class or sex.

Panama (American Law Institute)

Everyone has the right to protection against arbitrary discrimination in the provisions and application of the law because of race, religion, sex, or any other reason.

B. Proposals

India

I. (b)

Every human being has the right of equality, without distinction of race, sex, language, religion, nationality or political belief.

United States – No provision

Section III. National Constitutions

Afghanistan, Fundamental Principles of the Government

Article 1

The faith of Afghanistan is the sacred faith of Islam and the official religion and that of the population in general is the Hanafi religion. The king of Afghanistan should be a follower of this religion. Followers of other religions such as Hindus and Jews, who live in Afghanistan, provided they do not infringe the ordinary rules of conduct and propriety, also enjoy protection.

Article 9

All persons residing in the Kingdom of Afghanistan are called Afghan subjects without distinction of creed and religion. Afghan nationality is acquired or lost in accordance with the nationality laws.

[361]

Article 10

All Afghan subjects, although required to observe the injunctions and prohibitions of their Government in religious and political matters, are free to enjoy all right conferred by Shariat Law.

Article 13

All Afghan subjects have equal rights and duties under the Shariat law and the law of the State.

Argentine, Constitution of

Article 16

The Argentine Nation does not admit prerogatives of blood or of birth; in it there are no personal privileges, nor titles of nobility. All its inhabitants are equal before the law, and admissible for employment without any other requisite than fitness. Equality is the basis of taxation and of the public burdens.

Article 20

Aliens enjoy in the territory of the Nation all of the civil rights of the citizen; they may exercise their industry, commerce, and profession; own landed property, purchase it, and sell it; navigate the rivers and coasts; freely practice their religion; make their wills and marry in accordance with the laws. They are not obliged to assume citizenship, nor to pay forced extraordinary taxes. They may obtain naturalization by

residing two continuous years in the Nation; but the authorities may shorten this term in favour of anyone so requesting, on adducing and proving services to the Republic.

Belgium, Constitution of

Article 5

Naturalization is granted by the Legislative power

Full naturalization alone admits foreigners to equality with Belgians in the exercise of political rights.

Article 6

There shall be no distinction of classes in the State.

Belgian citizens are equal before the law; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases. [362]

Bolivia, Constitution of

Article 19

Aliens shall not, within fifty kilometres of the frontiers, acquire or own, directly or indirectly, soil or subsoil, by any kind of title, under penalty of forfeiting to the benefit of the State the property acquired, except in case of national necessity stated by a special law.

Article 132

The law does not recognize inequality among children; all have the same rights.

Brazil, Constitution of

Article 141

1. All are equal before the law.

Article 155

Coastwise navigation for the transport of goods is the exclusive prerogative of national ships, except in case of public necessity.

The owners, charterers, and commanders of national ships, as well as at least two-thirds of the members of their crews, shall be native Brazilian.

Article 157

Labour legislation and that of social welfare shall obey the following precepts, in addition to others aiming to improve the conditions of workers:

2. Prohibition of salary differences for the same work by reason of race, sex, nationality, or civil status. . .

*Chile, Constitution of**Article 10*

The Constitution insures to all the inhabitants of the Republic:

1st. Equality before the law. In Chile there is no privileged class.

*China, Constitution of**Article 7*

All citizens of the Republic of China, irrespective of sex, religion, race, class or party affiliation shall be equal before the law.

*Colombia, Constitution of**Article 16*

The authorities of the Republic are instituted to protect the lives, [363] honour, and property of all persons residing in Colombia, and to insure fulfilment of the social duties of the State and of private persons.

*Costa Rica, Constitution of**Article 23*

The Republic does not recognize hereditary titles, or venal positions, nor permit the establishment of entailed estates.

Article 25

All men are equal before the law.

Article 62

An equal wage or salary shall be paid for equal work under identical conditions, without distinction of persons or sexes. . .

The rural worker shall enjoy the same essential rights as the urban worker. . .

Under equality of condition employers and public or private enterprise have the obligations of giving preference to Costa Rican workers. In the cases occurring, the law shall fix the minimum proportion of native workers, giving consideration not only to their number but also to the total amount of salaries or wages paid them.

Cuba, Constitution of the Republic of

Article 20

All Cubans are equal before the law. The Republic does not recognize exemptions or privileges.

Any discrimination by reason of sex, race, colour or class, and any other kind of discrimination destructive of human dignity, is declared illegal and punishable.

The law shall establish the penalties that violators of this provision shall incur.

Article 43

The married woman enjoys the full advantages of equal civil capacity, with no necessity for marital permission or authorization in order to manage property, freely to engage in trade, to enter industry or a profession, to practise an art, to hold office, and to dispose of the product of her labour.

[364]

Article 44

Children born out of wedlock to a person who at the time of conception may have been able to contract marriage, have the same rights and duties as are stipulated in the preceding paragraph, except for what the law prescribed in regard to inheritance. For this purpose, children born out of wedlock, of married persons, when the latter acknowledge the children, or when the filiation is established by declaration, shall also have equal rights. The law shall regulate the investigation of paternity.

Article 62

For equal work under identical conditions, an equal salary shall always be paid regardless of persons.

Article 74

The ministry of labour shall take care, as an essential part, among others, of its permanent social policy, that discriminatory practices of no kind shall prevail in the distribution of opportunities for labour in industry and commerce. In personnel changes and in the creation of new positions, as well as in new factories, industries, or businesses that may be established, it shall be obligatory that opportunities for labour be distributed without distinctions on a basis of race or colour, provided that requirements of ability are satisfactorily met. It shall be established by law that any other practice shall be punishable and may be prosecuted officially or at the instance of the aggrieved party.

Article 90

The law shall restrictively limit acquisition and possession of land by foreign persons and companies, and shall adopt measures tending to revert the land to Cuban ownership.

*Czechoslovakia, Constitution of**Article 128*

1. All citizens of the Czechoslovak Republic shall be in all respects equal before the law and shall enjoy equal civic and political rights whatever be their race, their language or their religion.

[365]

*Denmark, Constitution of**Article 90*

Every prerogative attaching in law to persons of the nobility, of title and rank is abolished.

*Ecuador, Constitution of**Article 169*

In seeking legal protection, all persons shall be held equal in the eyes of the law. No one may have rights granted him or obligations imposed on him which place him at an advantage or disadvantage compared with others. . .

*Egypt, Royal Rescript No. 42 of 1923**Article 3*

All Egyptian subjects are equal before the law. They shall equally enjoy civil and political rights and shall equally be subject to public charges and duties without distinction of race, language or religion.

*El Salvador, Constitution of**Article 5*

No hereditary offices or privileges are recognized in the Republic.

Article 23

All men are equal before the law.

*France, Declaration of the Rights of Man and of the Citizen 1789**Article 1*

Men are born and remain free and equal in respect of rights. Social distinction shall be based solely upon public utility.

Article 6

The law is an expression of the common will. All citizens have a right to concur either personally or by their representation in its formation. It should be the same for all whether it protects or punishes; and all being equal in its right are equally eligible to all honours, places and employment according to their different abilities without any other distinction than that of their virtues and talents.

*France, Constitution of**Paragraph 1*

On the morrow of the victory of the free peoples over the regimes that attempted to enslave and degrade the human person, the French people proclaims again that every human being, without distinction of race, [366] religion or belief, possesses inalienable and sacred rights. It solemnly reaffirms the freedoms of man and of the citizen consecrated by the Declaration of Rights of 1789 and the fundamental principles recognized by the laws of the Republic.

Paragraph 3

The law guarantees to women in all domains equal rights with those of men.

Paragraph 17

France forms with the peoples overseas a union founded on the equality of rights and duties without distinction of race or religion.

Paragraph 19

Faithful to her traditional mission, France proposes to guide the peoples for whom she has assumed responsibility towards freedom to govern themselves and democratically to manage their own affairs; putting aside all systems of colonization founded on arbitrary power; she guarantees to all access to public office and the exercise of the individual or collective rights and liberties proclaimed or confirmed above.

French Republic, Constitution of the

Article 1

France is a republic, indivisible, secular, democratic and social.

Article 44

Members of families that once reigned over France shall not be eligible for the Presidency of the Republic.

Article 80

All nationals of the Overseas Territories shall have the status of citizens, in the same capacity as French nationals of Metropolitan France or the Overseas Territories. Special laws shall determine the conditions under which they may exercise their rights as citizens.

Article 81

All citizens and nationals of territories within the French Union shall have the status of citizens of the French Union, which ensures [367] them the enjoyments of the rights and liberties guaranteed by the Preamble of the present Constitution.

Article 82

Those citizens who do not have French civil status shall retain their personal status so long as they do not renounce it.

This status may in no case constitute a ground for refusing or restricting the rights and liberties pertaining to the status of French citizens.

*Greece, Constitution of**Article 3*

The Greeks are equal in the eye of the law and contribute without distinction to the public burdens according to their ability; and only Greek citizens are admissible to all public employments, saving the special exceptions introduced by special laws. Citizens are those who have acquired or shall acquire the qualifications of citizenship in accordance with the laws of the State. Titles of nobility or distinction are neither conferred on Greek citizens nor recognized to them.

*Guatemala, Constitution of**Article 21*

Every person enjoys the guarantees that this constitution establishes, without further restrictions than those that the latter itself stipulates. As an equal qualification, any discrimination by reason of relationship, sex, race, colour, class, religious beliefs, or political ideas is declared illegal and punishable.

Article 57

Fundamental principles of the organization of labour. . . are:

6. Equality of wages or pay corresponding to equal work and under identical conditions, given in the same enterprise, without distinction of age, race, sex, or nationality, paying attention only to capacity, efficiency and honesty.

[368]

7. Preference for Guatemala workers under equality of conditions, fixing the minimum proportion of nationals for each business or enterprise.

Article 74

. . . The organization of the family. . . shall rest upon the absolute equality of rights of both husband and wife. . .

*Haiti, Constitution of**Article 11*

Haitians are equal before the law, subject to the advantages conferred on natural-born Haitians. They shall also be eligible, without any discrimination, for civil and military employment under the conditions established by law.

Article 18

The freedom of labour shall be exercised under the control and supervision of the State and subject to the conditions prescribed by law.

Nevertheless, only natural born Haitians may engage in retail trade, practice handicrafts and pursue all other commercial and professional activities as determined by law.

*Honduras, Constitution of**Article 30*

The Constitution guarantees to all inhabitants of Honduras, whether they be natives or aliens, inviolability of human life, individual security, liberty, equality before the law, and property.

Article 69

All Hondurans are equal before the law.

The Republic does not recognize exemptions or personal privileges.

Article 71

Ministers of the various religions shall not exercise public offices.

*Iceland, Constitution of**Article 78*

No privilege attached to nobility, title or rank may be established by law.
[369]

*India, Constitution of**Article 298*

1. No subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring holding or

disposing of property or carrying on any occupation, trade, business or profession in British India.

2. Nothing in this section shall effect the operation of any law which -
- (a) prohibits, either absolutely or subject to exceptions, the sale or mortgage of agricultural land situated in any particular area, and owned by a person belonging to some class recognized by the law as being a class of persons engaged in or connected with agriculture in that area, to any person not belonging to any such class; or
 - (b) recognizes the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of law.
3. Nothing in this section shall be construed as derogating from the special responsibility of the Governor-General or of a Governor for the safeguarding of the legitimate interests of minorities.

Iran, The Supplementary Fundamental Laws

Article 8

The people of the Persian Empire are to enjoy equal rights before the law.

Iraq, Constitution of

Article 6

There shall be no differentiation in the rights of Iraqis before the law, whatever differences may exist in language, race, or creed.

Article 18

Iraq nationals are equal in the enjoyment of civil and political rights and the performance of public duties and obligations. No [370] distinction shall be made between them on account of origin, language or religion.

Lebanon, Constitution of

Article 7

All Lebanese shall be equal in the eyes of the law. They shall enjoy civil and political rights and shall also be liable to public charge and obligations without any distinction whatsoever being made.

*Liberia, Constitution of**Article 1*

Section 1. All are born equally free and independent, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

Article 13

None but negroes or persons of negro descent shall be eligible for citizenship in this Republic.

*Luxembourg, Constitution of**Article 11*

There shall be no distinction of rank in the State. Luxembourg nationals are equal before the law; they alone shall be admissible to civil and military offices, save where exceptions may be established by law for specific cases.

*United Mexican States, Constitution of the**Article 9*

An assembly or meeting that has as its object the formulating of a petition or the presenting of a protest regarding some act of an authority shall not be considered illegal and may not be dissolved, provided insults are not voiced against said authority nor any violence or threats used to intimidation or oblige him to decide in the manner that they desired.

The right of associating or meeting peacefully for any lawful purpose shall not be infringed, but only citizens of the Republic may exercise it in taking part in the political affairs of the country. No [371] armed assembly has the right of deliberating.

Article 12

Neither titles of nobility nor hereditary privileges or honours shall be granted to the United Mexican States, nor shall those awarded by any other country be recognized.

Article 13

No person may be judged by private laws or special tribunals. No person or corporation may have special privileges, nor enjoy greater emoluments than

those that may be compensation for public services and are fixed by law. The military code exists for crimes and offences against military discipline; but the military tribunals may in no case and for no cause extend their jurisdiction over persons who do not belong to the army. Should a civilian be implicated in crime or offence of a military character, the proper civil authority shall hear the case.

Article 27

... The capacity to acquire ownership of lands and waters of the Nation shall be subject to the following regulations:

1. Only Mexicans by birth or by naturalization or Mexican companies have the right to acquire ownership of lands, waters, and their appurtenances or to obtain concessions for the exploitation of mines, waters, or combustible minerals in the Mexican Republic. The State may concede the same right to aliens provided they agree before the Ministry of Foreign Relations to consider themselves as nationals with respect to said properties and not to invoke the protection of their Governments in reference to same; should they fail to respect the agreement, they shall be penalized by losing to the benefit of the Nation the properties they may have acquired.

Under no consideration may aliens acquire direct ownership over lands and waters within a zone 100 kilometres wide along the frontiers, [372] or fifty kilometres along the coast. . .

Article 32

Mexicans shall have preference over aliens, under equal circumstances, for all kinds of concessions and for all Government positions, offices, or commissions in which the status of citizenship is not indispensable. No alien may serve in the army, or in the police or public safety forces during time of peace.

To belong to the national navy or the air force and to discharge any commission or office in them, it is necessary to be a Mexican by birth. The same qualification is necessary for pilots, captains, masters, machinists, mechanics and, in a general way, for all of the crew of any vessel or airplane flying the flag of the Mexican merchant marine. Mexican citizenship by birth shall also be required in order to perform any office of captain of the port and all pilotage services, and command of airdromes, as well as the duties of custom inspector for the Republic.

Article 123

The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and in a general manner, to all labour contracts without contravening the following basic principles:

7. The same payment shall be made for equal work, without taking into account sex or nationality.

*Nicaragua, Constitution of**Article 34*

The Constitution and the laws equally protect and obligate all the inhabitants of the Republic. Special laws may be enacted only when the nature of things so demands.

Article 54

No privileged class may exist.
[373]

Article 106

All Nicaraguans are equal before the law, except in regard to women on account of differences inherent in their nature or where the good of the family is concerned.

Article 107

There will be no privileges by reason of birth, nobility, race, or social condition, or any distinction other than those of ability or virtue.

Article 108

No other titles will be granted than those belonging to an office, profession or university degree.

*Panama, Constitution of the Republic of**Article 21*

All Panamanians and aliens are equal before the law.

There will be no personal privileges or exemptions or distinctions by reason of race, birth, social class, sex, religion, or political ideas, but the law may, for reasons of health, morality, public security, and national economy, subordinate aliens in general to special conditions or refuse the exercise of determined activities. The law or the authorities may, furthermore, as the case may be, take measures that affect exclusively the nationals of determined countries in case of war or in conformity with what is established by public treaties.

Article 55

Matrimony is the legal foundation of the family, resting on the equality of rights of the spouses, and it may be dissolved in accordance with the law.

Article 66

An equal salary or wage always belongs to equal work, under identical conditions, whoever may be the persons who perform it, without distinction of sex or nationality.

[374]

Article 80

No educational institution may refuse to admit students by reason of the nature of the union of their ancestors or guardians or because of social, racial, or political differences.

The violation of this precept by private educational institutions will cause the loss of the official subvention if it had one, that of the power of having its degrees and certificates recognized by the State, if it possessed the power, and if it should be guilty of contempt, the loss of the right to continue imparting instruction.

*Paraguay, Constitution of**Article 23*

The civil rights of women shall be regulated by law, taking heed of the unity of the family, the equality of woman and man, and the diversity of their respective functions in society.

Article 33

The Paraguayan Nation does not admit prerogatives of blood or of birth; there are no personal privileges or titles of nobility. All the inhabitants of the Republic are equal before the law. . .

Article 36

Aliens enjoy the civil rights of the citizen within the territory of the Republic, in accordance with the laws regulating their exercise; they may practice their industry, trade, or profession; they may own land, bequeath property, and marry. . .

Peru, Constitution of the Republic of

Article 17

Mercantile companies, national or foreign, are subject without restriction to the laws of the Republic. In any contract between the State and aliens, or in the concessions that the former may grant in favour of aliens, the express submission of the latter to the laws and tribunals of the Republic and their renunciation of all diplomatic claims must be made clear.

[375]

Article 23

The Constitution and the laws protect and obligate all the inhabitants of the Republic equally. Special laws may be enacted because the nature of things may require it, but not because of any difference between persons.

Article 32

The same provision regarding property applies to aliens as well as Peruvians, except that in no case may said aliens make use of their exceptional position or resort to diplomatic appeals.

Philippines, Constitution of the

Article 3

Section 1.

(1) No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

(7) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

(9) No law granting a title of nobility shall be enacted, and no person holding any office of profit or trust, shall without the consent of the National Assembly, accept any present, emolument, office or title of any kind whatever from any foreign state.

(21) Free access to the courts shall not be denied to any person by reason of poverty.

Article 5

Section 1. Suffrage may be exercised by male citizens of the Philippines not otherwise disqualified by law, who are twenty-one years of age or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality [376] wherein they propose to vote for at least six months preceding the election. The National Assembly shall extend the right of suffrage to women, if in a plebiscite which shall be held for that purpose within two years after the adoption of this Constitution, not less than three hundred thousand women possessing the necessary qualifications shall vote affirmatively on the question.

Poland, Constitution of

Article 122

The rules as to citizens' rights apply also to persons belonging to the armed force. Special military statutes define exceptions to this principle.

Siam, Constitution of

Article 1

The Kingdom of Siam is one and indivisible. The Siamese people of whatever race or religion are all equally entitled to the protection of this Constitution.

Article 12

Subject to the provisions of this Constitution, all persons are equal before the law. Titles acquired by birth, by bestowal, or in any other way do not confer any privilege whatever.

*Syria, Constitution of**Article 6*

All Syrians shall be equal in the eyes of the law. They shall enjoy equal civil and political rights; they shall be bound by the same obligations and subjected to the same charges. No distinction shall be made between them in respect of religion, faith, race or language.

*Turkey, Constitution of**Article 88*

Paragraph 1. The people of Turkey, regardless of religion and race, are Turks as regards citizenship.

Article 69

All Turks are equal before the laws and expected conscientiously to abide by them.

[377]

Every type of group, class, family and individual privilege is abolished and prohibited.

*United States of America, Constitution of**14th Amendment*

1. . . . nor deny to any person within its jurisdiction the equal protection of the laws.

15th Amendment

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude.

19th Amendment

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

*Union of Soviet Socialist Republics, Constitution of**Article 122*

Women in the Union of Soviet Socialist Republics are accorded equal rights with men in all spheres of economic, state, cultural and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Article 123

Equality of rights of citizens of the Union of Soviet Socialist Republics, irrespective of their nationality or race, in all spheres of economic, state, cultural, social and political life, is an infeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for, citizens on [378] account of their race or nationality, as well of any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

*Uruguay, Constitution of**Article 8*

All persons are equal before the law, no other difference being recognized among them than that of talent or virtue.

Article 41

Parents shall have the same obligations toward children born out of wedlock as toward those born in marriage. . .

*Yugoslavia, Constitution of**Article 21*

All citizens of the Federal People's Republic of Yugoslavia are equal before the law and enjoy equal rights regardless of nationality, race and creed.

No privileges on account of birth, position, property status or degree of education are recognized.

Any act granting privileges to citizens or limiting their rights on grounds of difference of nationality, race and creed, and any propagation of national, racial and religious hatred and discord are contrary to the Constitution and punishable.

Article 24

Paragraph 1. Women have equal rights with men in all fields of State, economic and social-political life.

Paragraph 2. Women have the right to the same pay as that received by men for the same work and as workers or employees they enjoy special protection.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor

Article 1

Every human being, – irrespective of race, colour, creed, sex or national origin – has the right to pursue his or her work and spiritual [379] development in conditions of freedom and dignity.

Article 12

The key to the entire approach of human rights must be the placing of respect for human personality and welfare above all else. In this spirit, the above rights can have tangible meaning and practical application only if –

(a) All human beings have real security and are free from discrimination on account of race, colour, creed or difference of political belief from the government in control or the party in power.

(c) All economic or political discrimination and punishment for differences of political opinion or religious belief and practices are to be eliminated. The threat of being sent to concentration or labour camps as a punishment for difference of opinion with any government authority or dominant political party must be completely removed.

[380]

Article 46

“In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to

such ethnic, linguistic or religious minorities shall have the right to establish and maintain, out of an equitable proportion of any public funds available for the purpose, their schools and cultural and religious institutions, and to use their own language before the courts and other authorities and organs of the State and in the press and in public assembly.”

Section I. Observations Made by Members of the Human Rights Commission

Mrs. Mehta (India):

Remembering the case of Indians, Chinese, Japanese and other peoples scattered in the world, Mrs. Mehta said:

“An effort must be made to define in precise, legal and practical language, as to what a minority is, as to what discrimination is. Additional to this, a definition must be made forthwith as to what specific safeguards must be incorporated in the proposed bill of human rights against the danger of assimilation of minorities where they exist.”*

Mr. Hodgson (Australia):

“... What do we see when we speak of Human Rights? We refer to, or we have in mind *minorities*.”**

General Romulo (Philippines):

“... the bill of rights, which we have been commissioned to draw up, should take into account... the rights of minority groups within the state...”***

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile – No provision

[*] H.R. Com. – 2nd meeting – 1st session – page 32.

[**] H.R. Com. – 2nd meeting – 1st session – page 42.

[***] H.R. Com. – 9th meeting – 1st session – page 13–20.

[381]

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. Constitutions

Belgium, Constitution of

Article 23

The use of the languages spoken in Belgium is optional. This may be regulated only by law and only for acts of public authority and for judicial proceedings.

Byelorussia, Constitution of

Article 86

Article 96

See Article 110 and 121 of the Union of Soviet Socialist Republics Constitution.

China, Constitution of

Article 5

All racial groups of the Republic of China shall enjoy equality.

Article 168

The state shall accord legal protection to the status of the racial groups in the border regions, and shall render special assistance to their undertakings of local self-government.

Article 169

The State shall positively undertake and foster the development of education, culture, communications, river conservancy, public health and other economic and social enterprises of the racial groups in the border region. . .

Czechoslovakia, Constitution of

Article 130

In so far as citizens of the Czechoslovak Republic are entitled by the [382] common law to establish, manage and administer at their own cost philanthropic religious, or social institutions, they are all equal, no matter what be their nationality, language, religion or race and may, in such institutions, make use of their own language and worship according to their own religious ceremonies.

Article 131

In towns and districts in which there lives a considerable fraction of Czechoslovak citizens speaking a language other than Czechoslovak, the children of such Czechoslovak citizens shall, in public instruction and within the bounds of the general regulation relating thereto, be guaranteed a due opportunity to receive instruction in their own tongue. The Czechoslovak language at the same time may be prescribed as a compulsory subject of instruction.

Article 132

In towns and districts where there is living a considerable fraction of Czechoslovak citizens belonging to some minority whether in respect of religion, or nationality, or language and where specific sums of money from public funds are set out in the state budget or in the budget of local or other public authorities to be devoted to education, religion, or philanthropy a due share in the use and enjoyment of such sums shall be secured to such minorities within the limits of the general regulations for public administration.

Article 134

Every manner whatsoever of forcible denationalization is prohibited. Non-observance of this principle may be proclaimed by law to be a punishable act.

*Ecuador, Constitution of**Article 185*

It shall be the duty of the public authorities to promote, in the most suitable manner, the moral, intellectual, economic and social advancement of natives and dwellers in the coastal jungle.

Article 171

Both public and private instruction shall pay special attention to [383] the native race.

*Egypt, Royal Rescript**Article 16*

No restriction may be imposed on the free use of any language in private relations, commerce, religion, the press or publications of any kind or at public assemblies.

*Iraq, Constitution of**Article 16*

The various communities shall have the right of establishing and maintaining schools for the instruction of their members in their own tongues, provided that such instruction is carried out in conformity with such general programmes as may be prescribed by law.

Article 17

Arabic shall be the official language, except as may be prescribed by a special law.

*Lebanon, Constitution of**Article 10*

There shall be no interference with public instruction as long as it is not contrary to public order and morals and does not affect the dignity of the various creeds. The communities shall be *entitled to maintain their own schools*, provided that they conform to the general requirement relating to public instruction laid down by the State.

Article 11

Arabic shall be the official national language in all Government departments. French shall also be an official language; the cases in which it is to be used shall be determined by a special law.

*Luxembourg, Constitution of**Article 29*

The use of the German and French languages shall be optional; their use may not be restricted.

*Panama, Constitution of**Article 94*

The State will give special protection to peasant and indigenous communities for the purpose of integrating them in an effective manner in the national community

with regard to their standards of living, economic, [384] political and intellectual. Action relative to indigenous communities will be effected to conserve and develop at the same time the values of the autonomous culture.

Article 96

In addition to the general ends of national culture, schools for peasants and Indians must satisfy the following:

1. To create a consciousness of the duties, rights, dignity, and possibilities of the Panamanian citizen.
2. To awaken interest in country life by means of objective instruction in the material elements indispensable for a secure, healthful, and decent rural life; and
3. To carry to peasant and indigenous homes the action of agencies of education and assistance that tend to elevate their moral, cultural, and social level.

Poland, Constitution of

Article 109

Every citizen has the right of preserving his nationalities and developing his mother tongue and national characteristics.

Special statutes of the state will guarantee to minorities in the Polish State the full and free development of their national characteristics, with the assistance of autonomous minority unions, endowed with the character of public law organizations, within the limits of unions of general self-government.

The state will have, in regard to their activity, the right of control and of supplementing their financial means in case of need.

Article 110

\ Polish citizens belonging to national, religious, or linguistic minorities have the same right as other citizens of founding, supervising and administering at their own expense, charitable, religious, and social institutions, schools and other educational institutions and of using freely therein their language, and observing the rules of their religion.

[385]

*South Africa, Constitution of**Article 147 (Part VIII)*

The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

Article 137 (Part VIII)

Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

*Syria, Constitution of**Article 24*

Arabic shall be the official language in all the public services, except in so far as other languages may be used in addition, in virtue of a law or an international agreement.

Article 28

The rights of the different religious communities shall be guaranteed, and such bodies may found *schools for the education* of children in their [386]

own language, provided always that they conform to the principles laid down by the law.

Ukraine, Constitution of

Article 109

Article 120

See Article 110 and 121 of the Union of Soviet Socialist Republics Constitution.

Union of Soviet Socialist Republics, Constitution of

Article 110

Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed to every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Article 121

Citizens of the Union of Soviet Socialist Republics have the right to education. This right is ensured. . . by instruction in schools being conducted in the native language. . .

Yugoslavia, Constitution of

Article 13

National minorities in the Federal People's Republic of Yugoslavia enjoy the right to and protection of their own cultural development and the free use of their own language.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[387]

Article 47

“It is the duty of each member State to respect and protect the rights enunciated in this Bill of Rights. The State shall, when necessary, co-operate with other States to that end.”

Section I. Observations Made by Members of the Human Rights Commission

- None -

Section II. Drafts of International Declarations or Proposals Submitted to the Commission by Governments

A. Drafts of International Declarations

Chile (Inter-American Juridical Committee)

Article XVIII (paragraph 2–3)

It is the duty of the state to respect the fundamental rights of all persons within its jurisdiction and to protect them in the enjoyment of their rights against interference by other persons.

In all proceedings in relation to fundamental rights the state must act in accordance with due process of law and must assure to every person the equal protection of the law.

Cuba – No provision

Panama – No provision

B. Proposals

India – No provision

United States – No provision

Section III. Constitutions

China, Constitution of

Article 141

The foreign policy of the Republic of China shall, in a spirit of independence and initiative and on the basis of the principles of equality and reciprocity, cultivate good

neighbourliness with other nations and respect treaties and the United Nations Charter in order to [338] protect the rights and interests of overseas Chinese nationals, promote international co-operation, advance international justice and ensure world peace.

Costa Rica, Constitution of

Article 65

The rights and benefits to which this section refers (*i.e.* Social Guarantees) are irrenounceable. Their enunciation does not exclude others derived from the Christian principle of social justice that shall be applicable equally to all elements participating in the process of production and regulated by a social and labour code, for the purpose of attaining a permanent policy of national solidarity.

El Salvador, Constitution of

Article 40

The rights and guarantees that this Constitution enumerates shall not be understood as a denial of other rights and guarantees not enumerated, but are born of the principle of the sovereignty of the people and of the republican form of government.

Article 8

El Salvador recognizes rights and duties prior and superior to the positive law, having as principles liberty, equality, and fraternity, and based on the family, labour, property, and public order.

Mexico (United Mexican States), Constitution of

Article 1

Every person in the United Mexican States shall enjoy the guarantees that this Constitution grants, which may neither be restricted nor suspended, except in the cases and under the conditions herein established.

Article 15

The negotiation of treaties for the extradition of political offenders or those covering civil delinquents who may have been slaves in the country where they committed the offence shall not be authorized; *nor shall conventions or treaties be*

made by virtue of which guarantees and rights established for the individual and the citizen by this Constitution are altered.

[389]

Nicaragua, Constitution of

Article 35

Authorities are instituted in order to guarantee all the inhabitants of Nicaragua in their lives and personal integrity, their good name and reputation, and in order to secure the right to property, and the fulfilment of the social duties of the State and of individuals.

Panama, Constitution of

Article 19

The authorities of the Republic are instituted in order to protect, in their life, honour, and property, nationals wherever they may be found and aliens who are under its jurisdiction; to assure the effectiveness of individual and social rights and duties, and to comply and cause compliance with the Constitution and the law.

Section IV. Draft International Declarations Presented by Non-Governmental Organizations in Category A

American Federation of Labor – No provision

[390]

Article 48

“The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and of the national law of each of the member States of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.”

Section I. Observations Made by Members of the Human Rights Commission

– None –

**Section II. Drafts of International Declarations or
Proposals Submitted to the Commission by Governments**

No provisions

Section III. National Constitutions

No provision

**Section IV. Draft International Declarations Presented by Non-Governmental
Organizations in Category A**

American Federation of Labor – No provision

[391]

**Other Provisions Contained in the National Constitutions not Directly Related
to Any Article of the Draft**

1. Emergency

Afghanistan, Fundamental Principles of the Government

Article 18

Levies of money and forced labour are prohibited, except during time of war.

Argentine, Constitution of

Article 23

In case of international commotion of foreign attack endangering the exercise of this Constitution and of the authorities created by it, the Province or territory in which the disturbance of order exists shall be declared in a state of siege, the constitutional guarantees there being suspended. But during this suspension the President of the Republic shall not condemn by himself nor apply penalties. His power shall be limited, in such a case, with respect to persons, to arresting them or conveying them from one point of the Nation to another, if they should not prefer to leave the Argentine territory.

*Bolivia, Constitution of**Article 34*

In cases of grave danger by reason of internal disturbance or foreign war, the chief of the executive power may, with the affirmative action of the Council of Ministers, declare a state of siege in the part of the territory where it may be necessary. . .

3rd. The guarantees and rights sanctioned by this Constitution shall not in general be suspended with the declaration of a state of siege; but they may be so with respect to designated persons fundamentally accused of plotting against the tranquillity of the Republic, according to the provisions of the following paragraphs.

*Brazil, Constitution of**Article 208*

. . . When the state of siege has been decreed, the president of the Senate shall immediately convoke the national Congress, to assemble within fifteen days, to approve or disapprove the law.

[392]

Article 212

The decree of state of siege shall always specify the regions it is to cover.

*Chile, Constitution of**Article 72*

Special attributes of the President are:

17th. To declare in a state of assembly one or more provinces invaded or menaced in case of foreign war, and in a state of siege one or several points of the Republic in case of foreign attack.

In case of interior disturbances the declaration of one or more places being in a state of siege belongs to Congress, but if Congress be not in session, the President may make it for a determined period.

If on the meeting of Congress the period named be not expired, the declaration made by the President of the Republic shall be understood as a proposal of law.

Through the declaration of a state of siege, there is conceded to the President of the Republic only the authority to transfer persons from one department to another

and to confine them in their own houses, or in places other than jails, or intended for the confinement or imprisonment of ordinary criminals.

Measures taken on account of the state of siege shall have no greater duration than the siege, but thereby shall not be infringed the constitutional guarantees granted to Deputies and Senators.

Costa Rica, Constitution of

Article 82

The exclusive powers of the Congress are:

7th. To suspend, by two-thirds vote of those present, the individual guarantees designated in articles 28, 30, 31, 32, 33, 36, 37, 40 and 41 of the Fundamental Law itself, in case the Republic finds itself in imminent danger, whether it be because of foreign aggression, or by reason of internal uprising. This suspension shall be of all these guarantees or of only part of them, for all the territory of the Republic or for a part of it, [393] and for seventy days or less. The Executive may not, with respect to persons, do more than impose arrest in a place not assigned for common criminals, or to decree their confinement in inhabited places. In no case may they be tortured.

The Executive shall give a report to the Congress in its next meeting, of the means taken to preserve public order or to maintain the security of the State, which shall cease immediately when the guarantees are re-established.

Sole Section. The suspension to which this provision refers, shall never include the guarantees designated in article 45, Title III, Section 2, of this Constitution.

Cuba, Constitution of

Article 41

The guarantee of the rights recognized in articles 26, 27, 28, 29, 30 (first and second paragraphs), 32, 33, 36, and 37 (first paragraph) of this Constitution may be suspended in all or in part of the national territory, for a period not greater than forty-five calendar days, whenever the security of the State may require it, or in case of war or invasion of the national territory, grave disturbance of order, or other happenings profoundly disturbing the public tranquillity.

Suspension of the constitutional guarantees may be carried out only by means of a special law enacted by the Congress, or by means of a decree of the Executive; however, in the latter case, and in the same decree of suspension, the Congress shall be convened within a period of forty-eight hours and assembled as a single body to ratify or refuse the suspension, balloting by name and by a majority of votes. In case

the Congress, thus assembled, should vote against the suspension, the guarantees shall automatically stand re-established.

Article 42

The territory in which the guarantees referred to in the preceding article may have been suspended, shall be governed by the law of public [394] order previously enacted; however, neither in the said law, nor in any other, may there be suspension of any guarantees other than those mentioned. Likewise, no statement of new crimes shall be made, or any penalties imposed, other than those established by law at the time of the suspension.

Those arrested for reasons that may have been stipulated in the suspension must be confined in special places designated for persons prosecuted or punished for political or social crimes.

The Executive is forbidden to hold any person in arrest for more than ten days without delivering him to judicial authority.

Czechoslovakia, Constitution of

Article 113

3. Restrictions may be imposed in cases of assembly in places which serve as public thoroughfares, in cases of establishment of associations for the purpose of profit and in cases of the participation of foreigners in political associations. The law shall also state what restrictions shall be placed on the principles of the foregoing paragraphs in time of war or in case of events taking place within the State seriously threatening the republican form of government, the Constitution or public peace and order.

Dominican Republic, Constitution of

Article 33

The powers of the Congress are:

7th. To declare a state of siege in case of disturbance of the public peace, and to suspend, where that exists, and for the time of its duration, individual rights established in article 6, clauses 5, 6, 10 and 12, Letters (b), (d), and (e).

8th. In case the national sovereignty is found exposed to serious or imminent danger, the Congress may declare that a state of national emergency exists, suspending the individual rights established in Clause 2 to Clause 12, both inclusive, of article 6 of this Constitution. If the Congress shall not have been convened, the President of the Republic may [395] order the same

measure, with the obligation of summoning the Congress, by the same act, so that it shall meet within the next ten days, in order to decide upon the maintenance or revocation of the said measure. If it opposes, or if the Congress does not convene, said measure will cease automatically.

Egypt, Royal Rescript

Article 155

No provision of the present Constitution may on any pretext be suspended, except temporarily in time of war, during a state of siege, and in accordance with the procedure prescribed by law. In no case may the meeting of Parliament in the conditions laid down by the present Constitution be impeded.

Ethiopia, Constitution of

Article 29

The provisions of this chapter shall not preclude the taking of any measures by the Emperor in virtue of his supreme power in the event of war or public disaster threatening the interest of the nation.

Haiti, Constitution of

Article 142

No place and no part of the national territory may be declared in a state of emergency except in the case of civil disturbances or imminent invasion by foreign forces.

The act of the President of Haiti proclaiming a state of emergency must be signed by the Council of Secretaries of State and prescribe the immediate summoning of the Legislative Assembly which shall decide on the expediency of the measure.

The Legislative Assembly shall decree jointly with the Executive what Constitutional guarantees may be suspended in those parts of the national territory placed in a state of emergency.

Article 143

The conditions obtaining a state of emergency shall be governed by a special law.
[396]

*Honduras, Constitution of**Article 83*

The guarantees established in articles 32, 34, 35, 42, 48, 49, 50, 51, 52, 59, the first paragraph of 61, 67, 73, and 79 may be suspended temporarily, in all or part of the Republic, when the safety of the State so requires because of invasion of the territory, serious disturbance of order that threatens public peace, an epidemic, or other calamity.

During the suspension, the territory in which the afore-mentioned guarantees were suspended shall be governed by the law of state of siege; but the suspension of any other guarantees than those mentioned cannot be made by the said law or by any other.

During the suspension of the afore-mentioned guarantees, declaration of new offences shall not be made, nor shall other penalties be imposed save those established in laws existing at the time of the decree of suspension.

Article 84

The suspension of guarantees may be decreed only by the Congress, or if it is not in session, by the Executive; but the latter may not decree suspension for more than sixty days, except by a new declaration. In all cases he must give an account to the Congress of the measures taken during the suspension of guarantees.

*Iraq, Constitution of**Article 120*

Should disturbances occur, or should anything happen indicating the likelihood of the occurrence of events of such a character in any part whatsoever of Iraq, or should there be a menace of hostile attack upon any part whatsoever of Iraq, the King shall have power, subject to the approval of the Council of Ministers, to *proclaim martial law* provisionally in these districts of Iraq exposed to the danger of disturbances or attacks. The application of the existing laws and regulations may be suspended by the proclamation declaring martial law in force, in such places and to such extent as may be prescribed in such proclamation, provided that those [397] charged with the execution of the proclamation shall be subject to any legal consequences of their acts, until a special law has been passed by Parliament exempting them therefrom. The method of administration of the places in which martial law has been declared to be in force shall be prescribed by Royal Irada.

Upon the occurrence of danger or rebellion or anything which disturbs the peace, in any part of Iraq, the King may, with the consent of the Council of Ministers, notify a state of emergency in the whole of Iraq, or in any part thereof. The districts affected

by the notification shall provide for trial, by Special Courts, of those who commit specified offences, and prescribe the administrative measures to be taken by specified authorities.

Mexico (United Mexican States), Constitution of

Article 29

In case of invasion, of serious disturbances of the public peace, or any other emergency that may place the people in great danger or conflict, only the President of the Mexican Republic, in agreement with the Council of Ministers and with the approval of the Congress of the Union, and should the latter be in recess, of the permanent committee, may suspend throughout the country or in any part specified, the guarantees that might be an obstacle to a rapid and easy adjustment of the situation; but such suspension shall be enforced only for a limited time by means of general prohibitions and shall not be confined to any particular individual. If the suspension takes place while the Congress is in session the latter shall grant the powers deemed necessary so that the Executive may meet the situation. If the suspension is made in time of recess the Congress shall be convoked without delay for the granting of such powers.

Panama, Constitution of

Article 49

In case of war, grave disturbance of public order, or of urgent social interest, that demand rapid measures, the Executive may decree expropriation or occupation of private property and the indemnification [398] need not be prior.

When restitution of the object seized may be feasible, the seizure will be only for the time in which the circumstances that caused it continue.

The State is always responsible for every expropriation thus carried out by the Executive and for the damage and injuries caused by the seizure and will pay its value as quickly as the reason determining the expropriation or seizure may have ended.

Article 52

In case of foreign war or internal disturbance that threatens peace or public order, all of the Republic or part of it may be declared in a state of siege and the purposes of Articles 22, 24, 26, 27, 29, 38, 39, and 45 may be temporarily suspended, wholly or partially.

Article 53

The National Assembly, if it should be assembled, will decree the state of siege and the temporary suspension. If it should be in recess, it will be declared by means of a decree signed by the President, his Ministers, and the members of the permanent legislative committee, and in the same decree the National Assembly, will be convoked in order that within a maximum period of five days it may assemble and decide if that may be the case. The cause having ceased, the Assembly, if it should be assembled, and, if it is not assembled, the Cabinet Council, with the approval of the permanent legislative committee, will lift the state of siege or the suspension.

*Peru, Constitution of**Article 70*

When the security of the State may require it, the Executive may suspend, completely or partially, in all or in a part of the national territory, the guarantees stated in Articles 56, 61, 62, 67 and 68. If the suspension of guarantees is decreed during the session of the Congress, the Executive shall give to the Congress an immediate account of it.

[399]

The terms of suspension of guarantees shall not exceed thirty days. An extension requires a new decree.

The law shall determine the powers of the Executive during the suspension of guarantees.

*Turkey, Constitution of**Article 86*

In the event of a war, rebellion or in the case of convincing evidence of a positive and serious conspiracy against the country and the Republic, the Council of Ministers may proclaim partial or general martial law on condition that this does not exceed one month and that this measure is submitted without delay to the Grand National Assembly for approval. The Assembly may, if deemed necessary, extend or reduce the duration of martial law. Should the Assembly not be in session, it shall be convened immediately. The prolongation of martial law is subject to the decision of the Grand National Assembly. Martial Law implies the temporary restriction or suspension of personal and residential immunity, of inviolability of correspondence, of the freedom of the press, and of the right of assembling and associating.

The area over which Martial law may be proclaimed, the application of the provisions of this regulation over the said area, as well as the mode of restriction or suspension of immunity, and freedom in time of war is determined by law.

United States, Constitution of

Article I, Section 9, Clause 2

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Uruguay, Constitution of

Article 30

Individual security may not be suspended except with the compliance of the General Assembly or the permanent committee, in case the former has been dissolved or is in recess, and in the extraordinary case of treason or conspiracy against the Fatherland; and then it shall be instituted only [400] for apprehension of the offenders, without prejudice to the provision of clause 18 of Article 157.

Article 157

The following are the duties of the President of the Republic, acting with a Minister or with respective Ministers, or with the Council of Ministers, according to the provisions of article 174 and those relating thereto:

18th. To take immediate measures for security in the serious and unforeseen circumstances of foreign attack or internal disturbance, giving an account within twenty-four hours to the General Assembly, or in its recess, to the permanent committee, of what he has done and his reasons therefore, proceeding as the latter bodies recommend.

With regard to persons, to prompt measures of security only authorize their arrest or transfer from one point to another within the territory, provided they do not choose to leave it. This measure also, like the others, must be submitted, within twenty-four hours of its adoption, to the General Assembly or to the permanent committee, as the case may be, and its decision accepted.

2. Laws not in accordance with the Constitution are null and void

Honduras, Constitution of

Article 82

Laws that regulate the exercise of such guarantees and rights shall be null in so far as they decrease, restrict, or pervert them.

Paraguay, Constitution of

Article 6

The principles, guarantees, obligations, and rights, proclaimed by this Constitution, may not be altered by the laws that may regulate its exercise. Any law, decree, or regulation that may be in violation of the provisions of this Constitution is null and without effect.

3. Rights not enumerated in the Constitution are not excluded

Argentina, Constitution of

Article 33

The declarations, rights, and guarantees that the Constitution [401] enumerates shall not be considered as a denial of other rights and guarantees not enumerated, but which rise from the principle of the sovereignty of the people and of the republican form of government.

China, Constitution of

Article 22

All other liberties and rights of the people that are not inimical to social order or public interest shall be guaranteed under the Constitution.

Honduras, Constitution of

Article 81

The enumeration of rights and guarantees made in this Constitution does not exclude those not enumerated that may rise from the principle of sovereignty of the people and the republican form of government.

*Nicaragua, Constitution of**Article 137*

The enumeration of rights, duties, and guarantees made by the Constitution does not exclude others that are inherent in the human personality or that are derived from the republican form of government.

*United States, Constitution of**9th Amendment*

The enumeration on the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

4. Protection of democratic order

*Yugoslavia, Constitution of**Article 43*

With a view to safeguarding the civic liberties and democratic organization of the Federal Peoples Republic of Yugoslavia established by this Constitution, it is declared illegal and punishable to make use of civic rights in order to change or undermine the constitutional order for anti-democratic purposes.

5. Limitation of the power of the Executive

*Argentine, Constitution of**Article 29*

The Congress shall not confer on the national Executive, nor the provincial legislatures on the governors of the Province, extraordinary powers, nor the whole of the public authority, nor grant them submission or supremacy, whereby the life, honour, or fortune of Argentines will be [402] at the mercy of governments or of any person whatever. Acts of this nature are irreparably invalid, and will bring whoever performs, allows, or signs them, under the responsibility and penalties of infamous traitors to the Fatherland.

*Bolivia, Constitution of**Article 38*

Neither the Congress nor any association or popular assembly may grant the Executive extraordinary powers, the total of the public power, or accord him supremacy by which the life, honour, and property of Bolivians are placed at the mercy of the Government or of any person.

Personal inviolability and the immunities established by this Constitution for the national representatives shall not be suspended during the state of siege.

*France, Declaration of the Rights of Man and of the Citizen**Article 16*

Every community in which the security of rights and a separation of powers is not provided for needs a constitution.

*Paraguay, Constitution of**Article 16*

The Chamber of Representatives may not grant extraordinary powers to the Executive outside of the prescriptions of this Constitution, nor may it grant powers by which the life, honour, and property of Paraguayans may be left to the mercy of the Government of any person.

6. Power of the armed forces

*Chile, Constitution of**Article 22*

The public forces are essentially obedient. No armed body may deliberate.

Article 23

Every decision that the President of the Republic, the Chamber of Deputies, the Senate, or the tribunals of justice may agree to in the presence or on demand of an army, an officer at the head of an armed force, or of any assembly of people, with or without arms, and in disobedience [403] of the authorities, is null in law and cannot produce any effect.

*Costa Rica, Constitution of**Article 22*

Military force shall be subordinated to the civil power, is essentially passive, and must never deliberate.

*France, Declaration of the Rights of Man and of the Citizen**Article 12*

A public force being necessary to give security to the rights of man and of citizens, that force is instituted for the benefit of the community and not for the particular benefit of the person to whom it is entrusted.

*Honduras, Constitution of**Article 55*

Police duty shall be confided only to civil authorities.

7. Personal responsibility of officials

*China, Constitution of**Article 9*

No person may, except those in active military service, be subject to trial by a military court.

Article 18

The people shall have the right to take public examinations and to hold public offices.

Article 24

Any public functionary who, in violation of law, infringes upon the liberties or rights of any person shall, besides being subject to disciplinary measures in accordance with the law, be responsible under criminal and civil laws. The injured person may, in accordance with law, claim indemnity from the state for damage sustained.

*Colombia, Constitution of**Article 21*

In case of manifest violation of a constitutional provision to the detriment of any person, the order of a superior shall not exempt from responsibility the agent who executed it.

Soldiers in active service are excepted from this provision. The responsibility with respect to them shall devolve solely upon the superior who gave the order.

[404]

*Costa Rica, Constitution of**Article 19*

Public officials are not masters but trustees of authority. They are subject to the laws and never can consider themselves superior to them.

*France, Declaration of the Rights of Man and of the Citizen**Article 15*

The community has the right to demand of all its agents an account of their conduct.

*Greece, Constitution of**Article 19*

No previous permission of the administrative authority is required to prosecute public or municipal officials for their punishable acts connected with their service, except in the case of Ministers, for which special provisions are laid down.

*Iran, The Supplementary Fundamental Laws**Article 25*

No special authorization is required to proceed against government officials in respect of shortcomings connected with the discharge of their public functions, save in the case of Ministers, in whose case the special laws on this subject must be observed.

8. Rights of regional and local communities

*Denmark, Constitution of**Article 89*

The right of local authorities to conduct their affairs independently under the supervision of the State is laid down by law.

9. Witnesses before the Courts

Chile, Constitution of

Article 18

The accused person shall not be obliged in criminal cases to testify under oath about his own action, nor may his antecedents, descendants, spouse, or relatives, within the third degree of consanguinity or the second of affinity, inclusive, be obliged to testify.

Dominican Republic, Constitution of

Article 6

12th. (c) no one may be tried twice for the same cause or be obliged to testify against himself, or be condemned to any punishment, whatever [405] may be the nature of it, unless he has been heard in a public session or unless he has been *subpoenaed* in regular form. Cases for which the law creates disciplinary tribunals are excepted from being heard in a public session;

10. Vested rights and interests

Brazil, Constitution of

Article 141

No. 3. The law shall not prejudice any right acquired, any juridical act accomplished, or anything judged.

Colombia, Constitution of

Article 36

The intention of gifts made during a lifetime or testamentarily, in accordance with the law, the purposes of social interest, may not be changed or modified by the Legislature. The Government shall regulate the management and investment of such gifts.

Article 31

No law that establishes a monopoly may be applied until the persons, who, by virtue of it, would be deprived of the exercise of a lawful industry, have been fully indemnified.

No monopoly may be established except as a financial expedient and by virtue of a law.

The only privilege that may be granted are those relating to useful inventions and means of communication.

Cuba, Constitution of

Article 23

Civil obligations arising from contracts, or from other acts either of commission or omission, may not be annulled or altered by the Legislature or by the Executive, and consequently laws shall have no retroactive effect in respect to the aforesaid obligations. The exercise of actions resulting from these obligations may be suspended in case of grave national crises, for the time considered reasonably necessary, by means of the same requisites and subject to the impugnability to which the first paragraph of the preceding article refers.

[406]

11. Right to carry arms

Colombia, Constitution of

Article 48

The Government alone shall import, manufacture, and possess arms and munitions of war.

No person within a town shall be permitted to carry arms without permission from the authorities. This permission shall in no case be given in cases of attendance at political meetings, elections, or sessions of assemblies or public corporations, whether as members or spectators.

Honduras, Constitution of

Article 68

Inhabitants of the Republic have the right of possessing and carrying arms, according to the law.

United States, Constitution of

2nd Amendment

... the right of the people to keep and bear arms shall not be infringed.

3rd Amendment

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

10th Amendment

The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people.

12. Right to strike*Colombia, Constitution of**Article 18*

The right to strike, except in public services, is guaranteed. The law shall regulate its exercise.

*Paraguay, Constitution of**Article 17*

Any strike of public officials or any collective abandonment of their duties is prohibited.

[407]

13. Protection of childhood and maternity*Panama, Constitution of**Article 57*

Parental jurisdiction is the aggregate of duties and rights that parents have in relation to the children.

Parents are obliged to feed, care for, educate, and instruct their children and the latter to respect and care for their parents. The law will regulate the exercise of the parental jurisdiction in accordance with the social interest and the benefit of the children.

*Uruguay, Constitution of**Article 40*

The care and education of children until they reach their full physical, intellectual, and social capacity, is the duty and right of parents.

The law shall provide the necessary measures for the protection of infants and children against parents or guardians who neglect them physically, intellectually, or morally, as well as against their exploitation and abuse.

Article 42

The State shall provide that juvenile delinquency be submitted to a special system in which women shall be given participation.

Yugoslavia, Constitution of

Article 26

5. Parents have the same obligations and duties to children born out of wedlock, as to those born in wedlock. The position of children born out of wedlock is regulated by law.

14. Limitation of national sovereignty

France, Constitution of

Paragraph 16

On condition of reciprocity, France consents to the limitations of sovereignty necessary to the organization and defence of peace.

15. Prohibition of wars of conquest

France, Constitution of

Paragraph 15

The French Republic, faithful to its traditions, conforms to the rules of international law. It will undertake no war with a view to [408] conquest and will never employ its forces against the liberty of any people.

16. Aliens may not have more rights than nationals

Bolivia, Constitution of

Article 18

Foreign subjects and enterprises, are, in respect to property, in the same position as Bolivians, and can in no case plead an exceptional situation or appeal through diplomatic channels unless in case of a denial of justice.

E/CN.4/AC.1/8**11 June 1947****United States Suggestions for Redrafts of Certain Articles
in the Draft Outline E/CN.4/AC.1/3*****Article 2****Duty of the Individual towards Other Individuals*

“The state is created by the people for the promotion of their welfare and the protection of their mutual rights. In the exercise of his rights everyone is limited by the rights of others. The state may impose only such limitations on such rights as are compatible with the freedom and welfare of all.”

Article 3*Respect of Life*

“The right to life is fundamental and may not be denied to any person except upon conviction of the gravest of crimes under general law providing for the penalty of death.”

Article 6*Need for Judgment of a Court of Law*

“No one shall be deprived of life or personal liberty, or be convicted or punished for crime in any manner, save by judgment of a competent and impartial tribunal, in conformity with law, after a fair public trial at which he has had the opportunity for a full hearing, the right to be confronted with the witnesses against him, the right of compulsory process for obtaining witnesses in his favour, and the right to consult with and be represented by counsel.”

[2]

Article 7*Protection against Arbitrary Arrest*

“No person shall be subjected to arbitrary or unauthorized arrest or detention. Every person who is arrested or detained shall be immediately informed of the charges on which he is held, and shall have the right to prompt judicial determination of the legality of his detention. Trial of the charges must be afforded within a reasonable time, or he shall be released from detention. Every person shall be entitled to secure his release pending trial upon furnishing reasonable security for his appearance, except where such release would defeat the administering of justice. Detention by purely executive order shall be unlawful except in time of national emergency, proclaimed in accordance with law.”

Article 8*Prohibition of Slavery and Compulsory Labour*

“No one shall be held in slavery, nor be required to perform compulsory labour in any form other than public service equally incumbent by law upon all or as part of punishment pronounced by a competent judicial tribunal. No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.”

Article 9*Liberty of Movement within the Borders of a State*

“All persons shall equally enjoy the right to freedom of movement from one part of the territory of the state to another, and to free choice of residence in any part of the territory, subject to any general law adopted in the interest of national welfare or security.

“Every person shall, subject to equitable immigration and deportation laws, be free to enter, travel through or over, and remain temporarily in the territory of another state, provided always that he observes local laws and police regulations.”
[3]

Article 11*Liberty and Respect of Private Life*

“No one shall be subjected to arbitrary or unauthorized searches and seizures of his person, home, papers and effects, or to unreasonable interference with his person, home, family, relations with others, reputation, privacy, activities or property. The secrecy of correspondence shall be respected.”

Article 12*Right to Possess Legal Personality and Exercise One's Civil Rights*

“Everyone has the right to a legal personality. No person shall be restricted in the exercise of his civil rights except under general law based on reason of age or mental incompetence, or as punishment for a criminal offence, or as otherwise permitted in this bill.”

Article 15*Freedom of Opinion*

“Everyone has the right to form and hold opinions and to receive them from, and impart them, within or beyond the borders of the State.”

Article 16*Freedom of Access to All Sources of Information*

“Freedom of everyone to receive, read and listen to all matters of information shall not be impaired, and there shall be free and equal access to all sources of information both within and beyond the border of a State.”

Article 17*Freedom of Speech and Freedom of Expression*

“There shall be freedom of speech, of the press and of expression by any means whatsoever and there shall be reasonable access to all channels of communication.”
[4]

Article 20*Freedom of Association*

“There shall be freedom to form associations.”

Article 22*Right to Property*

“Everyone has the right to own and transfer property, subject to regulation, under general laws, governing the acquisition and use thereof, and determining, in the interest of national welfare and security, those things not susceptible of private ownership. No one shall be deprived of property except in accordance with law, nor suffer his property to be taken other than for public use with just compensation to him.”

Article 24*Freedom to Engage in Professions*

“There shall be equal opportunity to engage in any vocation or profession, not constituting public employment, subject to such reasonable qualifications as are inherent in the work to be performed.”

Article 26

*Every Penalty Must Be: A. Provided for by the Law without Retroaction
B. Inflicted by a Court of Law*

“No one shall be convicted of crime except by judgment of a competent and impartial tribunal for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence. No one acquitted or convicted of a crime

shall thereafter be again put in jeopardy of life or liberty for the offence of which he was acquitted or convicted.”

[5]

Article 27

Appeal to Tribunals for Guarantee of the Rights of Individuals

“Every person has the right to have any civil claims or liabilities determined without undue delay by a competent and impartial tribunal, before which he has the opportunity for a fair hearing, and has the right to consult with and to be represented by counsel.”

Article 28

Right of Petition

“No state shall abridge the right of everyone, either individually or in association with others, to petition the government of his state or the United Nations for redress of grievance.”

Article 30

Right to Take Part in the Government of the State – Democracy

“Government derives its just power from the consent of the governed. Everyone has the right to take an effective part in the government of the state or territory of which he is a citizen. The citizens of the state or territory are accordingly entitled to exercise self-government through representatives freely and fairly chosen by them in periodic democratic elections.”

Article 31

Right of Access to All Public Functions

“Everyone shall have equal opportunity to engage in public employment in the State of which he is a citizen.”

Article 32

Rights Relating to Nationality

“Every person shall have the right to a nationality.”

[6]

Article 35

Right to Progress

“Everyone has the right to a fair and equal opportunity to advance his own physical, economic, and cultural wellbeing and to share in the benefits of civilization.

“It is the duty of the State, in accordance with the maximum use of its resources and with due regard for the liberties of individuals, to promote this purpose by legislation or by other appropriate means. Among the social rights thus to be achieved progressively by joint effort of the individual and the State are those defined in the following Articles.”

Article 36

Right to Health

“Everyone, without distinction of economic or social condition, has a right to the highest attainable standard of health.

“The responsibility of the State for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.”

Article 37

Right to Education

“Everyone has the right to education.

“Each State has the duty to require that each child within territories under its jurisdiction receive a fundamental education. The State shall maintain adequate and free facilities for such education. It shall also assure development of facilities for further, including higher, education, which are adequate and effectively available to all the people within such territories.”

Article 38

Right to Economic Security

“Everyone has a right to a decent standard of living; to a fair and equal opportunity to earn a livelihood; to wages and hours and conditions of [7] work calculated to insure a just share of the benefits of progress to all; and to protection against loss of income on account of disability, unemployment, or old age.

“It is the duty of the State to undertake measures that will promote full employment and good working conditions; provide protection for wage-earners and dependents against lack of income for reasons beyond their control; and assure adequate food, housing, and community services necessary to the wellbeing of the people.”

Article 39

Right to Participate in the Cultural, Scientific and Artistic Life

“Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.”

Article 45*No Discrimination*

“There shall be equal protection before the law in the enjoyment of the rights enumerated in this bill of rights, without distinction as to race, sex, language or religion.”

E/CN.4/AC.1/9

11 June 1947

**Resolution Adopted by the Economic and Social Council
on 24 March 1947**

The following is an extract of the Resolution adopted by the Council on the item proposed by the World Federation of Trade Unions:

“Guarantees for the Exercise and Development of Trade Union Rights

“The Economic and Social Council

“Having taken note of the item regarding Trade Union Rights placed on its agenda at the request of World Federation of Trade Unions, and the memoranda submitted by the World Federation of Trade Unions and the American Federation of Labor,

“The Economic and Social Council

“*Further resolves* to transmit the documents to the Commission on Human Rights in order that it may consider those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights.”

The following documents are:

1. Draft Resolution Submitted by the World Federation of Trade Unions to the Economic and Social Council on *Guarantees for the Exercise and Development of Trade Union Rights*;
2. Memorandum and Draft Resolution Submitted by the American Federation of Labor to the Economic and Social Council on the *Guarantees for the Exercise and Development of Trade Union Rights*.

[2]

**Draft Resolution Submitted by the World Federation of Trade Unions
to the Economic and Social Council on Guarantees for the Exercise
and Development of Trade Union Rights**

[For the text, see E/C.2/28.]

[7]

**Memorandum and Draft Resolution Submitted by the American Federation
of Labor to the Economic and Social Council on the Guarantees for the
Exercise and Development of Trade Union Rights**

[For the text, see E/C.2/32.]

E/CN.4/AC.1/SR.2

11 June 1947¹⁶⁰

***Summary Record of the Second Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Wednesday,
11 June 1947 at 11:00 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States of America), Vice-Chairman: Dr. P.C. Chang (China), Rapporteur: Dr. Charles Malik (Lebanon). Mr. Ralph L. Harry (Australia), Mr. H. Santa Cruz (Chile), Prof. René Cassin (France), Mr. Geoffrey Wilson (United Kingdom), Prof. V. Koretsky (Union of Soviet Socialist Republics). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J.P. Humphrey (Secretary of the Committee), Mr. Edward Lawson.

1. Discussion of Drafting Procedure

THE CHAIRMAN invited the members of the Drafting Committee to express their opinions regarding the procedure to be followed in preparing the preliminary draft of an International Bill of Human Rights. She said that [2] the United States would present in writing some alternatives to specific items in the outline of the Secretariat, but that since these written proposals were not yet ready for distribution she thought that it might be better to discuss the form and plan of the preliminary draft first. She proposed that if the Committee decided to use the Secretariat outline as the basis of its work its members might begin immediately and go through each of the items listed one by one, either accepting, eliminating, or changing them. She again stressed the preliminary nature of the Committee's work and pointed out that in its final report it might in some cases wish to submit two different conflicting ideas rather than a single wording on which all members could agree. She pointed out that it would be almost impossible to write the Preamble until a final determination had been made as to what was to appear in the draft; she therefore asked each member of

¹⁶⁰ This is the date of the meeting. The document was issued on 13 June 1947.

the Drafting Group to note any ideas that might occur to him about the Preamble for later presentation to the Committee. She suggested that it might not be possible to get the Preamble written until a much later stage in the development of the draft.

PROF. CASSIN (France) complimented the outline of the Secretariat as a solid and interesting basis for the work of the Committee. He suggested that this outline might serve as a basis for discussion from a material point of view. If this viewpoint were accepted he proposed that two or three fundamental principles should be incorporated in the outline:

1. the unity of the human race or family;
2. the idea that every human being has a right to be treated like every other human being; and
3. the concept of solidarity and fraternity among men.

[3]

He suggested that the Committee might wish to consider first the rights defined both in the British document and the Secretariat outline, and secondly the rights mentioned in the Secretariat outline but not touched upon in the British draft, including especially civil rights and social and economic rights. He agreed that the Committee should not at the moment study the British proposals for implementation nor should it attempt to formulate a Preamble. It should, he felt, confine itself to the content and substance of the two drafts before it. He expressed the feeling that the British document grouped rights in a more rational and concise order than the Secretariat outline. The Secretariat outline, he said, has more rights and restrictions listed in it, but he wondered whether the Committee should discuss limits or restrictions or whether it should confine itself to rights and freedoms.

MR. SANTA CRUZ (Chile) stated that in his opinion the Committee must draw up a Charter of Human Rights giving it not only legal form but real human content. He expressed the belief that the International Bill of Human Rights should not be just a Bill but rather a true spiritual guide for humanity enumerating the rights of man which must be respected everywhere. He suggested that the Committee begin by discussing the rights listed in the Secretariat document. The actual drafting, he felt, could be put off until after the members agreed on the substance.

MR. HARRY (Australia) called the Secretariat outline a most useful and valuable quarry of principles and ideals which might find a place in the Bill of Human Rights. The United Kingdom draft, on the other hand, was the first complete draft outline before the Committee since it included a Preamble and provisions for entering its provisions into force. He agreed that the Preamble and the provisions for implementation should not be considered until a later date. He supported the French proposal that the [4] Committee consider first the principles appearing in the drafts of both the United Kingdom proposal and the Secretariat outline and then consider

the principles appearing only in the latter. He said, however, that in the opinion of the Australian Government no finality in a draft could be reached until the question of implementation had been considered.

DR. CHANG (China) maintained that the discussion should proceed from the concrete to the abstract, that it should start with articles in the Secretariat draft on which all members of the Committee could agree and then go on to consider other articles appearing either in the United Kingdom draft or in a proposal by one of the other members. He urged that the Committee attain as wide a perspective as possible and that it be always conscious of the historical context of the formulation of this International Bill of Rights. He particularly urged that it not be allowed to become a stale duplication of previous Bills of Rights.

MRS. ROOSEVELT asked if the Secretariat was prepared to submit a document presenting the proposals of the United Kingdom Government and those of the Secretariat Draft Outline side by side. PROF. HUMPHREY replied that the Secretariat had distributed such a document (E/CN.4/AC.1/3/Add.3).

DR. MALIK (Lebanon) congratulated the Secretariat on its draft outline and addressed two questions to the Secretary of the Committee:

1. were the Constitutions quoted in the Secretariat outline culled extensively or only for illustrative material; and
2. were the quotations from members of the Human Rights Commission exhaustive or only samples?

If the latter, he wished to know the basis for selection. Dr. Malik went on to speak of the Preamble. He stated that in his opinion the Secretariat document did not contain a sufficient reference to the dignity of man. This, he felt, ought to be made the basic woof of the Preamble. He stated that the four points [5] enumerated in the suggestions for Preamble made by the Secretariat were excellent ones but that even when all were considered together they somehow failed to bring out what is distinctive, fundamental and human about man. If these points were not included he felt the Preamble would lose its fundamental point. Dr. Malik suggested that the United Kingdom document be used as a formal basis for discussion and that the Secretariat document be used as a material basis. The Committee, he said, ought to make extensive use of the proposals of the United Kingdom, and then turn to the Secretariat outline to fill out and complete its draft. He pointed out that the United Kingdom has no written Constitution and that therefore it would be an act of injustice not to give them a special chance to present their own ideas in writing and to utilize their proposals extensively. He said that in the course of the meeting he had been more and more struck by the importance of the question of implementation. From the Secretariat outline, he said, it is clear that most countries already have provisions in their Constitutions relating to fundamental human rights and

freedoms. The question was whether or not these rights and freedoms were implemented.

PROF. KORETSKY (Union of Soviet Socialist Republics) pointed out that he had hardly begun to study the matters under discussion and that he was working under difficulties because of the fact that he was also a member of the General Assembly Committee on the Codification of International Law. Therefore, he was unable to state his opinions immediately but wished to thank the Secretariat for its very useful preliminary work.

Prof. Koretsky put forward, however, a few personal impressions:

1. that it was most important to remember the inter-relation between internal and international law when formulating an International Bill of Rights;
2. that the International Bill of Rights must not create an international social system where international government does not exist;

[6]

3. that the members of the Committee must not forget that one cannot oppose the individual to society and to government; and
4. that the principle of equality of men must be stressed more than it appeared to be stressed in any of the drafts before the Committee.

Prof. Koretsky stated that he was opposed to the use of the word “civilized” as it appeared in one of the drafts. The artificial distinction drawn in the past between civilized and uncivilized people must be forgotten, he said, and all of the various existing civilizations must be studied. These principles, he added, would help the Committee to find a correct way to implement and enforce the rights enumerated in an International Bill of Rights.

MR. WILSON (United Kingdom), after apologizing for the absence of Lord Dukeston, stated that the United Kingdom draft was prepared because the Government had found it very difficult to get its mind clear on the form and content of the Bill. The draft, he said, consisted of five main parts:

1. a proposed draft resolution of the General Assembly;
2. a proposed Preamble;
3. a proposed definition of human rights and fundamental freedoms;
4. a proposal relating to the question of implementation; and
5. a proposal as to the method of bringing the Bill of Human Rights into operation.

He agreed that the two parts which might be usefully discussed at the time were (a) the proposed General Assembly resolution, and (b) the attempt to define human rights and freedoms.

Mr. Wilson raised a basic question as to whether the Committee was drafting a Manifesto or what in England would be called an Act of Parliament. It must be very clear on its intention, he said. He explained that in his opinion only those things which are enforceable in the near future should go into an Act of Parliament or into an International Convention. He said that he hoped that the Committee would be able to suggest both a Manifesto and an International Convention.

[7]

He suggested that, since the Secretariat outline contained a large number of items that did not appear in the Constitutions of certain States, it might be better if only those items which a member of the Committee positively suggested might be included should be considered by the Committee.

PROF. HUMPHREY (Secretariat) answering Dr. Malik's earlier question, said that the document prepared by the Secretariat was meant to be complete and if there were any omissions they were not intentional. He pointed out that the Secretariat had not attempted to draft a Preamble but had only made certain indications as to what might be included there. He also pointed out that in the forthcoming Yearbook on Human Rights¹⁶¹ there will be a chapter relating to the laws of those countries which do not have written Constitutions.

THE CHAIRMAN asked Prof. Koretsky whether it would be possible for someone to keep him informed of the proceedings of the Drafting Committee during the period when he was away attending the meetings of the General Assembly Committee on the Development and Codification of International Law.¹⁶² PROF. KORETSKY promised to be present at meetings of the Drafting Committee as much as possible.

THE CHAIRMAN summarized the consensus of opinion of the Committee regarding the drafting procedure as follows:

1. The Preamble should not be written until a later stage;
2. The question of implementation should remain in the back of the minds of the members of the Committee when they are considering things to be included in the preliminary draft;

¹⁶¹ In 1946-47, the Economic and Social Council began compiling a yearbook of the activities of the United Nations. The Yearbook of the United Nations is the principal reference work of the United Nations; it is intended to provide a comprehensive overview of the UN's activity in a given year, including the concerns, activities and resolutions of the General Assembly, the Security Council, and the Economic and Social Council. The 1948 United Nations yearbook summary contains an account of the steps leading to the adoption of the Universal Declaration of Human Rights.

¹⁶² The General Assembly Committee on the Development and Codification of International Law was created pursuant to General Assembly Resolution 94, adopted on 11 December 1946. The task of the Committee was to recommend ways in which the General Assembly could encourage the progressive development of international law and its codification. Comprised of 17 legal experts, the Committee convened from 12 May to 17 June 1947. It was replaced by the International Law Commission.

3. The Secretariat outline should be used as a basis for discussion with the items of the United Kingdom draft being brought in for consideration wherever they resemble in substance an item in the Secretariat draft.

[8]

MRS. ROOSEVELT pointed out that as a Drafting Committee preparing only a first draft the Group was called upon¹⁶³ to decide the final text of the International Bill of Human Rights. She agreed with the suggestion of Mr. Wilson that only the points which were suggested positively by a member of the Committee be included in the draft. She expressed the opinion that the Committee should present to the Human Rights Commission a document on which they might be able to make a final decision. As to whether it should be a declaration of principles or a Bill that could be implemented throughout the world, she felt that should be considered by the full Commission. She suggested that the Committee take as a basis of its work the articles presented in the Secretariat outline because this outline took into account many other documents in the form of Bills which had been submitted to the Commission on Human Rights. If necessary, she said, the Committee should err on the side of including too much.

With the exception of Prof. Koretsky (Union of Soviet Socialist Republics) who reserved his position and stated that in the future he would want to present other data which was not at that time prepared, all of the members of the Committee accepted Mrs. Roosevelt's suggestions on the method of work procedure.

Decision: It was decided to take the Secretariat outline as a basis for discussion, referring to other documents when there appeared to be a similarity between them. It was decided that the Committee was not to discuss the final wording of any item but only the principles and substance to be included.

2. Consideration of the Draft Outline of the Secretariat and of the Draft Proposed by the United Kingdom (Document E/CN.4/AC.1/3/Add.3)

THE CHAIRMAN proposed that the discussion of the two draft outlines before the Committee begin with Article 3 since the similarity between the two drafts did not occur until that article was reached. Speaking as a representative of the United States she stated that her Government had prepared some alternative suggestions and had asked that these be printed and placed before all of the members. They had not been circulated as yet. [9] She also stated that in the opinion of the United States Article 1 of the Secretariat draft outline should not be included in an International Bill of Rights because it dealt with the right of a State rather than with the right of a human being.

¹⁶³ The context suggests that the word "not" has been omitted by mistake.

MR. WILSON (United Kingdom) reverted to the suggestion that if there was no recommendation for the inclusion of Article 1, it should not be included in the draft to be prepared by the Committee. He suggested, however, that the substance of Article 1 might possibly find a place in the Preamble.

DR. MALIK (Lebanon) maintained that Articles 1 and 2 of the Secretariat outline dealt with limitations to human rights and freedoms rather than with the rights and freedoms themselves. He expressed the opinion that it was odd that such limitations should be placed at the very beginning of a Bill and expressed the opinion that they were not of such a nature as to be included in the Committee's draft.

MRS. ROOSEVELT asked if there was any proposal that Article 1 be included in the Committee's draft. DR. MALIK stated that the principle enunciated in Article 1 should not be eliminated altogether. PROF. CASSIN (France) suggested that the discussion proceed to those articles in which there appeared to be similarity between the draft of the Secretariat and that of the United Kingdom, reserving Articles 1 and 2 for later discussion. PROF. KORETSKY (Union of Soviet Socialist Republics) felt that the proposal of the member from France might bring about a certain organizational confusion and that it might be better to consider each of the various articles and to express an opinion on them but not to vote either for or against their adoption. He stated that he felt it would not be quite appropriate to follow the method proposed by Prof. Cassin. MRS. ROOSEVELT stated that in her opinion the Committee should first go through the common articles without making any decision thereon, and then return to discuss each article in turn, taking the Secretariat Draft Outline as its basis.

[10]

Article 3 of the Secretariat Draft Outline and Article 8 of the United Kingdom Draft

THE CHAIRMAN read both articles and remarked that she understood that there is a movement underway in some States to wipe out the death penalty completely. She suggested that it might be better not to use the phrase "death penalty".

PROF. CASSIN (France) made two observations. For the first time, he said, we are confronted by a question of method: should we proclaim the right to life or should we rather state that authority cannot deprive men of life. Even countries which do not have the death penalty, he went on, must take into account that some countries are in the process of abolishing it. Therefore, he preferred Article 3 of the Secretariat draft to the corresponding Article in the United Kingdom draft. Secondly, he stated that if the principle of universal abolition of the death penalty could be adopted it should not impose a strict obligation on States which wished to maintain the death penalty. DR. MALIK (Lebanon) pointed out a certain ambiguity in the word "everyone" and expressed the opinion that it might be advisable to use instead "every person."

MR. SANTA CRUZ (Chile) pointed out that the corresponding article in the draft submitted by the delegation of Chile expresses both ideas: first it establishes the right to life and secondly it establishes the duty of a State to watch over the implementation of this right. He felt that the article as submitted by Chile was more complete as it referred to the life of any being, born or unborn, and set forth that those who are unable to support themselves have the right to be supported and protected. He suggested that it might be better to include the text of the Chilean draft on this subject. [11]

PROF. KORETSKY (Union of Soviet Socialist Republics) reserved the right to prepare another wording to replace the drafts under consideration. He remarked that the United Nations should not in any way signify approval of the death penalty. The Union of Soviet Socialist Republics, he said, has given up the death penalty. MR. SANTA CRUZ (Chile) supported the view that the draft should not give the impression that the United Nations approved the death penalty. PROF. CASSIN (France) stated that he preferred to use the words "every human being" instead of "every individual" or "every person." He pointed out that in the period just passed there was wholesale denial of the right to life in a very light-hearted manner which outraged the conscience of all mankind. He added that the Chilean text has a section including certain positive obligations of governments which he considered worthy of study. MR. WILSON expressed agreement with the view taken by the Soviet delegate that the United Nations should not sanction the death penalty.

*Article 6 of the Secretariat Draft Outline and Article 10 of the
United Kingdom Draft*

THE CHAIRMAN read the text of these two articles. MR. WILSON (United Kingdom) made two formal proposals:

1. that Article 5 of the Secretariat outline be taken into account; and
2. that in the United Kingdom draft it should be noted that certain related provisions appear in the part proposed as a resolution of the General Assembly rather than in Article 10.

He also suggested that Article 7 of the Secretariat draft might be taken into consideration at the same time, along with paragraph 6 of Article 10 of the United Kingdom draft. PROF. CASSIN (France) felt that the discussion should be limited to one thing at a time. The representative of the American Federation of Labor pointed out that the present order of the articles in the Secretariat document is not logical but accidental and expressed her opinion that it might be better to use the United Kingdom draft as a basis for discussion.

[12]

***Article 7 of the Secretariat Draft Outline and Article 10 of the
United Kingdom Draft***

THE CHAIRMAN read the two articles and pointed out that the representative of the United Kingdom had already said that Article 10 of the United Kingdom draft was linked with the previous subject. MR. HARRY (Australia) stated that the chief difference between the drafts is that the United Kingdom proposed that in addition to judicial determination there should also be the right to compensation. He stated that his Government did agree that the idea of compensation should be included. PROF. CASSIN remarked that the question of compensation with relation to unlawful arrest was a very serious matter and that in many countries it could not function in practice. If compensation is mentioned, he thought, the responsibility of arresting officers should also be spoken of. MR. WILSON (United Kingdom) stated that his Government was not wedded to the remedy proposed in its draft but felt that there should be some enforceable remedy in cases of arbitrary arrest.

***Article 8 of the Secretariat Draft Outline and Article 9 of the
United Kingdom Draft***

THE CHAIRMAN read the two articles and asked for comments. MR. WILSON (United Kingdom) stated that his Government had found the question of drafting this article to be very difficult and complex. He felt that at a later date he might be able to put forward a more adequate form of words. He agreed that the phrase “equally incumbent upon all” might be considered as ambiguous and added that it might be better to treat the question of public service separately and on its own account. PROF. KORETSKY (Union of Soviet Socialist Republics), although reserving his right to make further remarks later, pointed out that in his opinion the wording of the United Kingdom article seemed to be striking in its simplicity. It should, he said, be made more ample. He feared that the phrase “no form of slavery shall be permitted” suggested a consideration only for the future. He felt that this might be re-phrased to condemn slavery in general.

[13]

MR. WILSON (United Kingdom) assured the representative of the Union of Soviet Socialist Republics that the phrase “shall be” had not been meant to connote a future tense. He explained that the English construction of this article was considered to imply no reference to time.

The meeting adjourned at 1:10 p.m.

E/CN.4/AC.1/SR.3

11 June 1947¹⁶⁴

***Summary Record of the Third Meeting [of the Drafting Committee
of the Commission on Human Rights]***

Held at Lake Success, New York, on Wednesday,
11 June 1947 at 2:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States), Vice-Chairman: Dr. P. C. Chang (China), Rapporteur: Dr. Charles Malik (Lebanon). Mr. Ralph L. Harry (Australia), Mr. H. Santa Cruz (Chile), Prof. René Cassin (France), Mr. V. Koretsky (Union of Soviet Socialist Republics), Mr. Geoffrey Wilson (United Kingdom). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor), Miss Lena Spiegel (WFTU). Secretariat: Prof. J.P. Humphrey (Secretary of the Committee), Mr. Edward Lawson.

**1. Consideration of Document E/CN.4/AC.1/3/Add.3: Textual
Comparison of the Draft Submitted by the United Kingdom
Delegation and the Draft Prepared by the Secretariat**

THE CHAIRMAN opened the meeting by explaining that it was her intention to go through the remainder of the textual comparison as quickly as possible. She asked the Secretariat to take note of any general agreement reached in relation to any of the articles.

[2]

***Article 10 of the Secretariat Draft Outline and Part II
Article 11 of the United Kingdom Draft***

THE CHAIRMAN read the text of these articles and asked for the opinion of the members. PROFESSOR CASSIN (France) stated that he wished to comment on the substance of this article, which, in his opinion, was very important. A paper touching on this subject had been given to the Secretariat for distribution. He pointed out that there are certain human rights recognized by all civilized nations which involve the co-operation of more than one State. One of these rights, relating to emigration, was stressed in the French paper. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) reserved the right to comment on this point later.

¹⁶⁴ This is the date of the meeting. The document was issued on 13 June 1947.

*Article 14 of the Secretariat Draft Outline and Part II**Article 13 of the United Kingdom Draft*

THE CHAIRMAN read the text of these articles and remarked that the text proposed by the United Kingdom was considerably longer than that suggested by the Secretariat. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) said that Article 14 of the Secretariat draft was unobjectionable substantively but that Part II Article 2 of the United Kingdom draft seemed to him to be too detailed. This was also the case with other sections of the United Kingdom draft. He felt that the inclusion of too many details in a Bill of Rights would make implementation more difficult and might interfere with the jurisdiction of national governments. The Bill of Rights, he said, should not be too detailed as that would tend to show a lack of confidence in the national legislatures of other countries. He therefore urged that any stipulations adopted by the Committee be in less detail than appeared in the United Kingdom draft.

MR. WILSON (United Kingdom) stated that the question of the amount of detail is of great importance. His Government found that unless they went into detail with respect to certain subjects there was a serious danger of boiling the draft down to a simple declaration of non-discrimination. If limitations were not written in, he maintained, governments would find [3] themselves in a very difficult position.

DR. MALIK (Lebanon) said that what he liked about the United Kingdom draft was its mention of the right “to change belief”. There is no freedom, he said, if one is not free to change his mind. Whatever text was adopted, he stated, the right to change one’s mind on any question without any legal recriminations is most important. He added that in his opinion a Resolution of the General Assembly could not be considered an imposition on the rights of a State nor could a Convention, to be adhered to by governments, be considered such an imposition.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) stressed the fact that in his opinion the Committee should give serious consideration to the principle of equality of men. Discrimination between peoples on grounds of race, sex, language or religion, he pointed out, was one of the gravest things that had ever happened. He referred to Professor Cassin’s use of the phrase “civilized nations” and stated that this expression had no meaning at the present time. In the old Russia, nations like India and China had been considered uncivilized in spite of their age-old civilization. Professor Koretsky proposed that the Committee should not go into details in its draft of the Bill but should call attention to these principles which would make men feel free and equal. He said that the old laws and the Decalogue¹⁶⁵ which were short, concise, and clear, should serve as models.

¹⁶⁵ The term “Decalogue” (δεκάλογος) refers to the “Ten Commandments”. According to the Bible, this list of religious or moral principles was handed to Moses by God on Mount Sinai on stone tablets. The text of the Decalogue appears in two books of the Bible, Exodus (20:2–17) and Deuteronomy (5:6–21).

MR. HARRY (Australia) said that he had not understood the Delegate of the United Kingdom to suggest getting away from the principle of non-discrimination but that he agreed that if the Bill of Rights only made affirmations it would be achieving nothing. The test was not whether there was to be freedom in the strict legal sense but whether this freedom was to be accepted in practice. He felt that it might be necessary to spell out in some detail the question of belief and the question of freedom to teach and to instruct but that the relative length or brevity of each article of the Bill should be considered on its merits. PROFESSOR CASSIN (France) [4] stated that he had twice before called attention to the danger of attempting to make too detailed a text. The problem, he said, was to have all nations of all different civilizations accept certain common principles. In France written law relating to the subject of conscience and belief was very brief and concise. Similar brevity might be the best method for the Bill of Rights and would help to protect the United Nations from a flood of red tape. MR. WILSON (United Kingdom) stated that the United Kingdom draft had been drawn up in detail because it had found that detailed legislation was necessary in his country. He called attention to the provisions made in the United Kingdom draft for certain sections of the Bill of Rights to be drafted by the Sub-Committees of the Human Rights Commission and pointed out that there was no question but that the United Kingdom placed just as much emphasis on the principles of non-discrimination as did any Member of the Human Rights Commission.

DR. CHANG (China) remarked that in his opinion China was perhaps the least bothersome nation insofar as religious discrimination was concerned. This fact, he added, had attracted the attention of the English philosophers in the eighteenth century. He added that the relative brevity or detail to be contained in each article of the draft would have to be discussed article by article.

MRS. ROOSEVELT (United States of America) stated that there appeared to be general agreement that an article on this subject should be included.

Article 16 of the Secretariat Draft Outline and Part II
Article 14 of the United Kingdom Draft

THE CHAIRMAN read the text of these articles. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) asked whether the Secretariat, in drafting this provision, had considered the work of the Sub-Commission on the Freedom of Information and of the Press. He naturally shared the view of the Soviet representative in that Sub-Commission. PROFESSOR HUMPHREY (Secretariat) replied that the Secretariat Draft Outline had been drawn up before the meeting of the Sub-Commission and that therefore Article 16 had [5] not been based on the work of that Sub-Commission. He further pointed out that

the Sub-Commission had spent most of its time drawing up an agenda for the forthcoming conference on the Freedom of Information and had devoted only a few hours to discussion of the concept of Freedom of Information. He added that the Secretariat did distribute to the members of the Drafting Committee texts of the statements made by members of the Sub-Commission relating to this subject.

Article 17 of the Secretariat Draft Outline and Part II
Article 14 of the United Kingdom Draft

THE CHAIRMAN read the texts of these articles. MR. WILSON (United Kingdom) explained that what appeared to be a duplication was caused by the fact that there were two articles on the subject in the draft outline of the Secretariat but only one in the draft of the United Kingdom.

DR. CHANG (China) remarked that the United Kingdom draft put the affirmative ideas first and that this appeared to be a better arrangement. MR. HARRY (Australia) agreed with the statement made by Professor Koretsky that the Drafting Committee should consider the report of the Sub-Commission on Freedom of Information and of the Press. If necessary, he proposed, the Sub-Commission might be asked to consider the text of an article for inclusion in the Bill of Rights. PROFESSOR HUMPHREY (Secretariat) drew attention to the fact that the Sub-Commission on Freedom of Information and of the Press would not meet again until next winter and that, therefore, the Drafting Committee might have to consider the subject independently of the Sub-Commission.

PROFESSOR CASSIN (France) said that he feared that in the speed of the work the Drafting Committee might have given too little attention to the outline of the Secretariat. From his point of view, he said, it is always the Secretariat draft which should be considered the basic source of the Committee's work.

[6]

Article 19 of the Secretariat Draft Outline and Part II
Article 15 of the United Kingdom Draft

THE CHAIRMAN read the text of these articles, on which there were no comments.

Article 20 of the Secretariat Draft Outline and Part II
Article 16 of the United Kingdom Draft

THE CHAIRMAN read the text of these articles, on which there were no comments.

Article 26 of the Secretariat Draft Outline and Part II
Article 12 of the United Kingdom Draft

THE CHAIRMAN read the text of these articles, on which there were no comments.

Article 27 of the Secretariat Draft Outline and Part II
Article 2 of the United Kingdom Draft

THE CHAIRMAN read the text of these articles. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) pointed out that he wished to reserve the right generally to make observations on the articles at a later time. He drew attention to the use of the adjectives “independent” and “impartial” in the Secretariat Draft Outline and said that these might be dangerous and unnecessary to use in connection with tribunals of a sovereign State. MR. HARRY (Australia) asked for an explanation of what Professor Koretsky meant by his statement. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) explained that in his opinion the expression “independent and impartial tribunals” might be considered as an invitation to evaluate the courts of the judiciary of independent governments. The possibility of such evaluation, he felt, should be eliminated. He said that he might be in favour of the phrase “open tribunals”, but felt that the qualifications “independent and impartial” were unnecessary and that they might be considered to indicate a criticism of certain courts. MR. HARRY (Australia) stated that in his opinion it is just as important for courts to be independent or impartial as to be open.

[7]

THE CHAIRMAN stated that she thought the misunderstanding arose from the fact that in the United States and in the United Kingdom the terms “independent and impartial” were always used in connection with courts. She did not feel that either adjective was intended as a criticism. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) said that such a term might be found in many Constitutions but that it should not appear in the language of an International Bill of Rights. He pointed out that in a specific case the courts of certain countries might justify aggression of certain persons against others because of the colour of their skin. He wondered who would be in a position to say that such courts were or were not impartial. PROFESSOR CASSIN (France) suggested that all of the articles considered so far had been guarantees of personal liberty. He suggested that these might be placed separately and grouped together.

Article 45 of the Secretariat Draft Outline and Comment
to Part II of the United Kingdom Draft

THE CHAIRMAN read the text of these articles on which there were no comments.

Article 47 of the Secretariat Draft Outline and Part II***Article 2 of the United Kingdom Draft***

THE CHAIRMAN read the text of these articles. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) raised a question as to whether decisions were being taken by the Committee regarding whether or not certain articles should or should not be included in the preliminary draft of the Bill of Rights. MRS. ROOSEVELT replied that no decisions were being taken at this stage; the members of the Committee were simply making such comments as they felt were necessary.

Article 48 of the Secretariat Draft Outline and Part I***Article 1 of the United Kingdom Draft***

THE CHAIRMAN read the text of these articles and stated that in her opinion they dealt with the question of implementation. Since the Committee had agreed to leave discussion of the question of implementation until [8] later, she suggested that these articles not be discussed immediately. PROFESSOR KORETSKY (Union of Soviet Socialist Republics) called attention to the fact that in the United Kingdom draft the phrase “civilized nations” was used. He asked that the Drafting Committee not follow old documents too blindly but find a new track for itself. MRS. ROOSEVELT (United States of America) agreed that the Committee, in preparing its preliminary draft, would have to look forward and move forward. However, she said, it must recognize that there are peoples of different levels of development in various parts of the world. This did not imply that any people were by nature inferior to any other people but it meant that some people had not had equal opportunities for development. It was her hope that such opportunities might be extended to all in the future. MR. WILSON (United Kingdom) pointed out that the phrase “civilized nations” was used in the Charter of the International Court of Justice¹⁶⁶ to which the Soviet Union was also a party.

2. Consideration of the Draft Outline of the International Bill of Rights prepared by the Division of Human Rights (E/CN.4/AC.1/3)

THE CHAIRMAN suggested that the Committee next consider those articles appearing in the Secretariat Draft Outline, the substance of which did not appear in the

¹⁶⁶ The Statute of the International Court of Justice, annexed to the Charter of the United Nations, is the primary document establishing and regulating the composition and functioning of the Court. Article 38(1)(c), lists “the general principles of law recognized by civilized nations” as one of the sources of law to be applied by the Court, which is itself derived from article 38(3) of the Statute of the Permanent Court of International Justice, adopted in 1920. The term had been in use well before that time. For example, the so-called “Martens Clause” in the preambles to the 1899 and 1907 Hague Conventions refers to “the principles of international law, as they result from the usages established between civilized nations”.

United Kingdom draft. She announced that the United States had prepared alternate texts for certain of the articles in the Secretariat draft and that these would be distributed. She read Article 1 of the Secretariat draft and remarked that in the opinion of the United States Government such an article was not necessary. The same subject was covered to some extent by Article 8 of the Secretariat draft. In addition it was felt that the first article of the Bill of Rights should not be one in which duty of an individual was expressed. PROFESSOR CASSIN (France) said that he did not insist upon the article being placed first, but that he felt that the substance of the article ought to be in the Bill of Rights, either in the Preamble or elsewhere.

[9]

THE CHAIRMAN read Article 8 of the Secretariat draft and remarked that it covered only a part of what had to be said about an individual's duty to his State.

At this point PROFESSOR KORETSKY (Union of Soviet Socialist Republics) left the meeting of the Committee.

MR. SANTA CRUZ (Chile) stated that he had no comments to make at the moment on either Article 1 or Article 8. MR HARRY (Australia) felt that attention should be drawn to the general duty of the individual comparing to each general right. He said that he would make a statement on this subject later. DR. CHANG (China) remarked that the Committee should not tend to set up the possibility of the State and the individual being so sharply contrasted.

Speaking with respect to Articles 1 and 2, DR. MALIK (Lebanon) questioned why they should be called "preliminary", and placed at the very beginning of the Secretariat Draft Outline. Both of them, he said, would limit the freedom of the individual if they were adopted in their present form. In his opinion, any social pressure placed upon the individual by a Bill of Rights should be balanced by a statement of what society owes the individual. He characterized as "astounding" the statement in the Secretariat outline: "Everyone owes a duty to his State" and pointed out that it might be questioned whether an individual owed such a duty of loyalty regardless of the characteristics of his State. In considering a Bill of Rights, he went on, it was odd that men ought to first be told that their freedom is limited. If this were done it would be a Bill not of Human Rights but of what man owes society. It was precisely because the balance had been tipped against the individual and in favour of society that human rights had been violated. He concluded by saying that Article 1 of the Secretariat draft was to him objectionable and should not be included; or if included should be reworded; and that Article 2 should not appear at the beginning of the Bill of Rights.

[10]

MR. WILSON (United Kingdom) supported this point of view. He thought that the article itself should be omitted from the Bill but that the substantive idea might be

included somewhere in the Preamble. In this connection he drew attention to Article 4 of the draft of the United Kingdom.

MRS. ROOSEVELT (United States of America) summarized the general consensus of opinion that:

1. Article 1 should not itself be the first article in the Bill of Rights; and
2. the substance of the article might be included somewhere else.

DR. MALIK (Lebanon) insisted on some qualification of the phrase appearing in Article 1, "loyalty to his State". The conception that the State must be a just State should also be included, he said. MRS. ROOSEVELT pointed out that the Committee was not at that stage attempting to agree upon specific wording.

Article 2 of the Secretariat Draft Outline

THE CHAIRMAN read the article and the alternative text proposed by the United States Delegation (E/CN.4/AC.1/8).

PROFESSOR CASSIN stated that he accepted the proposal that the substance of Article 1 be placed elsewhere than first in the Bill. He said, however, that he did not feel that the first part of Article 2 had the same objectionable characteristics as Article 1. He felt that Article 1 might be redrafted along these lines: "Society should seek to help human beings find happiness and protection." The opening article of the Bill of Rights, he said, should stress the principles of liberty, of solidarity, and of equality; limited by the equal and equivalent rights of other men. MR. SANTA CRUZ (Chile) supported the idea put forward by Professor Cassin and suggested that as a first article in the Bill of Rights there should be a declaration concerning what constitutes a State and what obligations an individual owes a State. He agreed that a declaration such as that proposed by Professor Cassin should be studied.

[11]

DR. CHANG (China) pointed out that the modification proposed by the United States was clearly worded. In his opinion it contained two different ideas which might be separated. The middle sentence might logically be permitted to stand by itself. He formally suggested using the United States modification by separating it into two articles, one a statement of the relation of individuals to the State and the other a statement of the relation of one individual to another. PROFESSOR CASSIN (France) thought that there ought first to be a broad statement of principles. MR. HARRY (Australia) agreed that the suggestion of Professor Cassin of a general article at the very beginning of the Bill, setting its keynote, was an excellent one. DR. MALIK (Lebanon) said that he did not feel it proper to begin a Bill of Rights with "The State". This ought not to be at the beginning, if at all, he said. He concluded

that the substance of the article should be limited to the Preamble. MR. WILSON (United Kingdom) agreed.

THE CHAIRMAN summarized the consensus of opinion as being that the substance of the article should be included somewhere in the Bill but perhaps in another place; the first article of the Bill should be a general article on the rights of humanity. She asked that the members think over this suggestion and bring in their own ideas about it.

*Article 3 of the Secretariat Draft Outline and the
United States Alternate Text*

THE CHAIRMAN read the two alternate texts. She referred to the previous discussion relating to the abolishment of the death penalty and asked for expressions of opinion on the substance of the article. MR. HARRY (Australia) pointed out that there had been agreement with relation to the mention of capital punishment in the Bill early in the day and suggested that any further suggestion on this point might be delayed until the actual drafting started.

DR. CHANG (China) observed that it was obvious that all members of the Committee would agree that the right to life should be included in a [12] Bill of Rights. He suggested, however, that more thought should be put into a definition of the word “life” – was it intended to mean mere physical existence or did it imply something more than that?

PROFESSOR CASSIN (France) made two observations, one on the method of work and one on the substance of the question. With regard to the method of work, he felt that a good road had been indicated by the Australian Delegate. With regard to the substance, he considered that the term “right to life” referred to physical life and only to physical life. He pointed out that this distinction might not appear obvious at first glance but that recently the world had known of instances where certain persons felt that they had the right to destroy life. MR. WILSON (United Kingdom) agreed that the best method of work would be to read through the Secretariat outline and try to reach a general agreement on what should and what should not go into the Committee’s draft. He suggested that if anyone did not agree to the wording of the Committee’s draft he should have the privilege of presenting an alternative draft in writing. He referred to the use of the expression “gravest of crimes” in the draft of the United States and said that, in his opinion, its meaning was very vague because what might be considered the gravest of crimes in one country might not be so considered in another.

THE CHAIRMAN asked that all suggestions for alterations in the Secretariat outline be submitted as soon as possible. She summarized the general consensus of opinion as being that the substance of Article 3 of the Secretariat outline should be included in the Committee’s draft but that its wording would have to be discussed later.

Article 4 of the Secretariat Draft Outline

THE CHAIRMAN read the article and asked for comments. PROFESSOR CASSIN (France) pointed out that the question of torture was directly connected with life. He felt that the word “indignity” as used in the Secretariat draft was a shocking expression and should be altered. As for [13] the word “torture,” he felt that it might require clearer definition. The Committee ought to take into consideration, he said, such questions as: Do some humans have the right to expose others to medical experiments and do any have the right to inflict suffering upon other human beings without their consent, even for ends that may appear good? MR. SANTA CRUZ (Chile) said that no doubt an article referring to corporal punishment and torture should appear in the Committee’s draft. He agreed with Professor Cassin that the word “indignity” as used in the Secretariat draft was not a happy expression. He reminded the Committee that the Economic and Social Council already was engaged in studies regarding torture in connection with the formulation of a Convention on the crime of Genocide.

MR. HARRY (Australia) agreed that there should be something in the Committee’s draft of the Bill to cover the case of physical torture. He pointed out, however, that if any specific kind of torture were mentioned the Committee might also have to include other types, such as mental torture and torture resulting from involuntary experimentation.

DR. CHANG (China) felt that the article was tied up with the previous article and that both should be included in the Committee’s draft. He felt that the draft somehow should stress the goodness of life itself.

DR. MALIK (Lebanon) pointed out that the substance of Article 4 would have to be included in the draft in some form. He found ambiguity in the word “torture” and said that in his opinion it should be defined more carefully. Specifically, he wondered whether forced labour, unemployment or dental pain might be considered torture. He also found the phrasing “no one” and “everyone” objectionable and suggested that either “person” or “human being” be used instead.

MR. WILSON (United Kingdom) agreed with all that had been said by the other members.

MRS. ROOSEVELT (United States of America) said that the consensus of opinion was that the substance of Article 4 should be included, its [14] wording and its grouping to be decided upon later.

Article 5 of the Secretariat Draft Outline

THE CHAIRMAN read the article and asked for comments. PROFESSOR CASSIN (France) felt that the text regarding personal liberty included a rather wide field. It

ought, he said, to be backed up by a whole series of texts further defining it. It might even be a sort of chapter head. MRS. ROOSEVELT (United States of America) asked him if his recommendation was that this right should be placed elsewhere. PROFESSOR CASSIN replied that it was correctly placed. MR. SANTA CRUZ (Chile) agreed that there should be an article in the Secretariat draft relating to personal liberty. MR. HARRY (Australia) also approved of the article and said that in the idea of his Government “personal liberty” referred to the opposite of imprisonment. He wondered whether this article should not be attached to Article 6.

DR. CHANG (China) called the attention of the members of the Committee to document E/CN.4/AC.1/3/Add.2 and pointed out that there were seven articles numbered 5 to 11, all dealing with liberty of the person. He suggested that in the Committee’s draft all of the articles on this subject should be grouped together. MR. MALIK (Lebanon) supported his suggestion and MR. WILSON (United Kingdom) said that he also was in favour of this arrangement.

THE CHAIRMAN said that it appeared to be the consensus of opinion of the Committee that all of the articles grouped under the heading “liberty of the person” should be considered by the Drafting Committee. She proposed that the Drafting Committee plan to go ahead at its next meeting with a consideration of the articles on which there was general agreement. She asked the members of the Committee to give their rewordings of any specific articles to the Secretary of the Committee as soon as possible and she requested the Secretary to inform Professor Koretsky (Union of Soviet Socialist Republics), who had had to leave the meeting during the discussions, what had happened in his absence.

The meeting adjourned at 5:00 p.m.

E/CN.4/AC.1/SR.4

11 June 1947¹⁶⁷

***Summary Record of the Fourth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Wednesday,
12 June 1947, at 10:30 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States of America), Vice-Chairman: Dr. P. C. Chang (China), Rapporteur: Dr. Charles Malik (Lebanon). Mr. Ralph L. Harry (Australia), Mr. H. Santa Cruz (Chile), Prof. René Cassin (France), Mr. Geoffrey Wilson (United Kingdom), Prof. V. Koretsky (Union of Soviet Socialist Republics). *Specialized*

¹⁶⁷ This is the date of the meeting. The document was issued on 13 June 1947.

Agencies: Mr. J. Havet (UNESCO). *Non-Governmental Organizations:* Miss Toni Sender (American Federation of Labor). *Secretariat:* Prof. J. P. Humphrey (Secretary of the Committee), Mr. Edward Lawson.

1. Consideration of Secretariat Draft Outline of International Bill of Rights continued (document E/CN.4/AC.1/3)

Article 6

THE CHAIRMAN recalled that the Committee was to continue its examination of each article of the draft outline with a view to obtaining a general idea as to the substance to be included in the [2] International Bill of Rights. She reminded members that it had been decided to group Article 5 either with Article 6 or with one of the articles which followed. She read Article 6 and drew attention to the alternate proposals of the United Kingdom (E/CN.4/AC.1/4) and of the United States (E/CN.4/AC.1/8). The United States draft, she felt, was clearer in that specific mention was made of the right to obtain witnesses. The Chairman asked each member to express his views as each article was read.

PROF. CASSIN (France) felt that the ideas expressed by Article 6 were reasonable but wished to have all articles on penal procedure grouped together.

MR. SANTA CRUZ (Chile) agreed in substance with the idea set forth in the article.

MR. HARRY (Australia) felt the article should have a place in the Bill.

DR. CHANG (China) pointed out that it would be necessary to clarify the term “national emergency” used in the Secretariat draft.

DR. MALIK (Lebanon) agreed that the term “national emergency”, being very elastic, would have to be carefully defined.

PROF. KORETSKY (Union of Soviet Socialist Republics) reserved his position and said he would comment at a later date.

MR. WILSON (United Kingdom) called attention to Article 4 of the British draft (E/CN.4/AC.1/4) which made provision that, in case of emergency the Secretary-General of the United Nations would be fully informed of the measures taken and the reasons therefor.

THE CHAIRMAN summarized the general feeling of the Committee that the substance of Articles 5, 6, and 7, all dealing with personal liberties, should be retained. What had been said of Articles 5 and 6, she felt, was also true of Article 7.

Article 8

PROF. CASSIN (France) felt that a text prohibiting slavery and what had been called compulsory labour must be included. He suggested that mention be made of servitude and inhuman exploitation. He felt that the Bill should proclaim the right

of a man to contribute to the wellbeing of society by his work. He questioned whether the “contractual obligations,” [3] spoken of in the United States draft, included family obligations.

MR. SANTA CRUZ (Chile) also agreed that the substance of the article should be included, and with the remarks of Prof. Cassin concerning the right of a man to contribute to the wellbeing of society by his work. At the same time, he said, labour had to be recompensed in a manner which would satisfy the needs of the individual.

MR. HARRY (Australia) preferred the United States draft of Article 8 to that of the Secretariat. He thought the concept of the right to a livelihood conditioned by the duty to work, should not be stressed in this article which dealt with exploitation of man by man.

DR. CHANG (China) also preferred the United States draft. He considered the phrase “prohibited by this Bill of Rights” unsuitable, and felt that reference to livelihood and work should be made at another point. “Contractual obligations”, in his opinion, would have to be qualified inasmuch as laws relating to contracts differed throughout the world.

THE CHAIRMAN explained that the United States did not consider family obligations contractual.

DR. MALIK (Lebanon), although of the opinion that the United States redraft was more satisfactory than that of the Secretariat, felt that the vague concepts of work, slavery, and compulsory labour would need clarification. He called attention to the fact that the drafts submitted by the delegation of Chile and by the American Federation of Labor contained helpful ideas on this subject.

PROF. KORETSKY (Union of Soviet Socialist Republics) reserved his right to make a statement later.

MR. WILSON (United Kingdom) believed that both drafts would require more particularity, and that this was not the right place to say anything about the right to work.

THE CHAIRMAN stated that it seemed to be generally agreed that the substance of Article 8 should be included, but that perhaps certain drafting changes would be needed.

[4]

Article 9

PROF. CASSIN (France) pointed out that the right of movement might give rise to certain difficulties such as, for example, economic considerations. Factories could not be established wherever a worker wished to live. Also, there existed problems relating to this right which could be solved only on the international level. He agreed that the principle of equality of freedom of movement should be affirmed in the Bill of Rights.

MR. SANTA CRUZ (Chile) felt that it would be more logical to follow the order suggested by the Secretariat, and study separately (1) the right to move freely within a country and (2) the right of immigration into another country.

MR. HARRY (Australia) asked whether the second paragraph of the United States redraft was intended as a substitute for item 10 of the Secretariat draft. He felt that three concepts were under consideration: (1) liberty of movement within a State subject to general laws, (2) the right to leave a country, and (3) the facilitation of movement throughout the world.

THE CHAIRMAN said that it was true that the second paragraph of the redraft might be considered virtually a new article.

DR. MALIK (Lebanon) expressed a preference for the Chilean draft because it was clearer and less capable of misinterpretation. He asked the meaning of "equitable" and raised a question as to what status this item would have in a country where opposing customs prevailed.

THE CHAIRMAN explained that "equitable" was used in the sense of "fair".

PROF. KORETSKY (Union of Soviet Socialist Republics) reserved the right to make a statement at a later date.

MR. WILSON (United Kingdom) felt that this article primarily dealt with non-discrimination and was, therefore, within the province of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. He doubted whether governments would give assent to an article which restricted their right to exclude people from their countries.

[5]

MISS SENDER (AF of L) thought the problems of emigration and immigration should be treated separately.

THE CHAIRMAN noted that the Committee apparently agreed that the substance of the first paragraph of the United States draft should be included in the Bill. The second paragraph might become a separate article.

Article 10

PROF. CASSIN (France) said that implementation of the right of freedom of movement of persons might be difficult. The right of emigration, he felt, did not carry with it the right to enter another country. The right of States to detain persons also would have to be considered in this connection.

MR. SANTA CRUZ (Chile) and MR. HARRY (Australia) approved the basic idea expressed in this article. Both felt it needed redrafting.

DR. CHANG (China) said he believed liberty of movement to be fundamental. A statement of principle might be drawn up, he felt, but its implementation would have to be the concern of the individual countries.

DR. MALIK (Lebanon) expressed a preference for the United Kingdom text because of its greater clarity and its inclusion of certain exceptions.

MR. WILSON (United Kingdom) accepted the substance of the article, if limited as in the United Kingdom draft.

THE CHAIRMAN observed that there seemed to be general agreement that something along the lines proposed in Article 10 should be included in the Commission's draft.

Article 11

PROF. CASSIN (France) said it would be necessary to draft two alternative texts on the question of arbitrary searches and seizures, depending on the form the Bill would finally take. The wording of an article on this subject, he felt, would be extremely important.

[6]

MR. SANTA CRUZ (Chile) pointed out that the Chilean draft separated the concepts of personal liberty and family relations, whereas, in the Secretariat and United States drafts they had been grouped as one. He favoured discussing them separately: (1) the inviolability of property and correspondence, and (2) freedom of family relations.

MR. HARRY (Australia) agreed that the substance of the article had a place in the Bill. Neither the right to life nor liberty would be helpful if pressure could be put upon an individual through his family, he pointed out.

DR. MALIK (Lebanon) questioned the meaning of the terms "arbitrary" and "unreasonable". He said both were vague and needed clarification. He also asked whether the word "secrecy" was intended to mean absolute secrecy.

MR. WILSON (United Kingdom) agreed with Prof. Cassin that the form of the draft would determine the final wording of this article. He stated that the meaning of the words "arbitrary" and "unreasonable" would differ in accordance with prevalent customs, practices and ideas.

THE CHAIRMAN summarized the general feeling of the Committee that the substance of the article should be included in the Bill in some form, but that it would have to be worded very clearly and carefully. She proposed that in considering other articles, only the representative wishing to sponsor the inclusion of that article in the Bill should speak.

Article 12

PROF. CASSIN (France) believed this article to be indispensable because persons existed who had no legal personality. A question which came to his mind was

whether it should be left by itself or grouped with the other articles relating to civil rights.

Article 13

The inclusion of the substance of Article 13 was sponsored by PROF. CASSIN (France). [7]

Article 14

The inclusion of the substance of Article 14 was sponsored by DR. MALIK (Lebanon).

Article 15

The inclusion of the substance of Article 15 was sponsored by PROF. CASSIN (France).

Article 16

The inclusion of the substance of Article 16 was sponsored by MR. HARRY (Australia) and MR. SANTA CRUZ (Chile).

Article 17

THE CHAIRMAN observed that the views of the Sub-Commission on Freedom of Information and of the Press would have to be taken into consideration when the drafting of this article was undertaken.

The inclusion of the substance of Article 17 was sponsored by MR. WILSON (United Kingdom).

Article 18

The inclusion of the substance of Article 18 was sponsored by MR. SANTA CRUZ (Chile). He said it was important to have such a provision.

Article 19

The inclusion of the substance of Article 19 was sponsored by MR. WILSON (United Kingdom) and DR. MALIK (Lebanon).

Article 20

The inclusion of the substance of Article 20 was sponsored by MR. HARRY (Australia) and DR. MALIK (Lebanon).

Article 21

The inclusion of the substance of Article 21 was sponsored by DR. CHANG (China). [8]

Article 22

THE CHAIRMAN said that in her opinion there should be a provision along these lines. PROF. CASSIN (France) said he thought it should be grouped with the articles on civil rights.

Article 23

The inclusion of the substance of Article 23 was sponsored by PROF. CASSIN (France). He believed it might be joined to those articles on the subject of political guarantees.

Article 24

The inclusion of the substance of Article 24 was sponsored by PROF. CASSIN (France). He stated that in his opinion the Committee might have to draft a text defining the principle of equality.

Article 25

PROF. CASSIN (France) thought that the substance of this article should be retained and connected with the limitations of liberty already discussed.

DR. MALIK (Lebanon) remarked that wording of the Secretariat draft was ambiguous. Certain things not prohibited by law are prohibited by other things. The law should not be considered the only lawgiver.

Article 26

The inclusion of the substance of Article 26 was sponsored by PROF. CASSIN (France), who proposed that it be studied in conjunction with Article 6.

Article 27

The inclusion of the substance of Article 27 was sponsored by PROF. CASSIN (France).

Article 28

The inclusion of the substance of Article 28 was sponsored by DR. CHANG (China). He pointed out, however, that what the United Nations could do about grievances would have to be made clear.

[9]

Article 29

The inclusion of the substance of Article 29 was sponsored by MR. SANTA CRUZ (Chile). He stated that many great advances of humanity, politically and socially, had been based on the right to resist oppression.

Article 30

The inclusion of the substance of Article 30 was sponsored by DR. MALIK (Lebanon).

Article 31

The inclusion of the substance of Article 31 was sponsored by DR. CHANG (China). He felt, however, that a change of wording might be necessary.

Article 32

The inclusion of the substance of Article 32 was sponsored by PROF. CASSIN (France). He said, however, that he had reservations as to many points of detail.

Article 33

The inclusion of the substance of Article 33 was sponsored by PROF. CASSIN (France).

MR. WILSON (United Kingdom) agreed with the principle expressed in the article and pointed out that if States were to be restricted as regards expulsion of aliens, they might be unwilling to accept them in the first instance.

Article 34

The inclusion of the substance of Article 34 was sponsored by DR. MALIK (Lebanon) and DR. CHANG (China).

Dr. Malik explained that he was not sponsoring the text as it stood, but only the principle that political asylum is something sacred and ought to be preserved in the community of nations.

[10]

Article 35

The inclusion of the substance of Article 35 was sponsored by MR. SANTA CRUZ (Chile). He added that he supported all of the articles referring to the social rights of individuals, beginning with Article 35 and ending with Article 44.

Article 45

MR. WILSON (United Kingdom), while supporting this article, stated that in the opinion of his government this question should be referred to the appropriate Sub-Commission.

THE CHAIRMAN suggested that some members of the Committee might wish to suggest possible drafts of an article dealing with discrimination which could be passed on to the Sub-Commission on Prevention of Discrimination and Protection of Minorities with the recommendation that that Sub-Commission recommend a final wording.

PROF. CASSIN (France) agreed that this suggestion satisfied him, but raised the question of the possible necessity of alternate texts, one to be used in a Declaration, another to be included in a convention.

Article 46

The inclusion of the substance of Article 46 was sponsored by DR. MALIK (Lebanon).

Article 47

DR. CHANG (China) pointed out that Article 47 dealt with a method of implementing the Bill of Rights. For this reason he felt that it should not be discussed immediately. [11]

Article 48

THE CHAIRMAN agreed that discussion of both Articles 47 and 48, since they dealt with implementation, should be deferred. However, DR. MALIK (Lebanon) said that since the principle stated in Article 47 was already included in the Charter of the United Nations, its substance should be included somewhere in the Committee's draft, at least in the Preamble.

THE CHAIRMAN asked whether the Committee wished to begin drafting the Bill of Rights immediately. Whether it did so or not, she said, it would have to decide very soon if it was writing a Declaration or an "Act of Parliament". Her own government's attitude had always been that since the International Bill of Rights

had to be considered by the General Assembly it should first be in the nature of a Declaration, followed by conventions on particular subjects which might have the binding force of treaties.

DR. CHANG (China) envisaged three distinct documents: one a Declaration, drafted in simple phrases; the second a commentary on each Article of the Declaration; the third a series of proposals for implementation.

THE CHAIRMAN proposed that further discussion of this question be postponed until the next meeting. She hoped that at that meeting, the representative of the Soviet Union might present his views on the questions under consideration.

The meeting adjourned at 1:00 p.m.

E/CN.4/AC.1/10

12 June 1947

Suggestions for Additional Articles to be Added to the International Bill of Rights Submitted by the American Federation of Labor

Every human being, irrespective of race, religion or belief, sex or national origin has the right to pursue his work and spiritual development in conditions of freedom and dignity.

Every Person shall have freedom of expression, and freedom of association in various, differing cultural, religious, economic and political organizations without compulsion by government or any other agencies. (Article 20 of Secretariat draft, E/CN.4/AC.1/3)

These rights shall be inviolate for those who disagree with the government or party in power at any given time and extends to the right of every person to change his beliefs.

E/CN.4/AC.1/11

12 June 1947

Textual Comparison of

- I. *The Draft Outline of an International Bill of Rights (prepared by the Secretariat)*
- II. *The United Kingdom Draft Bill of Rights (document E/CN.4/AC.1/4 – 5 June 1947)*

III. *United States Proposals (document E/CN.4/AC.1/8 – 11 June 1947)*
[2]

Preamble

I. Draft Outline (Secretariat)

Preamble

The Preamble shall refer to the four freedoms and to the provisions of the Charter relating to human rights and shall enunciate the following principles:

1. that there can be no peace unless human rights and freedoms are respected;
2. that man does not have rights only; he owes duties to the society of which he forms part;
3. that man is a citizen both of his State and of the world;
4. that there can be no human freedom or dignity unless war and the threat of war is abolished.

II. U.K. Draft

Preamble

1. Whereas the peoples of the United Nations have reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person;

2. Whereas it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion;

3. Whereas all men are members of communities and as such have the duty to respect the rights of their fellow men equally with their own;

4. Whereas the just claims of the state, which all men under a duty to accept, must not prejudice the respect of man's right to freedom and equality before the law and the safeguard of human rights, which are primary and abiding conditions of all just government;

5. Whereas the denial of human rights and fundamental freedoms endangers the general welfare and friendly relations among nations and the enjoyment of such rights and freedoms by all persons must be secured by international [3] law and protected by the organized community of states;

6. Whereas it is expedient to define more exactly the aforesaid human rights and fundamental freedoms and to make provision for their universal observance and protection.

Now therefore the States parties to this International Bill of Rights have accepted the following provisions:

III. U.S. Proposals

- None -

[4]

Article 1***I. Draft Outline (Secretariat)****Article 1*

Everyone owes a duty of loyalty to his State and to the (international society) United Nations. He must accept his just share of responsibility for the performance of such social duties and his share of such common sacrifices as may contribute to the common good.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[5]

Article 2***I. Draft Outline (Secretariat)****Article 2*

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the State and of the United Nations.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

The state is created by the people for the promotion of their welfare and the protection of their mutual rights. In the exercise of his rights everyone is limited by the rights of others. The state may impose only such limitations on such rights as are compatible with the freedom and welfare of all.

[6]

Article 3

I. Draft Outline (Secretariat)

Article 3

Everyone has the right to life. This right can be denied only to persons who have been convicted under general law of some crime to which the death penalty is attached.

II. U.K. Draft

Part II – Article 8

It shall be unlawful to deprive any person of his life save in the execution of the sentence of a court following on his conviction of a crime for which this penalty is provided by law.

III. U.S. Proposals

The right to life is fundamental and may not be denied to any person except upon conviction of the gravest of crimes under general law providing for the penalty of death.
[7]

Article 4

I. Draft Outline (Secretariat)

Article 4

No one shall be subjected torture, or to any unusual punishment or indignity.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[8]

Article 5

I. Draft Outline (Secretariat)

Article 5

Everyone has the right to personal liberty.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[9]

Article 6***I. Draft Outline (Secretariat)****Article 6*

No one shall be deprived of his personal liberty save by a judgment of a court of law, in conformity with the law and after a public trial at which he has had an opportunity for a full hearing, or pending his trial which must take place within a reasonable time after his arrest. Detention by purely executive order shall be unlawful except in time of national emergency.

II. U.K. Draft*Part II – Article 10*

1. No person shall be deprived of his liberty save by an arrest which is affected for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or which is reasonably considered to be immediately necessary to prevent his committing a crime or breach of the peace.

2. Every person arrested and detained shall be brought without delay before a judge, who shall either try the case or decide, after hearing evidence, whether there is sufficient cause to justify that person's trial and if so whether his liberty shall be restored to him on bail.

3. The period of detention pending trial shall not be unreasonably prolonged.

4. The preceding provisions of this Article do not apply to

- (i) the lawful detention of a person sentenced after conviction to deprivation of liberty or
- (ii) lawful detention of persons of unsound mind or
- (iii) the lawful custody of minors or
- (iv) the lawful arrest and detention of a person to prevent his affecting an unauthorized entry into the country.

[10]

5. Every person who is deprived of his liberty shall have an effective remedy in the nature of “*Habeas corpus*” by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not justified.

III. U.S. Proposals

No one shall be deprived of life or personal liberty, or be convicted or punished for crime in any manner, save by judgment, of a competent and impartial tribunal, in conformity with law, after a fair public trial at which he has had the opportunity for a full hearing, the right to be confronted with the witnesses against him, the right of compulsory process for obtaining witnesses in his favour, and the right to consult with and be represented by counsel.

[11]

Article 7

I. Draft Outline (Secretariat)

Article 7

Everyone shall be protected against arbitrary and unauthorized arrest. He shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.

II. U.K. Draft

Part II – Article 10

Paragraph 6. Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

III. U.S. Proposals

No person shall be subjected to arbitrary or unauthorized arrest or detention. Every person who is arrested or detained shall be immediately informed of the charges on which he is held, and shall have the right to prompt judicial determination of the legality of his detention. Trial of the charges must be afforded within a reasonable time, or he shall be released from detention. Every person shall be entitled to secure his release pending trial upon furnishing reasonable security for his appearance, except where such release would defeat the administering of justice. Detention by purely executive order shall be unlawful except in time of national emergency, proclaimed in accordance with law.

[12]

Article 8***I. Draft Outline (Secretariat)****Article 8*

Slavery and compulsory labour are inconsistent with the dignity of man and therefore prohibited by this Bill of Rights. But a man may be required to perform his just share of any public service that is equally incumbent upon all, and his right to a livelihood is conditioned by his duty to work. Involuntary servitude may also be imposed as part of a punishment pronounced by a court of law.

II. U.K. Draft*Part II – Article 9*

No form of slavery shall be permitted.

(A text on the subject of compulsory labour will be inserted here later.)

III. U.S. Proposals

No one shall be held in slavery, nor be required to perform compulsory labour in any form other than public service equally incumbent by law upon all or as part of punishment pronounced by a competent judicial tribunal. No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.

[13]

Article 9***I. Draft Outline (Secretariat)****Article 9*

Subject to any general law adopted in the interest of national welfare or security, there shall be liberty of movement and free choice of residence within the borders of each State.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

All persons shall equally enjoy the right to freedom of movement from one part of the territory of the state to another, and to free choice of residence in any part of the

territory, subject to any general law adopted in the interest of national welfare or security.

Every person shall, subject to equitable immigration and deportation laws, be free to enter, travel through or over, and remain temporarily in the territory of another state, provided always that he observes local laws and police regulations.

[14]

Article 10

I. Draft Outline (Secretariat)

Article 10

The right of emigration and expatriation shall not be denied.

II. U.K. Draft

Part II – Article 8

Every person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country including his own.

III. U.S. Proposals

- None -

[15]

Article 11

I. Draft Outline (Secretariat)

Article 11

No one shall be subjected to arbitrary searches or seizures, or to unreasonable interference with his person, home, family relations, reputation, privacy, activities, or personal property. The secrecy of correspondence shall be respected.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

No one shall be subjected to arbitrary or unauthorized searches and seizures of his person, home, papers and effects, or to unreasonable interference with his person, home, family, relations with others, reputation, privacy, activities or property. The secrecy of correspondence shall be respected.

[16]

Article 12

I. Draft Outline (Secretariat)

Article 12

Everyone has the right to a legal personality. No one shall be restricted in the exercise of his civil rights except for reasons based on age or mental condition or as a punishment for a criminal offence.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Everyone has the right to a legal personality. No person shall be restricted in the exercise of his civil rights except under general law based on reasons of age or mental incompetence, or as punishment for a criminal offence, or as otherwise permitted in this bill.

[17]

Article 13

I. Draft Outline (Secretariat)

Article 13

Everyone has the right to contract marriage in accordance with the laws of the State.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -
[18]

Article 14**I. Draft Outline (Secretariat)***Article 14*

There shall be freedom of conscience and belief and of private and public religious worship.

II. U.K. Draft*Part II – Article 13*

1. Every person shall be free to hold any religious or other belief dictated by his conscience and to change his belief.

2. Every person shall be free to practise, either alone or in community with other persons of like mind, any form of religious worship and observance, subject only to such restrictions, penalties or liabilities as are strictly necessary to prevent the commission of acts which offend laws passed in the interests of humanity and morals, to preserve public order and to ensure the rights and freedoms of other persons.

3. Subject only to the same restrictions, every person of full age and sound mind shall be free to give and receive any form of religious teaching and to endeavour to persuade other persons of full age and sound mind the truth of his beliefs, and in the case of a minor the parent or guardian shall be free to determine what religious teaching he shall receive.

[19]

Article 15**I. Draft Outline (Secretariat)***Article 15*

Everyone has the right to form, to hold, to receive and to impart opinion.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Everyone has the right to form and hold opinions and to receive them from, and impart them, within or beyond the borders of the State.

[20]

Article 16

I. Draft Outline (Secretariat)

Article 16

There shall be free and equal access to all sources of information both within and beyond the borders of the State.

II. UK. Draft

Part II – Article 14

Paragraph 2. Every person shall be free to receive and disseminate information of all kinds, including both facts, critical comment and ideas by books, newspapers, or oral instruction, and by the medium of all lawfully operated devices.

Paragraph 3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; (publications aimed at the suppression of human rights and fundamental freedoms); publications injurious to the independence of the judiciary or the fair conduct of legal proceedings; and expressions or publications which libel or slander the reputations of other persons.

III. U.S. Proposals

Freedom of everyone to receive, read and listen to all matters of information shall not be impaired, and there shall be free and equal access to all sources of information both within and beyond the border of a State.

[21]

Article 17**I. Draft Outline (Secretariat)***Article 17*

Subject only to the laws governing slander and libel, there shall be freedom of speech and of expression by any means whatsoever, and there shall be reasonable access to all channels of communication. Censorship shall not be permitted.

II. U.K. Draft*Part II – Article 14*

Paragraph 1. Every person shall be free to express and publish his ideas orally, in writing, in the form of art, or otherwise.

...

Paragraph 3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; (publications aimed at the suppression of human rights and fundamental freedoms); publications injurious to the independence of the judiciary or the fair conduct of legal proceedings; and expressions or publications which libel or slander the reputations of other persons.

III. U.S. Proposals

There shall be freedom of speech, of the press and of expression by any means whatsoever, and there shall be reasonable access to all channels of communication. [22]

Article 18**I. Draft Outline (Secretariat)***Article 18*

There exists a duty towards society to present information and news in a fair and impartial manner.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -
[23]

Article 19***I. Draft Outline (Secretariat)****Article 19*

There shall be freedom of peaceful assembly.

II. U.K. Draft*Part II – Article 15*

All persons shall have the right to assemble peaceably for any lawful purpose including the discussion of any matter, on which under Article 14 any person has the right to express and publish his ideas. So restrictions shall be placed on the exercise of this right other than those necessary for the protection of life and property and to prevent disorders, the obstruction of traffic and of the free movement of others.

III. U.S. Proposals

- None -
[24]

Article 20***I. Draft Outline (Secretariat)****Article 20*

There shall be freedom to form associations for purposes not inconsistent with this Bill of Rights.

II. U.K. Draft*Part II – Article 16*

All persons shall be free to constitute associations, in whatever form may be appropriate under the law of the state, for the promotion and protection of their legitimate interests and of any other lawful object, including the dissemination of all

information of which under Article 4 the dissemination is unrestricted. The rights and freedom set forth in Articles 13 and 14 shall be enjoyed by such associations.

III. U.S. Proposals

There shall be freedom to form associations.

[25]

Article 21

I. Draft Outline (Secretariat)

Article 21

Everyone has the right to establish educational institutions in conformity with conditions laid down by the law.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[26]

Article 22

I. Draft Outline (Secretariat)

Article 22

Everyone has a right to own personal property.

His right to share in the ownership of industrial, commercial and other profit-making enterprises is governed by the law of the State within which such enterprises are situated.

The State may regulate the acquisition and use of private property and determine those things that are susceptible of private appropriation.

No one shall be deprived of his property without just compensation.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Everyone has the right to own and transfer property, subject to regulation, under general laws, governing the acquisition and use thereof, and determining, in the interest of national welfare and security, those things not susceptible of private ownership. No one shall be deprived of property except in accordance with law, nor suffer his property to be taken other than for public use with just compensation to him.

[27]

Article 23

I. Draft Outline (Secretariat)

Article 23

No one shall be required to pay any tax or be subjected to any public charge that has not been imposed by the law.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[28]

Article 24

I. Draft Outline (Secretariat)

Article 24

There shall be equal opportunity of access to all vocations and professions not having a public character.

II. U.K. Draft

- No proposal -

III. U.S. Proposal

There shall be equal opportunity to engage in any vocation or profession, not constituting public employment, subject to such reasonable qualifications as are inherent in the work to be performed.

[29]

Article 25***I. Draft Outline (Secretariat)****Article 25*

Everything that is not prohibited by law is permitted.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -
[30]

Article 26***I. Draft Outline (Secretariat)****Article 26*

No one shall be convicted of crime except by judgment of a court of law, in conformity with the law, and after a fair trial at which he has had an opportunity for a full public hearing.

Nor shall anyone be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

II. U.K. Draft*Part II – Article 12*

No person shall be held guilty of any offence on account of acts or omissions which did not constitute such an offence at the time when they were committed.

III. U.S. Proposals

No one shall be convicted of crime except by judgment of a competent and impartial tribunal for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence. No one acquitted or convicted of a crime

shall thereafter be again put in jeopardy of life or liberty for the offence of which he was acquitted or convicted.

[31]

Article 27

I. Draft Outline (Secretariat)

Article 27

There shall be access to independent and impartial tribunals for the determination of rights and duties under the law.

Everyone has the right to consult with and to be represented by counsel.

II. U.K. Draft

Part I – Article 2

Every state is, by international law, under an obligation to ensure:

...

- (b) that any person whose rights or freedoms are violated should have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (c) that such remedies shall be enforceable by a judiciary whose independence is secured. . .

III. U.S. Proposals

Every person has the right to have any civil claims or liabilities determined without undue delay by a competent and impartial tribunal, before which he has the opportunity for a fair hearing, and has the right to consult with and to be represented by counsel.

[32]

Article 28

I. Draft Outline (Secretariat)

Article 28

Everyone has the right, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievances.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

No State shall abridge the right of everyone, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievance.

[33]

Article 29**I. Draft Outline (Secretariat)***Article 29*

Everyone has the right, either individually or with others, to resist oppression and tyranny.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[34]

Article 30**I. Draft Outline (Secretariat)***Article 30*

Everyone has the right to take an effective part in the government of the State of which he is a citizen. The State has a duty to conform to the wishes of the people as manifested by democratic elections. Elections shall be periodic, free and fair.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Government derives its just power from the consent of the governed. Everyone has the right to take an effective part in the government of the State or territory of which he is a citizen. The citizens of the State or territory are accordingly entitled to exercise self-government through representatives freely and fairly chosen by them in periodic democratic elections.

[35]

Article 31

I. Draft Outline (Secretariat)

Article 31

Everyone shall have equal opportunity of access to all public functions in the State of which he is a citizen.

Appointments to the civil service shall be by competitive examination.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

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

[36]

Article 32

I. Draft Outline (Secretariat)

Article 32

Everyone has the right to a nationality.

Everyone is entitled to the nationality of the State where he is born unless and until on attaining majority he declares for the nationality open to him by virtue of descent.

No one shall be deprived of his nationality by way of punishment or be deemed to have lost his nationality in any other way unless he concurrently acquires a new nationality.

Everyone has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another State.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Every person shall have the right to a nationality.
[37]

Article 33**I. Draft Outline (Secretariat)***Article 33*

No alien who has been legally admitted to the territory of a State may be expelled therefrom except in pursuance of a judicial decision or recommendation as a punishment for offences laid down by law as warranting expulsion.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None-
[38]

Article 34**I. Draft Outline (Secretariat)***Article 34*

Every State shall have the right to grant asylum to political refugees.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -
[39]

(Social Rights)**Preliminary Article (Article)*****I. Draft Outline (Secretariat)***

- No provision -

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Everyone has the right to a fair and equal opportunity to advance his own physical, economic and cultural wellbeing and to share in the benefits of civilization.

It is the duty of the State, in accordance with the maximum use of its resources and with due regard for the liberties of individuals, to promote this purpose by legislation or by other appropriate means. Among the social rights thus to be achieved progressively by joint effort of the individual and the State are those defined in the following Articles.

[40]

Article 35***I. Draft Outline (Secretariat)******Article 35***

Everyone has the right to medical care. The State shall promote public health and safety.

II. U.K. Draft

- No provision -

III. U.S. Proposals

Everyone, without distinction of economic or social condition, has a right to the highest attainable standard of health.

The responsibility of the State for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

[41]

Article 36***I. Draft Outline (Secretariat)****Article 36*

Everyone has the right to education.

Each State has the duty to require that every child within its territory receive a primary education. The State shall maintain adequate and free facilities for such education. It shall also promote facilities for higher education without distinction as to the race, sex, language, religion, class or wealth of the persons entitled to benefit therefrom.

II. U.K. Draft

- No proposal –

III. U.S. Proposals

Everyone has the right to education.

Each State has the duty to require that each child within territories under its jurisdiction receive a fundamental education. The State shall maintain adequate and free facilities for such education. It shall also assure development of facilities for further, including higher, education, which are adequate and effectively available to all the people within such territories.

[42]

Article 37***I. Draft Outline (Secretariat)****Article 37*

Everyone has the right and the duty to perform socially useful work.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[43]

Article 38***I. Draft Outline (Secretariat)****Article 38*

Everyone has the right to good working conditions.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

Everyone has a right to a decent standard of living; to a fair and equal opportunity to earn a livelihood; to wages and hours and conditions of work calculated to insure a just share of the benefits of progress to all; and to protection against loss of income on account of disability, unemployment, or old age.

It is the duty of the State to undertake measures that will promote full employment and good working conditions; provide protection for wage-earners and dependents against lack of income for reasons beyond their control; and assure adequate food, housing, and community services necessary to the wellbeing of the people.

[44]

Article 39***I. Draft Outline (Secretariat)****Article 39*

Everyone has the right to such equitable share of the national income as the need for his work and the increment it makes to the common welfare may justify.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[45]

Article 40***I. Draft Outline (Secretariat)****Article 40*

Everyone has the right to such public help as may be necessary to make it possible for him to support his family.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -
[46]

Article 41***I. Draft Outline (Secretariat)****Article 41*

Everyone has the right to social security. The State shall maintain effective arrangements for the prevention of unemployment and for insurance against the risks of unemployment, accident, disability, sickness, old age and other involuntary or undeserved loss of livelihood.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -
[47]

Article 42***I. Draft Outline (Secretariat)****Article 42*

Everyone has the right to good food and housing and to live in surroundings that are pleasant and healthy.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[48]

Article 43***I. Draft Outline (Secretariat)****Article 43*

Everyone has the right to a fair share of rest and leisure.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[49]

Article 44***I. Draft Outline (Secretariat)****Article 44*

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[50]

Article 45

I. Draft Outline (Secretariat)

Article 45

No one shall suffer any discrimination whatsoever because of race, sex, language, religion, or political creed. There shall be full equality before the law in the enjoyment of the rights enunciated in this Bill of Rights.

II. U.K. Draft

(Comment to Part II – Articles 8 to 16)

This part of this Bill will be completed by provisions prohibiting distinctions based on race, sex, language and religion. No attempt is made to draft these provisions in advance of the reports of the sub-committee on Discrimination and Minorities and also of the Commission on the Status of Women. In any case, Part II as drafted above in fact provides for absence of discrimination seeing that it uses the words “all persons”. (See also Article 2 (a) of Part I: “all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless”.)

III. U.S. Proposals

There shall be equal protection before the law in the enjoyment of the rights enumerated in this Bill of Rights, without distinction as to race, sex, language or religion.

[51]

Article 46

I. Draft Outline (Secretariat)

Article 46

In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right to establish and maintain, out of an equitable proportion any public funds available for the purpose, their schools and cultural and religious institutions, and to use their own language before the courts and other authorities and organs of the State and in the press and in public assembly.

II. U.K. Draft

- No proposal -

III. U.S. Proposals

- None -

[52]

Article 47***I. Draft Outline (Secretariat)****Article 47*

It is the duty of each member State to respect and protect the rights enunciated in this Bill of Rights. The State shall, when necessary, co-operate with other States to that end.

II. U.K. Draft*Part I – Article 2*

Every State is, by international law, under an obligation to ensure:

(a) that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless, the enjoyment of these human rights and fundamental freedoms:

...

(d) that its police and executive officers should act in support of the enjoyment of these rights and freedoms.

III. U.S. Proposals

- None –

[53]

Article 48***I. Draft Outline (Secretariat)****Article 48*

The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and of the national law of each of the member States

of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.

II. U.K. Draft

Part I – Article 1

The States parties hereto declare that they recognize the principles set forth in Part II of this Bill as human rights and fundamental freedoms founded on the general principles of law recognized by civilized nations.

Part I – Article 3

On receipt of a request to this effect from the Secretary-General of the United Nations, made under the authority of a resolution of the General Assembly, the government of any party to this Bill will supply an explanation, certified by the highest legal authorities of the State concerned, as to the manner in which the law of that State gives effect to any of the said provisions of this Bill of Rights.

Part I – Article 5

A failure by any State party hereto to fulfil the obligations under Article 2 is an injury to the community of states and a matter of concern to the United Nations as the community of states organized under the rule of law.

[54]

Part I – Article 6

1. While declaring their readiness to consider the adoption of further procedures designed to strengthen the international protection of fundamental human rights and freedoms, the states parties hereto accept the right of any of them, acting in the interests of the community of states, to bring to the attention of the General Assembly of the United Nations any violation by any of them of the provisions of this Bill of Rights as constituting a situation likely to impair the general welfare or friendly relations amongst nations and as a violation of the purposes and principles of the United Nations within the meaning of Article 14 of the Charter.

2. Any party hereto which is thus alleged to have violated the provisions of this Bill of Rights shall have the right to request the General Assembly to obtain the advisory opinion of the International Court of Justice thereon and to refrain from taking any further action on the matter until this opinion has been obtained, and if such a request is made the parties hereto agree that they are bound to support the request.

Part I – Article 7

The parties hereto agree that anyone of them which is found by a Resolution of the General Assembly adopted by a two-thirds majority persistently to have violated the provisions of this Bill of Rights should be deemed to have violated the principles of the Charter of the United Nations and therefore be liable to expulsion from the organization under Article 6 of the Charter.

[55]

**Article
Emergency**

I. Draft Outline (Secretariat)

- No provision -

II. U.K. Draft

Part I – Article 4

1. In time of war or other national emergency, a State may take measures derogating from its obligations under Article 2 above to the extent strictly limited by the exigencies of the situation.

2. A State party hereto availing itself of this right of derogation shall inform the Secretary-General of the United Nations fully of the measures which it has thus enacted and the reasons therefor. It shall also inform him as and when the measures cease to operate and the provisions of Article 2 are being fully executed.

III. U.S. Proposals

- None -

[56]

Method of Adoption and Amendments

I. Draft Outline (Secretariat)

- No provision -

II. U.K. Draft

See Document E/CN.4/AC.1/4 (5 June 1947), pages 113–114.¹⁶⁸

¹⁶⁸ The reference should be to pp. 13–14 of document E/CN.4/AC.1/4.

III. U.S. Proposals

- None -

E/CN.4/AC.1/SR.5**12 June 1947**¹⁶⁹***Summary Record of the Fifth Meeting [of the Drafting Committee of the Commission on Human Rights]***Held at Lake Success, New York, on Thursday,
12 June 1947 at 2:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States of America), Vice-Chairman: Dr. P.C. Chang (China), Rapporteur: Dr. Charles Malik (Lebanon). Col. W.R. Hodgson (Australia), Mr. H. Santa Cruz (Chile), Prof. René Cassin (France), Prof. V. Koretsky (Union of Soviet Socialist Republics), Mr. Geoffrey Wilson (United Kingdom). *Specialized Agencies:* Mr. J. Havet (UNESCO). *Non-Governmental Organizations:* Miss Toni Sender (American Federation of Labor), Mrs. H. Fuhrman (International Cooperative Alliance). *Secretariat:* Prof. J. P. Humphrey (Secretary of the Committee), Mr. Edward Lawson.

1. Preparation of a Preliminary Draft of an International Bill of Human Rights on the Basis of Documentation Supplied by the Secretariat

THE CHAIRMAN suggested that the meeting be devoted to a discussion of the form which should be used in drafting the International Bill of Human Rights. She suggested that there were several alternatives: (1) to prepare a general Declaration, to be followed by a number of conventions; (2) to write [2] an "Act of Parliament", including perhaps fewer items but spelling out the provisions more completely and carefully; (3) to draft a general Declaration, then put the substance of the Declaration as nearly as possible into the form of a convention, and present both to the Commission on Human Rights at the same time. She proposed that if necessary, when the division in the Committee appeared to be fairly equal, two alternative drafts might be presented to the Commission. This would give the Commission an opportunity to weigh both methods of expressing an idea. She asked each member to express his opinion as to the form the Bill should take.

PROFESSOR CASSIN (France) felt that there might be two extreme positions: (1) to prepare something that would immediately strike public opinion and serve as a guide to the future policies of States; this would be a Declaration or Manifesto which might not be accompanied by a convention or by any other measure of

¹⁶⁹ This is the date of the meeting. The document was issued on 17 June 1947.

implementation; (2) to make immediately an enumeration of the rights of man, that enumeration to be in the form of an international convention obligatory for all States, and to create immediately, under the auspices of the United Nations, and serving mankind, an organism which might watch over the respect of human rights, which would be under the supervision of the General Assembly. In his opinion, the Committee should first formulate principles – not only the principle of liberty which it already had examined and the fundamental rights it had talked about, but also the social and economic rights of man. In this respect the Declaration should be complete. The Committee, however, might compromise on the length of the document, making it as brief and concise as possible as regards the separate rights and using concise formulas which do not embark upon details.

With regard to the question of implementation, Professor Cassin stated that in his opinion the Committee would have to work in stages. The role of the Governments would be very important in this connection, and the Committee would have to be prepared to make certain compromises with regard to the obligatory character of the rights. After having set forth certain [3] brief but striking declarations, he said, the Committee should then prepare longer and more elaborate texts on each specific right mentioned.

Professor Cassin pointed out that the Committee might consider, in addition to the rights already discussed, certain so-called international rights, for instance immigration, expatriation, right to asylum, and right to a nationality. In this field, he felt, it would be a very difficult task to draft precise protocols to be adopted by the States.

As regards social and economic rights, he felt that the protocol and the undertakings could not be the same as for the fundamental rights of the human being. Most States would agree that the liberty of conscience or the right to live should be safeguarded as soon as possible, but few would be in agreement on detailed undertakings regarding social security, social insurance, full employment, and other subjects. It should also be remembered that in these latter fields, such inter-governmental organizations as the ILO and the General Assembly Committee on the Codification of International Law already were active.

MR. SANTA CRUZ (Chile) stated that he had no precise opinion as to the manner in which the Committee should proceed in drafting the International Bill of Rights. He pointed out that the draft presented by Chile contained an article establishing that its provisions shall form part of the laws of each country; that is, they would be obligatory. However, he agreed with Professor Cassin that the practical aspect had to be taken into account, and that the Committee would have to proceed by stages: first establishing the fundamental principles and reserving for later stages the working out of agreements concerning separate rights.

DR. CHANG (China) stated that at this stage the Committee could only hope to draw up a list of general principles and rights, putting them into the form of a draft

Declaration for consideration by the General Assembly. A commentary might be attached to that list of principles and rights, [4] defining the terms in simple formulations. Later the Committee could consider practical methods of implementation. He emphasized that the number of articles should not be limited at this stage, and that the Committee might, at the first stage, allow itself to err on the side of too many articles rather than too few.

DR. MALIK (Lebanon) stated that he agreed with Professor Cassin that both attempts ought to be made at the same time. The first attempts would be to lay down the fundamental principles to be enunciated, which would then be passed upon by the General Assembly in the form of a Resolution. These principles would constitute the Manifesto or Credo of the United Nations concerning human rights. The second step would be to distil from this general basis of principles certain positive laws which will then be entered into by the parties who wish to subscribe to them. That would be the real definitive Bill of Human Rights, which would then become positive law according to the manner in which it is enacted and adhered to by the various countries. Dr. Malik felt that the Bill should have a preamble and a body of articles. Three categories might be established: (1) a category of fundamental principle, of manifesto, of declaration; (2) a category of the preamble; and (3) a category of the articles that are to be inserted into the Bill. He stated that the small powers are most anxious to see a tangible formulation of positive law to which they could adhere and to which the great powers also could adhere.¹⁷⁰

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) stated that although he was not in a position to express the ideas of his Government on questions of principles and substance, he wished to speak on the general outline of the Bill, raising certain questions which he thought ought to be taken into account without promising to give the answers to those questions. First of all he pointed out that the Committee might be embarking on a voyage which would lead it in the direction where it might cross the border which divides international law from internal law. The border which divides the inter-relationships of governments from the field [5] where sovereign rights of nations must prevail. [sic] He pointed out that the United Nations must first fight the remnants of fascism. Having beaten fascism it must formulate a Bill of Rights which would prevent the rebirth of fascist systems and of fascist ideology. Such a Bill, however, must not be of such a nature as to interfere in the internal system of various governments. Secondly, Professor Koretsky said the documented outline prepared by the Secretariat appeared to go beyond the limit of international law and appeared to be leading the members of the Drafting

¹⁷⁰ The verbatim transcript of Mr. Malik's remarks is published in Chapter 6 of Habib C. Malik, ed., *The Challenge of Human Rights, Charles Malik and the Universal Declaration*, Oxford: Centre for Lebanese Studies, 2000, pp. 61–62.

Committee to suggest that the United Nations embark into an intervention in the affairs of individual countries. The United Kingdom draft, he pointed out, appeared to him to be an attempt to transfer certain principles of law accepted in the United Kingdom to other countries – not only principles but also the mechanism of their implementation. This system, he felt, was not quite applicable to other nations whose historical development was different.

Professor Koretsky suggested that the Drafting Committee might have to consider following a different method from the one it had adopted. This method would take into consideration the following ideas: (1) every standard of law which the Committee placed in its preliminary draft ought to be set forth in such a manner that all the governments, and each government separately, should be in a position to agree to enforce them; (2) since each sovereign government must set its own standards in relations among nations the only form which the Committee could suggest, which would be compulsory for any government, would be that of an International Convention; (3) if such a Convention is going to be formulated it must be created with the direct co-operation and participation of each separate government.

Professor Koretsky pointed out that one of the first principles to be adopted in the formulation of an International Bill of Rights must be the destruction of discrimination and inequality. The Charter, he said, teaches that we must seek equality, that we must seek the end that people in each country shall be equal not only according to law, but also according to fact [6] and substance. He did not feel that either the Secretariat outline or the draft of the United Kingdom satisfied this principle.

A second principle to be adopted in formulating a Bill, he went on, was that the Bill should rise above the egotistical interests of each country and stand on a high level. It should be a document for the present time – a historical monument.

The basic characteristics of the drafts that had been presented to the Committee was their tendency to liberate man not from persecution but from his own government, from his own people, Professor Koretsky said. This meant putting him in opposition to his own government and to his own people. With regard to procedure in formulating the draft Bill of Rights, Professor Koretsky made the following suggestions: (1) that the drafts which had been submitted to the Drafting Committee are systematized; (2) that they be sent to the governments in order that the governments might be able to make concrete suggestions; (3) that the comments of each member government be gathered and studied; and (4) that as a result of the study of the comments of the governments a simple document be drawn up which would protect the rights of a free man in a free community.

In regard to the form of the document he stated that the one which pleased him most, from the point of view of the method of its preparation although not as far as its contents was concerned, was the Cuban draft. This draft consisted of clear and concise formulas which could be easily understood. The Committee would not

impress the masses of mankind if it presented as a Bill of Rights a document full of legal complications and reservations, he said. The Declaration of the Rights of Man should be as simple and as clear as the Decalogue, acceptable both to rich and poor, to the famous and those who are not famous, to Gentile and to Jew, to black and white, to everybody regardless of race or nationality.

In conclusion he proposed that the Committee proceed on the basis of a Declaration which should be adhered to by all governments. The Declaration [7] should be simple, clear, and concise. It should not seek to separate man from his community; it should rather create a man who is free in the framework of a free society.

THE CHAIRMAN pointed out that the Drafting Committee's terms of reference required it only to present a preliminary draft of an International Bill of Rights to the Commission on Human Rights. The Commission itself had been asked to submit this preliminary draft to all the governments for their comments. She pointed out also that it had been agreed at a previous meeting that the definition of the principle of equality or non-discrimination would be undertaken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. She emphasized that the draft to be prepared by the Drafting Committee was not binding irrevocably with respect to any government.

PROFESSOR KORETSKY suggested that perhaps the Drafting Committee might submit its preliminary draft directly to the governments or at least might circulate to the governments its materials already available. The drafts which had been presented, he said, could not be considered as satisfactory because they were beyond the limitations of the problems which could be included in an International Convention.

With respect to the question of discrimination he stated that in his opinion this particular item was the most important one to be included in a Bill of Rights – a question which ought to be raised under the present historical, concrete and material conditions. Whatever discrimination still exists in the world must be destroyed, he felt. This must be done in such a manner that the organization of the United Nations never again would have to consider items dealing with discrimination. Discrimination, he continued, can be considered an international political act, a phenomenon which has to be fought, which has to be treated, and which will threaten peace and security unless it is ended. This was one reason why he believed that the opinions of governments should be heard at the present early stage rather than the later stage in the formulation of a Bill of Rights.

[8]

THE CHAIRMAN pointed out that the Drafting Committee had no authority to initiate an entirely new procedure and that it would have to submit its preliminary draft to the Commission on Human Rights as it had been directed to do by the Economic and Social Council.

MR. WILSON (United Kingdom) expressed his agreement with what Professor Koretsky had said about the importance of establishing the principle of non-discrimination and also the importance of having a clear, concise, statement of the principles underlying the conception of human rights. He hoped that the representative of the Union of Soviet Socialist Republics would be able soon to express the views of his government on the substance to be included in the Bill. He agreed that the United Kingdom draft represented the United Kingdom point of view but felt that any other document put forward by any other representative would similarly reflect the atmosphere in which the drafter of the document had lived his life. The work of the Drafting Committee, as he understood it, was to find the maximum possible degree of unanimity between these various different points of view.

COLONEL HODGSON (Australia) pointed out that all governments had had several months in which to prepare their observations concerning the substance to be included in an International Bill of Rights. The Drafting Committee, he said, had been specifically requested to prepare the preliminary draft of such a Bill. The immediate question was not the contents of the Bill but the form that it should take. Approximately two hundred suggestions had already been made as to items to be included in the International Bill of Rights, he pointed out, and the Committee should now attempt to go through these with a view to reaching agreement. The Committee, he felt, must be practical and realistic and must avoid putting into its preliminary draft a group of principles which would be unacceptable to the various governments.

[9]

With regard to the form of the Bill, the Australian Delegation did not believe in a simple Declaration, Colonel Hodgson said; the Bill should be drafted in such a way that it could become an actual Convention which should contain practical measures for carrying out stated objectives. Even this might not be enough, for many conventions or treaties had never been put into effect in practice. Therefore, he felt that provision should be made that if a government or nation does not carry into effect the terms of the Bill of Rights it should be taken to task by the aggrieved party before an International Court.

THE CHAIRMAN pointed out that the proposed International Court of Human Rights was a method of implementing the Bill of Rights and that therefore consideration of its establishment should be deferred until a later date.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) felt that any action creating a Court which would stand higher than the separate governments as regards the inter-relations between governments and their citizens would inevitably lead to the destruction of governments. It would, he felt, be an organism which would be working against governments – a new, outside, disconnected organism which would take upon itself the function of regulating the relations between the governments

and their citizens. This, in his opinion, would violate the provisions of international law. Professor Koretsky felt that it would be better to follow out the proposal made in the Declaration presented by the Delegation of Panama, which was that each government should ensure conditions which would make each human being free.

COLONEL HODGSON (Australia) pointed out that it was the intention of the government of Australia to press for the establishment of an International Court of Human Rights. He cited several historical precedents, including the Court of Upper Silesia,¹⁷¹ the International Court of Justice, and the “mixed” courts of Egypt.¹⁷² Unfortunately, he said, there is no court in [10] existence at the present time where individuals or minorities can seek redress when their human rights and freedoms have been violated.

PROFESSOR KORETSKY pointed out that the Egyptian “mixed” courts were created at a time when certain countries did not have equal rights. Egypt was obliged, instead of having foreigners judged on the basis of local law, to have them judged according to foreign law. That differed naturally in principle from the situation in other countries where foreigners are always judged according to the local law.

PROFESSOR CASSIN (France) pointed out that if the Codification of International Law had been called for by the Charter it would have begun before the work of the Commission on Human Rights started. Because the Charter directly created the Commission on Human Rights, work in this field had started before work in the field of Codification of International Law. The Economic and Social Council had prescribed certain working procedures for the Commission on Human Rights and both the Commission and the Drafting Committee were bound by those working methods.

As far as the conception of the work was concerned, Professor Cassin reverted to his original suggestion that the Drafting Committee might have to contemplate two tasks: (1) the drafting of principles in a short, concise, eloquent Declaration which would speak directly to the masses of the people and be accepted by public opinion; and (2) the preparation of Conventions which the States might be willing to sign.

With respect to the fears which the delegate of the Soviet Union had expressed with regard to intervention or interference on the part of an international body, he agreed that it must be fully borne in mind that the United Nations is not yet a World Government which could over-ride the authority of national governments. However, in his opinion the Charter itself stated the right of interference. The Charter itself recognized that the international community has the right to deal with the respect of human rights and fundamental freedoms in the interior and

¹⁷¹ The Arbitration Court of Upper Silesia was established by the German Polish Convention of 15 May 1922. It gave the Council of the United Nations competence to pronounce on all individual or collective petitions relating to the protection of minorities. See: G. Kaeckenbeeck, “The Character and Work of the Arbitral Tribunal of Upper Silesia”, (1935) 21 *Transactions of the Grotius Society* 27.

¹⁷² The Egyptian Mixed Courts were the primary judicial authority in Egypt between 1876 and 1949.

within the borders of countries. [11] This was specifically put into the Charter in the hope of avoiding a repetition of what happened in 1933 when Germany began to massacre its own nationals and when other nations refused to consider this a matter of international concern.

He was convinced, he said, that the right of interference must be used with moderation, that it must be used with conviction, and that many stages would have to be gone through before such interference could be effectuated equitably. He did not see how the international community of States could accept appeals with regard to electoral questions, with regard to questions of taxes or in regard to many other questions raised in the relationships between States and their citizens. He did, however, feel that certain important cases – for example, the case of the massacres which began in 1933 – could be considered by some sort of an International Court in the future.

THE CHAIRMAN said that Professor Cassin had expressed in essence the position of the United Nations:¹⁷³ namely, that the Bill of Rights must consist first of a Declaration of broad principles. These principles later could be elaborated in a Convention. She suggested that the preliminary draft of the Bill might be in two parts and expressed the hope that at the next meeting the representative of the Union of Soviet Socialist Republics would be prepared to make a statement on the views of his government relating to the substantive contents of the Bill.

The meeting adjourned at 5:00 p.m.

E/CN.4/AC.1/SR.6

13 June 1947¹⁷⁴

***Summary Record of the Sixth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Friday,

13 June 1947 at 10:30 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Mr. Geoffrey Wilson (United Kingdom); Prof. V. Koretsky (Union of Soviet Socialist Republics). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

¹⁷³ The words “position of the United Nations” were replaced by “position of the United States” by E/CN.4/AC.1/SR.5/Corr.1, issued on 26 June 1947.

¹⁷⁴ This is the date of the meeting. The document was issued on 16 June 1947.

1. Consideration of Procedure to be Followed in Preparing a Preliminary Draft of the International Bill of Human Rights

PROF. KORETSKY (Union of Soviet Socialist Republics) stated that he was not in a position at the moment to present a draft Bill or to make concrete detailed comments. However, his Government wished to reserve the right to do this later. He said that texts of the Bill should be acceptable to each and every government. It was therefore necessary for his Government to have detailed information regarding the basis of a draft Bill, and to know how other governments feel about it. The material already presented [2] had been made available at rather a late stage, and his Government wished to study the documents with the care they deserved. It might later submit proposals of its own. Other representatives, he thought, might be in the same position. He suggested that the Chairman organize the work so as to give an opportunity to governments to acquaint themselves with the work of the Committee, even in unfinished form. The Committee, he said, should be able to consider the comments of all the governments. He proposed, therefore, that a small working group be created with a membership of, say, three, plus the Chairman. The task of this group would be to collate the various opinions which had been expressed. He suggested as members, Prof. Cassin (France), Dr. Malik (Lebanon), and Mr. Wilson (United Kingdom). This group could, in addition, prepare appropriate drafts for transmission to the governments for their comments. He agreed that this procedure went beyond the stages of drafting suggested by the Economic and Social Council. However, he felt that his suggestion would leave those stages untouched, and would have the effect of using the time between the end of the session of the Drafting Committee and the beginning of the second session of the Commission on Human Rights to speed the work of drafting. He further suggested that the Secretariat publish the results of the work of the working group, making it clear that its draft was still in a preliminary stage. This draft should be made widely accessible to interested individuals and organizations all over the world who would be invited to comment on it. The Secretary-General also could send it to governments for comments and suggestions. If this procedure produced satisfactory results, the Drafting Committee could be convened a few days before the beginning of the next full session of the Commission. It would then be able to prepare a draft Bill, corresponding closely to the wishes of governments, for presentation to the Commission.

Prof. Koretsky went on to say that he would like the Committee to consider the necessity of broadening certain points which had not been [3] developed sufficiently in the drafts submitted. He maintained specifically that the ideas regarding discrimination as expressed in the various drafts has not been developed sufficiently. There was wide evidence of the existence of discrimination in the world; the General Assembly itself had discussed, for example, the treatment of Indians in South Africa. In his opinion it was not sufficient simply to proclaim the principle of

equality or of non-discrimination; that idea must be implemented. Women were not yet treated with equality, neither in the economic field nor in the political field; nor were women elected in sufficient numbers to public office. He felt that it was insufficient to say that equality without regard to race, sex, language or religion should be proclaimed. Certain conditions, such as terrorism and certain forms of taxation, which had the effect of transforming equality into factual inequality, would have to be eliminated.

Next, he felt that the question of essential rights and freedoms needed to be stressed more than they were in any of the present drafts, and an acceptable and effective means of implementation would have to be devised. Such implementation, in his opinion, would not come through the creation of a Tribunal, an International Court or an international police force, because any such organ would be able to implement no more nor less than could be implemented by the separate governments.

Prof. Koretsky stressed his belief that the approach of the Bill should be such as would make its acceptance possible under any and all social systems. He cited Article 122 of the Soviet Constitution, regarding the rights of women, where not only was it stated that women had equal rights in all fields, but the specific fields were enumerated, together with various ways in which the ideal was to be put into effect. The Committee, he suggested, might travel further along this road. He cited Article 120 of the Soviet Constitution, relating to the right of citizens to be supported in their old age or when they had lost the ability to support themselves. This statement of a right, he pointed out, was then insured by a broad development of social insurance for workers and support [4] of a broad network of rest homes. Whatever is put into an International Bill of Rights may be implemented, he added, and there should be no reservations.

Prof. Koretsky then referred to the new Japanese Constitution which had been drafted in consultation with General MacArthur, and which indicated, he said, that there had been no modification of the old Japanese feudal system or dissolution of monopolistic concerns despite the proclamation of formal rights and freedoms. In Japan such concerns had been the tools of those who had fomented the recent war. Any declaration, he went on, must stipulate the elimination of Fascism wherever it might exist. The Committee should not adopt a position which would not be politically significant.

Referring to the question of language and style, Prof. Koretsky maintained that conciseness and clarity were particularly important, and that the final declaration of Human Rights should be easily understandable by the masses of people. It should imitate the style and manner of the old laws, especially their conciseness and clarity. It should have emotional appeal, conviction, and provocative language. He recalled the clear, fighting spirit of the United States' Declaration of Independence and of the

French Declaration of the Rights of Man, both of which reflected periods of freedom and elevation. The Declaration of Human Rights should sound a bugle call, he said, and should state principles for which any man would be ready to stake his life. The Government of the Union of Soviet Socialist Republics considered this Declaration of great importance, and in view of the need to study the documents closely, reserved the right to submit concrete proposals later.

THE CHAIRMAN drew Prof. Koretsky's attention to the opinion expressed by the Soviet delegate to the Economic and Social Council. This delegate had opposed entrusting the drafting of the Bill of Rights to a small group. There was no reason why the Committee should not ask a small group to undertake certain tasks, she felt, but this work would finally have to be [5] passed upon by the Committee itself.

MR. SANTA CRUZ (Chile) also recalled the stand taken by the Soviet representative at the Fourth Session of the Economic and Social Council regarding the recommendation of the Commission on Human Rights that its three officers prepare a preliminary draft of the Bill of Rights. He said that his Government considered that the collaboration of the Union of Soviet Socialist Republics was of fundamental importance in view of the special contribution that might be made by States with new forms of law. There were various concepts, for instance in the Union of Soviet Socialist Republics, in the United States of America and in his own country, of the rights of property and of the relationship between the individual and the State. It had been hoped that a common equation could be found despite these differing concepts. Unfortunately that equation had not yet been found, but he believed that eventually it would be. He trusted that the representative of the Union of Soviet Socialist Republics would continue to collaborate and to help the Committee in its search for agreement.

THE CHAIRMAN asked the members whether they wished to vote on the Soviet proposal that a working group of three be established, or whether they wished first to discuss in detail the duties of the proposed group.

MR. HARRY (Australia) said the Soviet proposal was very useful, but possibly should not be voted upon until a later stage had been reached, after the Committee had further considered the various drafts which had been submitted. He considered it especially important that the views of the representative of the Union of Soviet Socialist Republics relating to the substantive contents of the Bill of Rights should be heard before any preliminary draft Bill was drawn up. MR. WILSON (United Kingdom) said that he gathered the Soviet representative had been speaking only of the proposed Manifesto. The language of any document outlining proposed legislation would, of course, be different. He agreed with the representative of the Union of Soviet Socialist Republics on the outline he had suggested for a Manifesto. He felt that the United Kingdom draft [6] could be

used as a basis for discussing a Convention, but that the Committee needed another document to use as a basis for discussing a Manifesto. He thought that the Secretariat document fell between the two ideas; it was too detailed for a manifesto, and not detailed enough for a convention. He thought that the Manifesto should be drafted, in the first place, by an individual. He also felt that it would be important for the Soviet representative to serve on the working group, and offered to resign in his favour.

PROF. KORETSKY (Union of Soviet Socialist Republics) said he could not make a useful contribution to the work of the small group, as he was not yet in a position to state his Government's views in detail. He proposed that as much drafting be done as was possible on the basis of suggestions already made. As regards language, he suggested that the section of the Soviet Constitution dealing with the rights and duties of citizens be taken as a model of clarity and conciseness.

Prof. Koretsky also clarified the position taken by the Soviet representative on the Economic and Social Council when the question of the procedure to be used in drafting the Bill was being discussed. He said that the impression might have been given that the Soviet representative had disagreed with the recommendation of the Commission on Human Rights that a Bill of Human Rights be drafted. This was not the case at all; the Soviet delegate had only insisted that such a draft could best be drawn up by representatives of Governments of divergent social and legal outlooks, and had therefore pressed for a broadening of the Drafting Committee. His thought was that the small group now proposed could systematize the work of the Committee and make it possible to receive comments on it from Governments.

THE CHAIRMAN pointed out that members of the Drafting Committee had agreed that (1) a manifesto and (2) a more detailed Convention should be written. She suggested voting first of all as to whether the Committee should set up a working group of three members, with the Chairman as an [7] *ex-officio* member; then as to whether one representative might be asked to produce a working paper for discussion. Finally, the Committee should consider how it should function with relation to the working group from that point on.

MR. WILSON (United Kingdom) suggested splitting the Committee into two groups of four members, each group charged with the preparation of one document. He thought it would be too much of a burden for one representative to be called upon to produce the Manifesto.

PROF. CASSIN (France) observed that either one group could undertake the writing of the Manifesto and one group the writing of the Convention, or alternatively each group could take responsibility for certain parts of each document. He thought the suggestion of the United Kingdom was a practical one. DR. CHANG (China) remarked that the United Kingdom proposal involved every member of the Committee. He thought the suggestion was not impractical, but that it should be

made clear that these were not drafting committees but small working groups, each undertaking a part of the preliminary work of the Drafting Committee. He also thought that the division of groups should not be such that the Drafting Committee would be divided permanently.

THE CHAIRMAN pointed out that there had been no formal vote on the agreement to write two documents, a Manifesto and a Convention, and suggested taking a vote. Members had also to consider the point raised by the representative of China that the groups should not be “frozen”. She said that the Drafting Committee might meet during mornings divided into working groups and during afternoons as a whole.

MR. WILSON (United Kingdom) said he doubted whether the Committee should take a formal vote regarding the writing of two documents. The Committee had been asked to prepare a Bill of Human Rights. There was a volume of opinion that a Manifesto was necessary, and also a volume of opinion that a Convention or Conventions might be required. Since both views were held, he thought, it would be wiser to prepare both documents.

[8]

PROF. KORETSKY (Union of Soviet Socialist Republics) said that even if two documents were to be drafted, there was no need for two groups. There would have to be a logical connection between the statement of general principles and the more concrete expression of the same principles.

DR. CHANG (China) suggested that the Committee instruct the working group to go over the material which had been discussed up to that point and to report back to the Committee as a whole. He thought that the group need do no more than summarize the discussions and perhaps produce some concrete suggestions. MR. WILSON (United Kingdom) said it was not very difficult to understand exactly what the working group was to do. The Committee had (1) discussed the Secretariat draft; (2) agreed in substance regarding matters which should find a place in the document; and (3) expressed the opinion that two documents should be prepared. He thought the members of the Committee should now set about drafting the documents themselves, and added that confusion might result if there was a horizontal division of work between the two documents. DR. CHANG (China) said he would like to have the small group undertake (1) a logical rearrangement of the Secretariat draft, (2) a rough redrafting of the various articles on the basis of discussions which had taken place in the Committee, and (3) a division of the work indicating which articles would require international conventions and which would not.

Decision: The Committee decided to appoint a Temporary Working Group consisting of the representatives of France, the Lebanon and the United Kingdom, the functions of the Group to be

1. To suggest a logical rearrangement of the articles of the Draft Outline supplied by the Secretariat;
2. To suggest a redraft of the various articles in the light of the discussions of the Drafting Committee;
3. To recommend to the Drafting committee the division of the substance of the articles between a Manifesto and a Convention.¹⁷⁵

The meeting adjourned at 1:00 p.m.

E/CN.4/AC.1/W.1

16 June 1947

**Draft International Declaration of Rights Submitted
by Working Group of Drafting Committee
(Preamble and Articles 1–6)**

Preamble

We, the Peoples of the United Nations,

Considering

1. that ignorance and contempt of human rights have been among the principal causes of the sufferings of humanity and of the massacres and barbarities which outraged the conscience of mankind before and especially during the last world war; and

2. that there can be no true peace unless human rights and freedoms are respected; and only by abolishing war and the threat of war can human freedom and dignity be assured to all mankind; and

3. that it has been proclaimed as the supreme aim of the recent strife that human beings shall be free in speech and in worship and free from fear and want; and

4. that the Charter begins by reaffirming our faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women; and

5. that it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion; and

6. (There were two points of view: (1) that the wording as submitted by [2] Professor Cassin, “that the enjoyment of such rights and freedoms by all persons must be protected by the commonwealth of nations and secured by international as well as national laws”, be retained and modified; (2) that the previous and following paragraphs covered the substance and that it was more suited to the preamble of a Convention.)

¹⁷⁵ See E/CN.4/AC.1/SR.14, p. 1.

Now, therefore, we the Peoples of the United Nations have resolved to define in a solemn Declaration the essential rights and fundamental freedoms of man, so that this Declaration, being forever present in the minds of all men, may constantly remind them of their rights and duties and that the United Nations and the Member States may constantly be inspired by the principles so formulated to translate them into reality; and

Have therefore adopted the following Declaration;

Article 1

All men are brothers. Being endowed with reason, members of one family, they are free and possess equal dignity and rights.

Article 2

The object of society is to afford each of its members equal opportunity for the full development of his spirit, mind and body.

Article 3

Man is essentially social and has fundamental duties to society and to his fellow men. The rights of each are therefore limited by the rights of others.

(Alternative)

As human beings cannot live and develop themselves without the help and support of society, each one owes to society fundamental duties which are: obedience to law, exercise of a useful activity, willing acceptance of obligations and sacrifices demanded for the common good.

Article 4

In the exercise of his rights, everyone is limited by the rights of others.
[3]

Article 5

All are equal before the law. It applies to public authorities and judges as well as to individuals. Everything that is not prohibited by law is legally permitted.

Article 6

There shall be respect for human life. No one, even when guilty of crime, shall be subjected to torture.

E/CN.4/AC.1/W.2

16 June 1947

Suggestions Submitted by the Representative of France for Articles 7–32 of the International Declaration of Rights

Chapter III

Personal Liberties

Article 7

Art. 5 Sec. Draft Everyone has the right to personal liberty.

Article 8

Art. 11 Sec. The inviolability of privacy, home, correspondence and
Draft reputation are protected by law.

Article 9

Art. 6 and 7 Sec. No one shall be deprived of his personal liberty except in
Draft cases prescribed by law and after due process. Every one
 placed under arrest or detention shall have the right to
 immediate judicial determination of the legality of any deten-
 tion to which he may be subject.

Article 10

Art. 6 and 26 No one shall be held guilty of any offence until legally
Sec. Draft convicted.

No one shall be convicted except by judgment of an inde-
pendent and impartial court of law, rendered in conformity with
law after a fair and public trial at which he has had an oppor-
tunity for a full hearing or has been legally summoned and has
been given all guarantees necessary for his defence.

[2]

Article 11

Art. 22 Par. 2 No one can be convicted of crime unless he has violated
Sec. Draft some law in effect at the time of the act charged as an offence

nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

Article 12

Art. 8 Sec.
Draft Slavery, which is inconsistent with the dignity of man, is prohibited.
Public authority may impose a personal service or work only by application of a law and for the common interest.

Article 13

Art. 9 and 10
Sec. Draft Subject to any general law adopted in the interest of national welfare and security, there shall be liberty of movement and free choice of residence within the borders of each State; individuals may also freely emigrate or expatriate themselves.

Chapter IV

Legal Status

Article 14

Art. 12 Sec. Draft Every one has the right to a legal personality everywhere.

Article 15

No one shall be restricted in the personal exercise of his civil rights except by a general law for reasons based on age, mental condition or other situation requiring protection or as a punishment for a criminal offence.

Article 16

Art. 13 Sec.
Draft
[3] Every one has the right to contract marriage in accordance with the laws of the State.

Article 17

Art. 12 Sec. Draft Every one has the right to a legal personality everywhere.

Article 18

Art. 22 Sec.
Draft

Every one has a right to own personal property.
No one shall be deprived of his property except for public welfare and with just compensation.

The State may determine those things that are susceptible of private appropriation and regulate the acquisition and use of such property.

The right to ownership, in whole or in part, of industrial, commercial and other profit-making private or collective enterprises, is governed by the law of the State within which such enterprises are situated.

Article 19

Art. 27 Sec.
Draft

Every one shall have access to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law. He shall have the right to consult with and, eventually, be represented by counsel.

Chapter V***Public Freedoms****Article 20*

Art. 14 Sec.
Draft and United
Kingdom

The individual freedom of conscience, belief and thought is an absolute and sacred right.

The practice of a private or public worship and the manifestations of opposite convictions can be subject only to such limitations as are necessary to protect public order, morals and the rights and freedoms of others.

[4]

Article 21

Art. 15–16–17–18
Sec. Draft

No one can be molested by reason of his opinions, even if he has derived them from sources beyond the borders of the State.

Every one is free to change, hold or impart his opinion, or to receive and discuss the opinions of others.

Article 22

There shall be freedom of expression either by word, in writing, in the press, in books or by visual, auditive or other means; provided however that the author, editor, publisher, printer, etc. shall be responsible for the abuse of this right if in so doing they have committed slander or libel or have failed to present information and news in a fair and impartial manner.

Article 23

There shall be freedom of peaceful assembly and of association for political, cultural, scientific, sporting, economic and social purposes compatible with this Declaration. No other restriction shall be placed on the exercise of this right except for the protection of public order.

Article 24

Art. 28 Sec.
Draft

No State shall deny to any individual the right, either individually or in association with others, to petition the government of his State or of his residence or the United Nations for redress of grievances.

Article 25

Art. 29 Sec.
Draft

When a government seriously or systematically tramples the fundamental human rights and freedoms, individuals and peoples have the right to resist oppression and tyranny, without prejudice to their right of appeal to the United Nations.

[5]

Chapter VI***Political Rights****Article 26*

Art. 20 Sec.
Draft

Every one has the right to take an equal part, directly or through his representatives, in the formation of law, the institution of taxes for public expense and the government of the State of which he is a citizen.

Each citizen shall take his part of public expenses according to his means.

Article 27

Art. 20 Sec.
Draft

The State has a duty to conform to the wishes of the people, manifested by democratic elections. Elections shall be periodic, free and fair.

Article 28

The protection of Human Rights requires a public force. This force shall be instituted for the Service of all and not for the advantage of those to whom it is entrusted. Each citizen must take it as an honour to take part in military service in the States which recognize this institution.

Article 29

Art. 31 Sec.
Draft

Every one shall have equal opportunity of access to all public functions of the State of which he is a citizen. Such functions cannot be considered as privileges or favours but appointment shall be by competitive examination or by reason of the titles of the ablest.

Article 30

There is no protection of Human Rights where the authors of tyrannical or arbitrary acts or their accomplices are not punished and where there is no provision for the liability of public authorities or their agents.

[6]

Chapter VII***Nationality and Protection of Aliens****Article 31*

Art. 32 Sec.
Draft

Every one has the right to a nationality. It is the duty of the United Nations and Member States to prevent the absence of nationality, which is contrary to human rights and against the interest of the community of mankind.

Article 32

Art. 34 Sec.
Draft

Every State shall have the right to grant asylum to political refugees.

Article 33

Art. 33 Sec. No alien legally admitted to the territory of a State may be
Draft expelled therefrom without having had a hearing.

If he has been a resident for less than a year his expulsion can be effected only in pursuance of a judicial decision or recommendation and in the cases permitted by law.

E/CN.4/AC.1/SR.7

17 June 1947¹⁷⁶

Summary Record of the Seventh Meeting [of the Drafting Committee of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday, 17 June 1947
at 11:00 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Mr. Geoffrey Wilson (United Kingdom); Prof. V. Koretsky (Union of Soviet Socialist Republics). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

Formulation of a Preliminary Draft of an International Bill of Human Rights on the Basis of Documentation Supplied by the Secretariat

THE CHAIRMAN recalled that a working group had been appointed at the Sixth Plenary Session of the Drafting Committee and requested:

1. to suggest a logical rearrangement of the articles of the Draft Outline supplied by the Secretariat;
- [2]
2. to suggest a redraft of the various articles in the light of the discussions of the Drafting Committee; and
3. to recommend to the Drafting Committee the division of the substance of the articles between a Manifesto or Declaration, and one or more conventions.

The working group had held two meetings, she reported, and after a general discussion had asked Prof. Cassin (France) to undertake the formulation of a

¹⁷⁶ This is the date of the meeting. The document was issued on 19 June 1947.

rough-draft Declaration because it felt that such a document might have greater unity if drawn up by one person. Prof. Cassin had produced the Preamble and forty-four articles of such a rough-draft Declaration, (Document E/CN.4/AC.1/W.2/Rev.1) and the working group had gone over the Preamble and the first six articles. She suggested that the Drafting Committee first read the Preamble for information, since it was generally recognized that its final wording could not be determined until later; then consider in some detail the first six articles as submitted by the working group, and finally consider in like detail the draft of articles 7 to 44 as drawn up by Prof. Cassin. She further suggested that the Drafting Committee would have to choose between a long Declaration or a short one. She asked for opinions on this subject, and also on the way the Committee should continue its work.

PROF. CASSIN (France) stated that he was conscious of the imperfection of his work. He explained that he had taken the liberty of drafting a Preamble to express the general principles. He agreed with the Chairman that the declaration should not be too wordy and too detailed, and cited as models the Declarations of Cuba and of the American Association of Human Rights and the Protection of Man. He invited his colleagues to propose abbreviations and deletions wherever necessary. The chapter indications had been inserted merely as a guide for his work, he explained, but he believed they should eventually be deleted. He thought that one group should be set up to study the contents of a Convention, another [3] to examine the substance of a Declaration.

MR. SANTA CRUZ (Chile) thought it advisable to study the wording of a Declaration on the one hand, and of the proposed convention drafts on the other. He felt that a Declaration, however short it might be, should include all the points that humanity expects to be included at this period of our history. To him it appeared to be especially important that economic and social rights be assured. The recognition of these rights would make the return of Fascism impossible. He agreed that the Declaration should be short, but emphasized that it should define the principles of freedom, of equality, of non-discrimination and of the rights of man to a just life.

MR. HARRY (Australia) paid tribute to the work of Prof. Cassin (France) and shared the view that the declaration should be short, concise, and crisp. He had envisaged a declaration in the form of a General Assembly Resolution designed to be an introduction to a Bill or a Convention. In his opinion, substantial changes in form would be required. A mere declaration of principles would not offer assurance against revival of oppression. His Government held the view that the main task was to provide a Bill of Human Rights with provisions for implementation; a document declaring and creating international law, one which would be acceptable to signatory States. The Committee might also draft an inspiring Declaration in order to focus attention on this problem and to offer the peoples of the world hope that detailed provisions for implementation would be made. The form of the Declaration, however, should be determined in the light of the Bill. He strongly supported a very short Declaration and was in favour of having the Committee split into two groups, one to examine the contents of a

Convention, the other to redraft the draft Declaration prepared by Prof. Cassin in the light of remarks made during the discussion.

DR. CHANG (China) said the Working Group had made a significant step towards orderliness. He felt, however, that the entire Committee [4] should go over each of the proposed articles first.

THE CHAIRMAN stated that Dr. Chang apparently agreed with the position of the United States, that there should be a Declaration, followed by one or more Conventions.

DR. MALIK (Lebanon) pointed out that the Drafting Committee already had agreed that two documents should be prepared, one a general Declaration and the other a Convention, to be submitted simultaneously to the Commission on Human Rights.

Regarding the Declaration, he felt that it should be very brief but should include all the basic principles of a Bill of Human Rights. It should be a fundamental matrix of doctrine from which positive law might be elaborated, a battle cry for freedom, for liberty; a Credo embodying the basic philosophy of the United Nations regarding human rights. From this declaration, there might flow one or more conventions. The world was awaiting more than mere resolutions. It wanted maximum assurance against the infringement of human rights and actual conventions. He pointed out there was already agreement on certain things that should be made the subject of Conventions at once. The field of personal liberties – protection of the bodily integrity of man – was one such subject. He agreed with Dr. Chang (China) that the Committee might work as a whole for some time. He felt it should attempt to draft two documents:

1. a Declaration, brief and all-inclusive, and
2. a summary of the maximum agreement as to what ought to go into one or more Conventions.

PROF. KORETSKY (Union of Soviet Socialist Republics) said it was very difficult to decide upon the form of the Bill of Rights without first deciding upon its contents. The creation of a sub-committee would be appropriate for actual drafting, he felt, but only after general [5] principles had been settled in a Plenary meeting of the Drafting Committee.

MR. WILSON (United Kingdom) believed it important to stress the historical situation in which the Committee met. It was one, he said, where Germany and other enemy countries during the war had completely ignored what mankind had regarded as fundamental human rights and freedoms. The Committee met as a first step toward providing the maximum possible safeguard against that sort of thing in the future. More than a Manifesto would be needed, in his opinion; there would in addition have to be a substantive body of law, not imposed upon, but adhered to, by Governments. He called attention to the fact that the draft Bill of Rights proposed by the United Kingdom contained the wording of a draft Convention on Human Rights. He agreed that certain additional items might be added, including the prevention of torture, the right of asylum, and the maintenance of civil rights.

He stated that he had been impressed by the arguments in favour of a short, pithy, pungent Declaration. However, he felt that the Convention should be fairly detailed, covering as wide a field as possible at this stage. He proposed that the United Kingdom's paper be taken as the basis for constructing a draft Convention. Finally, he expressed the opinion that the Drafting Committee should actually draft, since general principles already had been discussed in detail in the Commission on Human Rights. He felt that the Committee could prepare, simultaneously, a Manifesto and a Convention. He suggested that the Committee split into two working groups to put these two projects into shape.

PROF. CASSIN (France) said it would be hard to decide on the length of the Declaration without knowing what its contents should be. MR. WILSON (United Kingdom) asked how the Committee could draft a Declaration until it had reached general agreement as to the points to [6] be covered in a Convention. The Chairman said that in her opinion all points ought to be covered by the Declaration, whether or not they were spelled out in the Convention.

PROF. KORETSKY (Union of Soviet Socialist Republics) suggested that the Committee ought to think about what it could hope to accomplish in the immediate future. He observed:

1. that the Committee could not hope immediately to work out a final draft for submission to the Human Rights Commission;
2. that it could not immediately prepare a document for which the Governments represented on the Committee could be held answerable;
3. that it would have to consider very carefully the substantive contents of any document it submitted to the Commission;
4. that it ran the risk of trying to cover too much but of saying too little;
5. that it should carefully avoid being over-hasty; and
6. that it should always bear in mind that the object of the Bill of Rights was to protect human life and to make man free.

The problems, he felt, were of such complexity that the Drafting Committee could not hope to solve them within a week or two; and certainly there could be no immediate elaboration of a draft convention. While he agreed that all the work which had been done was extremely useful, he felt that the Committee should work towards preparing a basic working document which could be referred to the Governments for the expression of their views. After these views had been received and discussed by the Human Rights Commission, the Drafting Committee would be in a better position to do some actual drafting.

Specifically Prof. Koretsky (Union of Soviet Socialist Republics) reserved his right to present, at a later date, the opinions held by his Government on all matters of substance.

[7]

THE CHAIRMAN pointed out that the Government of the Union of Soviet Socialist Republics had had the same length of time as other governments to make suggestions relating to the form and substance of the Bill of Rights. Its representative had participated in the meetings of the Commission on Human Rights. She also indicated that in her opinion Prof. Koretsky's suggestions were in accordance with the method the Committee already had adopted; that is, to produce first of all a working document, which would consist of two parts.

DR. MALIK (Lebanon) called to the attention of the Committee that under its terms of reference it was obligated to submit a "preliminary draft" to the Commission on Human Rights. Such a preliminary draft could hardly be considered complete until the point of view of the Soviet Union and of other governments on matters of substance had been expressed. The only solution, he felt, might be to prepare as much of a draft as was possible under the circumstances, and to have a second meeting of the Drafting Committee shortly before the second session of the Commission on Human Rights.

PROF. CASSIN (France), summing up the discussion, said that he understood that the Drafting Committee had decided it would have to prepare a Declaration. It had also decided that this Declaration would have to be accompanied by one or several Conventions dealing with fundamental points in the Declaration. As for its future work, he supported the views already expressed as to the need for study by the various governments and by the public. But governments would have to study something concrete; they would have to have a text on which to base their criticism and comment. He suggested that the afternoon session be devoted to a discussion of the general part of the Declaration which he had attempted to prepare.

THE CHAIRMAN felt that Prof. Cassin's suggestion was a good one. PROF. KORETSKY (Union of Soviet Socialist Republics) asked for an opportunity [8] to clarify his position and to correct any possible misapprehension. He agreed, he said, that this first step should be taken; but he felt strongly that the resulting texts should be considered working documents and nothing more. The Committee, in his opinion, was not in a position to present anything that it could call a draft. He referred to the draft convention on genocide, which had been worked out by experts but which, he felt, could not be put into any final form until the governments had been consulted. He thought that perhaps the Drafting Committee might somehow communicate to the Economic and Social Council the opinion that under the present circumstances its mandate could not be carried out immediately, and that only a working document could be submitted for the consideration of the Commission on Human Rights and of the governments.

THE CHAIRMAN said that the Committee was then in the process of preparing just such a working document, whose form might eventually be changed. She read the Preamble submitted by the Working Group of the Drafting Committee and pointed out that this was not by any means a final draft. She proposed that during the

afternoon the Committee might consider the remainder of the draft prepared by the working group, then go through the remaining articles drafted by Prof. Cassin.

The meeting adjourned at 1:00 p.m.

E/CN.4/AC.1/SR.8

17 June 1947¹⁷⁷

***Summary Record of the Eighth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Tuesday,

17 June 1947, at 2:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. Geoffrey Wilson (United Kingdom). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor); Mrs. H. Fuhrman (International Cooperative Alliance). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

**1. Draft International Declaration of Rights Submitted by Working Group,
Preamble and Articles 1–6. (Document E/CN.4/AC.1/W.1)**

THE CHAIRMAN told the press that the working papers might be used for background information, but that since the proposals contained therein were not in final form, they should not be quoted. She asked the members to agree to limit their discussion on the various items contained in the working papers to three minutes on each item. MR. KORETSKY (Union of Soviet Socialist Republics) did not object to reading the articles from the working paper, [2] but did object to the three-minute limitation. MRS. ROOSEVELT stated that she would not insist upon such a limitation, but hoped that an effort might be made by each member to restrict his comments on any one item to that length of time.

Article 1

THE CHAIRMAN read Article 1. She stated that the United States government was not satisfied with the present wording, and invited the members to suggest possible revisions. DR. CHANG (China) thought that there should be added to the idea of “reason,” the idea which in a literal translation from the Chinese would be “two-

¹⁷⁷ This is the date of the meeting. The document was issued on 20 June 1947.

man-mindedness". The English equivalent might be "sympathy" or "consciousness of his fellow men". This new idea, he felt, might well be included as an essential human attribute. The Chairman agreed that Article 1 might be changed to read in substance: "All men, as members of one family, must be free and equal in dignity and rights. Being endowed with reason, they must have the additional sense of understanding of their fellow men about them." She felt that the wording of this would need revision.

PROFESSOR CASSIN (France) thought that in order to perfect the text Members might submit their own improvements on the original draft. He explained that his text alluded to the three fundamental questions of liberty, equality, and fraternity because, during the war, these great fundamental principles of mankind had been forgotten. The text was trying to convey the idea that the most humble men of the most different races have among them the particular spark that distinguishes them from animals, and at the same time obligates them to more grandeur and to more duties than any other beings on earth.

He added that there were still one or two ideas not yet mentioned, the concept of man as a reasonable being and the concept of reciprocal duties among men. These concepts, developed on the juridical plane, would concern mutual obligations or mutual rights or solidarity. However, he felt that [3] men generally would understand the expression "men are brothers" more easily than a juridical expression concerning "mutual rights and obligations".

MR. HARRY (Australia) suggested that the first four or five Articles might be combined into one, which would constitute an introduction. The Chairman called to his attention the fact that although an Article 4 appeared in the document, the working group had recommended that if the first paragraph of Article 3 were accepted, the alternative and Article 4 would be deleted. Mr. Harry suggested a formula along the following lines: "All men, without distinction as to race, sex, language or religion, have certain inalienable rights fundamental to their existence as free men in free societies and as members of the international community. These rights are subject only to the rights of others as individuals and to the just requirements of the society through which they are enabled to develop in wider freedom."

THE CHAIRMAN said that his suggestion would be considered.

Article 2

THE CHAIRMAN read Article 2. There were no comments.

Article 3

THE CHAIRMAN read Article 3 and the alternative form, including Article 4. There were no comments.

Article 5

THE CHAIRMAN read Article 5. She commented that the Government of the United States felt that the last sentence, “Everything that is not prohibited by law is legally permitted”, unnecessary, and should not be included.

Article 6

THE CHAIRMAN read Article 6. DR. CHANG suggested that the word “dignity” be used instead of “life” so that the first sentence would read: “There shall be respect for human dignity.” He also felt that the sentence in Article 5 which the United States considered unnecessary might be eliminated. THE CHAIRMAN pointed out that in the United States proposal there [4] appeared certain ideas that might be included in the Preamble of the Declaration. Among these were: (a) “The State is created by the people for the promotion of their welfare and the protection of their human rights. In the exercise of his rights, everyone is limited by the rights of others”; and (b) “The State may impose only such limitations on such rights as are compatible with the freedom and welfare of all.”

**2. Suggestions Submitted by the Representative of France
for Articles 7–44 of the International Declaration of Rights.
(Document E/CN.4/AC.1/W.2/Rev.1)**

Article 7

THE CHAIRMAN read Article 7. MR. HARRY (Australia) suggested the possibility of combining Articles 6 and 7 in a single Article, stating that “Everyone has the right to life and personal liberty”, and dealing with “torture” separately. PROFESSOR CASSIN suggested that there might be a Chapter heading after Article 5, to mark the end of the general provisions and the beginning of the treatment of particular liberties. He agreed that it was possible to group together everything having to do with life, physical inviolability, and liberty and personal security as one unified subject. The representatives of China and the United Kingdom supported this view.

Article 8

THE CHAIRMAN read Article 8. She suggested that it might be improved if changed to read “There shall be inviolability of privacy, home, correspondence and reputation, protected by law.”

MR. WILSON (United Kingdom) suggested that Articles 8, 9, 10, 11, 12 and 13, which might be considered particular applications of the principle that the liberty of the individual shall be protected, should find a place in a Convention. THE

CHAIRMAN pointed out that if this view were accepted, those articles could be passed over for the time being. MR. HARRY (Australia) supported the suggestion, provided that after the first article, in the subsequent articles dealing with life, physical integrity and personal liberty, [5] there should be a second short article stating that no one should be deprived of his life or liberty, except in cases prescribed by law and after due process. He also felt that Article 8 might then follow, in a general statement, on the inviolability of home, correspondence, and reputation.

DR. CHANG (China), while agreeing with Mr. Wilson's suggestion, felt that certain phrases or sentences appearing in Articles 6 to 13 might be extracted for use in the Declaration. Inclusion of the whole of these articles in the Declaration would make it too complex, he said.

Article 10

THE CHAIRMAN stated that with respect to Article 10, the United States wished to suggest the use of the phrase "impartial tribunal" instead of "court of law". She also felt that the words "legally summoned" might not be understood. She pointed out that in the United States redrafts of parts of the Secretariat's outline, Article 7 had included several ideas: the right to be confronted by witnesses, the right of compulsory process for obtaining witnesses, and the right to be represented by Counsel. She pointed out that the third of these ideas was embodied in Article 19 of Professor Cassin's draft.

PROFESSOR CASSIN said that the matter of compulsory processes for obtaining witnesses and counsel for defence should either be placed in a convention or else be considered as covered by the phrase "right to defence" used in the Declaration. He felt that the Committee should avoid including in the Declaration matters which are not principles but applications of principles.

Article 9

THE CHAIRMAN read Article 9. There were no comments.

Article 11

THE CHAIRMAN read Article 11. There were no comments.

Article 12

THE CHAIRMAN read Article 12. She said that the United States felt that this Article should begin, "No one shall be held in slavery"; and that if [6] the second sentence were retained, it might lead to all kinds of injustices. The United States suggested the following wording: "No one shall be held in slavery nor be required to perform

compulsory labour in any form other than public service equally incumbent by law upon all, or as part of punishment pronounced by a competent judicial tribunal . . . No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual relations.”

The representative of the American Federation of Labor expressed the opinion that compulsory labour should be mentioned in addition to slavery.

MR. CHANG (China) recalled his previous proposal that in addition to a Declaration and one or more conventions there might be a third category – a commentary. He felt that there should be not more than twenty articles in the Declaration. The commentary would follow those articles which needed to be explained, but which could not be dealt with immediately in a convention. THE CHAIRMAN agreed that his suggestion was a good one.

Article 13

THE CHAIRMAN read Article 13 and the corresponding wording of the Secretariat outline and of the United Kingdom proposal. There were no comments.

THE CHAIRMAN proposed that a small working group go over Articles 7–13, relating to personal liberties, and suggest what should go into a Convention and what into a Declaration. MR. WILSON (United Kingdom) felt that this would not be possible; that no agreement could be reached on what should go into the Declaration until substantial progress had been made in drafting the convention. He therefore requested that the Committee as a whole consider what should go into the form of conventions, and later come back to the question of the contents of the Declaration.

THE CHAIRMAN asked MR. WILSON (United Kingdom) if he could draw up the preliminary draft of a convention and present it to the Committee on the following day. MR. WILSON replied that the draft of a convention already was before the Committee in the form of the United Kingdom proposals.

[7]

THE CHAIRMAN pointed out that what she had meant was that he take the discussion into consideration and revise any part of the United Kingdom proposal that he felt required revision. MR. WILSON (United Kingdom) replied that that would be difficult. He felt that the points should be considered as they stood, perhaps with the addition of texts on the subject of torture, the question of civil rights, and the right of asylum. He offered to prepare drafts on these three points.

DR. CHANG (China) expressed the hope that by the following day a more concise Declaration could be prepared under the supervision of Professor Cassin, and a proposed list of topics to be included on conventions by the Secretariat. PROFESSOR CASSIN, while agreeing, declared that in his opinion it was incorrect to start with the idea that the Declaration should contain a certain number of Articles [sic] it should

contain a certain number of ideas and these ideas should determine the number of Articles.

MR. HARRY (Australia) felt that Dr. Chang's proposal was a practical one. THE CHAIRMAN expressed the view that the full Committee should first go through the rest of the Articles presented by Professor Cassin. There was no objection to this procedure.

Article 14

THE CHAIRMAN read Article 14. DR. CHANG felt that the phrase "legal personality" was a little too technical. PROFESSOR CASSIN attempted to explain the philosophical basis of the articles appearing in Chapter IV, headed "Legal Status". The recognition of the juridical personality of all human beings is a second means of abolishing slavery, he pointed out. Slaves were once considered as instruments, as chattels, not as beings who could have rights. Also, just before the war there were instances when the right to marry was refused to refugees under the pretext that they did not have all the necessary papers and documents, that they did not have an authorization of residence, an official permit, and so forth, although they might have [8] been living in a particular country for several years. Through such small detailed regulations the most fundamental human rights were denied. Chapter IV attempts to counteract that situation, he concluded, and in his opinion Article 14 should state that every human being has certain juridical and human rights regardless of whether or not he is a citizen, including the right to marry and the right to conclude contracts. The texts might be difficult to understand, he realized, but they touched upon the rights of millions of human beings in a most concrete and practical manner.

Articles 15, 16 and 17

MRS. ROOSEVELT asked whether it would be possible to combine Articles 14 and 15. The United States felt, she added, that "mental incompetence" might be a better word than "mental condition"; and that the phrase "or other situation requiring protection" might be eliminated. The revised wording of Article 15 would then be: "No one shall be restricted in the personal exercise of his civil rights except by a general law for reasons based on age, mental incompetency or as a punishment for a criminal offence."

PROFESSOR CASSIN (France) stated that in his opinion Articles 14, 16, 19 and perhaps 17 could be combined, since they state the right of an individual to a legal personality. However, Article 15 was different as it stated that although there are rights, there are certain persons who cannot exercise those rights personally. For instance, an infant can be a proprietor but he cannot go before a notary public to conclude a contract; an insane person has certain rights but he cannot exercise them

personally; a criminal has certain rights but they must be exercised, for reasons of security of society, by a custodian. He felt that the phrase “or other situation requiring protection” should be retained because he did not feel that the list of cases in which men cannot act in their own right had been exhausted.

THE CHAIRMAN said that she felt Articles 14, 16, 17, and 19 could be combined. She suggested certain changes as proposed in the United States’ redrafts of the Secretariat outline. She asked if there were any further comments on Article 15.

[9]

PROFESSOR CASSIN suggested that Article 19 might be combined with Article 14 as a development of the principle of the legal personality.

Article 18

THE CHAIRMAN read Article 18, and suggested that the fourth paragraph, which seemed to her to be included in the first, did not appear to be necessary. DR. CHANG (China) felt that the first two paragraphs might be taken to include the last two. He suggested that the first two might serve as a declaration of principle, the latter two as “commentary”. MR. WILSON (United Kingdom) agreed with Dr. Chang, but felt that the Article might be limited still further, to the first paragraph, “Everyone has a right to own personal property”. Regarding the second paragraph, he asked what would happen if a person were fined, by a court, an amount of money which involved selling his automobile. He would be deprived of his property, but whether or not this could be considered for the public welfare was a difficult question. He felt that it was impossible to go beyond saying, as a statement of principle, that a person should have the things he needs in order to carry on and to enjoy his everyday life.

THE CHAIRMAN felt it would be wise to retain only the first sentence, but to alter it to read “Everyone has a right to own real and personal property”. MR. SANTA CRUZ (Chile) pointed out that an Article referring to the right to own property was a delicate one at a time when this right was subject to different legislation in the various countries which are Members of the United Nations. However, he thought it might be possible to arrive at a formula which would unite the different opinions, in the sense that everyone has the right to personal property in certain cases and that general property is subject to the interest of the community.

PROFESSOR CASSIN (France) agreed that the Committee should not try to evade difficulties, but to deal with them tactfully and with courage. He accepted the Chairman’s idea of cutting paragraphs 3 and 4 from Article 18. He suggested that the Committee might say that the State may determine the [10] rights and interests which are susceptible to private appropriation. That, he explained, would include real estate, industrial and commercial enterprises and any other objects, such as objects of higher culture or of an historical value which might be considered the patrimony of the whole

nation. He warned that there were enormously different conceptions regarding the right to property, and suggested that if the declaration were to deal with the effects which can be held in private ownership it should give guarantees to the proprietor; it should state that he shall not be deprived of his property except in the public interest and with just compensation. He felt that Article 18 could be reduced to three paragraphs, but he did not consider it possible to delete either the second or the third.

THE CHAIRMAN summarized the consensus of opinion as being in favour of deletion of paragraph 4 because it is implicit in the third. Some members also wished to have paragraphs 2 and 3 deleted. She suggested that if any paragraphs were deleted, the first sentence might be changed to read, "Everyone has a right to own and transfer real and personal property".

MR. HARRY (Australia) suggested that it might be better to eliminate any reference to property, in view of the difficulties sure to arise when an attempt was made to define what should and should not be owned, the differences between real and personal property, and so on. If it were left to the State to determine those things which are susceptible of private appropriation, he felt, the right expressed in the first paragraph would be worthless. MR. WILSON (United Kingdom) said that if the Article in its final form stated the right of the State rather than the right of the individual, it would be better to omit it.

DR. MALIK¹⁷⁸ (Lebanon) stated that in his opinion the right of property was a fundamental right which must have a place in the Bill, and certainly in the Declaration. He felt that it was self-evident that man cannot live without personal property; that this particular right was as essential and as fundamental as almost any other right. He did not see how reference [11] to such a right could be suppressed. He pointed out that the unlimited character of the ownership of private property could not be considered a fundamental right, but that even the most socialistic constitutions refer to the fact that a man must have something which is his own. He was in favour of retaining paragraph 1, properly modified, and the combination of paragraphs 1, 2, and 3 into a formulation which would indicate that man's right to property is not unlimited, but is limited by the will of society organized into the State.

PROFESSOR CASSIN (France) urged the importance of the question. It seemed impossible to him not to allude in the first paragraph to the principle of private property. Having done this, it would be necessary in a separate paragraph to stress the idea that the right of private property cannot be applied without limitation.

THE CHAIRMAN suggested that the need for the limitation of property rights or the consideration of the rights of other people ought to be considered. This could be

¹⁷⁸ The verbatim transcript of Mr. Malik's remarks is published in Chapter 6 of Habib C. Malik, ed., *The Challenge of Human Rights, Charles Malik and the Universal Declaration*, Oxford: Centre for Lebanese Studies, 2000, pp. 63–68.

considered already covered either by Article 3 which stated that “the rights of each are, therefore, limited by the rights of others”, or by the alternative formulation of Article 4, which states that “In the exercise of his rights, everyone is limited by the rights of others”. Property rights of an individual, she felt, would implicitly be limited by the rights of others.

MR. SANTA CRUZ (Chile) called attention to the Chilean proposal on this subject, which recognized the right of property and established the right of the State to cooperate with individuals so that they might have a minimum of private property in accord with their necessities, and the necessary decorum to enable them to maintain their dignity. The Chilean government, he said, did not only want property not to be limited, but would like the social function of property to be established. It would prefer a formula which would establish the right of a man to have private [12] property, and also recognize the rights of the community with respect to all property.

MR. WILSON suggested a rough rewording, as follows: “Everyone has the right to own such property as is necessary to enable him to maintain the average standard of life in the country in which he lives”. That, he felt, was the sort of thing that could be usefully said, and beyond which it would be extremely difficult and possibly even dangerous to go.

Article 20

THE CHAIRMAN read Article 20. She brought to the attention of the Committee a communication she had received from various religious groups, stating that they did not consider that just giving people the right to any form of worship was sufficient; that the right of teaching and freely discussing religious beliefs was also necessary. These communications would be circulated. She added that the view of the United States on Article 20 was that, in the second sentence of paragraph 2, the wording “manifestations of opposite convictions” is not necessary because it is implicit in freedom of conscience and belief. The second paragraph might be eliminated altogether.

DR. MALIK (Lebanon) suggested that the titles of Chapters III and IV, “Public Freedoms” and “Personal Liberties” respectively, be exchanged. He felt that the rights enumerated under Chapter III should be called “Public Freedoms” because they deal for the most part with man’s relation to the State; whereas the freedoms and rights under Chapter V dealt exclusively with man’s inner convictions and beliefs. He asked if there had been a reason for the apparent inversion of title.

PROF. CASSIN replied that freedom of worship, of conscience of opinion [sic] are such intrinsic personal liberties that they might be included under that Chapter heading. They became public, he explained, only when they received a public manifestation in the exercise of a form of worship or through the communications of opinions. This proved, he felt, that the titles given [13] to Chapters were not necessarily useful

and might even be harmful. He suggested that since the Chairman found the wording “opposite convictions” shocking, the wording “various opinions” or “different opinions” might be used instead. The Chairman replied that she had not meant to say that this phraseology had shocked her; it had merely seemed a bit awkward.

DR. MALIK (Lebanon) felt that the words “absolute and sacred” could be used in connection with the liberty of conscience, of worship, of thought, but not with any other liberty. He considered it important that the Committee recognize the fundamental human right for differing fundamental convictions, as in religion, to exist in the same national entity. The fact that a single nation is obligated, by international law, to recognize the diversity of fundamental points of view on ultimate matters should, he believed, be considered an essential and fundamental human right.

MR. HARRY (Australia) hoped that the bracket of freedoms outlined in Chapter V could be expanded and given precise definition in a Convention, and condensed and crystallized for inclusion in the Declaration. DR. CHANG (China) suggested as a drafting change that the word “morals” be eliminated, since it already was implied in the phrase “rights and freedoms of others”; and that the sentence might then read, in part, “. . . to protect public order and the rights and freedoms of others”.

Article 21

THE CHAIRMAN read Article 21. She pointed out that the phraseology might be a little awkward because it was a translation from the French. She suggested as a drafting change the rewording proposed by the United States: “Everyone is free to change, hold or impart, within or beyond the borders of the State, his opinion or to receive and discuss the opinions of others.”

Article 22

THE CHAIRMAN read Article 22, and expressed the view of the United States government that it would be difficult to hold publishers and [14] editors responsible in just the manner suggested in the Article, and that perhaps some of the limitations could be omitted or stated in more general terms. She recalled the wording proposed by the Sub-Commission on the Freedom of Information and of the Press: “The objectives of those who disseminate information should be accuracy, objectivity, comprehensiveness and representative character.”

PROFESSOR CASSIN (France) felt that it was impossible not to indicate that the freedom of writing implies a certain responsibility. He suggested ending the Article with the words, “. . . provided that there should be an organization of responsibility for the abuse of such rights”. Clarification of this provision could be made in a Convention.

Article 23

THE CHAIRMAN read Article 23, and expressed the view of the United States that it would be sufficient to say, "There shall be freedom of peaceful assembly". DR. MALIK (Lebanon) called attention to the fact that in the enumeration of the various objectives of association, religious association had been omitted. He asked whether that was an oversight. PROFESSOR CASSIN replied that apparently it was a typographical error which he had corrected on his own text.

Article 24

PROFESSOR CASSIN (France) felt that the right of petition might be included among the political rights of man. He suggested that Articles 20, 21, 22, and 23 might be grouped together in the Declaration. DR. CHANG (China) agreed, and added that Articles 24 and 25 also might be grouped, as political rights. MR. WILSON (United Kingdom) felt that the substance of Articles 20, 21, 22, and 23 should be included in a convention.

THE CHAIRMAN read Article 24. DR. MALIK (Lebanon) felt that the concept might well be enlarged by elimination of the words "for redress of grievances". The right to communicate in general with the United Nations, even apart from matters of redress of grievances, ought to be protected, he felt.

[15]

Article 25

THE CHAIRMAN read Article 25, and the corresponding Article 29 of the Secretariat outline. MR. SANTA CRUZ (Chile) said that he preferred the latter because it was simpler and recognized the right of an individual to resist oppression and tyranny. Professor Cassin's wording, he felt, guaranteed the right to resist oppression only when a regime deprives its people systematically of their fundamental human rights and freedoms, and it might be very difficult to say when that happened. He suggested that the wording be: "Everyone has the right, either individually or with others, to resist oppression and tyranny." PROFESSOR CASSIN (France) said that the genuine duty for all citizens to obey the law could not be overlooked. He pointed out that there were two conceptions: first, that rights be obtained peacefully and normally, but secondly, that when there is a great crisis, the gravity of the violation of human rights calls upon itself the attention of all peoples. He agreed that possibly his text did not reconcile these two conceptions well enough.

THE CHAIRMAN pointed out that Article 25 speaks of only one aspect of the right to resist tyranny, the aspect *vis à vis* governments. There are other aspects, she said, including the case of oppression imposed by non-governmental officers without cover of law.

Before adjourning, MR. WILSON (United Kingdom) agreed to prepare for the next day's meeting a suggestion as to the subject matter concerning the question of

torture, civil rights, and the right to asylum which might possibly be included in a convention.

The meeting adjourned at 5:16 p.m.

E/CN.4/AC.1/4/Add.1

18 June 1947

Proposals Submitted by the United Kingdom Representative on the Drafting Committee

1. No person shall be subjected to:
 - (a) torture in any form;
 - (b) any form of physical mutilation or medical or scientific experimentation against his will;
 - (c) cruel or inhuman punishments.
2. No person shall be restricted in the personal exercise of his civil rights or deprived of juridical personality, save in the case of:
 - (a) minors;
 - (b) persons of unsound mind; and
 - (c) persons convicted of crime for this penalty as provided by law.

E/CN.4/AC.1/W.2/Rev.1

18 June 1947¹⁷⁹

Original Text: English, French

Suggestions Submitted by the Representative of France for Articles 7–32 of the International Declaration of Rights

Article 7

Art. 5 Sec. Draft Everyone has the right to personal liberty.

Article 8

Art. 11 Sec. The inviolability of privacy, home, correspondence and
Draft reputation are protected by law.

¹⁷⁹ Although the document bears the date of 18 June, it was apparently issued on 16 June and is discussed in the seventh and eighth meetings of the Drafting Committee, which took place on 17 June (see: E/CN.4/AC.1/SR.7 and E/CN.4/AC.1/SR.8). The document is reproduced in Annex D of the Report of the Drafting Committee (E/CN.4/21), which states: "The English text is an official translation of the Articles suggested by Professor Cassin. The Drafting Committee did not work from this text but from a rough translation." There are substantial differences between the two texts.

Article 9

Art. 6 and 7 Sec.
Draft

No one shall be deprived of his personal liberty except in cases prescribed by law and after due process. Every one placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.

Article 10

Art. 6 and 26
Sec. Draft

No one shall be held guilty of any offence until legally convicted.

No one shall be convicted except by judgment of an independent and impartial court of law, rendered in conformity with law after a fair and public trial at which he has had an opportunity for a full hearing or has been legally summoned and has been given all guarantees necessary for his defence.

[2]

Article 11

Art. 22 Par. 2
Sec. Draft

No one can be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

Article 12

Art. 8 Sec.
Draft

Slavery, which is inconsistent with the dignity of man, is prohibited.

Public authority may impose a personal service or work only by application of a law and for the common interest.

Article 13

Art. 9 and 10 Sec.
Draft

Subject to any general law adopted in the interest of national welfare and security, there shall be liberty of movement and free choice of residence within the borders of each State; individuals may also freely emigrate or expatriate themselves.

Chapter IV***Legal Status****Article 14*

Art. 12 Sec.
Draft

Every one has the right to a legal personality everywhere.

Article 15

No one shall be restricted in the personal exercise of his civil rights except by a general law for reasons based on age, mental condition or other situation requiring protection or as a punishment for a criminal offence.

Article 16

Art. 13 Sec.
Draft
[3]

Every one has the right to contract marriage in accordance with the laws of the State.

Article 17

Art. 24
Sec.
Draft

There shall be equal opportunity to all vocations and professions not having a public character.

Article 18

Art. 22 Sec.
Draft

Every one has a right to own personal property.
No one shall be deprived of his property except for public welfare and with just compensation.

The State may determine those things that are susceptible of private appropriation and regulate the acquisition and use of such property.

The right to ownership, in whole or in part, of industrial, commercial and other profit-making private or collective enterprises, is governed by the law of the State within which such enterprises are situated.

Article 169

Art. 27 Sec.
Draft

Every one shall have access to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law. He shall have the right to consult with and, eventually, be represented by counsel.

Chapter V***Public Freedoms****Article 20*

Art. 14 Sec. Draft and United Kingdom The individual freedom of conscience, belief and thought is an absolute and sacred right.

The practice of a private or public worship and the manifestations of opposite convictions can be subject only to such limitations as are necessary to protect public order, morals and the rights and freedoms of others.

[4]

Article 21

Art. 15–16–17–18 Sec. Draft No one can be molested by reason of his opinions, even if he has derived them from sources beyond the borders of the State.

Every one is free to change, hold or impart his opinion, or to receive and discuss the opinions of others.

Article 22

There shall be freedom of expression either by word, in writing, in the press, in books or by visual, auditive or other means; provided however that the author, editor, publisher, printer *etc.* shall be responsible for the abuse of this right if in so doing they have committed slander or libel or have failed to present information and news in a fair and impartial manner.

Article 23

There shall be freedom of peaceful assembly and of association for political, cultural, scientific, sporting, economic and social purposes compatible with this Declaration. No other restriction shall be placed on the exercise of this right except for the protection of public order.

Article 24

Art. 28 Sec. Draft No State shall deny to any individual the right, either individually or in association with others, to

petition the government of his State or of his residence or the United Nations for redress of grievances.

Article 25

Art. 29 Sec.
Draft

When a government seriously or systematically tramples the fundamental human rights and freedoms, individuals and peoples have the right to resist oppression and tyranny, without prejudice to their right of appeal to the United Nations.

[5]

Chapter VI

Political Rights

Article 26

Art. 20 Sec.
Draft

Every one has the right to take an equal part, directly or through his representatives, in the formation of law, the institution of taxes for public expense and the government of the State of which he is a citizen. Each citizen shall take his part of public expenses according to his means.

Article 27

Art. 20 Sec.
Draft

The State has a duty to conform to the wishes of the people, manifested by democratic elections.
Elections shall be periodic, free and fair.

Article 28

The protection of Human Rights requires a public force. This force shall be instituted for the Service of all and not for the advantage of those to whom it is entrusted. Each citizen must take it as an honour to take part in military service in the States which recognize this institution.

Article 29

Art. 31 Sec.
Draft

Every one shall have equal opportunity of access to all public functions of the State of which he is a citizen. Such functions cannot be considered as privileges or favours but appointment shall be by competitive examination or by reason of qualifications.

Article 30

There is no protection of Human Rights where the authors of tyrannical or arbitrary acts or their accomplices are not punished and where there is no provision for the liability of public authorities or their agents.

[6]

Chapter VII***Nationality and Protection of Aliens****Article 31*

Art. 32 Sec.
Draft

Every one has the right to a nationality.
It is the duty of the United Nations and Member States to prevent the absence of nationality, which is contrary to human rights and against the interest of the community of mankind.

Article 32

Art. 34 Sec.
Draft

Every State shall have the right to grant asylum to political refugees.

Article 33

Art. 33 Sec.
Draft

No alien legally admitted to the territory of a State may be expelled therefrom without having had a hearing. If he has been a resident for less than a year his expulsion can be effected only in pursuance of a judicial decision or recommendation and in the cases permitted by law.

Article 34

(Text to be submitted later.)

Chapter VIII***Social, Economic and Cultural Rights****Article 35*

Art. 37
Sec. D

Everyone has the right and the duty to perform socially useful work and to full development of his personality.
(Text to be submitted later.)

Article 36

Everyone may hire his services for a time but may not either alienate his person nor place himself in state of servitude to another.

Article 37

Art. 38–39–40
Sec. Draft

Human labour is not a merchandise. It shall be performed in good conditions. It shall be justly compensated according to its quality, its duration and its purpose, and shall give a decent standard of living to the worker and his family.

Article 38

Every one has the right to protect his professional interests. In particular, he may participate, either by himself or through his representatives or his trade organization, to the collective bargaining of labour conditions, the determination of general plans of production or distribution of goods and, should the case arise, to the supervision and administration of the enterprise in which he works.

Article 39

Art. 35–42 Sec.
Draft

Everyone has a right to the assistance of the community for the medical care required by his health. General laws shall promote public hygiene and the betterment of housing conditions.

Article 40

Art. 41 Sec.
Draft

Everyone has the right to social security. The State shall maintain effective arrangements for the prevention of unemployment and, with the participation of beneficiaries, shall provide for insurance against invalidity, illness, old age and all other involuntary and undeserved losses of livelihood. Mothers and children have the right to special regard, care and resources.

[8]

Article 41

Art. 36 Sec.
Draft

Everyone is entitled to learning and has the right to education. Primary education is obligatory for all children

and the State shall provide adequate and free facilities for such education. Access to higher education shall be promoted by giving equal chances to all youths and adults without distinction as to race, sex, language, religion, social standing or financial means of beneficiaries. Vocational and technical training shall be generalized.

Article 42

Art. 43 Sec. Everyone has the right to a fair share of rest and leisure
Draft and to the knowledge of the outside world.

Article 43

Art. 43 Sec. Everyone has the right to participate in the cultural life
Draft of the community, to enjoy the arts and to share in the benefits of science.

Article 44

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

E/CN.4/AC.1/SR.9

18 June 1947¹⁸⁰

***Summary Record of the Ninth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Wednesday,
18 June 1947 at 10:30 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. Geoffrey Wilson (United Kingdom). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

¹⁸⁰ This is the date of the meeting. The document was issued on 3 July 1947.

**1. Consideration of document E/CN.4/AC.1/W.2/Rev.1: Suggestions
Submitted by the Representative of France for Articles of the International
Declaration of Rights**

THE CHAIRMAN opened the meeting by giving the substance of the telegram received from Agudath Israel World Organization,¹⁸¹ which requested the Drafting Committee to add, after the words “the practice of a private or public worship” appearing in Article 20, the words “and religiously ordained observances”.

[2]

Article 26

THE CHAIRMAN read Article 26. PROF. CASSIN (France) explained that different rules in various States as to the participation of the citizens in the formation of law were the reason for the length of Article 26, which was essentially a combination of Articles 29 and 30 of the Secretariat Outline.

THE CHAIRMAN, speaking as a Member, drew the attention of the Committee to the fact that Article 26 did not mention non-self-governing territories. She suggested that the words “effective part” be substituted for “equal part,” and that the words “and territories” be added after the word “State”. She suggested also that somewhere it should be stated that Government derives its just powers from the consent of the governed.

MR. SANTA CRUZ (Chile) emphasized the necessity of having verbatim records made of all the Drafting Committee’s discussions, for they would be of great importance for the future debates. He was strongly supported by several Representatives. PROF. HUMPHREY (Secretariat) explained that verbatim reporters were not always available because of the number of meetings held simultaneously at Lake Success. Certain organs, such as the Security Council, were given priority in the assignment of verbatim reporters.

MR. SANTA CRUZ (Chile) suggested that a provision concerning the right to form political parties be added to Article 26.

Article 27

THE CHAIRMAN read Article 27. MISS SENDER (American Federation of Labor) stated that in her opinion this Article should conclude with the words “and by secret ballot”.

¹⁸¹ The World Agudath Israel was a political body associated with Orthodox Ashkenazi Judaism.

PROF. CASSIN (France) pointed out that as far as the Chilean suggestion relating to Article 26 was concerned, the liberty to form political parties already had been mentioned in Article 23, on freedom of peaceful assembly and of association for political and other purposes.

MR. HARRY (Australia) felt that the Committee should consider rights of [3] men rather than duties of States. He therefore suggested that Article 27 be modified to read "Every citizen has a right to participate in democratic elections", *etc.*

DR. MALIK (Lebanon) asked if it were possible to have the sound recordings of the proceedings transcribed, so that the verbatim records of the meetings of the Committee would be available in a couple of weeks. THE CHAIRMAN agreed to ask the Secretary-General to do so. Speaking as a Member, she said that she would present a redraft of Article 27 in written form.

Article 28

THE CHAIRMAN read Article 28. MR. WILSON (United Kingdom) felt that this Article was not necessary in a Declaration. He pointed out that some portions of it might be considered as abridging the right of conscientious objectors not to take part in military service. THE CHAIRMAN, speaking as a Member, stated that in her opinion military service was neither a human right nor a freedom; therefore she felt that the Article did not belong in the Declaration. She also mentioned the fact that there was a growing feeling of sympathy towards conscientious objectors, who would be directly affected by such an Article.

MR. HARRY (Australia) shared the views of the Representative from the United Kingdom, and stated that he would support the elimination of Article 28. He added that he would like to include, under the general heading of freedom of conscience, the protection of the conscientious objectors.

PROF. CASSIN (France) pointed out that Article 28 consisted of two separate parts. The first one, he felt, obviously touched upon human rights. He considered it essential to state that the police force was for the benefit of the people, and not the contrary. The second part, he agreed, had to be formulated with great caution. He felt that it was necessary to mention military service somewhere.

[4]

Article 29

THE CHAIRMAN read Article 29. She pointed out that the English translation did not exactly correspond to the French text. She reminded the Committee that the words "public functions" were to be understood as "public employment". Speaking as a Member, MRS. ROOSEVELT (United States of America) said that she would prefer to

delete the second sentence of Article 29. DR. CHANG (China) stated that he would prefer to replace the last sentence of Article 29 by the second part of Article 31 of the Secretariat draft Outline (document E/CN.4/AC.1/3), reading: "Appointments to the Civil Service shall be by competitive examination." He stressed the fact that as public functions grew more and more numerous and important, all men should have the right to participate in the public life by holding public office. He reviewed the experience of China in this matter and pointed out that competitive examination for public jobs had existed in his country for centuries. In his opinion "free competitive examinations" should be considered as one of the ways to a truly free democracy.

MR. SANTA CRUZ (Chile) stated that although he could understand the reasons advocated by Dr. Chang, he thought that since the Committee was dealing with "fundamental rights" it would be unadvisable to go into many details. In his opinion, it was sufficient to establish the principle of non-discrimination in the filling of public offices. He suggested the substitution of the text of the last paragraph of Article XIII of the Chilean draft (document E/CN.4/AC.2) reading: "No person shall be denied the right to hold public office or to be appointed to any of the public services of the State of which he is a national, upon grounds of race, religion, sex or any other arbitrary discrimination; and the administration of the public services of the State shall, in respect to appointments and terms and conditions of service, be without favour or discrimination."

DR. MALIK (Lebanon) asked whether the Article meant that all appointments to public office would have to be made through competitive [5] examination. He wondered whether it would be possible, for instance, for a State to appoint an Ambassador without such a competitive examination. In his opinion, the Chilean delegate was right in stating that the principle of non-discrimination in appointments to public office had to be preserved. He himself felt that in drafting Article 29, the Committee could be inspired by the wording of Article 101 of the Charter, paragraph 3 of which reads: "The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity."

PROF. CASSIN (France) expressed his agreement with Dr. Malik. He emphasized that three basic ideas were to be included in the Articles: (1) that there should be equal rights to public office; (2) that the public office does not belong to the civil servant; and (3) that it is necessary to recruit civil servants on the basis of their qualifications in order to find the best persons. Prof. Cassin (France) thought that competitive examination could be mentioned in the Article, but not in its present form.

PROF. KORETSKY (Union of Soviet Socialist Republics) asked Dr. Chang whether or not the complexity and the number of competitive examinations in China had not

in part eliminated from public office the common man, who was not able to get the education necessary to be able to pass such examinations. DR. CHANG (China) explained that this, in his opinion, was not a correct interpretation of Chinese history. He thought that a competitive examination was one way, in settled community life, to give an equal chance of access to public office. MR. HARRY (Australia) thought that a real equality of opportunity should be given to people to enable them to gain access to public service. He did not feel, however, that a Declaration should specify exactly how appointments should be made. He felt that it could be enough to state the general principle of equal opportunity of access to public office in Article 29, eliminating the last part of the Article.

Article 30

THE CHAIRMAN read Article 30.

[6]

DR. MALIK (Lebanon) expressed the opinion that this Article did not deal with a human right. MR. WILSON (United Kingdom) thought that the substance of the Article could be considered later for inclusion in a Convention. He was not opposed, however, to having the principle stated in the Declaration as well. He drew the attention of the Committee to Article 2 of the United Kingdom draft (document E/CN.4/AC.1/4) reading: "Every State is, by international law, under an obligation to ensure: that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless, the enjoyment of these human rights and fundamental freedoms . . ."

MR. SANTA CRUZ (Chile) stated that he had no particular opinion as to where the Article should be placed, but thought that such a provision should be embodied in the Declaration, and that it should deal not only with the "authors . . . or their accomplices", but with all degrees of criminality. PROF. CASSIN (France) stated that the Chapter under consideration dealt with the relationship between the citizen and the State. It emphasized the fact that the public office was not created for the civil servant but that the civil servant occupied that office for the benefit of the community. Human rights were protected either through responsibility of the civil servant or by the penal law. The matter dealt with in Article 30 might be considered as a method of enforcement, but he could not see how it could be treated in a Convention. He was of the opinion that it would be difficult to impose upon a State regulations concerning its political organization.

DR. CHANG (China) called the attention of the Committee to Article 27. In this Article "elections" were mentioned as a method of achieving human rights. He felt that competitive examinations were also a method of achieving human rights, and should therefore be mentioned.

THE CHAIRMAN, speaking as a Representative, expressed the opinion that although Article 30 dealt with implementation, it was within the province of the Drafting Committee. She thought, however, that the Article should [7] be considered for inclusion in a Convention rather than in the Declaration.

Article 31

THE CHAIRMAN read Article 31.

MR. SANTA CRUZ (Chile) emphasized that in dealing with the right to a nationality, the Drafting Committee was dealing with a basic human right. He felt that the first sentence should be retained, and the second expanded. He referred to Article IX of the Chilean proposal (document E/CN.4/AC.2) reading:

“Every person has the right to a nationality.

“No State may refuse to grant its nationality to persons born upon its soil of parents who are legitimately present in the country.

“No person may be deprived of his nationality of birth unless by his own free choice he acquires another nationality.

“Every person has the right to renounce the nationality of his birth or previously acquired nationality, upon acquiring the nationality of another State.”

DR. MALIK (Lebanon) felt that Article 31 should be retained. MR. WILSON (United Kingdom) agreed in principle with the Chilean delegate but thought that only the first sentence had to be retained. He explained that the problem created by stateless people could not be ignored. He felt that while the principle had to be stated in the Declaration, the details had to be worked out in a Convention. PROF. CASSIN (France) pointed out that in drafting the text of Article 31 he had taken into account the observations made by the Representative of the United Kingdom. He emphasized that such a complex question as the one of nationality could not be solved in a Declaration. However, he felt that the principle could not be left out and that the right to change nationality had to be specified.

THE CHAIRMAN, speaking as a Member, thought that the phrase “Everybody shall have the right to a nationality” should be sufficient.

Article 32

THE CHAIRMAN read Article 32. MR. WILSON (United Kingdom) expressed the opinion that the substance of this Article might better be dealt with in a Convention. [8]

PROF. KORETSKY (Union of Soviet Socialist Republics) asked why only political refugees had been mentioned and pointed out that the right of asylum should be extended to refugees on religious and scientific, as well as political, grounds.

THE CHAIRMAN, speaking as a Member, felt that Article 32 could be left to Conventions. She agreed that the Declaration should state the right of asylum to refugees on religious grounds.

PROF. CASSIN (France) stated that he was in agreement with the Representatives of the United Kingdom and of the Union of Soviet Socialist Republics. He pointed out that he had used the present wording because he meant to exclude the common criminals. He felt that the principle should be mentioned in the Declaration.

PROF. KORETSKY (Union of Soviet Socialist Republics) thought that Article 129 of the Soviet Constitution might be taken into account in drafting Article 32. DR. MALIK (Lebanon) thought that the principle of asylum must have a place in the Declaration. Modality and applications of the principle could however be dealt with in a Convention. He objected to the text of Article 32, and thought that it might be improved as follows: "States are at liberty to grant asylum to refugees". He pointed out that minorities that are persecuted and are refugees will not be abolished easily, and that they should be able to find refuge somewhere.

MR. HARRY (Australia) felt that the Article should be formulated from the point of view of human rights rather than the rights of the State. He favoured the Article in the Cuban proposal. MR. SANTA CRUZ (Chile) pointed out that the principle of asylum had always guided his country, and that he was in favour of including it in the Declaration. PROF. CASSIN (France) proposed the following text: "Everyone has the right to flee from persecution and to try to find asylum on the soil of such a country as is willing to grant it to him." DR. CHANG (China) stated that he would like to see the individual's right to asylum and the State's right to grant asylum stated in the Declaration.

[9]

Article 33

THE CHAIRMAN read Article 33. MR. WILSON (United Kingdom) pointed out that if the international organization were to guarantee too many privileges to aliens in a given country, they might find great difficulty entering that country. PROF. CASSIN (France) agreed with Mr. Wilson. A distinction should be made, he felt, between residents of foreign extraction and aliens recently admitted. Two aspects had to be considered: guarantees for the aliens and the interests of the State. MR. WILSON (United Kingdom) pointed out that the provisions of Article 33 were stronger than those in any Constitution he knew of. It would lead States to grant the right of entry to aliens only for a temporary stay, or to require aliens entering their territory to agree to leave upon request. THE CHAIRMAN, speaking as a Member, stated that her Government felt that the Article could be deleted. However, if it were to be retained, she felt that it might be reworded to conform to the United States draft (document E/CN.4/AC.1/11),

reading: "No alien who has been legally admitted to the territory of a State may be expelled therefrom except in pursuance of a judicial decision or recommendation as a punishment for offences laid down by law as warranting expulsion."

MR. WILSON (United Kingdom) stated that he would prefer to see the Article deleted. MR. HARRY (Australia) pointed out that it was very difficult to determine what human right was described in Article 33. He proposed that the Article be omitted. PROF. CASSIN (France) thought that the Article might be divided in two parts. One of these parts could be dealt with in the Declaration, where the United States text could be retained. The other one could be the subject of a Convention. He thought that the Drafting Committee had to take into account that there were people who were expelled from country to country, who needed protection.

THE CHAIRMAN thought that the Article could be considered for inclusion in the redrafting of Article 5. PROF. CASSIN (France) pointed out that the matter dealt with in Article 33 would not be in its proper place if included in Article 5.

[10]

Article 34

(The text of this Article was not ready for discussion.)

Article 35

THE CHAIRMAN read Article 35. MR. HARRY (Australia) stated that he would like to study the Article before offering any comment, but wished to make a statement on Chapter VIII as a whole. Social, Economic and Cultural Rights, he said, were given effect in Australia by a body of laws. However, he thought that it was difficult to spell out in detail different rights involved. In his opinion two or three Articles in the final draft should be sufficient to cover the broad principles. Their exposition and development could be left to a later stage. MR. WILSON (United Kingdom) agreed with the Representative of Australia. He felt that two or three general principles should be stated. These principles would be worked out at a later stage by the United Nations and its Specialized Agencies. Besides, in the opinion of Mr. Wilson, the matter dealt with in Article 35 was already taken care of by Article 2.

MR. SANTA CRUZ (Chile) thought that if the Drafting Committee did not introduce economic and social rights into the Declaration, it would not appear to the world to be acting realistically. He disagreed with the Representatives of Australia and the United Kingdom. He felt that social and economic rights should be mentioned not only in the Articles of the Declaration but also in its Preamble, in order to give them adequate importance. He thought that every right mentioned in Prof. Cassin's draft should be included in the Declaration.

DR. MALIK (Lebanon) thought that Articles 35 to 44, dealing with economic and social rights, could not hold true in all States. Some of them would be true in a socialistic form of society, others would not. Since the Declaration had to be universal, he felt that only fundamental principles should be stated, such as the right to education, the right to participate in cultural life, the right to property, the fact that human labour is not a merchandise, *etc.*

[11]

THE CHAIRMAN, speaking as a Member, reminded the Drafting Committee that the Economic and Social Council had stressed the importance of the inclusion of these rights to be considered. She agreed with the Representative of Chile that these rights could not be omitted. However, she also agreed, on certain points, with the Representative of Lebanon. For instance, the “duty to work” could be considered in certain countries as leading to forced labour. Therefore she thought that while principles had to be stated, they could not be expanded too much in a Declaration.

Article 36

THE CHAIRMAN read Article 36. Speaking as a Member, she expressed the opinion that it was too detailed. DR. MALIK (Lebanon) thought that this Article might be construed as a restriction on a man’s personal freedom. If he wanted to be a slave, it was his right. MISS SENDER (American Federation of Labor) felt that servitude to a State or to a group should be covered by the Article. PROF. CASSIN (France) emphasized that he had tried loyally to embody all suggestions made by Members of the Drafting Committee in his draft. He was, however, of the opinion that the details of this matter might better be dealt with by a Convention, while the principle could be stated in the Declaration. He pointed out that the Declaration had to protect man not only against external abuses but also against his own weaknesses. In his opinion Article 36 could be abridged, but had to appear in the Declaration.

Article 37

THE CHAIRMAN read Article 37. Speaking as a Member, she drew the attention of the Drafting Committee to the United States rewording on page 43 (document E/CN.4/AC.1/11) reading:

“Everyone has a right to a decent standard of living; to a fair and equal opportunity to earn a livelihood; to wages and hours and conditions of work calculated to insure a just share of the benefits of progress to all; and to protection against loss of income on account of disability, unemployment or old age.

[12]

“It is the duty of the State to undertake measures that will promote full employment and good working conditions; provide protection for wage earners and dependents against lack of income for reasons beyond their control; and assure adequate food, housing, and community service necessary to the well-being of the people.”

The meeting adjourned at 1.15 p.m.

E/CN.4/AC.1/SR.10

18 June 1947¹⁸²

***Summary Record of the Tenth Meeting [of the Drafting Committee
of the Commission on Human Rights]***

Held at Lake Success, New York, on Wednesday,

18 June 1947 at 3:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. Geoffrey Wilson (United Kingdom). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

1. Consideration of Suggestions Submitted by the Representative of France for the International Declaration of Rights (Chapter VII, Social, Economic and Cultural Rights) (Document E/CN.4/AC.1/W.2/Rev.1) (continued)

Articles 38–44

THE CHAIRMAN recalled that the Representative of France had agreed to shorten his text. She read Articles 38 to 44.

PROF. CASSIN (France) pointed out that the word “community” should be [2] substituted for “State” in the first line of Article 40.

THE CHAIRMAN remarked that Members apparently had no observations to offer regarding these Articles, and that all the Articles had been gone over in a general way. There were three Articles still to be written. She suggested that Members next proceed to discuss the proposed Convention, using the United Kingdom document as a basis.

...

¹⁸² This is the date of the meeting. The document was issued on 3 July 1947.

E/CN.4/AC.1/8/Rev.1

19 June 1947

**United States Revised Suggestions for Redrafts
of Certain Articles in the Draft Outline (E/CN.4/AC.1/3)**

Article 2

Delete the last sentence reading “The state may impose only such limitations on such rights as are compatible with the freedom and welfare of all”, so that the Article will read:

“The state is created by the people for the promotion of their welfare and the protection of their mutual rights. In the exercise of his rights everyone is limited by the rights of others.”

Article 7

Delete the last sentence, “Detention by purely executive order shall be unlawful except in time of national emergency, proclaimed in accordance with law”, so that the Article will read:

“No person shall be subjected to arbitrary or unauthorized arrest or detention. Every person who is arrested or detained shall be immediately informed of the charges on which he is held, and shall have the right to prompt judicial determination of the legality of his detention. Trial of the charges must be afforded within a reasonable time, or he shall be released from detention. Every person shall be entitled to secure his release pending trial upon furnishing reasonable security for his appearance, except where such release would defeat the administering of justice.”

[2]

Article 8

Delete the words “public service equally incumbent by law upon all or” so that the Article will read:

“No one shall be held in slavery, nor be required to perform compulsory labour in any form other than as part of punishment pronounced by a competent judicial tribunal. No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.”

Article 9

Delete the last clause, first paragraph, reading “subject to any general law adopted in the interest of national welfare or security”, so that the Article will read:

Liberty of Movement within the Borders of a State

“All persons shall equally enjoy the right to freedom of movement from one part of the territory of the state to another, and to free choice of residence in any part of the territory.”

“Every person shall, subject to equitable immigration and deportation laws, be free to enter, travel through or over, and remain temporarily in the territory of another state, provided always he observes local laws and police regulations.”

Article 22

Insert the word “reasonable” after the word “to” in the first sentence and insert the words “due process of” before the word “law” in the second sentence so that the Article will read:

Right to Property

“Everyone has the right to own and transfer property, subject to reasonable regulation, under general laws, governing the acquisition and use thereof, and determining, in the interest of national welfare and security, those things not susceptible of private ownership. No one shall be deprived of property except in accordance with due process of law, nor suffer his property to be taken other than for public use with just compensation to him.”

[3]

Article 23

Insert the word “non-discriminatory” before the word “law” so that the Article will read:

“No one shall be required to pay any tax or be subjected to any public charge that has not been imposed by non-discriminatory law.”

Article 30

Insert at the end of the sentence the words “by secret ballot” so that the Article will read:

Right to Take Part in the Government of the State – Democracy

“Government derives its just power from the consent of the governed. Everyone has the right to take an effective part in the government of the state or territory of which he is a citizen. The citizens of the state or territory are accordingly entitled to exercise self-government through representatives freely and fairly chosen by them in periodic democratic elections by secret ballot.”

Preliminary Article for Social Rights (listed as Article 35 in E/CN.4/AC.1/8)

Insert the word “spiritual” after the word “economic” so that the Article will read:

Right to Progress

“Everyone has the right to a fair and equal opportunity to advance his own physical, economic, spiritual and cultural wellbeing and to share in the benefits of civilization.

“It is the duty of the State, in accordance with the maximum use of its resources and with due regard for the liberties of individuals, to promote this purpose by legislation or by other appropriate means. Among the social rights thus to be achieved progressively by joint efforts of the individual and the State are those defined in the following Articles.”

[4]

Article 36 (listed as Article 37 in E/CN.4/AC.1/8)

Insert after the end of the second sentence the words “which however shall not be exclusive of private educational facilities or instructions” so that the Article will read:

Right to Education

“Everyone has the right to education.

“Each State has the duty to require that each child within territories under its jurisdiction receive a fundamental education. The State shall maintain adequate and free facilities for such education which however shall not be exclusive of private educational facilities or institutions. It shall also assure development of facilities for further, including higher, education, which are adequate and effectively available to all the people within such territories.”

E/CN.4/AC.1/13
19 June 1947

United States Suggestions in Connection with a Draft Declaration of Human Rights

Portion of Preamble

“Whereas one of the purposes of the United Nations as set forth in its Charter is to achieve international co-operation in promoting and encouraging respect for and observance of human rights and fundamental freedoms for all;

“Whereas all Members of the United Nations have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion;

“Whereas the adoption of a bill of rights will promote the fulfilment of this purpose;

“Therefore the General Assembly calls upon the member states to make effective the rights set forth in this bill by international convention and national legislation.”

Article on Implementation

1. The Articles in this Bill of Rights shall be referred to the appropriate organs or agencies of the United Nations with a view to the formulation of a series of international conventions to be submitted individually to the member states for ratification or the appropriate action in accordance with their respective constitutional processes.

[2]

2. The Conventions thus concluded shall be deposited with the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter.

3. The Conventions shall provide for submission to the Secretary-General of copies of the laws or regulations by which the member state gives effect to the provisions of the Convention together with the name of the competent authority responsible for compliance, and of periodic reports concerning the enforcement and revisions of such laws.

4. The Secretary-General shall inform the General Assembly each year of the Conventions embodying the provisions of this Bill of Rights which have been proposed to the member states, and the number of states which have ratified or have failed to ratify them.

...

E/CN.4/AC.1/12

19 June 1947

Memorandum on Implementation Prepared by the Secretariat at the Request of the Committee [for the Drafting Committee of the International Bill of Human Rights of the Commission on Human Rights]

1. The attention of the Committee is respectfully drawn to the resolution of the Economic and Social Council of 21 June 1946. This resolution reads as follows:

“Considering that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of human rights and of an

international bill of rights, the Council requests the Commission on Human Rights to submit at an early date suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms, with a view to assisting the Economic and Social Council in working out arrangements for such implementation with other appropriate organs of the United Nations.” (Journal of the Economic and Social Council, No. 29, page 521.)

2. In a memorandum prepared for the Commission on Human Rights at its first session in January 1947, the Secretariat drew attention to Professor Lauterpacht’s discussion of the problem of implementation in his book, “An International Bill of the Rights of Man”.

3. In the same memorandum, the Secretariat raised the following questions:

- (a) whether or not the Bill should contain a provision to the effect [2] that it cannot be unilaterally abrogated or modified;
- (b) whether or not the Bill should include an express statement to the effect that the matters dealt with in it are of international concern.
- (c) whether or not the provisions of the Bill should be declared to be directly applicable in the various countries without further implementation by national legislation or transformation into national law.

It would seem that provisions of the nature mentioned in (c) and (d) are necessary if the Bill is to be enforceable as part of the national law of the various countries accepting it. In so far as implementation on the international plane is concerned, it is suggested that the Commission might consider the possibility of providing in successive stages for international supervision and enforcement. The following successive stages are suggested:

- (a) the establishment of the right of the General Assembly and other organs of the United Nations, including possibly the Commission on Human Rights, to discuss and make recommendations in regard to violations of the Bill;
- (b) the establishment of the right of individuals to petition the United Nations as means of initiating procedure for enforcement of human rights;
- (c) the establishment of a special organ of the United Nations with jurisdiction and the duty to supervise and enforce human rights *motu proprio*;
- (d) the establishment of jurisdiction in this organ to consider cases of suspension of the Bill of Rights, either in whole or in part;
- (e) the establishment of local agencies of the United Nations in the various countries with jurisdiction to supervise and enforce human [3] rights therein. The Commission might find it useful, in this connection, to study the precedents established, for example, by the Convention between Germany and Poland on Upper Silesia of 15 May 1922.

The Commission may want also to discuss the role which the Security Council might play in the implementation of the Bill. According to Article 2, paragraph 7, of the Charter, the exception of domestic jurisdiction cannot be invoked in cases where enforcement measures are being taken by the Security Council under Chapter VII. The Commission may want to consider the question whether the Security Council should not be given a more extended jurisdiction in the matter. (E/CN.4/W.4, pages 13 and 14.)

4. The first session of the Commission on Human Rights devoted relatively little time to the problem. Nevertheless, Colonel Hodgson, the member for Australia, submitted a draft resolution for the establishment of an International Court of Human Rights. This draft resolution reads as follows: (E/CN.4/15)

“1. There is hereby established an International Court of Human Rights. The Court shall be constituted and shall function in accordance with the Articles contained in this Part and in the Statute of the Court.

2. The Court shall have jurisdiction to hear and determine all disputes concerning the rights of citizenship and enjoyment of human rights and fundamental freedoms provided for in the Declaration of Human Rights. Subject to such conditions as shall be contained in the Statute of the Court, the jurisdiction of the Court shall be both original and appellate, and shall extend to questions of interpretation arising in such disputes as are brought before administrative tribunals or administrative authorities.

3. The Appellate jurisdiction shall extend to appeals from all decisions of the courts of the States bound by the obligations contained in the Declaration of Human Rights, in which any question arises as to the rights of citizenship or the enjoyment of human rights, or [4] fundamental freedoms.

4. The Court shall be open to any person or group of persons. It shall also be open to any of the States acceptors of the Declaration.

5. Each of the States accepting the Declaration shall comply with the judgment of the Court in any case to which the State is a party and with any order which the Court may make against it.

6. Any judgment or order made by the Court in favour of any person or group of persons within the jurisdiction of any of such States shall be fully effective according to its terms and shall be enforced in and by the State affected by the judgment or order.

7. Each of such States undertakes that the provisions contained in this declaration shall be recognized as fundamental laws and that no law, regulation or official action shall conflict or interfere with those provisions, nor shall any law, regulations or official action prevail over them.

8. The Court shall also have jurisdiction, both original and appellate, to hear and determine disputes concerning such rights of citizenship and enjoyment of human rights and fundamental freedoms as shall be provided for in the treaties of peace which will be made by any of the Allied and Associated Powers with Romania, Bulgaria, Hungary, Finland, Austria, Germany or Japan.

9. The Court shall be composed of a body of independent judges, selected according to the standards laid down by the Charter of the United Nations for the election of judges of the International Court of Justice.

10. The Court shall consist of not less than three members appointed in the manner set out in the Statute of the Court.

11. The Court shall make an annual report to the Economic and Social Council of the United Nations on the working of the Court in relation to the rights and freedoms within its jurisdiction. The Court may also [5] make other report to that Council if and when it thinks proper to do so.”

5. At the fifteenth meeting of the Commission on Human Rights, Colonel Hodgson made the following comments (E/CN.4/SR.15, page 2):

“... The Australian Government considered that the resolution of the General Assembly Committee regarding this Bill should not be a simple recommendation, but a multilateral Convention binding Member States. These States should incorporate the principles laid down in this Bill in their own legislation.

He recalled that similar principles were incorporated in the Peace Treaties following the 1914–1918 war. In view of the negative results of those different declarations, the Australian Government had proposed, at the Paris Conference, the setting up of definite machinery for the application of these principles; that is to say, an International Court of Human Rights. By this action, the Australian Government was only conforming with the terms of a letter of June 1946 from Mr. Trygve Lie to the various governments. The Members of the Paris Conference, however, rejected this proposal on the grounds that the United Nations had at its disposal a body competent to settle the question; the Security Council. The objection was, in fact, unjustifiable as the Council could only intervene if peace were in danger. In view of the great number of Stateless persons whose future could only be settled on the international plane, the question was now even more acute.

The Australian Government therefore proposed that the Commission on Human Rights should recommend to the Economic and Social Council and to the General Assembly, the creation of an International Court of Human Rights. This Court would be the Central Appeal Court to which States, groups of individuals or even single individuals could appeal when all domestic possibilities of appeal had been exhausted.”

6. At the sixteenth meeting, again commenting on the Australian draft resolution, Colonel Hodgson recalled (E/CN.4/SR.16, pages 2–3):

[6]

“... that the objection had been raised that the Commission could not consider implementing an international bill of rights before deciding on its contents. He believed, however, that the Commission had an obligation under Article 56 to implement those rights and freedoms already laid down in the Charter. It was necessary to establish effective machinery to make those human rights and fundamental freedoms a reality.

Moreover, it was not premature to consider machinery for implementation of the Bill, since the definitive rights to be enforced would be known by the time the bill was submitted to the General Assembly. The various principles enunciated therein would subsequently be incorporated in an international convention for ratification by States members. Therefore, the elaboration and implementation of the bill constituted parallel processes.

Colonel Hodgson also recalled that it had been suggested that the human rights and fundamental freedoms embodied in the bill should first be implemented by Governments through national legislation. He considered, however, that this function belonged to an international tribunal, to which there could be appeal over and beyond national courts.

In conclusion, the representative of Australia stated that the Commission should not confine itself to abstractions but was bound to consider immediately effective machinery for implementing human rights and fundamental freedoms, in accordance with its solemn obligations. He moved, therefore, that the Australian proposal for the establishment of an International Court of Human Rights should be referred to the drafting group for consideration, with a view to reporting on the implementation of human rights and fundamental freedoms, as contained in the proposed bill of human rights, to the next session of the Commission.”

7. The question of implementation is also raised in the draft resolution for the General Assembly which was presented by Mrs. Hansa Mehta, the member of the Commission for India, at the first session of the Commission [7] on Human Rights. This draft resolution reads as follows: (E/CN.4/11)

“The General Assembly,

Recognizing the fact that the United Nations has been established for the specific purpose of enthroning the natural rights of man to freedom and equality before the law, and for upholding the worth and dignity of human personality;

Having taken note of the Preamble and the relevant clauses of the United Nations Charter, the resolutions of the Economic and Social Council; the Human Rights Clauses of the Trusteeship Agreements as approved by the First Assembly of the United Nations; and the Human Rights Clauses of the European Treaties,

Resolves that the following be incorporated into a General Act of the United Nations Assembly:

1. (a) Every human being is entitled to the right of liberty, including the right to personal freedom; freedom of worship; freedom of opinion; freedom of assembly and association; and the right to access to the United Nations, without risk of reprisal, wherever there is an actual or threatened infringement of human rights.
- (b) Every human being has the right of equality, without distinction of race, sex, language, religion, nationality or political belief.

Every human being has the right of security, including the right to work, the right to education, the right to health, the right to participate in government, and the right to property, subject only to the over-riding consideration of public weal when the State or its appropriate organs acquire it after paying equitable compensation.

2. (a) This General Act is an obligation undertaken by Member States of the United Nations, and comes into force within twelve calendar months from the date on which it is passed by the United Nations Assembly.

[8]

(b) Non-self-governing areas and areas under the trusteeship of the United Nations automatically come under the regime of this Act.

Non-Member States are eligible to adhere to this Act.

Nothing mentioned in this Act shall be construed as not obligating the individual to his corresponding duties to his own State and to the international community under the United Nations.

No state Member of the United Nations, non-self-governing territory, trusteeship area or non-member of the United Nations which has adhered to this Act, shall have the right to suspend it in whole or in part once it was adhered to in due form.

The Security Council of the United Nations shall be seized of all alleged violations of human rights, investigate them and enforce redress within the framework of the United Nations.”

8. In accordance with the instructions of the Economic and Social Council, the Secretariat prepared a draft outline of an International Bill of Rights to serve as the basis of discussions in the Drafting Committee. This outline contains several articles which touch on the question of implementation, to wit: (E/CN.4/AC.1/3)

Article 28: “Everyone has the right, either individually or in association with others, to petition the government of his State or the *United Nations* for redress of grievances.”

Article 47: “It is the duty of each member State to respect and protect the rights enunciated in this Bill of Rights. The State shall, when necessary, co-operate with other States to that end.”

Article 48: “The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and of the national law of each of the member States of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.”

[9]

9. Immediately before the opening of the present session of the Drafting Committee, the member of the Commission for the United Kingdom, submitted a document (E/CN.4/AC.1/4) which deals with the question of implementation in some detail. This document is now before the Drafting Committee and, since it is long and must be read as a whole, no extracts are reproduced herein.

10. Reference to implementation will also be found in the proposal of the United States for modification of Article 28 of the Secretariat draft. The United States proposal reads as follows: (E/CN.4/AC.1/11, page 32)

“No State shall abridge the right of everyone, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievances.”

11. Article 24 of Professor Cassin's draft deals with the same point; the Article reads as follows: (E/CN.4/AC.1/W.2/Rev.1, page 4)

"No State shall deny to any individual the right, either individually or in association with others, to petition the government of his State or of his residence or the United Nations for redress of grievances."

12. Professor Cassin also suggests that the Preamble to the Declaration should include the following words: (E/CN.4/AC.1/W.1, page 2)

"... that the enjoyment of such rights and freedoms by all persons must be protected by the commonwealth of nations and secured by international as well as national laws."

Some of the members of the Drafting Group were of the opinion, however, that if this provision were to be retained it should be modified and put in the Preamble of a Convention.

13. Finally, the question of implementation is raised in the final paragraph of the proposal submitted by the Delegation of France to the Drafting Committee. This paragraph reads as follows: (E/CN.4/AC.1/5, page 2)

"And that the General Assembly of 1947 instruct the Commission [10] on Human Rights to study the constitution of an appropriate International organ with a view to ensuring the effective observance of those rights."

This memorandum does not discuss the various suggestions for implementation that have been submitted by individuals and organizations.

E/CN.4/AC.1/W.2/Rev.2

20 June 1947

Revised Suggestions Submitted by the Representative of France for Articles of the International Declaration of Rights

Article 1

All men are brothers being endowed with reason, members of one family. They are free and possess equal dignity and rights.

Article 2

The object of society is to afford each of its members equal opportunity for the full development of his spirit, mind and body.

Article 3

Man is essentially social and has fundamental duties to society and to his fellow men. The rights of each are therefore limited by the rights of others.

(Alternative)

As human beings cannot live and develop themselves without the help and support of society, each one owes to society fundamental duties which are: obedience to law, exercise of a useful activity, willing acceptance of obligations and sacrifices demanded for the common good.

Article 4

In the exercise of his rights, everyone is limited by the rights of others.
[2]

Article 5

All are equal before the law. It applies to public authorities and judges as well as to individuals. Everything that is not prohibited by law is legally permitted.

Article 6

Everyone is entitled to the rights and freedoms hereunder declared, without distinction as to race, sex, language, religion, or political belief.

Article 7

Everyone has the right to life, to personal liberty and to personal security.

Article 8

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

Article 9

No one shall be held guilty of any offence until legally convicted. No one shall be convicted except by judgment of an independent and impartial court of law,

rendered in conformity with law after a fair and public trial at which he has had an opportunity for a full hearing or has been legally summoned and has been given all guarantees necessary for his defence.

Article 10

No one can be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

No one, even if convicted for a crime, can be subject to torture.*

[*] Articles 8, 9 and 10 could be shortened in case of a convention being resorted to.

[3]

Article 11

Slavery, which is inconsistent with the dignity of man, is prohibited. Public authority may impose a personal service or work only by application of a law and for the common interest.

Article 12

The inviolability of privacy, home, correspondence and reputation are inviolable and protected by law.

Article 13

Subject to any general law adopted in the interest of national welfare and security, there shall be liberty of movement and free choice of residence within the borders of each State. Individuals may also freely emigrate or expatriate themselves.

Article 14

Everyone has the right to escape persecution by seeking refuge on the territory of the State which would consent to grant him asylum.

Article 15

Everyone has the right to a legal personality everywhere. Everyone has the right to contract marriage in accordance with the laws of the State. Everyone shall have access to independent and impartial tribunals for the determination of his rights,

liabilities and obligations under the law. He shall have the right to consult with, and, eventually be represented by counsel.

Article 16

There shall be equal opportunity to all vocations and professions not having a public character.

Article 17

Everyone has a right to own personal property. No one shall be deprived of his property except for public welfare and with just compensation.

[4]

The State may determine those things, rights and enterprises that are susceptible of private appropriation and regulate the acquisition and use of such property.

Article 18

Every State shall have the right to grant asylum to political refugees.

Article 19

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

Article 20

The individual freedom of conscience, belief and thought is an absolute and sacred right. The practice of a private or public worship and the manifestations of opposite convictions can be subject only to such limitations as are necessary to protect public order, morals and the rights and freedoms of others.

Article 21

No one can be molested by reason of his opinions. Everyone is free to hold or impart his opinion, or to receive the opinions of others, and to seek information from sources wherever situated.

Article 22

There shall be freedom of expression either by word, in writing, in the press, in books or by visual, auditive or other means; provided however that the user of those means shall be responsible for the abuse of this right.

Article 23

There shall be freedom of peaceful assembly and of association for political, religious, cultural, scientific, professional and other purposes compatible with this Declaration. No restriction shall be [5] placed on the exercise of this right except for the protection of public order.

Article 24

No State shall deny to any individual the right, either individually or in association with others, to petition the government of his State or of his residence or the United Nations for redress of grievances.

Article 25

When a government seriously or systematically tramples the fundamental human rights and freedoms, individuals and peoples have the right to resist oppression and tyranny, without prejudice to their right of appeal to the United Nations.

Article 26

Everyone has the right to take an equal part, directly or through his representatives, in the formation of law, the institution of taxes for public expense and the government of the State of which he is a citizen or of depending territories. Each citizen shall take his part of public expenses according to his means.

Article 27

The State can derive its authority only from the consent of the people and has a duty to conform to the wishes of the people. These wishes are manifested by democratic elections, which shall be periodic, free and fair.

Article 28

Everyone shall have equal opportunity of occupying all public functions of the State of which he is a citizen. Such functions cannot be considered as privileges or favours.

Article 29

Everyone has the right and the duty to perform socially useful work and to full development of his personality.

[6]

Article 30

Everyone may hire his services for a time but may not either alienate his person nor place himself in state of servitude to another.

Article 31

Human labour is not a merchandise. It shall be performed in good conditions, and shall secure a decent standard of living to the worker and his family.

Article 32

Everyone has the right to protect his professional interests, either by himself or through his representatives.

Article 33

Everyone has a right to the best health conditions possible and to assistance to preserve them. The community shall promote public-hygiene and the betterment of housing and food conditions.

Article 34

Everyone has the right to social security. To the utmost of its possibilities, the State shall maintain effective arrangements for the prevention of unemployment and, with the participation of beneficiaries, shall organize insurance against invalidity, illness, old age and all other involuntary and undeserved losses of livelihood. Mothers and children have the right to special regard, care and resources.

Article 35

Everyone is entitled to learning and has the right to education. Primary education is obligatory for all children and must be provided for them free. Access to technical, professional and higher education shall be promoted by giving equal chances to all youths and adults without distinction as to race, sex, language, religion, social standing or financial means of beneficiaries.

[7]

Article 36

Everyone has the right to a fair share of rest and leisure and to the knowledge of the outside world.

Article 37

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.

Article 38

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

Article 39

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

Article 40

There is no protection of human rights where the authors of tyrannical or arbitrary acts or their accomplices are not punished and where there is no provision for the liability of public authorities or their agents. The provisions on nationality and the protection of aliens are transferred to the section on Freedoms and Legal Status.
[8]

Article 41

The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and shall become part of the national law of each of the member States of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.

Article 42

It is the duty of each Member State to take, within its jurisdiction, all measures and legal dispositions for the enactment and effective respect of the rights and

freedoms proclaimed in this Declaration. The State shall, when necessary, co-operate with other States to that end. The United Nations and their specialized agencies shall recommend all international conventions and shall take, each within their respective spheres, all measures for the implementation of the provisions of the Charter and of this Declaration, in view of protecting these rights and freedoms all over the world.

E/CN.4/AC.1/SR.12

20 June 1947¹⁸³

Summary Record of the Twelfth Meeting [of the Drafting Committee of the Commission on Human Rights]

Held at Lake Success, New York, on Friday,
20 June at 11 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. Geoffrey Wilson (United Kingdom). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

1. Consideration of Revised Suggestions Submitted by the Representative of France for Articles of the International Declaration of Rights (document E/CN.4/AC.1/W.2/Rev.2)

THE CHAIRMAN explained that Prof. Cassin (France) had attempted to abbreviate and combine the thoughts and comments expressed during the discussions of the Drafting Committee. She asked that each representative try, as far as possible, to limit his comments on each individual point to three minutes in the interest of terminating their work. She suggested that, should the wording of an Article not be exactly as desired, [2] any required redrafting might be worked out informally.

As far as the United States was concerned, the Chairman noted that there might be some reservations which would be brought up at the session of the Commission on Human Rights. It was understood to be the right of every Representative to modify his position on any item at the session of the Commission. She suggested that the Preamble be considered at a later stage, after all the Articles had been examined.

¹⁸³ This is the date of the meeting. The document was issued on 3 July 1947.

PROF. CASSIN (France) said he recognized the imperfection of the document under consideration. He agreed to the method of procedure suggested by the Chairman.

Article 1

THE CHAIRMAN read Article 1. As a general remark, DR. MALIK (Lebanon) emphasized the fact that the document before them was strictly provisional. He, therefore, reserved the right to suggest alterations in both substance and form in the plenary session of the Human Rights Commission.

THE CHAIRMAN made it clear again that it was understood that all delegates reserved the right to modify their position.

MR. WILSON (United Kingdom) speaking personally, and not as his Government's Representative, said he had several specific reservations. He pointed out that in the present document items appeared which might also be included in a Convention. There was a grave danger in having two documents containing clauses covering the same subject matter in different words. He suggested that those points covered by the suggested Articles for a Convention be omitted from the suggested Articles for a Declaration. He was not opposed to the formulation of a Declaration, but said he believed a Declaration unaccompanied by a Convention would not be useful.

THE CHAIRMAN reminded the Committee that the Human Rights Commission [3] would have to decide upon the form of the International Bill of Human Rights. The Committee would only present it with one or more working papers. She thought that several Members had expressed the feeling that the Declaration should cover the subject generally, and should be a complete document in itself.

MR. SANTA CRUZ (Chile) reaffirmed the statement of the Chairman that the Drafting Committee's work was in no way definitive. The Commission on Human Rights itself would decide upon the items to be covered by a Convention and those to be covered by a Declaration.

DR. MALIK (Lebanon) stated that he had always been in favour of submitting two documents to the Commission on Human Rights. He thought of the Declaration as being an all-inclusive document, embodying the basic principles from which positive law could be extracted. He had never thought of the Declaration as embodying only residual material remaining from the Convention. In his opinion the two documents should not oppose one another, but should supplement each other.

PROF. CASSIN (France) reminded the Committee that the paper was only a working document which was not binding upon the members. He thought that explanatory footnotes might be used wherever necessary.

MR. HARRY (Australia) disagreed with Mr. Wilson (United Kingdom) and said that in his view the Declaration must be a comprehensive document covering all rights; it should not, even if a Convention is to be drafted simultaneously, omit

reference to matters covered by the Convention. This method would use the Convention as a preamble to the Declaration whereas the Declaration should lead into the preamble of the Convention. He strongly recommended the formulation of a complete Declaration, and agreed that explanatory footnotes might be helpful.

Articles 1 to 4

THE CHAIRMAN said that the United States had considered combining Articles 1 to 4. [4]

MR. HARRY (Australia) suggested a wording that combined the four Articles into one.

PROF. CASSIN (France) pointed out that three ideas were expressed in the four Articles: (1) the condition of man; (2) the duty of society to man; and (3) what man owes to society. He felt that these would require at least three Articles.

THE CHAIRMAN asked the Representative of Australia to draft a somewhat shortened version of Articles 1 to 4, taking her own and Prof. Cassin's views into consideration.

DR. CHANG (China) pointed out that the time at the disposal of the Committee was limited and that if redrafts were made of each Article, the work of the Committee would not progress.

PROF. CASSIN (France) stated that he himself reserved the right to make changes in the Articles he had suggested, as he recognized their imperfection.

DR. CHANG (China) agreed with the suggestion of the United States, that the first four Articles might be merged in some way. He wished, however, to retain the first four words of Article 1, "All men are brothers".

MR. WILSON (United Kingdom) said that the first three Articles might be considered in the nature of a Preamble. To assure personal rights, however, it would be necessary to include in this Preamble the idea of social and economic rights.

PROF. CASSIN (France) agreed with Mr. Wilson as to the importance of making early reference to social and economic rights. He envisaged Articles 1 to 6 as embodying the general principles of the Declaration of Human Rights. He suggested as a title for the document "Revised Suggestions Submitted as Working Document for Articles of the International Declaration of Human Rights".

Article 5

THE CHAIRMAN read Article 5. She said that the United States would prefer deleting the last sentence and would suggest that the Article be [5] altered to read:

"All are equal before the law and entitled to equal protection of the law. The law applies to public authorities and judges as well as to individuals."

DR. CHANG (China) and PROF. CASSIN (France) were in favour of the United States revision. MR. WILSON (United Kingdom) supported the United States suggestion but preferred that the second sentence read “Public authorities and judges, as well as individuals, are subject to the rule of law.”

Article 6

THE CHAIRMAN read Article 6. She stated that the United States suggested that “hereunder declared” be replaced by “set forth in this Declaration”. DR. CHANG (China) was in favour of this change. He thought the general principle might be included in the Preamble rather than drafted as a separate Article. DR. MALIK (Lebanon) shared the viewpoint of Dr. Chang. THE CHAIRMAN suggested a footnote to the effect that if this thought was embodied in the Preamble, it might be deleted in the Declaration.

PROF. CASSIN (France) remarked that Article 6 concluded the General Section of his suggested Articles. He was of the opinion that it could not be absorbed, but should have a place in the body of the Declaration or should be stated very strongly in the Preamble.

THE CHAIRMAN suggested that the word “political” be deleted as the word “belief” would cover all types and not be limited to the one specified.

In reply to Prof. Koretsky (Union of Soviet Socialist Republics), THE CHAIRMAN noted that political belief was only one of many types of beliefs and that elimination of the word “political” broadened the Article. PROF. CASSIN (France) pointed out that his original French text did not [6] contain the word “political”.

DR. MALIK (Lebanon) said that politics was one of the fundamental activities of man in which discrimination existed. He felt that the Commission on Human Rights should decide whether or not discrimination was allowable on the basis of political belief. There were excesses in some of these practices, he said, and there was no harm in stating that man is free to hold political convictions without danger of discrimination and persecution.

THE CHAIRMAN felt it wiser to stick to the wording of the Charter until recommendations on this Article had been received from the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

PROF. CASSIN (France) agreed that the Article should be referred to the Sub-Commission for consideration.

THE CHAIRMAN clarified the position of the United States by saying that her Government would agree to the words of the Charter being retained, and a footnote suggesting referral of the matter to the Sub-Commission on Prevention of Discrimination and Protection of Minorities being inserted.

Articles 7 and 8

THE CHAIRMAN read Article 7. She said that the United States would prefer to merge Articles 7 and 8 to read:

“Everyone has the right to life, liberty and the security of his person. He shall not be deprived of his rights without due process of law in cases prescribed by law. Everyone placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.”

MR. SANTA CRUZ (Chile) pointed out that both the United States text and the text drafted by Prof. Cassin referred first to the rights to life, [7] liberty and security and then to personal liberty. He called attention to the need at this point to affirm the economic and social rights of the individual and suggested that an Article be added, to read:

“Every person has a right to enjoy conditions of life that enable him to support himself and his family and to develop his personality.”

He pointed out that Article 1 of the Chilean draft included the right to sustenance and support in the case of those unable to support themselves by their own efforts. The International Labour Organization had also made provision that all human beings, without distinction as to sex, race or religion, have the right to earn their own livelihood. If such important rights were not mentioned, the International Bill of Human Rights would not be in harmony with the present world.

PROF. CASSIN (France) explained that, in his opinion, Article 7 was a chapter heading which implied all economic rights. Economic rights were stated in greater detail towards the end of the Declaration. Article 7 introduced a whole order of ideas, of which the following Articles were applications.

MR. WILSON (United Kingdom) felt that, for purposes of a Declaration, Articles 8, 9 and 10 were adequately covered by Article 7, and suggested that the footnote read: “Articles 7, 8, 9 and 10 will have to be considered in the light of any convention that may be recommended for adoption.” He proposed that the word “Everyone” be replaced by the phrase “all men”.

DR. MALIK (Lebanon) agreed with the Representative of Chile as to the necessity of modifying Article 7. He did not feel that Articles 8, 9 and 10 needed to be tied irrevocably to Article 7. He recommended that the clause “right to life and bodily integrity, from the moment of conception, regardless of mental and physical condition” be added.

DR. CHANG (China) thought it important to take note of the cultural [8] development of man, to include “the better development of life itself”, inasmuch as mere physical existence was not sufficient.

MR. SANTA CRUZ (Chile) said that he was aware that Prof. Cassin had not overlooked the importance of economic and social rights. He felt, however, that they should be mentioned in the first Articles.

THE CHAIRMAN summarized the general feeling of the Committee, that Articles 7, 8 and 9 should stand as separate Articles. Two Representatives had expressed the view that the meaning of “right to life” should be expanded. The United States was willing to accept the Articles, together with a footnote summarizing the suggestions made by various Members.

MR. WILSON (United Kingdom) conceded that Article 7 stated general principles whereas Articles 8, 9 and 10 embodied methods. He withdrew his suggestion that Article 7 be grouped with 8, 9 and 10 and included in the footnote.

Article 9

THE CHAIRMAN read Article 9. She said that the United States would suggest the addition of the phrase “or punished for crime” after the word “convicted”, and the elimination of the phrase “or has been legally summoned”. Her Government also wished to add “including the right to be confronted with the witnesses against him, the right of compulsory process for obtaining witnesses in his favour, and the right to consult with and be represented by counsel”.

PROF. CASSIN (France) agreed that “or punished for crime” should be added. Although he had no objection to the right of obtaining witnesses and counsel, he felt that specification of one such item would necessitate citation of many others.

DR. CHANG (China) pointed out that Article 7 was a statement of general principle while Article 8 dealt with a process of law. He thought that the “due process of law” could not be spelled out. He believed that [9] Article 8 should remain but that Articles 9 and 10 might be relegated to a footnote or commentary.

MR. WILSON (United Kingdom) thought that his suggested wording of a footnote would cover Dr. Chang’s point inasmuch as “considered” was a broader term than “shortened”.

THE CHAIRMAN stated that the general feeling of the Committee was that Article 8 should be retained. Although Articles 9 and 10 contained important points, they should be included in a subsidiary position to Articles 7 and 8.

DR. CHANG (China) suggested that the first sentences of Articles 8, 9 and 10 might form a new Article 8, as they enunciated ideas of a general character. The remaining sentences of the Articles were qualifications and might be added as footnotes or commentaries.

THE CHAIRMAN requested Dr. Chang to redraft the Articles and footnote for consideration at the afternoon meeting.

The meeting adjourned at 1:00 p.m.

E/CN.4/AC.1/SR.13

20 June 1947¹⁸⁴

***Summary Record of the Thirteenth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Friday, 20 June 1947
at 2:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Professor René Cassin (France); Professor V. Koretsky (Union of Soviet Socialist Republics); Mr. Geoffrey Wilson (United Kingdom). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor). Secretariat: Professor J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

**I. Consideration of Revised Suggestions Submitted by the Representative of
France for Articles of the International Declaration of Human Rights
(Document E/CN.4/AC.1/W.2/Rev.2)**

THE CHAIRMAN suggested that the Committee should proceed with consideration of Article 11, pointing out that, although the discussion of Article 10 had not been completed, this Article would be included in the drafting undertaken by the Representative of China. Speaking as a Member of the Committee, Mrs. Roosevelt said she thought it desirable to add the provision on double jeopardy contained in Article 26 of the United States [2] proposal.

Article 11

THE CHAIRMAN read Article 11, and added that the United States suggested that the second sentence should be deleted.

MR. WILSON (United Kingdom) supported this proposal, adding that the abolition of slavery was the main purpose of the Article: the subject of compulsory labour would be included in the Convention, and would then have to be very carefully examined. DR. CHANG (China) agreed with this.

PROFESSOR CASSIN (France) said he thought the Article should be expanded rather than shortened, and proposed the addition: "Slavery . . . is prohibited in all its forms." There were attenuated forms of slavery which were vigorous in practice; for instance the status of persons who were deported to Germany was certainly worse than that of ancient slaves. If the Committee wished to delete the second

¹⁸⁴ This is the date of the meeting. The document was issued on 8 July 1947.

paragraph it might be necessary to add a footnote that this subject would have to be included in some kind of a Convention.

THE CHAIRMAN suggested that the second sentence should be eliminated, so that the Article would read: "Slavery, which is inconsistent with the dignity of man, is prohibited under all its forms", with a footnote to the effect that the Article might be elaborated in a Convention. This was accepted.

DR. CHANG (China) said he wondered whether Members should not clarify their thinking as to what was meant by a Convention. In this case it might not be possible to have it clarified in a Convention, but it might be possible to clarify it in a comment. Certain things could be clarified in a comment and others enforced in a Convention.

THE CHAIRMAN said that in his use of the word "enforced", Dr. Chang implied what was intended as something to be included in a Convention.

Article 12

THE CHAIRMAN read Article 12.

[3]

MR. WILSON (United Kingdom) said he agreed with the principle, but there were an enormous number of exceptions to be considered. He objected to the word "inviolable" and suggested the Article might state that the sanctity of the home and the privacy of correspondence, with a phrase added about reputation, "shall be respected".

PROFESSOR CASSIN (France) said that the word "inviolable" should be avoided; on the other hand, privacy, home, correspondence and reputation must be respected, and if it was not stated that such respect should be protected by law, it might be supposed that there were legitimate restrictions, which would not be authorized. He proposed the wording: "The inviolability of privacy, *etc.* shall be respected and regulated by law."

MR. WILSON (United Kingdom.) said he preferred the phrase "shall be respected" to "protected by law".

MR. HARRY (Australia) suggested wording the Article as follows: "The privacy of the home and correspondence, and respect for reputation, should be protected by law."

MR. WILSON (United Kingdom) said he would not quibble about the words but had a mental reservation as to whether or not they were apt.

THE CHAIRMAN, speaking as a Member of the Committee, said she would prefer the words "protected by law", but thought that that was the kind of wording which should be left to the Commission itself.

PROFESSOR CASSIN (France) observed that the word “secrecy” as a translation for “privacy” might apply to correspondence, but might not apply to the home. It was a question of right and of law as well as translation. That was why he thought that the words “inviolability of the home”, which were accepted in all legislatures and all jurisprudence, should be kept. Deletion of the phrase “inviolability of the home” was a retrogression.

MR. SANTA CRUZ (Chile) agreed with the Representative of France that this phrase should be retained.

[4]

THE CHAIRMAN asked whether the wording “The right to inviolability of privacy of the home, of correspondence and respect for reputation are protected by law” would meet the approval of Members.

MR. WILSON (United Kingdom) repeated that these things were not inviolable; in his home there were all types of people who had every right to enter and see what was going on, as, for example, officials of public utilities. What the Article was aiming at was the privacy of the home, and not its inviolability. He added that he was content with the wording suggested by the Representative of Australia: “The privacy of the home, of correspondence and respect for reputation shall be protected by law.”

THE CHAIRMAN stated that there were two alternatives. It had been proposed that the word “inviolability” should be retained, to read: “The inviolability of privacy of the home, of correspondence, and respect for reputation shall be protected by law.” The wording proposed by the Representative of Australia, and this wording might therefore be offered as alternatives.

No objection to this proposal was indicated.

Articles 1, 2, 3, and 4

THE CHAIRMAN asked the Representative of Australia to read his proposals regarding Articles 1, 2, 3, and 4.

MR. HARRY (Australia) remarked that his suggestions were neither original nor new, but combined the various ideas which had been made regarding the keynote opening of the Declaration, and also contained echoes from past Declarations. If it were thought that the phrase in parenthesis in the first line were clumsy and not concise enough, a third sentence could be added to bring in the non-discrimination aspect. His proposal read as follows:

“All men (without distinction as to race, sex, language or religion) are born free and equal and have certain inalienable rights fundamental to their life as reasonable beings, brothers within the family of mankind. These rights are limited only by the equal rights of others as individuals, and by the [5] duties man owes to society through which he is enabled to develop his spirit, mind and body in wider freedom.”

MR. WILSON (United Kingdom) suggested the words “to their life as beings endowed with reason and conscience” in place of “to their life as reasonable beings”.

DR. MALIK¹⁸⁵ (Lebanon) said that even if the proposal of the Representative of Australia accomplished the purpose of combining the ideas of Articles 1, 2, and 3, he preferred short, simple sentences at the beginning of the Declaration. He thought it preferable to start with the words “All men are brothers”, followed by a short sentence as in Article 1. He supported the proposal of the Representative of the United Kingdom defining man as a being “endowed with reason and conscience”. He preferred Articles 1, 2, 3, and 4 as they stood, with certain modifications.

PROFESSOR CASSIN (France) pointed out the omission, in the Australian proposal, of any reference to the dignity of man. He suggested that, allowing for drafting changes, two alternative texts should be submitted to the Commission on Human Rights; the first would contain the four separate Articles, and the second the draft proposed by the Representative of Australia.

DR. CHANG (China) said he was in agreement with the Representative of the Lebanon that short, pithy sentences were needed for the first few articles, but he felt the Australian suggestions were interesting and significant. He agreed with the Representative of the United Kingdom that the word “conscience” should be added, but there should also be some word indicating, aside from “reason”, something of a moral significance. He suggested that Article 1 should read as it stands: “All men are brothers. Being endowed with reason and conscience, members of one family, they are free and possess equal dignity and rights.” Articles 2, 3, and 4 should be combined and become Article 2 (taken from the Australian proposal) as follows: “These rights are limited only by the equal rights of others. Man also owes duties [6] to society, through which he is enabled to develop his spirit, mind and body in wider freedom.”

PROFESSOR CASSIN (France) said that the terms adopted for Articles 2, 3, and 4 were on the practical level, but it would be necessary for the Commission itself to settle the question of whether it should limit itself to finding such a practical text or whether it ought to affirm and proclaim ideas per se. He agreed with the Representative of China that the original draft for Article 1 should be submitted, and one of the alternatives under Article 3, deleted; only one alternative would then be presented to the Commission, that of combining Articles 2, 3, and 4 according to the Australian proposal or leaving them separate as in the document before the Committee.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) said there was no need to deal with a more exact wording, since all the formulas now being adopted

¹⁸⁵ The verbatim transcript of Mr. Malik’s remarks is published in Chapter 6 of Habib C. Malik, ed., *The Challenge of Human Rights, Charles Malik and the Universal Declaration*, Oxford: Centre for Lebanese Studies, 2000, pp. 68–74.

were conditional. He pointed out, however, that the first draft had been worded “Men have the right to life as being endowed with reason”, which might have resulted in misunderstanding and have been interpreted as justification of the fascist destruction of feeble-minded people on the grounds that they were not reasonable human beings. He also pointed out that members seemed to have accepted the expression “all men”, on the understanding that all persons were included. However, he thought that this implied an historical reflection on the mastery of men over women, and that the phrase should be modified in some way to make it clear that all human beings were included. He was opposed to such historical atavisms which precluded from an understanding that men were only one half of the human species and not the whole human species.

MR. HARRY (Australia) said he believed the problem insoluble; he could find no other word to replace “men”. He added that in the Charter itself reference was made to “mankind” and not to “mankind and womankind”. There was also the difficulty of expressing the whole sentence “All men are [7] brothers” in a general way.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) added that in Russian, the term for “all human beings” included both men and women.

THE CHAIRMAN pointed out that it had become customary to say “mankind” and mean both men and women without differentiation. She herself had no objection to the use of the word in this manner.

PROFESSOR CASSIN (France) said that he understood that Article 21 had been accepted. This could be followed by alternatives, the whole Australian text in one column, and in another column, Article 2 of the original draft followed by the second version of Article 3 and then Article 4.

After discussion, THE CHAIRMAN stated that Articles 1, 2, 3, and 4 would be presented in the following manner: Article 1 would read, “All men are brothers. Being endowed with reason and conscience they are members of one family. They are free and possess equal dignity and rights”. Continuing, there would be a sub-division; on one side Articles 2, 3, and 4, Article 2 reading, “The object of society is to afford each of its members equal opportunity for the full development of his spirit, mind and body”, followed by Article 3, “As human beings cannot live and develop themselves without the help and support of society, each one owes to society fundamental duties which are: obedience to law, exercise of a useful activity, willing acceptance of obligations and sacrifices demanded for the common good”, and Article 4, “In the exercise of his rights everyone is limited by the rights of others”. On the opposite side would come, as Article 2, “These rights are limited only by the equal rights of others. Man also owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom”. No objection being indicated, the Chairman stated that this method of presentation had been accepted. Speaking as a Member of the Committee, the Chairman observed that the proposals of the United States submitted

at the twelfth meeting probably would not be put in as Articles. However, she reserved the right to add a footnote, a right which should be reserved to [8] everyone.

Article 13

THE CHAIRMAN read Article 13 and asked for comments.

MR. WILSON (United Kingdom) observed that this was another matter which should be considered by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, since the main implication was the prevention of discrimination, on grounds of race, colour, where people might live and how they might move from place to place. He pointed out that this Article was also subject to the rights of private property.

DR. CHANG (China) said he reserved his position, since he, too, realized the difficulties in qualification. He suggested as a drafting change that instead of the words "Subject to", the sentence should begin "There shall be liberty. . .".

THE CHAIRMAN, speaking as a Member of the Committee, said that the United States might also reserve the right to put in a qualifying footnote.

DR. MALIK (Lebanon) remarked that the intent of the Article was to guarantee freedom of movement within a country subject to the conditions mentioned by the Representative of the United Kingdom and also the liberty of emigrating from a country and changing nationality. He wondered, however, if "emigration" covered the case of mere travel, which ought also to be included.

THE CHAIRMAN asked whether the wording "There shall be liberty of movement and free choice of residence within the borders of each State; individuals may also freely travel, emigrate or expatriate themselves", would be acceptable.

PROFESSOR CASSIN (France) said he thought it would be wise to transfer the reservation to the end of the Article. He recognized the justness of the comments of the Representative of the United Kingdom regarding certain indispensable restrictions. Texts which proclaimed unconditional liberties might be dangerous to certain states which might, for instance, find [9] themselves invaded by five hundred thousand persons in one day. He thought there should be a reservation at the end of the Article to the effect that it was subject to any general law which might regulate the freedom of movement. He would even add a footnote saying that this was a subject susceptible of inclusion in a Convention.

THE CHAIRMAN said that, following the Representative of France, the Article would read: "There shall be liberty of movement and free choice of residence within the borders of each State; individuals may also freely travel, emigrate or expatriate themselves subject to any general law adopted in the interest of national welfare and security."

MR. SANTA CRUZ (Chile) suggested that the words "emigrate or expatriate themselves" be changed to "the right to leave the territory".

MR. WILSON (United Kingdom.) suggested the words “be free to leave any country including his own”, the wording of the United Kingdom draft.

DR. MALIK (Lebanon) suggested the words “are also free” instead of “may also be free”. He also suggested in accordance with the United Kingdom comments the inclusion of some such phrase as “subject to private property regulations”.

THE CHAIRMAN said she thought that the general clause “subject to any general law adopted in the interest of national welfare and security” would cover this point.

MR. WILSON (United Kingdom) said that the inclusion of this qualification would reduce the clause to one of non-discrimination. If more than that was desired, it would be necessary to go into far more detail. He had mentioned private property in order to point out a flaw in the Article. He thought it should be looked at first from the point of view of discrimination.

THE CHAIRMAN suggested that, to comply with the point raised by the Representative of the United Kingdom the Article should be presented to the Commission on Human Rights reading: “There shall be liberty of movement and free choice of residence within the borders of each State, with the [10] observation that the text was not final since it should be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and should include the freedom of the individual to travel to or to leave any country including his own, the right to expatriate himself and other matters. Speaking as a Member, she added that the United States would like to retain the phrase “right of expatriation”.

DR. CHANG (China) said that it would not be wise at the present stage to go any further. He added that his attention had been drawn to a possible form of presenting a Declaration which included a comment for each Article. In this case, there was no necessity to include a comment to every Article, but he thought that the Articles themselves should be short, and if they were not clear, should then be followed by a comment. For this particular Article, he felt an explanatory comment would be useful.

THE CHAIRMAN observed that the suggestion was to delete the first sentence and begin the Article with “There shall be liberty of movement . . .” and let it stand from there on as it was, with comments below.

MR. WILSON (United Kingdom) said he preferred the phrase “divest themselves of their nationality” to “expatriate themselves”.

PROFESSOR CASSIN (France) observed that in a proclamation of rights which might also involve the drawing up of Conventions, no promises should be made which could not be kept. Members knew that sometimes governments must prevent mass movements of populations for possible economic reasons, such as lack of food in a certain region. If the text were drafted without reservations and without a commentary, there might be deception.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) referred to the fact that the population of the United States was based on expatriation, and said that the

present draft did not take into account historical circumstances such as this. He would make a more complete statement regarding the substance of the Article later. [11]

PROFESSOR CASSIN (France) felt that instead of “subject to any general law *etc.*” the words “this freedom may perhaps be regulated” should be used.

THE CHAIRMAN stated that since there were no objections, the following wording would be considered as accepted: “There shall be liberty of movement and free choice of residence within the borders of each State; individuals may also freely emigrate or expatriate themselves. This freedom may be regulated by any general law adopted in the interest of national welfare and security.”

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) pointed out that when the Chairman stated that there had been no objections, that was not quite the same thing as saying that an Article had been accepted. He would prefer her to state simply that Members were proceeding to the next Article. Unless that were done he would have to state each time that he reserved his position.

THE CHAIRMAN said that she had meant that the Committee was allowing that wording to go forward to the Commission, which did not mean that it might not be changed later.

Article 14

THE CHAIRMAN read Article 14 and asked for comments.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) said that in this general form the Article seemed to neglect the contents of the Moscow Declaration on war criminals,¹⁸⁶ and asked whether there would be some sort of reservation to that effect.

PROFESSOR CASSIN (France) admitted that the word “persecution” might not have been made sufficiently clear; he had intended persecution for political, religious or other ideas. He wished to reserve the question of criminals in general and of the obligations of extradition, incumbent on States which might also apply to war criminals. He suggested it might be indicated that the provision referred to persecution for ideas or opinions or beliefs.

¹⁸⁶ The Declaration of the Four Nations on General Security was signed by representatives of the United States, the United Kingdom and the Soviet Union on 30 October 1943. The reference by Professor Koretsky is to the Statement on Atrocities, signed by Roosevelt, Churchill and Stalin, which referred to “evidence of atrocities, massacres and cold-blooded mass executions which are being perpetrated by Hitlerite forces in many of the countries they have overrun and from which they are now being steadily expelled”. It said the suspects would be sent back to the countries where they had committed their crimes and “judged on the spot by the peoples whom they have outraged”. Those whose criminal offences had no particular geographical localization were to be punished by joint decision of the governments of the Allies. The text is available in: *Report of Robert H. Jackson, United States Representative to the International Conference on Military Trials*, Washington: Department of State, 1949, pp. 11–12.

THE CHAIRMAN suggested the wording “Everyone has the right to escape persecution for his religious or political beliefs by seeking refuge . . . *etc.*”

[12]

PROFESSOR CASSIN (France) suggested the wording “. . . for political, religious or racial reasons. . .”

MR. HARRY (Australia) said that certain exceptions in most of the extradition clauses might, in reverse, provide suitable wording. He also suggested, instead of “seeking refuge”, “the right to take refuge on the territory of any State willing to grant him asylum”. The Article would then read: “Everyone has the right to escape persecution on grounds of political or other beliefs or on grounds of racial prejudice by taking refuge on the territory of any State willing to grant him asylum.”

THE CHAIRMAN said that she thought the Article should appear with this wording, which was acceptable to members, together with any substantive comments. She herself did not think any other comment was needed.

Article 15

THE CHAIRMAN read Article 15, and speaking as a Member, said she would like to delete the word “eventually”, since a person should have the right to be represented by counsel any time he desired representation.

PROFESSOR CASSIN (France) observed that there are countries where, in civil proceedings, counsel can be secured, but not in criminal trials. He pointed out that the entire Article was the result of a combination of three other articles, because it had been rightly observed that the phrase “legal personality” was rather abstract, and it was better to mention the contracting of marriage and access to impartial tribunals.

MR. WILSON (United Kingdom) said he agreed with the Chairman concerning the word “eventually”, and thought that the whole of the sentence containing this word was more appropriate to a Convention than to this document. He objected also to the clause concerning the right to contract marriage: if the advice aimed at was the denial of the right of aliens to marriage through the use of all types of technicalities, it should be dealt with on the basis of discrimination. This principle applied equally to many other matters, it was the right to enter into any contract. He did not see the reason for singling [13] out one specific instance, however important.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) agreed with the Representative of the United Kingdom, that this question should be dealt with on the basis of non-discrimination. It was inappropriate to speak about the right to contract marriage as a specific right to be expressed in the Declaration. However, he could not agree that marriage was a contract like any other contract.

THE CHAIRMAN, speaking as a Member of the Committee, said that while the phrase “legal personality” might mean something to lawyers, it would mean little to the layman.

DR. CHANG (China) said he thought that the first sentence of the third paragraph of Article 15 might be combined with some of the concepts implied in Articles 8, 9, and 10, which were being redrafted. He felt that paragraph 1 required classification.

DR. MALIK (Lebanon) pointed out that in many Eastern countries the State has no laws regulating marriage, which is a purely religious matter. He felt that the clause would be highly ambiguous for those countries.

THE CHAIRMAN observed that most Members would be willing to omit the second paragraph and perhaps submit it to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

PROFESSOR CASSIN (France) said that the phrase “of the State” should be deleted from the paragraph dealing with marriage. But he would stress the importance of the fundamental right of a human being to found a family; it would not leave a good impression if after having raised the question before the public, it were then deleted for technical reasons. The Committee could request that the Commission on Human Rights should restudy the problem. Finally he agreed that the term “legal personality” should be clarified, though it was appropriate to state that every human being normally possesses rights and obligations and, therefore, has “legal personality”. Perhaps some words could be added to clarify it. He suggested adding after “legal [14] personality”, “in other words to be able to be a bearer of rights, obligations and responsibilities”.

THE CHAIRMAN observed that perhaps it was better to leave the phrase simply as “legal personality”.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) said that the question of the right to contract marriage, was a question of discrimination against women, and if this instance were quoted, it would be necessary also to mention all the other fields in which women did not have equal rights, listing all those aspects of social life in which women were still factually and judicially unequal. He thought that the term “legal personality” might be superfluous because it introduced a complicated juridical concept, and also in view of the statement in Article 1 that everyone is free and has equal rights and dignity. It was a general formula which has outlived its utility. He would support the deletion of the first and second sentences of Article 15, though perhaps the Article on non-discrimination was in need of further development. Discrimination was still an historical phenomenon of importance in many countries, and had to be fought.

THE CHAIRMAN said the wording “Everyone has the right to a status in law and the enjoyment of fundamental civil rights” had been suggested to her. She pointed out that the question of marriage had been discussed in the Commission on the Status of Women and she felt that that Commission’s recommendations should be

reviewed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and a note added to that effect in the Article. She felt that sentence 3 might be retained but the word “eventually” in the sentence relating to representation by counsel, should be changed.

PROFESSOR CASSIN (France) said he associated himself with what the Chairman had said, with the reservation that the words “civil rights” be translated as “droits civils” in French. He disagreed, however, with the Representative of China’s suggestion that this be added to Articles 8, 9, and 10, pointing out that these Articles refer to penal law, liberty, and security [15] of man, whereas the present Article refers to family rights, the right to patrimony and a profession, and such matters which might be brought before certain tribunals.

MR. SANTA CRUZ (Chile) supported Professor Cassin (France) and said that nearly all legislations provided that tribunals should determine civil and political rights and the civic or legal rights of the person: Other rights arise from the relation between the State and the public administration, that is, “administrative law”; some legislations set up administrative tribunals to determine the rights of individuals in this respect, and in other legislations the state itself determines these rights. Mr. Santa Cruz requested that his observation be recorded so that the question he had raised might be taken up by the Commission on Human Rights.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) felt that if the remarks concerning civil rights were not sufficiently covered by Article 1, the terms of that Article might be developed. He considered the phrase “in accordance with the laws of the State”, inappropriate as it might imply approval of polygamy which still exists in certain States.

THE CHAIRMAN explained the procedure which had been suggested regarding the Article.

DR. CHANG (China) said that the third paragraph was still a little too technical for the common man, who wanted equality, consideration, and wished to know his relationship with the courts. He had already suggested that inasmuch as the first Article might appear too technical, and if a clarification of the relation of the individual to the tribunals was concerned, it might be considered as a part of the consideration of the tribunal relationship with the individual.

THE CHAIRMAN recalled that in the discussion it had been held important to have an Article stressing the right to what was called a “legal personality”, and the Representative of France had accepted her simpler wording. That being accepted, she thought Members would agree that paragraph 3 should go in.

[16]

DR. CHANG (China) said that the last sentence might still be a comment rather than a part of the Article. He would like to reserve his position with regard to retaining this Article.

PROFESSOR CASSIN (France) maintained that this was one of the most important texts of the Declaration, on a national as well as an international level. On the national level it meant that every citizen had the right of access to justice. On the international level it meant improving the position of foreigners in this respect.

THE CHAIRMAN stated that the feeling of the majority of Members was that the Article should be included. The first paragraph would read: "Everyone has the right to a status in law and to the enjoyment of fundamental civil rights". Then would come a note that the right to contract marriage had been discussed, but Members felt that the recommendations of the Commission on the Status of Women should be reviewed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities; the final paragraph would read "Everyone shall have access to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law". The United States would add the note that they wished to include "He shall have the right to consult with and be represented by counsel" changing the translation of the word "eventually". There being no comments, the Chairman stated that the Article had been adopted.

Article 16

THE CHAIRMAN read Article 16.

MR. HARRY (Australia) suggested the wording "There shall be equal opportunity to engage in all vocations and professions not having a public character".

MR. WILSON (United Kingdom) said he thought it would be possible to combine this Article with the one concerning non-discrimination for public employment.

PROFESSOR CASSIN (France) said it might be wise not to confuse Article 16 [17] with political and public occupations, and that a note might be added here stating that this could be the subject of a Convention.

THE CHAIRMAN suggested that the Article should read "There shall be equal opportunity to engage in all vocations or professions not having a public character", with a footnote stating that the rights of foreigners in relation to this Article should be the subject of a Convention.

DR. MALIK (Lebanon) suggested adding the words "for all" after "opportunity".

THE CHAIRMAN suggested the combination of two ideas and proposed the wording: "There shall be equal opportunity for all to engage in all vocations and professions not constituting public employment." There were no objections and the Article was adopted in this form.

Article 17

THE CHAIRMAN read Article 17 and recalled that there had been a long discussion on this Article. Speaking as a Member of the Committee she said she still felt it was sufficient to say “Everyone has a right to own property”.

MR. SANTA CRUZ (Chile) recalled that he had referred to the necessity of clarifying the social functions of property. He considered that the last paragraph should come in the second paragraph and the final paragraph should read “No one shall be deprived of his property except for public welfare and with just compensation”.

MR. WILSON (United Kingdom) said he was still of the opinion that this Article should not be included, partly for the reasons given by the Representative of Chile regarding the social functions of property and also because the right to property is subject to such a mass of control in every country, that it seems rather unreal to talk about it. He referred to the qualifications which had been enumerated in the United States suggestion for this Article (document E/CN.4/AC.1/8/Rev.1), and said that these were sufficient to show that in fact little remained of the absolute right to [18] property. He suggested that a note should accompany the Article to the effect that the opinion had been expressed that it should be omitted altogether, and, if included, it should be in some very limited form, stating that everyone has a right to own such property as is necessary in order to enable him to live a decent life.

MR. HARRY (Australia) said he would hesitate to subscribe to the present form of the Article, and felt it should be omitted.

PROFESSOR CASSIN (France) said he had no objection to the interchange of paragraphs 2 and 3, but thought the wisest course would be to send the text forward as it stood, with a note that the Committee had not fully agreed on the subject, and wished also to submit the suggestions of the Representatives of the United Kingdom and the United States, adding a note that it was only a provisional text.

THE CHAIRMAN stated that if the Committee was agreeable the text would be sent forward as it was, with the comments made by the Representatives of the United Kingdom and the United States. No objection was indicated.

Article 18

THE CHAIRMAN read Article 18.

PROFESSOR CASSIN (France) stated that there had been a mistake regarding this text, which should read “Everyone has the right to a nationality”. He thought that a footnote should be included to the effect that this was a subject suitable for a Convention.

THE CHAIRMAN suggested that the text should be sent forward in that form, with a note that it should be expanded or taken into further consideration. No objection was indicated by Members.

Article 19

THE CHAIRMAN read Article 19.

MR. WILSON (United Kingdom) said he feared that as it stood the Article was meaningless, and provided no protection for anybody. The subject of aliens constituted a most complicated and difficult problem, and he suggested that the Article be omitted, as it seemed incapable of revision into an [19] acceptable form.

THE CHAIRMAN suggested the wording “No alien legally admitted to the territory of a State may be expelled therefrom without having had a fair hearing”.

PROFESSOR CASSIN (France) said that naturally there would have to be certain Conventions in order to study the question more profoundly, but he did not think the Article should be deleted.

THE CHAIRMAN suggested that the Committee send forward the wording she had proposed, with a note explaining that this was a difficult problem which some Members of the Committee felt should have careful consideration. No objection was indicated by Members.

Article 20

THE CHAIRMAN read Article 20, and pointed out that a number of communications had been received in connection with this Article. She suggested that these communications might be attached to the Report.

PROFESSOR HUMPHREY (Secretariat) explained that all communications would, in any event be forwarded to the next session of the Commission.

THE CHAIRMAN speaking as a Member of the Committee, said that the phrase “manifestations of opposite convictions” had no particular meaning and she would like to see it deleted. It was clear from the first sentence that persons had complete freedom of conscience and belief.

PROFESSOR CASSIN (France) said that there was an error in the wording, and that the phrase should read “manifestations of different or varying convictions”. He added that the Article was trying to take into account the fact that manifestations of worship were not the only manifestations of opinion; there were for instance, manifestations of philosophical opinions.

THE CHAIRMAN suggested the words “differing convictions”.

MR. MALIK (Lebanon) said that the fundamental freedom to change one’s opinions and beliefs must be included here, and suggested the wording “Individual freedom of thought and conscience, to hold or change beliefs, is [20] an absolute and sacred right”.

MR. WILSON (United Kingdom) thought it would be useful to use a shortened version of the relevant Article from the United Kingdom proposal for the Convention, which covers all the points raised.

DR. MALIK (Lebanon) suggested that the Committee adopt the phraseology of the Representative of France and add the United Kingdom proposal in a footnote as an alternative.

DR. CHANG (China) agreed that it would be useful to include the two forms, but thought that the phrase offered by the Representative of France was not clear.

THE CHAIRMAN agreed that “freedom of conscience and belief” implied that one could change one’s beliefs.

DR. MALIK (Lebanon) explained that he wished, as alternatives, the phrasing of the Representative of France with the changes suggested by the Representative of France and by himself, and the phrasing suggested by the Representative of the United Kingdom.

DR. CHANG (China) suggested adding the original wording of the Representative of France as a third alternative.

PROFESSOR CASSIN (France) said he would accept the amendment proposed by the Representative of Lebanon, but he would not object if the Committee wished to present alternatives.

MR. WILSON (United Kingdom) stressed the importance of the right of every person to give and receive every form of religious teaching, which was included in the United Kingdom text and not in that proposed by the Representative of France.

THE CHAIRMAN stated that three alternatives would be submitted, the text of the Representative of France in its original form, that text as modified by the Representatives of Australia and the Lebanon, and the text of the Representative of the United Kingdom. The Chairman added that the Committee would meet the following afternoon at Hyde Park¹⁸⁷ and at Lake Success on Monday morning 23 June.

The meeting adjourned at 5:25 p.m.

E/CN.4/AC.1/14

23 June 1947

Draft Report of the Drafting Committee to the Commission on Human Rights

Chapter I Introduction

1. The Drafting Committee of the Commission on Human Rights held its First Session during the period of 9 to 24 June 1947, with the following representatives in attendance: Col. William Hodgson (Australia); Mr. H. Santa Cruz (Chile);

¹⁸⁷ Hyde Park was home of Eleanor Roosevelt and her husband Franklin Delano Roosevelt. It is located on the Hudson River, about 150 km north of New York City. The meeting to which she refers was informal, and there is no summary record of the deliberations, although reference is made to it in the summary record of the fourteenth meeting.

Mr. P. C. Chang (China); Prof. René Cassin (France); Dr. Charles Malik (Lebanon); Mr. Geoffrey Wilson (United Kingdom); Mrs. Franklin D. Roosevelt (United States of America); Prof. V. Koretsky (Union of Soviet Socialist Republics).

2. Mr. Geoffrey Wilson represented Lord Dukeston (United Kingdom); Prof. V. Koretsky represented Mr. V.F. Tepliakov (Union of Soviet Socialist Republics); and Mr. H. Santa Cruz represented Mr. Felix Nieto Del Rio (Chile). Mr. Ralph Harry represented Col. William Hodgson (Australia) at most meetings.

3. The Specialized Agencies were represented at the Drafting Committee as follows: UNESCO, Mr. J. Havet.

4. Consultants in attendance were: American Federation of Labor: Miss Toni Sender; International Cooperative Alliance: Mrs. H. Fuhrman.

5. The Drafting Committee elected the Officers of the Commission on Human Rights as its Officers: Mrs. Franklin D. Roosevelt as Chairman; Dr. P. C. Chang as Vice-Chairman; and Dr. Charles Malik as Rapporteur.

[2]

6. Professor John P. Humphrey was Secretary of the Drafting Committee.

7. The Drafting Committee adopted the Provisional Rules of Procedure of the Commission on Human Rights as its Rules of Procedure.

8. The Drafting Committee authorized the _____¹⁸⁸ to present this report to the Commission on Human Rights.

9. The expression of the views of the Members of the Drafting Committee is embodied in the verbatim and summary records of the meetings.

10. It was agreed that where there was not full agreement on any text, alternative texts were to be submitted to the Commission on Human Rights.

Chapter II

Preliminary Draft of an International Bill of Human Rights

11. The Drafting Committee reviewed its terms of reference as contained in the letter of the Chairman of the Commission on Human Rights of 24 March 1947 (document E/383) to the President of the Economic and Social Council, and approved by decision of the Council of 28 March 1947 (document E/325). It noted in particular that its function in this session was to prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights.

12. In this preparation, the Drafting Committee started with two basic documents, (a) a Draft Outline of an International Bill of Rights prepared by the Secretariat (documents E/CN.4/AC.1/3 and E/CN.4/AC.1/3/Add.1), constituting Annex A of this Report, and (b) a draft Bill of Rights proposed by the United Kingdom (document

¹⁸⁸ This blank line appears in the original document.

E/CN.4/AC.1/4), constituting Annex B of this Report. These two documents were carefully gone over and compared, together with certain United States proposals for the rewording of some items appearing in the Secretariat outline (documents E/CN.4/AC.1/8 and Revs. 1 and 2), constituting Annex C of this Report.

13. Concerning the form which the preliminary draft might take, two views were put forward. In the opinion of some Representatives it was necessary that the Draft, in the first instance, should take the form of a Declaration [3] or Manifesto; in the opinion of others there should also be a Convention in addition to the Manifesto or Declaration. The Drafting Committee therefore decided to attempt to prepare two documents, one a working paper outlining a Declaration or Manifesto setting forth general principles, and the second a working paper containing suggestions as to the contents of one or more Conventions flowing from these principles to which Member Nations might adhere.

14. The Committee established a temporary working group, composed of the Representatives of France, Lebanon, and the United Kingdom, with the Chairman of the Committee as an *ex officio* member. It requested this working group:

- (a) to suggest a logical rearrangement of the articles of the Draft Outline supplied by the Secretariat;
- (b) to suggest a redraft of the various articles in the light of the discussions of the Drafting Committee; and
- (c) to suggest to the Drafting Committee the division of the substance of the articles between a Declaration and a Convention.

15. The temporary working group had three meetings, and after a general discussion decided to request Professor Cassin to undertake the writing of a draft Declaration based on those Articles in the Secretariat outline which he considered should go into such a Declaration. It was the consensus of opinion that such a document would have greater unity if drawn up by one person. The Representatives of the United Kingdom and Lebanon, together with the Chairman, were asked independently to go over the Secretariat outline and the United Kingdom draft with a view to determining which Articles could readily lend themselves to a Convention.

Professor Cassin produced a draft containing a Preamble and forty-four suggested Articles. The working group revised the Preamble and the first six Articles before submitting them to the Drafting Committee (document E/CN.4/AC.1/W.1). The remaining Articles were submitted to the Drafting Committee in the form proposed by Professor Cassin (document E/CN.4/AC.1/W.2/Rev.1), constituting part of Annex D of this Report.

[4]

The Chairman, the Representative of Lebanon and the Representative of the United Kingdom agreed that the Articles contained in the Convention part (Annex I of document E/CN.4/AC.1/4) of the United Kingdom draft could be submitted to

the Commission on Human Rights as possibly forming the basis of a draft Convention and that the following three subjects should be added to this draft:

- (a) torture, physical integrity and cruel punishments;
- (b) the right to a legal personality; and
- (c) the right of asylum.

16. The Drafting Committee read the draft Preamble, but recognized that its final wording could not be determined until later.

17. The Drafting Committee considered in detail each of the six draft Articles submitted by the working group, then considered in like detail the remaining draft Articles submitted by Professor Cassin. Members made comments on the form and substance of the various articles. These comments are found in the verbatim and summary records. All Members of the Drafting Committee understood that no action taken by them during the session was to be considered binding upon their Governments. Professor Koretsky's remarks were confined in the main to procedural matters, and for all issues he specifically reserved the right to present the comments, observations, and proposals of his Government at a later time.

18. The Drafting Committee accepted Professor Cassin's offer to prepare, on the basis of the discussion of his draft, a revised Draft Declaration. This revised Draft (document E/CN.4/AC.1/W.2/Rev.2) was gone over carefully by the Drafting Committee and the result of this examination is embodied in Annex E of this Report. The Drafting Committee therefore submits to the Human Rights Commission this Annex as a working paper for a preliminary draft of an International Manifesto or Declaration on Human Rights.

19. The Drafting Committee used the proposal of the United Kingdom (document E/CN.4/AC.1/4) as a basis for its general discussion relating to the possible substantive contents of a Draft Convention. While it did not go over this [4] matter as thoroughly as it did the Drafts of Professor Cassin, it nevertheless suggests that the United Kingdom proposal may form a basis for a draft Convention which the Commission on Human Rights may wish to elaborate.

Chapter III The Question of Implementation of an International Bill of Human Rights

20. The United Kingdom Draft embodied many proposals bearing on implementation. Consequently, in the discussion of that Draft, the question of implementation in general came up.

Annex F of this Report consists of a paper prepared by the Secretariat embodying documentation on the question of implementation. The following is a brief summary of the comments made on this subject in the session of the Drafting Committee:

- (a) It was the consensus of opinion of the Members of the Drafting Committee that the international community must ensure the observance of the rights to be included in an International Bill of Human Rights.
- (b) The view was expressed that implementation might take two forms:
 - (1) some form of punishment of an offending State, the proposals for such punishment ranging from a public request for information concerning the alleged violation to trial before an International Tribunal; (2) action on the part of the United Nations and the Member States to educate the peoples of the world with regard to human rights and to create conditions under which respect for and promotion of human rights would be secured.
- (c) The view was expressed that the only practicable compulsory form of implementation would be an international Convention ratified or adhered to by Member Governments.
- (d) The view was expressed that the possibility might be studied of creating, within the framework of the United Nations, an organization to receive, sift, examine, and deal with communications alleging the violation of human rights.

[6]

- (e) The suggestion was made that the terms of reference of the Commission on Human Rights be re-examined by the Economic and Social Council with a view to granting greater responsibility in this field to the Commission.
- (f) The Australian proposal for the creation of an International Court of Human Rights, which was submitted in the first session of the Commission on Human Rights, was again referred to by the Representative of Australia and discussed in general by the Drafting Committee.

[Although the document makes references to annexes, these were not included. They are of course included in the final version of the Report.]

E/CN.4/AC.1/SR.14

23 June 1947¹⁸⁹

***Summary Record of the Fourteenth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, Monday, 23 June 1947

at 10:30 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Mr. Ralph L. Harry

¹⁸⁹ This is the date of the meeting. The document was issued on 3 July 1947.

(Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Mr. Geoffrey Wilson (United Kingdom); Prof. V. Koretsky (Union of Soviet Socialist Republics). Specialized Agencies: Mr. J. Havet (UNESCO). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor); Mrs. Helen Fuhrman (International Co-Operative Alliance). Secretariat: Prof. J.P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

**Consideration of Revised Suggestions Submitted by the Representative of
France for Articles of an International Declaration on Human Rights
(document E/CN.4/AC.1/W.2/Rev.2)**

PROF. KORETSKY (Union of Soviet Socialist Republics) stated that in the Summary Record of the sixth meeting the proposal to draft a Manifesto and a Convention had been incorrectly reported as a decision of the Committee.

[2]

It was his understanding that no definite decision had been taken, though the Committee had considered the possibility that the Commission on Human Rights might prepare two such documents. He requested that the record be corrected.

THE CHAIRMAN stated that, in her understanding, no definite decision had been taken on any matter. In submitting its Report to the Commission on Human Rights, the Drafting Committee would present two documents, thereby endorsing the proposal to draft a Declaration and a Convention, but the Commission on Human Rights need not necessarily adopt this plan. With regard to the Summary Record of the sixth meeting, she requested the Secretariat to modify the wording.

Article 26

THE CHAIRMAN read the text of Article 26. She explained that Articles 21–26 had been discussed at an informal meeting held at Hyde Park on 22 June. Some difficulty had been experienced in phrasing Article 26. The United States wished to suggest the alternative wording “Everyone has the right to take an effective part, directly or through his representatives, in his Government.”

PROF. CASSIN (France) said that the English text as it stood seemed satisfactory to him except for the last sentence relating to public expenses, which he felt imposed an obligation and was not a right. MR. SANTA CRUZ (Chile) supported this view.

MR. WILSON (United Kingdom) preferred the United States draft: he felt that if the functions of Government are specified, they must all be stated, and he preferred that they should not be enumerated.

MR. HARRY (Australia) supported the United States text but suggested the alternative arrangement of words: "To take an effective part in his Government directly or through his representatives", which the Chairman accepted.

[3]

DR. CHANG (China) was in favour of the United States form, adding that Government included all forms of government, and not only State or territorial government as in the other text.

THE CHAIRMAN said that there was general agreement on the elimination of the last sentence of the text before them. She suggested that both versions of the first sentence should be submitted in the Declaration together with an explanatory note. She added that the United States alternative "in his Government" applied to all persons in non-self-governing territories as well as to all other people.

Note on Article 23

PROF. CASSIN (France) pointed out that "freedom of peaceful assembly" had been omitted from the text of Article 23, and it was agreed that this should be inserted.

MISS SENDER (AF of L) asked for an explanation of the suppression of the words "and other purposes compatible with this Declaration" which had existed in the original text.

MR. HARRY (Australia) explained that some limitation of the right of assembly and of association was involved, but all the limitations which would inevitably have to be included would appear in a Convention: if the Convention did not appear simultaneously with the Declaration this would need further elaboration. The Chairman added that a note to this effect would be inserted.

Article 27

THE CHAIRMAN read the text of Article 27 and proposed the addition of "and by secret ballot" which Prof. Cassin (France) said already existed in the French text.

[4]

MR. HARRY (Australia) proposed as a drafting change that the Article should form one complete sentence, omitting the words "these wishes are" from the second sentence.

PROF. CASSIN (France) stated that the division of the sentence was important, as elections were not the only means of manifesting the wishes of the people; the question of a referendum, as in Switzerland, must be borne in mind. The original text was intended to indicate that periodic free and fair elections are indispensable. He proposed the wording "These wishes are manifested particularly by democratic elections". Mr. Harry accepted this.

DR. MALIK (Lebanon) objected to the word “consent” in the first sentence. He said that this implied that the people are passive, whereas it is the intention of the Declaration that the people should take the initiative in determining the Government of the State. He proposed the substitution of the word “will” which was accepted.

The Article was thus amended to read “The State can derive its authority only from the will of the people and has a duty to conform thereto. This will is manifested particularly by democratic elections, which shall be periodic, free and fair, and by secret ballot.”

Article 28

THE CHAIRMAN read the text of Article 28 and drew the attention of the Committee to a previous discussion on the substance of this Article in which they had agreed to substitute “equal opportunity of engaging in all public employment, or offices of the State”, in the place of “occupying all public functions of the State”.

DR. CHANG (China) proposed the addition of the sentence “There shall be free access to public examinations for public employment”. He was in favour of the rest of the Article but suggested that the word “offices” might give rise to misunderstanding as some offices are elective.

[5]

MR. SANTA CRUZ (Chile) said that to include this sentence would indicate that the Committee was of the opinion that public offices should be filled by competitive examination. He pointed out that in Chile public offices are attained by examination up to a certain point only; the highest appointments are made through the will of the Executive or after consultation with the Legislative power. He felt that this meant too detailed specifications. DR. CHANG (China) felt there would be no objection to his wording if “offices” were omitted. MR. WILSON (United Kingdom) had no objection to Dr. Chang’s proposal but he pointed out that, as the Article aimed at the prevention of discrimination in public office, it should be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

PROF. CASSIN (France) felt that the text should be left as it stood. The purpose was to prevent discrimination in the selection of officials and to guard against the abuse of power by them. He pointed out that in his original text he had indicated that recruitment should be on the basis of merit, by competitive examination or by consideration of the qualifications of the candidate: it had been suggested that reference should be made to Article 101 of the Charter. Prof. Cassin felt that this was becoming too detailed and belonged to a commentary rather than the Article. If reference is made to examinations, a more general wording must be adopted.

THE CHAIRMAN suggested the alternative wording for the second sentence “Access to examination for public employment shall not be a matter of privilege or favour”.

PROF. KORETSKY (Union of Soviet Socialist Republics) considered that the Chinese suggestion represented an internal matter for each Government. Examinations do not necessarily ensure democratization of the governmental system, nor are they always carried out in complete objectivity. He felt that if the Government trusted the scientific institutions responsible for the education of prospective officials, examinations would be unnecessary. He was against the inclusion of such a detailed provision in Article 28.

[6]

THE CHAIRMAN suggested that the Article should be submitted with the two alternatives, reading: "Everyone shall have equal opportunity of engaging in all public employment of the State of which he is a citizen." A note would then be inserted stating that some members wished the insertion of: "Access to examination for public employment shall not be a matter of privilege or favour." A further note would be inserted indicating the difference of opinion, and the suggestion that the Article be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, after which it might be elaborated further.

Article 29

THE CHAIRMAN read the text of the Article and suggested the alternative wording "Everyone has the right to a fair and equal opportunity to perform socially useful work . . ." As this was the beginning of the section on economic and social rights, the Chairman drew the attention of the Committee to the United States proposals on page 43 of document E/CN.4/AC.1/11, which, it was felt, covered the substance of Articles 29, 31 and 34 of the text before the Committee.

MR. WILSON (United Kingdom) suggested the suppression of the last sentence "Full development of his personality" as this was covered by Article 2.

MR. SANTA CRUZ (Chile) supported the United Kingdom proposal. He compared the United States proposal with the text put forward by Prof. Cassin (France) and declared himself in favour of the latter. Here the right to work is established, and in the United States proposal it is the right to equal opportunity of employment. In modern conditions, he felt it was essential to establish the right to employment. MR. SANTA CRUZ (Chile) referred to a speech made by President Roosevelt in 1943 concerning the need for a new United States Bill of Rights¹⁹⁰ which would establish

¹⁹⁰ In his 11 January 1944 State of the Union speech to Congress, President Roosevelt insisted on the recognition of economic and social rights. He said: "We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. 'Necessitous men are not free men.' People who are hungry and out of a job are the stuff of which dictatorships are made. In our day these economic truths have become accepted as self-evident. We have accepted, so to speak, a second Bill of Rights under which a new basis of security and prosperity can be established for all – regardless of station, race, or creed."

the right to useful and remunerative work, and added that this right has been unanimously adopted by meetings of the International Labour Organization and the Conferences on Social Security.

[7]

PROF. CASSIN (France) explained the purpose and importance of this Article. In two wars, the State had demanded the maximum from millions of men and in these crises had taken over the control of the entire economy of the country. Unfortunately, it was a fact that after the crises it had not been possible to find employment for all these men. He admitted that unemployment cannot be overcome immediately but he felt that the Declaration should establish fundamental rights, such as the right to work, for the future.

THE CHAIRMAN stated that the United States had no real objection to this Article except to the idea of “duty to work” which implied an obligation. She wished to point out that, as it is not possible to do more than give fair and equal opportunity to work, the United States had felt that their alternative expressed more accurately what they were trying to achieve at this time.

MR. SANTA CRUZ (Chile) admitted that realization of the right to work in all countries was for the future but if the Declaration were to be adjusted only to existing conditions it would not achieve a very useful purpose. He felt that the Bill should establish fundamental rights, and that countries should try to find means to adjust their legislation accordingly.

PROF. KORETSKY (Union of Soviet Socialist Republics) stated that the right to work should be placed next to the right to live. He referred to Article 118 of the Union of Soviet Socialist Republics Constitution, and stated that Governments which had not yet implemented this right would do so eventually. He felt it was essential that it should appear in the Declaration.

The Article was adopted to read: “Everyone has the right to perform socially useful work”.

Article 30

THE CHAIRMAN read the text of Article 30 and referred to previous discussion by the Drafting Committee on slavery, in which it had been suggested that this Article be omitted. It was agreed to eliminate the Article.

[8]

Article 31

THE CHAIRMAN read the text of Article 31. There were no comments.

Article 32

THE CHAIRMAN read the text of Article 32. MR. WILSON (United Kingdom) pointed out that the substance of this Article was included in the establishment of the right of association. It was agreed to omit this Article.

MISS SENDER (AF of L) agreed to its omission but said that if it were retained the right of the individual to be represented through free organization should be stated.

Article 33

THE CHAIRMAN read the text of Article 33 and stated that the United States supported the substance of the Article but preferred the wording which it had submitted on page 40 of document E/CN.4/AC.1/11, as this was an adaptation of the Constitution of the World Health Organization.¹⁹¹

MR. WILSON (United Kingdom) said that this entire section, which established economic and social rights, should be referred to the appropriate Specialized Agencies for their consideration and comment.

PROF. CASSIN (France) recognized the value of the United States suggestion but he wished to have a separate Article referring to Social Security.

DR. MALIK (Lebanon) proposed the addition in paragraph 2 of the word “community”.

The Article was adopted to read: “Everyone, without distinction of economic and social condition, has the right to the highest attainable standard of health. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures”.

Article 34

THE CHAIRMAN read the text of Article 34, together with the United States alternative proposal, which was accepted by Prof. Cassin (France).

MR. SANTA CRUZ (Chile) stressed the importance of social security. He drew attention to a Chilean proposal based on a Conference on Social Security [9] held in Chile in 1942,¹⁹² for a provision on these lines to be included in the Preamble.

¹⁹¹ The Constitution of the World Health Organization was adopted by the International Health Conference held in New York from 19 June to 22 July 1946 and entered into force on 7 April 1948. The second principle listed in the preamble declares: “The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.” The final principle states: “Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.”

¹⁹² The First Inter-American Conference on Social Security was held in Santiago, Chile from 10 to 16 September 1942. The Conference, under the auspices of the Inter-American Committee to Promote Social Security established in 1940, was attended by delegates from 21 countries on the American continent.

Prof. Cassin's text provided for Social Security measures, as the only means of protecting an individual against social insecurity and he preferred the wider implication of the United States text. He felt that if the United States text and the Chilean proposal for the Preamble were adopted, the problem would have been adequately covered.

THE CHAIRMAN pointed out that all suggestions for the Preamble would go forward to the Commission on Human Rights in the form in which they were made.

Article 34 was adopted in the form put forward by the United States.

Article 35

THE CHAIRMAN read the text of the Article, and proposed the addition of the words "without exclusion of private educational facilities or institutions", indicating the importance of these facilities in the United States. She suggested further the omission of the words "access to" in paragraph 2 and the phrase referring to discrimination, as this was already frequently stated.

DR. MALIK (Lebanon) suggested that either "entitled to learning" or "right to education" might be omitted as both seemed to mean the same thing. He objected that this Article made no reference to the content of education and he felt that this should be stressed by stating the principles of the Charter; otherwise, there was possibility of abuse.

He supported the United States proposal to protect private institutions.

PROF. CASSIN (France) appreciated Dr. Malik's proposal but stated that, if the principle of the right of association were not elaborated as had been agreed, then the right to education should not be elaborated either.

Concerning private institutions, he proposed that this should not be mentioned specifically but that a commentary be added to line 1 which would leave Nations free to establish educational institutions in accordance with their respective systems: the present wording of line 1 left the question open.

[10]

Prof. Cassin (France) indicated the importance of retaining the provision concerning discrimination on the grounds of social standing or financial means.

PROF. KORETSKY (Union of Soviet Socialist Republics) was not in favour of the additional provision relating to private institutions. He felt that education should be free, and referred to the provisions in the Constitution of the Union of Soviet Socialist Republics. He was strongly in favour of retaining the entire clause relating to discrimination.

THE CHAIRMAN said that she had no objection to retaining the entire clause on discrimination.

MR. WILSON (United Kingdom) declared himself in agreement in principle with the Representatives from France and the Union of Soviet Socialist Republics. He

proposed the omission of the words “youths and adults” in paragraph 2, and of the word “beneficiaries”. He suggested that the whole of paragraph 2 required rewording to state more accurately what was intended; it should say that technical, professional and higher education shall be available to all without distinction as to race, sex, language or religion, and access to these facilities shall be on the basis of merit alone. This would cover the point about social standing and financial means, which need not then be mentioned.

Concerning the provision relating to private institutions, he felt it might be covered if the wording were changed in paragraph 1 to read: “Primary education is obligatory for all children and adequate facilities free of charge shall be provided by the State”, thus leaving the establishment of private institutions an open question.

THE CHAIRMAN said she would accept this alternative wording, but indicated the reason for the inclusion of the word “adults”: it was generally recognized that educational facilities should be afforded the young but it was only gradually being recognized that older people also might have the right to educational opportunities.

[11]

MR. HARRY (Australia) said that the distinction between the rights and duties of States should be maintained: compulsory education was not on the same footing as the right to education. He suggested the alternative wording “Primary education must be available free of charge.” He considered that the question of private educational facilities was a separate question but was perhaps not excluded under this alternative wording.

Mr. Harry felt that no obligation should be laid down for a State to maintain a particular type or particular degree of education; this must vary according to the resources of the country and the type of community. There must be equal opportunity of access to all institutions of higher learning which are maintained by the State or community.

MISS SENDER (AF of L) requested that in the sentence relating to discrimination the word “beliefs”, that is, political beliefs, should be inserted after “religion”.

MR. SANTA CRUZ (Chile) was in agreement with the provisions to recognize the right to education and the obligation to provide free primary education and equal access to higher education, which should be limited by the resources of the State and the capacity of the beneficiary. He felt that the suggestions were best covered by the draft of the Inter-American Juridical Committee, reading:

“The State has the right to assist the individual in the exercise of the right to education, higher and professional, in accordance with the resources of the State. The opportunities of education must be open to all on equal terms in accordance with their natural capacities and their desires to take advantage of the facilities available.”

THE CHAIRMAN requested Mr. Harry to examine the Inter-American Juridical Committee's draft and, on the basis of that and the observations of members of the Committee, to redraft Article 35, to be considered further at the next meeting.

The meeting adjourned at 1:10 p.m.

E/CN.4/AC.1/SR.15

23 June 1947¹⁹³

Summary Record of the Fifteenth Meeting [of the Drafting Committee of the Commission on Human Rights]

Held at Lake Success, New York, on Monday,
23 June 1947, at 2:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Prof. René Cassin (France); Mr. Geoffrey Wilson (United Kingdom); Prof. V. Koretsky (Union of Soviet Socialist Republics). Representatives of Specialized Agencies: Representatives of Non-Governmental Organizations: Miss T. Sender (American Federation of Labor). Secretariat: Prof. John P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

1. Consideration of Articles 35 to 42 of the Revised Suggestions Submitted by the Representative of France for Articles of the International Declaration of Rights (document E/CN.4/AC.1/W.2/Rev.2)

Article 35

MR. HARRY (Australia) read Article 35 as amended by him, taking as a basis the Chilean Draft and other suggestions which had been made:

“Everyone has the right to education and is entitled to primary education at the expense of the State or community in which he resides. There must, in addition, be equal access for all on the [2] basis of merits and without distinction as to race, sex, language or religion to such facilities for higher education as can be provided by the State or community within the limits of its resources.”

THE CHAIRMAN asked whether or not it was the consensus of opinion that any reference to private educational facilities and institutions should be omitted. Speaking as the Representative of the United States, she declared herself in favour of including a clause to this effect.

¹⁹³ This is the date of the meeting. The document was issued on 3 July 1947.

MR. SANTA CRUZ (Chile) expressed his satisfaction with the new Draft, but suggested that the idea of considering education as an obligation should be incorporated in this Article.

Articles 36 and 37

While waiting for the written version of the amended text, THE CHAIRMAN read Article 36.

DR. CHANG (China) thought that the right to a fair share of rest and leisure might be separated from the right to the knowledge of the outside world which could be included in the subject of education.

PROF. CASSIN (France) maintained that it differed from education but felt that perhaps a better formula could be found to express this idea. He added that everyone, not only labourers, should have the right to leisure.

MR. WILSON (United Kingdom) suggested the omission of Article 36 entirely. He said that the substance of this Article might be covered by provisions on education and freedom of information, and that it would involve also the question of freedom of travel. If it was to be retained, it should be spelt out explicitly.

PROF. KORETSKY (Union of Soviet Socialist Republics) remarked that the right to rest and leisure should be treated in relation to working conditions and circumstances of social life, and that the right to the knowledge of the outside world was a matter of information. Referring to countries in which workers still do not enjoy the right to a vacation, he thought it would be better to place this Article near the Article dealing with the right to work.

[3]

PROF. CASSIN (France) accepted this suggestion.

THE CHAIRMAN stated that it should be moved forward to become Article 32. She asked the Committee to decide whether the phrase “to the knowledge of the outside world” should be retained. She thought that it might be included as a footnote to the Article dealing with freedom of information.

PROF. CASSIN (France) felt that the advancement of culture was intended by this phrase and that it had no direct relation to freedom of information.

THE CHAIRMAN wondered whether it could not be included in Article 37.

PROF. CASSIN (France) suggested this might be done by the insertion of the words “to broaden his knowledge and outlook through the knowledge of his fellow-men”, preceding “to share in the benefits of science” in Article 37.

MR. SANTA CRUZ (Chile) pointed out this Article was Article 44 of the Secretariat Draft. The idea that scientific inventions should be made available to every individual should be included in this Article.

MR. WILSON (United Kingdom) said that while the rights set forth in Article 37 should not be denied to the individual, they were very different from the other Articles, and he felt it would be better to include them in the Preamble. PROF. CASSIN (France) agreed to the deletion of “to the knowledge of the outside world” as a result of the discussion.

THE CHAIRMAN stated that Article 36 would now read: “Everyone has the right to a fair share of rest and leisure.” It was the general consensus of opinion that Article 37 be retained as it stood, with a footnote saying that the substance of the Article might be included in the Preamble instead of being spelt out in the Declaration. DR. CHANG (China) asked for an explanation of the phrase “share in the benefits of science” in Article 37. MR. SANTA CRUZ (Chile) said that in the Chilean Draft, it was stated that scientific inventions should belong to society and be enjoyed by all.

THE CHAIRMAN said that Article 37, as amended, would read: “Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific inventions and discoveries”. She added that a footnote could be attached to this [4] Article, stating that it might be proper to include the substance of this Article in the Preamble.

Article 35

Returning to Article 35, THE CHAIRMAN, speaking as the Representative of the United States, proposed the addition of the following sentence: “This will not exclude private educational facilities and institutions.”

DR. CHANG (China) proposed that the Article should read:

“Everyone has the right to education. Primary education shall be obligatory and shall be provided by the State or community in which he lives. There shall be equal access to technical, cultural and higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language or religion.”

THE CHAIRMAN proposed the deletion of the words “in which he lives” and Dr. Chang accepted this amendment.

PROF. CASSIN (France) thought that as some States had not adopted the system of compulsory primary education, it would be unsuitable to introduce this idea in the Article.

MR. HARRY (Australia) said that his draft did not imply compulsory education and did not exclude private educational facilities and institutions. He agreed that the words “Everyone has the right to education” might form a separate sentence.

MR. WILSON (United Kingdom) was not in favour of including the idea of obligatory education here as work had not been regarded as compulsory in this Declaration. He was not in favour of any reference to private educational facilities and institutions.

MR. SANTA CRUZ (Chile) thought that if the right to primary education were included it would not be necessary to refer to private educational facilities and institutions.

MR. HARRY (Australia) proposed as the second sentence of his amended [5] text: "Primary education should be free and compulsory", which would incorporate the idea of obligation suggested by the Representative of Chile.

THE CHAIRMAN, speaking as the Representative of the United States, said that obligatory education differed from obligatory work. As the child is too young to defend his rights, his right to education should be protected for him. She felt that private institutions of learning should be recognized.

THE CHAIRMAN read the amended text:

"Everyone has the right to education. Primary education shall be free and compulsory. There shall be equal access for all to technical, cultural and higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language or religion."

PROF. CASSIN (France) said that "social conditions and standing" should be added to the clause on discrimination.

DR. CHANG (China) stated that he had no objection to the inclusion of reference to social standing or political belief.

Article 38

THE CHAIRMAN said that Article 38 referred to special groups and not to individual rights. She felt it was therefore out of place and should be omitted.

MR. WILSON (United Kingdom) shared this view, but asked Prof. Cassin what was intended by this Article. PROF. CASSIN (France) said it was intended to protect not only the pecuniary rights of the artist but also his spiritual or moral rights to what he has created.

MR. WILSON (United Kingdom) believed that some of the items mentioned in this Article belonged to the domain of copyrights. PROF. CASSIN (France) said that he would agree to a footnote to this Article, saying that it might be implemented by a Convention. The Chairman stated that a footnote would be added to the Article saying that, while this idea might not be included in the Declaration, it should receive consideration for treatment on an international basis.

[6]

Articles 39, 40, 41, 42

THE CHAIRMAN remarked that Articles 40, 41 and 42, which dealt with the question of implementation, should be considered as suggestions for the Commission on Human Rights but should not be included in the Declaration.

PROF. CASSIN (France) considered that Article 39 was one of the most important Articles as the prevention of discrimination should be emphasized in the Declaration. However, the language in this Article should be appropriate for situations existing all over the world, and suggested that the word “conglomeration” might be better than the word “persons”. He proposed that this provision be referred for further study to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. THE CHAIRMAN said that this Article, as it stood, might give rise to difficult problems and that it should be referred to the Sub-Commission for careful study before any pronouncement on it could be made.

MR. SANTA CRUZ (Chile) remarked that many countries of America had been created by immigration of people from other countries and that the form and substance of this Article called for most careful consideration.

DR. MALIK (Lebanon) said that the substance of this Article seemed to be what divided the New World from the Old. In the Old World, there were wide divisions of ethnic groups. In the New World, there was assimilation. He did not object to referring this Article to the Sub-Commission for further study, but insisted that the idea should be included in the Declaration.

MR. WILSON (United Kingdom) believed that when the time was ripe, something along the lines of the draft Article should be included in the Declaration. However, he deemed it unwise to refer the text of this Article to the Sub-Commission as it would then carry the endorsement of the Drafting Committee. He felt the Secretariat should bring this Article to the Sub-Commission’s attention.

THE CHAIRMAN thought that a footnote might be attached to the Article saying that this was a draft based on the Secretariat Draft.

MR. WILSON (United Kingdom) opposed the idea of presenting any draft, either to the [7] Sub-Commission or to the Commission on Human Rights.

THE CHAIRMAN stated that the substance, not the wording, was important. MR. SANTA CRUZ (Chile) agreed with her, and said that he would like to reserve his right to state his position on this question, which he felt was very important, at a later stage. DR. MALIK (Lebanon) maintained that the question did not necessarily refer to “minority” groups but was concerned rather with rights of ethnical groups in a body politic.

THE CHAIRMAN thought that the Committee might decide to refer the substance of Article 39 of the Commission on Human Rights for its consideration as to

whether or not it should be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

DR. MALIK (Lebanon) said that it would be better to state that there had been discussion of Article 39 in the Drafting Committee but the Committee did not take any action and decided to refer the matter to the Commission on Human Rights for possible reference to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

THE CHAIRMAN, commenting on Articles 40, 41 and 42, said that these Articles might go into a Convention with the exception of the last paragraph of Article 42 which might be included in the Declaration. MR. WILSON (United Kingdom) thought that the idea contained in the last paragraph of Article 42 was already included in Point 5 of the Preamble, and that it was therefore unessential to have it as an Article. THE CHAIRMAN supported him.

PROF. CASSIN (France) maintained that Article 42 dealt more with the internal affairs of the State, and that it might be better to include it in a Convention. He felt that provisions should be made to deal with the violation of human rights by public authorities.

THE CHAIRMAN thought the Committee might suggest that Article 41 should be the subject for a Convention and the second paragraph of Article 42 might be suitable for the Declaration.

The meeting adjourned at 5:00 p.m.

E/CN.4/AC.1/SR.16

24 June 1947¹⁹⁴

***Summary Record of the Sixteenth Meeting [of the Drafting
Committee of the Commission on Human Rights]***

Held at Lake Success, New York, on Tuesday,
24 June 1947 at 10:45 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Mr. P. Ordonneau (France); Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. G. Wilson (United Kingdom). Non-Governmental Organizations: Consultant: Miss Toni Sender (American Federation of Labor). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

¹⁹⁴ This is the date of the meeting. The document was issued on 3 July 1947.

**Consideration of the Draft Report of the Drafting Committee to the
Commission on Human Rights (document E/CN.4/AC.1/14)**

THE CHAIRMAN announced that the Drafting Committee would consider the Rapporteur's draft Report (document E/CN.4/AC.1/14) and called upon Dr. Malik (Lebanon), as Rapporteur, to introduce it.

DR. MALIK (Lebanon) explained that the Report consisted of a five and one-half page statement to which would be appended six Annexes, namely:

[2]

1. Draft Outline of International Bill of Rights prepared by the Secretariat;
2. Document submitted by the United Kingdom;
3. Suggestions of the United States for redrafts of certain Articles in the Secretariat Draft Outline;
4. Suggestions submitted by the Representative of France for the Preamble and 44 Articles of an International Declaration on Human Rights;
5. Working Paper containing suggestions of the Drafting Committee for an International Declaration on Human Rights; and
6. Memorandum on Implementation Prepared by the Secretariat.

He proposed that the Drafting Committee should study the Report paragraph by paragraph and approve it Chapter by Chapter. He pointed out that the Report contained three chapters:

1. Introduction;
2. Preliminary Draft of an International Bill of Human Rights; and
3. The Question of Implementation of an International Bill of Human Rights.

THE CHAIRMAN agreed to the suggested method of procedure and stated that she would ask for comments or objections on each paragraph.

Paragraph 1

MR. HARRY (Australia) requested that the Representative of Australia be listed as Lt. Col. W.R. Hodgson.

Paragraph 2

MR. WILSON (United Kingdom) suggested that the order of names be changed to correspond to the order in paragraph 1.

Paragraph 3

Paragraph 3 was accepted without objection.

Paragraph 4

Paragraph 4 was accepted without objection.

[3]

Paragraph 5

Paragraph 5 was accepted without objection.

Paragraph 6

Paragraph 6 was accepted without objection.

Paragraph 7

Paragraph 7 was accepted without objection.

Paragraph 8

THE CHAIRMAN observed that it was necessary for the Committee to decide who was to present the report.

DR. MALIK (Lebanon) said he believed the Rules of Procedure provided that the report be presented by the Chairman, or in the absence of the Chairman, by the Rapporteur. This view was accepted by the Drafting Committee.

Paragraph 9

DR. MALIK (Lebanon) explained that the purpose of this paragraph was to remind the reader that greater details could be obtained from the verbatim and summary records.

Paragraph 10

THE CHAIRMAN recalled that it had not been possible to reach full agreement on any text inasmuch as one of their colleagues had had to reserve his position on many items. She suggested that paragraph 10 might either be deleted or be modified to read:

“It was agreed that, when necessary, alternative texts were to be submitted to the Commission on Human Rights.”

MR. WILSON (United Kingdom) said that since, in several instances, the question had arisen as to whether or not to include an Article, the following might be more suitable:

“It was agreed that where more than one view was taken about any Article, the different views expressed should be submitted to the Commission on Human Rights.”

[4]

MR. HARRY (Australia) said he had circulated to Members an amendment to paragraph 10 which read:

“It was agreed that in appropriate cases alternative texts, reflecting the views of a minority or of an individual Representative, might be submitted to the Commission on Human Rights.”

However, because he agreed with the suggested wording of Mr. Wilson, he withdrew his amendment.

PROF. KORETSKY (Union of Soviet Socialist Republics) stated that neither paragraph 10, nor the suggested wording of the Australian and United Kingdom Representatives, corresponded to the lines of thought that had been indicated at the meetings of the Committee. He felt that the inclusion of paragraph 10 or either one of the proposed redrafts, might give the impression that there were different drafts for each Article. In the Drafting Committee, only various views had been expressed, broad formulas had been suggested, and a consensus of opinion had been reached as to the desirability of including certain items in the Declaration or Convention.

THE CHAIRMAN explained that the Committee was submitting the views expressed during the course of its session in a working paper which was not binding upon any individual or Government. DR. CHANG (China) suggested that the words “it was agreed” be deleted. He felt that it might even be possible to omit the entire paragraph.

THE CHAIRMAN agreed that the paragraph might be omitted. PROF. KORETSKY (Union of Soviet Socialist Republics) thought the suggestion of Dr. Chang was a logical one and favoured complete elimination of the paragraph. He said that perhaps some mention might be made of this point in Chapter II. MR. HARRY (Australia) agreed to elimination of the paragraph. DR. MALIK (Lebanon) explained that the original terms of reference had requested the Drafting Committee to prepare a preliminary draft of an International Bill of Human Rights. Inasmuch as the Drafting Committee had not actually prepared [5] such a Preliminary Draft, he felt that an explanatory reference to the discrepancy was necessary. He would, however, agree, should the Drafting Committee so wish, to the deletion of the paragraph.

THE CHAIRMAN stated paragraph 10 could be deleted and that the Chairman or the Rapporteur, in presenting the Report to the Commission on Human Rights, might explain the manner in which the work was done and the difficulties encountered.

Chapter II

Paragraph 11

Paragraph 11 was accepted without objection.

Paragraph 12

MR. HARRY (Australia) pointed out that in paragraph 11 it was said that on the basis of documentation supplied by the Secretariat a preliminary draft of an International Bill of Human Rights was to be prepared. In paragraph 12, it was stated that two basic documents had formed the basis of the Drafting Committee's work. He believed that the correct emphasis had not been given to the documents, and suggested the following wording:

"In addition to the draft outline of an International Bill of Rights prepared by the Secretariat (document E/CN.4/AC.1/3 and E/CN.4/AC.1/3/Add.1) the Drafting Committee had before it a letter from the United Kingdom Representative transmitting a draft International Bill of Human Rights and a draft Resolution which might be passed by the General Assembly when adopting an International Bill of Rights."

MR. WILSON (United Kingdom) was in favour of the Australian amendment. The Chairman accepted the changes suggested by Mr. Harry (Australia), but wished to have the words "gone over" replaced by "considered" or "examined".

Paragraph 12 was approved as modified by the Australian amendment, with the words "gone over" replaced by "considered".

[6]

DR. MALIK (Lebanon) suggested that Annexes A, B and C might be accepted at this stage.

Annexes A, B and C were accepted without objection.

Paragraph 13

MR. HARRY (Australia) remarked that the lack of full verbatim records made it difficult to refer to previous discussions. In view of that fact, he believed that there should not be too strict an adherence to the summary records, but that expression be given to general thoughts and feelings. As he recalled, there had been two stages in the development of the Drafting Committee's work. At the first stage, the Committee had considered as its basic task the preparation of a Convention. As a result of its discussions, it was generally recognized that a Declaration also should be drafted. He therefore, suggested the following Amendment to replace that part of the paragraph starting "in the opinion of others there should also be a Convention":

“others felt that it should be in the form of a Convention. It was agreed by those who favoured the Declaration form that the Declaration should be accompanied or followed by a convention or conventions on specific groups of rights. It was agreed by those who favoured the convention form that the General Assembly in recommending a convention to Member Nations might make a Declaration wider in content but more general in expression. The Drafting Committee therefore decided to prepare two documents, one a working paper outlining a Declaration or Manifesto setting forth general principles, and the second a working paper outlining a convention on those matters which the Committee felt could be expressed in the form of binding obligations on States.”

THE CHAIRMAN said that the United States would accept these changes.

DR. MALIK (Lebanon) while in favour of the first part, could not accept the second part of the Australian amendment. The Committee was not actually submitting a draft convention but was suggesting to the Commission on Human Rights that the topics contained in the United Kingdom draft might serve as a basis for discussion of the possible substantive contents of a Convention. MR. WILSON (United Kingdom) felt that the Australian Amendment met the situation adequately. THE CHAIRMAN pointed out that the Committee [7] had accepted the first part of the Australian Amendment, and she suggested that Mr. Harry and the Rapporteur might wish to present a joint draft of the second part of the paragraph. MR. HARRY (Australia) agreed with the Rapporteur that the last sentence of his amendment did not completely indicate the status of the documents.

DR. MALIK (Lebanon) said that, in writing the Report, he had tried to summarize the general consensus of opinion where there had been no decisions. He could not consider the two working papers as being on a par and he therefore felt that a slight difference in expression would be necessary.

MR. WILSON (United Kingdom) was of the opinion that the Australian Amendment recorded quite accurately what had occurred.

PROF. KORETSKY (Union of Soviet Socialist Republics) felt that the question as to whether the document should be drafted in one or two forms would have to be considered by the Commission on Human Rights. He also thought that a more suitable word might replace the word “adhere”.

THE CHAIRMAN requested the Rapporteur and the Representative of Australia to take into account the suggestions of Prof. Koretsky in their attempted redraft of the last part of the paragraph. It was agreed that the section to be redrafted began with the words “The Drafting Committee therefore decided . . .”.

Paragraph 14

PROF. KORETSKY (Union of Soviet Socialist Republics) felt that sub-paragraph (c) required further qualification to indicate its conditional character. He desired the addition of a phrase such as “if it were considered that this were appropriate”.

MR. SANTA CRUZ (Chile) observed that sub-paragraphs (a), (b) and (c) were simply the terms of reference of the working group.

MR. HARRY (Australia) suggested the wording “to suggest to the Drafting Committee how the substance of the Articles might be divided between a Declaration and a Convention,” which was supported by MR. SANTA CRUZ (Chile). [8]

DR. MALIK (Lebanon) however, pointed out that this would lead to a discrepancy between the summary record and the Report.

PROF. KORETSKY (Union of Soviet Socialist Republics) accepted the Australian proposal. He said that he objected to a categorical statement and stressed the importance of the inclusion of a conditional element.

THE CHAIRMAN was of the opinion that sub-paragraph (c), as it stood, expressed accurately what had actually been done by the working group. She felt that the consensus was to retain the wording of the summary record as it appeared in sub-paragraph (c).

DR. CHANG (China) said that inasmuch as the Summary Record had not been passed by the Committee, there might be opportunity to change the phrasing. He proposed that the terminology used at the intermediate stage of discussions might be appropriate: “to undertake a division of the work indicating which Articles would require International Conventions and which would not”.

MR. SANTA CRUZ (Chile) said it was necessary for this paragraph of the Report to correspond to what had happened at the time the working group was set up.

MR. WILSON (United Kingdom) and PROF. KORETSKY (Union of Soviet Socialist Republics) favoured the Australian proposal.

The proposal of Mr. Harry (Australia) was accepted, as sub-paragraph (c).

Paragraph 15

MR. WILSON (United Kingdom) suggested that line 2 of page 4 be altered to read: “. . . United Kingdom agreed that the Articles contained in Part II of the Draft Convention of the United Kingdom document . . .” and that the word “should” be replaced by “might”. PROF. KORETSKY (Union of Soviet Socialist Republics) wondered what principles lay behind the grouping together of torture, physical integrity and cruel punishments in sub-paragraph (a). DR. MALIK (Lebanon) said they had been grouped as natural rights of the [9] sheer physical body of man. PROF. KORETSKY (Union of Soviet Socialist Republics) thought that “physical integrity” might be placed first.

Paragraph 15 was accepted, with the modifications of MR. WILSON (United Kingdom) and Prof. Koretsky (Union of Soviet Socialist Republics).

Paragraph 16

Paragraph 16 was accepted without objection.

Paragraph 17

THE CHAIRMAN stated that she wished to have it noted that “The United States reserved the right to urge before the Commission the inclusion, in the Declaration, of the United States rewording of Articles in the Secretariat draft.”

PROF. KORETSKY (Union of Soviet Socialist Republics) remarked that in the final sentence it might perhaps be sufficient to say “observations”, without any additional synonyms. He pointed out that all Representatives had reserved their positions.

In the sixth line of the paragraph, MR. WILSON (United Kingdom) thought it preferable to say “nothing said by any of them” rather than “no action taken by them”. Inasmuch as all Representatives had reserved their right to make comments at a later time, he proposed the following sentence:

“All Members of the Drafting Committee understood that nothing said by any of them during the session was to be considered binding upon their Governments, and reserved the right to make further suggestions at a later stage.”

DR. MALIK (Lebanon) observed, in connection with Prof. Koretsky’s remarks that “proposals” was not synonymous with “observations” and thought that both words should be retained.

PROF. KORETSKY (Union of Soviet Socialist Republics) said he would agree to the inclusion of both words.

[10]

At this point in the meeting, Dr. Chang (China) Vice-Chairman, took the chair and Mr. Hendrick¹⁹⁵ replaced Mrs. Roosevelt as Representative of the United States.

Paragraph 18

DR. MALIK (Lebanon) suggested that “considered” be substituted for “gone over”.

MR. WILSON (United Kingdom) felt it was not necessary to include the word “carefully”. He also suggested the following revision of the second sentence:

“This revised Draft was examined by the Drafting Committee, and Annex E of this report embodies the general consensus of opinion which resulted from this examination.”

¹⁹⁵ James P. Hendrick (1902–1990) worked for the State Department as principal advisor to Eleanor Roosevelt from 1946–1948 and later served as Deputy Assistant Secretary of the Treasury Department from 1962–1969.

PROF. KORETSKY (Union of Soviet Socialist Republics) wished the word “carefully” excluded from paragraph 12 as well as from the paragraph under discussion. MR. WILSON (United Kingdom) agreed.

MR. HENDRICK (United States) proposed that the suggestion of Mr. Wilson, as regards the second sentence of the paragraph, be expressed in two sentences, thus: “This revised Draft was examined by the Drafting Committee and changes in wording were made. The Draft as revised by the Committee is embodied in Annex E of this report.”

DR. MALIK (Lebanon) pointed out that inasmuch as paragraph 10 had been deleted, no mention was made of alternative texts. He thought it should be stressed that Annex E was not an univocal but a multivocal document.

MR. HARRY (Australia) thought that this might be an appropriate place to make mention of alternative texts. He proposed that the following be inserted:

“The Drafting Committee decided that where a substantial minority view existed as to the text which should be submitted to the Commission, or if a particular delegation wished a text to go forward, this should be included.”

[11]

DR. MALIK (Lebanon) said a simpler form would be an adaptation of paragraph 10 and suggested “Where alternative texts were entertained, they are thus reproduced in this Annex”.

MR. WILSON (United Kingdom) suggested that a redraft of this paragraph might be considered during the noon recess.

The meeting adjourned at 1:00 p.m.

E/CN.4/AC.1/SR.17

24 June 1947¹⁹⁶

Summary Record of the Seventeenth Meeting [of the Drafting Committee of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday, 24 June 1947
at 2:30 p.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States of America) (Dr. P. C. Chang presided over the first part of the meeting); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph Harry (Australia); Mr. H. Santa Cruz (Chile); Mr. P. Ordonneau (France); Mr. Geoffrey Wilson (United Kingdom);

¹⁹⁶ This is the date of the meeting. The document was issued on 3 July 1947.

Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. James Hendrick (United States of America) (In the absence of Mrs. Roosevelt).

Continuation of the Discussion of the Draft Report of the Drafting Committee to the Commission on Human Rights (Document E/CN.4/AC.1/14)

In the absence of the Chairman, DR. CHANG, the Vice-Chairman, temporarily presided.

Paragraph 13

THE RAPPORTEUR read the amended text as drafted by Mr. Harry (Australia) and himself. Attention was drawn to the omission from the text as read, of the phrase “while recognizing that the decision as to the form of the Bill was a matter for the Commission” in the first line of the last sentence.

[2]

MR. WILSON (United Kingdom) suggested the omission of the words “possible” and “readily” in lines 4 and 5 of the last sentence, which was accepted.

The last sentence was thus amended to read: “The Drafting Committee, therefore, while recognizing that the decision as to the form of the Bill was a matter for the Commission, decided to attempt to prepare two documents, one a working paper outlining a Draft Convention on those matters which the Committee felt might lend themselves to formulation as binding obligations.” The first part of the paragraph was adopted as read by the Rapporteur.

Paragraph 18

THE RAPPORTEUR read the amended text as drafted by the Representative of the United States and himself. This was accepted without comment.

Paragraph 19

THE RAPPORTEUR read the text of the paragraph.

MR. WILSON (United Kingdom) stated that in his recollection, agreement had been reached on the substance of matters for inclusion in the Convention with the understanding that all members reserved the right to make further comments after consultation with legal experts. He proposed that Part II of the United Kingdom Draft should be included under Annex E in the form in which it had emerged from the Committee, that is, with the addition of the United States text on compulsory labour and the two additions he had made relating to torture and the right to a legal personality.

PROF. KORETSKY (Union of Soviet Socialist Republics) referred to the last part of paragraph 19 concerning the United Kingdom Draft forming the basis for a draft Convention, and objected that this wording did not accurately correspond to the decisions of the Drafting Committee. It was contemplated that the United Kingdom Draft might serve as a working paper for a preliminary Convention if and when it had been decided to draft a Convention, a decision which must be left to the Commission on Human Rights. Prof. Koretsky felt that the wording of this paragraph should be brought in [3] line with paragraph 18.

DR. MALIK (Lebanon) suggested that this difficulty might be met if the phrase were reworded to read: “. . . suggests that the United Kingdom proposal may form a working paper for a preliminary Draft Convention . . .”

MR. HARRY (Australia) referred to a proposed amendment submitted earlier by him and suggested that the status of the United Kingdom Draft would be clarified if the first sentence of this proposal were inserted: “The Drafting Committee decided that owing to the short time available, it could not prepare a complete Draft Convention for submission to the Commission on Human Rights.”

DR. MALIK (Lebanon) agreed that this would explain why the Convention had not been elaborated in as much detail as Prof. Cassin’s Draft Declaration.

MR. HENDRICK (United States of America) stated that the addition would be acceptable to him.

PROF. KORETSKY (Union of Soviet Socialist Republics) said that all additions should be in accordance with the opinions recorded in the Summary Records so that the Commission on Human Rights would take note of the comments.

MR. WILSON (United Kingdom) proposed that a phrase might be included stating that members reserved their position until they could take legal advice.

MR. HARRY (Australia) agreed to the principle of this suggestion, but felt that it should be a separate sentence or paragraph; it would explain to the Commission on Human Rights without reference to the Summary Records why the Convention had not been considered in as much detail as the Convention [sic].

PROF. KORETSKY (Union of Soviet Socialist Republics) felt this point should not be mentioned. He considered that the Australian text indicated that the Drafting Committee had accepted the United Kingdom Draft as appropriate for inclusion in a Convention. [4]

THE CHAIRMAN was also of the opinion that it should be made clear that the decision to draft a Convention rested with the Commission on Human Rights.

DR. MALIK (Lebanon) felt that this was implicit in the words “which the Commission on Human Rights may wish to elaborate”.

THE CHAIRMAN felt that the shortness of time and the need to consult legal experts should be included in this paragraph. He was supported by MR. WILSON (United Kingdom).

MR. HENDRICK (United States of America) suggested that the Australian proposal be adopted and the last sentence amended to read “which the Commission on Human Rights may wish to consider and elaborate”.

PROF. KORETSKY (Union of Soviet Socialist Republics) was opposed to the inclusion of the Australian text. He felt that it drew attention to technical reasons for delay in consideration of the Convention, which was inaccurate. At the present time it was premature to consider a Convention in detail: until a decision had been taken on whether or not there was to be a Convention it was impossible to decide on the contents of such a document. The Drafting Committee had considered Part II of the United Kingdom Draft but it had been repeatedly stated that no decisions were taken.

THE CHAIRMAN pointed out that the shortness of time was already implied in the text before the Committee.

MR. WILSON (United Kingdom) suggested an alternative text for paragraph 19 (which he submitted in written form later in the session) and the Committee passed to the consideration of the next item.

Chapter III, Paragraph 20

THE RAPPORTEUR read the text of this chapter and explained the contents of the first paragraph: the terms of reference of the Drafting Committee contained no mention of implementation, but a discussion on implementation had taken place, occasioned by the discussion of the United Kingdom Draft.

[5]

Paragraph I explained to the Commission on Human Rights the reason why implementation had been discussed in the Drafting Committee.

THE CHAIRMAN proposed the deletion of the word “again” on Page 6, paragraph (f), line 3, which was accepted.

PROF. KORETSKY (Union of Soviet Socialist Republics) objected that this section did not make it clear that some of the proposals mentioned had evoked strong objections. He referred particularly to paragraph (b)1 concerning the establishment of an international court of human rights: he pointed out that the Charter provides other means for action against nations which, through their actions, seem to endanger peace and security.

PROF. KORETSKY (Union of Soviet Socialist Republics) objected further to the wording “The view was expressed”. He felt that it should also be stated that there were objections from other members. There had been general discussion on the Australian proposal but the report gave no account of the objections.

MR. HARRY (Australia) said that it was extremely important to explain why the question of implementation had been taken up: there were three reasons,

(1) although it had not been mentioned in the resolution of the Economic and Social Council, when the Commission on Human Rights had originally envisaged the possibility of establishing a Drafting Committee, they had instructed it to review methods of implementation. (2) In the general discussion, especially in discussing a Convention, it had been found necessary to consider possible methods of enforcement. (3) The United Kingdom Draft contained new suggestions for enforcement which had to be considered. Mr. Harry suggested a new wording as follows:

(At this point Mrs. Roosevelt arrived and presided over the remainder of the meeting.)

“Although the resolution of the Economic and Social Council of 28 March did not mention the problem of implementation as such [6] the Commission at its First Session had invited the drafting group then envisaged to explore the means of enforcement of the rights to be included in the International Bill of Human Rights and in that connection to study the Australian proposal (E/CN.4/15) and any other documents which had been or might be submitted to it. In practice the Committee throughout its work and particularly when considering the problem of a draft convention, found it necessary to take into account possible methods of enforcement. The Committee also devoted one session specifically to the question of implementation, taking as a basis for discussion a paper by the Secretariat (Annex F), covering previous proposals and the relevant portions of the United Kingdom Draft”.

In answer to a question put by MR. SANTA CRUZ (Chile), DR. MALIK (Lebanon) said that he would prefer not to comment on the substance of the problem, but his general reaction was in favour of the shorter, less elaborate form of the Draft Report. In answer to Prof. Koretsky (Union of Soviet Socialist Republics), Dr. Malik pointed out that it was not possible to go into detail in this section and not elsewhere; he felt that Prof. Koretsky’s point was covered in Annex F of the Report, which made reference to the different points of view put forward by members of the Committee.

MR. SANTA CRUZ (Chile) said that he found the section satisfactory after the statement by the Rapporteur. He felt that, regarding the Australian proposal to establish an international tribunal, the view expressed by Prof. Koretsky, M. Cassin and himself, that the establishment of such a court was premature, should be noted. This might be included in the Annex.

MR. SANTA CRUZ (Chile) referred further to the suggestion of the Representative of China that an organ be created whose purpose would be to [7] promote and further respect for human rights. He pointed out that the Chilean draft provided for such an organ. This, he thought should be included in the Report.

PROF. KORETSKY (Union of Soviet Socialist Republics) repeated that in his opinion, it was not sufficient to state certain views without indicating the

objections made; these need not be listed, but it should be said that the rest of the Committee was not in accordance with certain views. He objected further that the items listed under paragraph 20 were not in logical sequence. Reference to the creation of material conditions which would ensure respect for human rights had been omitted; Prof. Koretsky referred to the relevant clause in the Constitution of the Union of Soviet Socialist Republics. He suggested that the section should be reworded, listing the proposals and stating that they had called forth criticism, and the whole section should then be referred to the Commission on Human Rights.

MR. WILSON (United Kingdom) objected that it was not only the discussion of the United Kingdom Draft which had occasioned the discussion on implementation, and he asserted that the first paragraph was therefore incorrect.

DR. MALIK (Lebanon) replied to Mr. Santa Cruz by saying that the Chinese proposal regarding education and the promotion of human rights was embodied in (b)2. In answer to Prof. Koretsky, he proposed the addition of the words "material or otherwise" in (b)2, to read: "... and to create conditions material or otherwise under which respect for and promotion of human rights would be secured". In answer to Mr. Wilson, Dr. Malik felt that the discussion of the United Kingdom Draft alone had occasioned the discussion on implementation, as there was no mention of implementation in the terms of reference of the Drafting Committee.

MR. HARRY (Australia) felt that the discussion of drafting both a [8] Declaration and a Convention had promoted a discussion on implementation as well as consideration of the United Kingdom Draft. He said that it was most important to convey to the Commission on Human Rights the different suggestions that had been made, set out in logical order. He recognized the need for a statement that no suggestion had received the endorsement of the Committee.

He proposed the following text:

"(a) that a declaration of human rights and fundamental freedoms in a resolution of the General Assembly would have considerable moral weight.

(b) that rights in international law would be uncertain unless embodied in a convention and ratified by member governments.

(c) that signatories of a convention, in addition to recognizing the rights specified therein as rights in international law should be required to ensure that their domestic law was in full conformity and that the rights would be enforceable in domestic courts. (The committee found that in this connection the position of federal states, of states without written constitutions and of states where law has not been completely codified would require special duty.)

(d) That neither a declaration nor a convention would in itself be fully adequate to ensure observance by member nations and that the United Nations should take further measures.

(e) That knowledge that violations or inconsistent domestic laws would be given publicity and might be internationally censured would act as a deterrent and that measures should be taken to promote such publicity including:

- (i) Petitions by individuals and groups to the United Nations
- (ii) Requests for information by the Secretary-General
- (iii) Discussion in the General Assembly.

[9]

(f) That the possibility should be studied of creating, within the framework of the United Nations, an organization to receive, sift, examine and deal with communications alleging the violations of human rights.

(g) That the terms of reference of the Commission on Human Rights might be re-examined by the Economic and Social Council with a view to granting greater responsibility in this field to the Commission.

(h) That a Convention should recognize the right of the United Nations to expel a member who had persistently violated human rights and fundamental freedoms.

(i) That an International Court of Human Rights should be established for judicial determination at the international level of cases involving possible violation of human rights and fundamental freedoms.”

MR. HARRY (Australia) proposed that there should then be a statement that none of these views were endorsed by the Committee, but were submitted for the information of the Members of the Commission on Human Rights.

Mr. Harry (Australia) proposed further that paragraph (b)2, of the Rapporteur's report should be the last paragraph and might be reworded as follows:

“There was general agreement among members of the Committee that human rights and fundamental freedoms could not be secured through enforcement alone, whether nationally or internationally, but that the United Nations should seek to educate the peoples of the world with regard to human rights and to create social and other conditions under which respect for and the promotion of human rights could be secured.”

DR. MALIK (Lebanon) felt that such a detailed exposé of the subject would over-emphasize implementation and would seem to indicate that more [10] time had been spent on discussion of the problem than was the case. He was in favour of retaining the shorter form of the Report before the Committee.

MR. SANTA CRUZ (Chile) thought the Union of Soviet Socialist Republics and Chilean observations might serve a practical purpose. He proposed that paragraph (c) should replace paragraph (d) and (d) be redrafted. It should be stated that the drawing up of an international convention had been supported by various delegates, and it was also suggested that an organ might be established to sponsor the protection of human rights.

MR. WILSON (United Kingdom) approved the inclusion in the Report of a formulation of views on implementation on the lines suggested by Mr. Harry (Australia) and did not feel that the Report would be thrown off balance when the Annexes were attached.

THE CHAIRMAN (Mrs. Roosevelt) felt it was important to keep the Report in balance, and supported Mr. Harry's proposal, but felt it should be shorter.

PROF. KORETSKY (Union of Soviet Socialist Republics) was of the opinion that as implementation was not in the terms of reference of the Committee, the Report should only list the suggestions and say that there had been objections.

DR. CHANG (China) supported Mr. Harry's text, and felt the substance should be retained, but was in favour of a shorter form. He proposed that the Rapporteur and Mr. Harry should redraft this section.

MR. SANTA CRUZ (Chile) supported him.

MR. ORDONNEAU (France) supported the Australian proposal and the suggestion that it be redrafted.

It was agreed that the Rapporteur and Mr. Harry (Australia) should redraft Chapter III, paragraph 20.

Paragraph 19

MR. WILSON (United Kingdom) read his proposed revision of paragraph 19:

“The Committee found that owing to the short time available [11] and the fact that most Representatives had not had an opportunity of obtaining expert advice, it could not prepare a detailed draft convention for submission to the Commission on Human Rights. However, the Drafting Committee used Annex I, Part 2 of the United Kingdom proposal as the basis for a general examination of the possible substantive contents of a draft Convention. The result of this examination is embodied in Annex G of this Report which is submitted to the Commission on Human Rights as a working paper for a preliminary draft of an International Convention on Human Rights.”

PROF. KORETSKY (Union of Soviet Socialist Republics) objected to the reference to lack of time and opportunity of consulting legal experts as being the reason why the Committee had not considered a Convention in detail: the real reason was that the decision to draft a Convention must be left to the Commission on Human Rights.

THE CHAIRMAN pointed out that it was generally felt that the Commission on Human Rights would need legal advice before the Convention could be drafted in any final form.

DR. MALIK (Lebanon) proposed that the result of the Committee's examination of the United Kingdom Draft might be embodied in the Annex, as a working paper for the Commission on Human Rights: he suggested that these modifications could be presented in the form of footnotes to Annex B, which would contain the original United Kingdom document.

MR. WILSON (United Kingdom) felt that a new Annex to show the changes in text of the United Kingdom Draft was necessary. He proposed, in order to meet some of

the objections, that the phrase concerning expert advice be deleted from his amended text of paragraph 19.

MR. HARRY (Australia) withdrew his original proposal in favour of the United Kingdom amendment.

[12]

DR. CHANG (China) accepted the United Kingdom amendment, but wished to retain the phrase “which the Commission may wish to consider and elaborate” at the end. Mr. Wilson agreed.

There was a general consensus of opinion that the modified text of the United Kingdom Draft should be issued in a separate Annex.

Annex E

Preambles

MR. WILSON (United Kingdom) pointed out that there had been no discussion of the different proposals for a Preamble, comparable to the discussion of the Declaration and Convention, and suggested that they be included in a separate paper.

THE CHAIRMAN agreed that the suggestions should not be presented as coming from the Committee.

MR. HARRY (Australia) thought the Preamble should be included in a separate Annex for the sake of clarity, and pointed out that a note would have to be added to paragraph 16 of the Report. He suggested that an explanatory note should be added to the United Kingdom Preamble to the effect that it was intended as the Preamble to a Convention rather than a Declaration.

MR. SANTA CRUZ (Chile) supported the proposal for a separate Annex. He explained that the Chilean suggestions were not intended as a complete Preamble but as articles to be considered in the Draft of a temporary working group.

MR. WILSON (United Kingdom) said that parts of the United Kingdom Preamble could be considered as the Preamble to a Declaration.

It was agreed that a note be appended, stating that the United Kingdom Preamble was intended as the Preamble to the United Kingdom Convention, but that it contained suggestions for a portion of the Preamble to the Declaration.

[13]

Consideration of Annex F of the Draft Report of the Drafting Committee to the Commission on Human Rights

Article 1

The Rapporteur read the text of the Article. There were no comments.

Article 2 and Articles 3 and 4

THE RAPPORTEUR read the text of the Articles.

It was agreed to retain them, as read, but THE CHAIRMAN requested the addition of a footnote stating that the United States had suggested alternative Articles which appear under Annex C.

Article 5

THE RAPPORTEUR read the text of the Article with the proposed Alternative Text.

It was agreed to retain the Alternative Text as Article 5.

Article 6

THE RAPPORTEUR read the text of the Article with the footnote.

It was agreed to accept the text with the substitution of the words “set forth in this Declaration” for “hereunder declared”.

Article 7

THE RAPPORTEUR read the text of the Article together with the Alternative Texts and footnotes. The Chairman requested the omission of the United States alternative. MR. SANTA CRUZ (Chile) stated that the Chilean proposal represented an addition and not an alternative. MR. WILSON (United Kingdom) said that the footnote applied to Articles 8, 9, and 10, and represented the consensus of opinion of several members and should be so listed. The text was adopted with the proposed changes.

Article 8

THE RAPPORTEUR read the text of the Article and the footnotes.

DR. CHANG (China) requested the withdrawal of the footnote containing a Chinese amendment as he intended to present his amendment later to the Commission on Human Rights.

[14]

Article 9

THE RAPPORTEUR read the text of the Article and footnote.

THE CHAIRMAN wished to propose the addition of the words “or punished for any offence or crime” after the word “convicted” in line 1 of paragraph 1.

It was agreed to include this but to add a note for the information of M. CASSIN (France) that this addition had been made.

Article 10

THE RAPPORTEUR read the text of the Article. There were no comments.

Article 11

THE RAPPORTEUR read the text of the Article and footnotes.

THE CHAIRMAN said that M. CASSIN (France) had accepted that “slavery in all its forms” should be stated. It was her opinion also that the second sentence should be included in a footnote with a note stating that the Committee had considered that its substance might be included in a Convention. DR. CHANG (China) and MR. WILSON (United Kingdom) agreed with the Chairman and the suggestion was adopted.

Article 11 then read: “Slavery, which is inconsistent with the dignity of man, is prohibited in all its forms.”

The meeting adjourned at 5:05 p.m.

E/CN.4/AC.1/SR.18

25 June 1947¹⁹⁷

Summary Record of the Eighteenth Meeting [of the Drafting Committee of the Commission on Human Rights]

Held at Lake Success, New York, on Wednesday,
25 June 1947 at 10:30 a.m.

Present: Chairman: Mrs. Eleanor Roosevelt (United States); Vice-Chairman: Dr. P. C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Members: Mr. Ralph L. Harry (Australia); Mr. H. Santa Cruz (Chile); Mr. Pierre Ordonneau (France); Prof. V. Koretsky (Union of Soviet Socialist Republics); Mr. Geoffrey Wilson (United Kingdom). Non-Governmental Organizations: Miss Toni Sender (American Federation of Labor); Mrs. H. Fuhrman (International Co-Operative Alliance). Secretariat: Prof. J. P. Humphrey (Secretary of the Committee); Mr. Edward Lawson.

¹⁹⁷ This is the date of the meeting. The document was issued on 3 July 1947.

1. Consideration of Chapter III of Draft Report of the Drafting Committee to the Commission on Human Rights (Document E/CN.4/AC.1/14)

THE CHAIRMAN invited the Rapporteur to present the text of Chapter III as revised by him and the Representative of Australia.

THE RAPPORTEUR read the following text:

[2]

“Chapter III

“The Question of Implementation of an International Bill of Human Rights

“20. The Drafting Committee found it necessary from time to time to take into account possible methods of enforcement, particularly when considering the problem of a Draft Convention and the United Kingdom proposals. It devoted one session specifically to the question of implementation taking as a basis for discussion a paper prepared by the Secretariat (Annex F).

“The consensus of opinion of the Committee was that the international community must ensure the observance of the rights to be included in the International Bill of Human Rights. However, a wide range of views was expressed as to the precise manner in which this objective could be achieved.

“The following is a summary of the principal observations made during the discussion:

(a) that a Declaration of Human Rights and Fundamental Freedoms in a resolution of the General Assembly would in itself have considerable moral weight; but

(b) that a more effective method for establishing human rights would be to embody them in a Convention in which the signatories would recognize them as international law;

(c) that the signatories of such a Convention should also accept the obligation to ensure that these rights be enforceable by domestic laws in domestic courts; (it was clear from the discussion that in this connection the position of federal States, of States without written constitutions and of States where law has not been codified, would require special study);

(d) that among possible deterrents against violation of a Convention are publicity and international censure which [3] might be achieved by

- (i) petitions by individuals and groups to the United Nations,
- (ii) extension of the powers of the Human Rights Commission or creation of new machinery within the framework of the United Nations to receive, sift, examine and deal with communications alleging the violation of human rights,
- (iii) requests by the Secretary-General to Member Nations for reports on their observance of human rights,
- (iv) discussion in the General Assembly;

(e) that an International Court of Human Rights, along the lines of the Australian proposal, be established for the adjudication of cases of alleged violation of human rights;

(f) that any State persistently violating human rights should be expelled from the United Nations.

“None of the above suggestions was approved by the Committee as such; indeed strong objections were voiced against many of them. The Committee merely transmits them to the Commission on Human Rights for its information.

“21. The Committee considered that in addition to enforcement measures the United Nations should promote through education the widest possible respect for human rights. It was suggested that a special international organ might be required for this purpose. The Committee also recognized that observance of human rights could not be completely ensured unless conditions of social progress and better standards of life were established in larger freedom.”

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) pointed out that the observations cited in Paragraph 20 were made by individual Members and that they should not be regarded as the opinion of the whole Committee. [4] With regard to Section 21 he suggested either deleting the last two sentences or removing them to Section 20, since the Committee as a whole had not agreed on the contents of any document.

MR. HARRY (Australia) suggested amending the third paragraph of Paragraph 20 to read: “The following is a summary of the principal observations made by one or more Members of the Committee.”

MR. WILSON (United Kingdom) suggested the insertion of the idea of using the existing organs of the United Nations in the first sentence of Paragraph 21.

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) disagreed with Mr. Wilson’s view and suggested the retention of the first sentence and the insertion of “by individual Members” after “It was suggested” in the second sentence.

MR. HARRY (Australia) proposed the following wording: “It was suggested by individual Members of the Committee that such education should be carried out through the existing organs of the United Nations or a possible international organ.”

DR. CHANG (China) pointed out that the idea of using existing organs had not been clarified during the previous meetings and that therefore he felt it might not be included here.

THE CHAIRMAN thought that it might be well to keep the original text of Section 21 with the insertion of “by individual Members” after “It was suggested”. MRS. ROOSEVELT (United States of America) then suggested substituting “there should be some form of implementation with respect to human rights” for “the international community must ensure the observance of . . .” in the second part of Paragraph 20.

DR. CHANG (China) referring to the same paragraph, pointed out that there was no expression of the consensus of opinion of the Committee regarding these principles. Therefore he suggested the deletion of the first sentence. With regard to the word “session” in the first paragraph of Paragraph 20, he thought that the word “meeting” should be substituted.

[5]

MR. HARRY (Australia) proposed the following change: “The Committee acted on the assumption that the international community . . .” in order to meet the objections expressed. This was accepted.

Chapter III was accepted with the following alterations:

- (a) substituting “meeting” for “session” in the first paragraph of Section 20;
- (b) deleting “consensus of opinion of the” and inserting “acted on the assumption” after “The Committee” in the second paragraph;
- (c) substituting “by one or more Members of the Committee” for “during the discussion” in the third paragraph; and
- (d) inserting “by individual Members” after “It was suggested” in Section 21.

2. Consideration of Articles 12 to 40 in Annex F of the Draft Report

Article 12

MR. WILSON (United Kingdom) suggested deleting the words “Alternative Text (Australia)”, since the Committee had accepted this text as its own; and deleting entirely the United Kingdom alternative.

MR. ORDONNEAU (France) pointed out that Professor Cassin had insisted on the use of the word “inviolability” in this Article.

THE CHAIRMAN, recalling the joint French and Chilean text, stated that Article 12 then should read as follows:

“The privacy of the home and of correspondence and respect for reputation shall be protected by law.”

Alternative Text (Chile and France)

“The right to inviolability of privacy, of the home and of correspondence, and respect for reputation, shall be protected by law.”

Article 13

PROFESSOR KORETSKY (Union of Soviet Socialist Republics) thought that the wording of Article 13 should be more conditional.

[6]

MR. WILSON (United Kingdom) suggested the division of this Article into two paragraphs by making the last part of the first sentence an independent paragraph.

THE RAPPORTEUR said that if this suggestion were accepted the footnote should apply to both paragraphs. He pointed out that the words “should not be a final one, but should . . .,” in the footnote, should be deleted.

THE CHAIRMAN said that Article 13 could be so revised.

Article 14

As there were no comments on Article 14, it was accepted without change.

Article 15

MRS. ROOSEVELT stated that the United States suggested that the phrase “he shall have the right to consult with and to be represented by counsel” should not be a footnote but should be included in the Article.

THE RAPPORTEUR explained that because of the lack of clear agreement between the Chairman and Professor Cassin on this point this phrase had been put into a footnote. DR. CHANG (China) suggested putting it at the end of the Article. THE RAPPORTEUR accepted the change. MR. ORDONNEAU (France) suggested the following text, in French, to replace the Second sentence of the second paragraph of the Article:

“Il aura le droit d’être assisté et, toutes les fois que sa comparution personnelle ne sera pas exigée par la loi, représenté par un conseil.”

THE RAPPORTEUR accepted these suggestions.

Article 16

THE CHAIRMAN said that since there were no comments on Article 16, it should be accepted as it stood.

Article 17

MR. WILSON (United Kingdom) suggested deleting the first footnote and inserting “and of the United Kingdom” after “Australia” in the following footnote.

[7]

THE CHAIRMAN stated that the United States objected to the use of the word “personal” as qualifying “property” because of its technical meaning in English and American law.

MR. SANTA CRUZ (Chile) wished to have the concept of the right to property, as stated in the Chilean Draft, included in the footnote.

THE RAPPORTEUR accepted these suggestions.

Articles 18 and 19

THE CHAIRMAN, after reading Articles 18 and 19, stated that they were acceptable as they stood.

Article 20

MR. WILSON (United Kingdom) thought the whole of Article 13 of the United Kingdom Draft should be included as the United Kingdom alternative text for Article 20.

MR. HARRY (Australia) felt there was little difference between the joint alternative text of Australia and Lebanon, and that of France.

THE RAPPORTEUR pointed out that the only difference between the original draft of Professor Cassin and the alternative text of Lebanon was the inclusion of the idea of change of beliefs; Professor Cassin had accepted this idea.

The alternative text agreed to by the Representatives of France, Lebanon and Australia was accepted as Article 20. The United Kingdom text was inserted as an alternative.

Article 21

MR. HARRY (Australia) suggested the deletion of the footnote of Article 21, and some change of the word “molested” in the Article.

MR. SANTA CRUZ (Chile) thought that the first sentence of Article 21 should be kept as the alternative text of France and Chile. He agreed with the suggestion of deleting the footnote.

MR. ORDONNEAU (France) suggested the following French alternative text:
[8]

“Personne ne peut être inquiété en raison de ses opinions.

“Chacun est libre de soutenir ou d’exprimer son opinion, de connaître celle des autres, de recevoir ou de rechercher des informations à toutes les sources possibles.”

THE RAPPORTEUR accepted these suggestions.

Article 22

MR. WILSON (United Kingdom) suggested deleting the word “free” in Article 22.

THE CHAIRMAN thought that “equal” might be used instead.

MR. HARRY (Australia) suggested changing the words “must be” in the footnote to “would need to be . . .”

These changes were accepted.

Articles 23, 24 and 25

THE CHAIRMAN, after reading Articles 23, 24 and 25 said that since there were no comments they were accepted as they stood.

Article 26

With regard to Article 26, THE CHAIRMAN recalled that Professor Cassin had accepted the Alternative Text. MR. WILSON (United Kingdom) recalled that the United States text had been accepted by the Committee. MR. HARRY (Australia) said that was also his recollection. He suggested using the United States text as Article 26, and using the wording suggested by the Representatives of Chile, France and Lebanon as the alternative text. This suggestion was accepted.

Article 27

MR. WILSON (United Kingdom) suggested the deletion of the word “fair” in Article 27.

THE CHAIRMAN agreed to this change and recalled that the Committee had accepted the wording “to conform to wishes of the people”. The second sentence of Article 27 then would begin: “These wishes shall be . . .” MR. HARRY (Australia) remarked that was also his recollection.

THE RAPPORTEUR accepted these changes.

[9]

Article 28

THE CHAIRMAN suggested inserting the words “to hold public office” after “public employment”. DR. CHANG (China) suggested adding the following sentence to Article 28: “Access to examinations for public employment shall not be a matter of privilege or favour”.

THE RAPPORTEUR said the acceptance of this suggestion called for the deletion of the first footnote.

Article 29

THE CHAIRMAN suggested the deletion of the words “and the duty” and the words “and to the full development of his personality” in Article 29. This was accepted.

Article 30

There were no comments on Article 30.

Article 31

DR. CHANG (China) thought the word “and” in Article 31 might better be changed to “or”. THE RAPPORTEUR accepted this suggestion and suggested the substitution of “shall” for “should” in this Article.

Article 32

There were no comments on Article 32.

Article 33

MR. WILSON (United Kingdom) called the attention of the Committee to the typing error of the word “official” for “social”. With regard to the footnote of this Article he felt that the words “the Representative of the United Kingdom” should be changed to “the Drafting Committee”.

Article 34

Referring to Article 34, THE CHAIRMAN recalled that the Committee had accepted the United States Text. THE RAPPOREUR said that her recollection was correct.

Article 35

After a number of comments, Article 35 was accepted as it stood.
[10]

Article 36

THE CHAIRMAN stated that Article 36 should be deleted and attached to the working paper as a footnote.

Article 37

THE RAPPOREUR read the original Article 37 as Article 36.

THE CHAIRMAN remarked that the subject matter of this Article was so important that it should have the most careful consideration of the Commission on Human Rights. MR. ORDONNEAU (France), referring to different ethnic groups in Switzerland, emphasized that the Article dealt with more than the question of minorities.

MR. HARRY (Australia) suggested the following footnote:

“In view of the supreme importance of this Article to many countries, the Drafting Committee felt that it could not prepare a draft Article without thorough pre-examination by the Commission on Human Rights and suggested that it might if necessary be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for examination of the minority aspects.”

THE CHAIRMAN said this suggestion should cover the opinions expressed regarding this Article.

Articles 38, 39 and 40

THE CHAIRMAN pointed out that Articles 38, 39 and 40 should be deleted, as they dealt with implementation, which was to be considered at a later stage. She suggested that these three Articles should be included in the Secretariat document on implementation, that the substance of the last paragraph of Article 40 should be included in the Preamble, and that the consensus of opinion of the Committee was that the Report should be approved.

The meeting adjourned at 1:30 p.m.

E/CN.4/21

1 July 1947

Report of the Drafting Committee to the Commission on Human Rights

Chapter 1

Introduction

1. The Drafting Committee of the Commission on Human Rights held its First Session during the period 9 to 25 June 1947, with the following Representatives in attendance: Lt. Col. W.R. Hodgson, Representative of Australia; Mr. H. Santa Cruz, Representative of Chile; Dr. P. C. Chang, Representative of China; Prof. René Cassin, Representative of France; Dr. Charles Malik, Representative of Lebanon; Prof. V. Koretsky, Representative of Union of Soviet Socialist Republics; Mr. Geoffrey Wilson, Representative of United Kingdom; Mrs. Franklin D. Roosevelt, Representative of United States of America

2. Mr. Ralph Harry represented Lt. Col. W.R. Hodgson (Australia) at most meetings. Mr. H. Santa Cruz represented Mr. Felix Nieto Del Rio (Chile). Mr. Pierre Ordonneau represented Prof. René Cassin (France) at the last four meetings. Prof. V. Koretsky represented Mr. V.F. Tepliakov (Union of Soviet Socialist Republics). Mr. Geoffrey Wilson represented Lord Dukeston (United Kingdom). Mr. James P. Hendrick represented Mrs. Franklin D. Roosevelt (United States of America) at parts of two meetings.

3. The Specialized Agencies were represented at the Drafting Committee as follows: United Nations Educational, Scientific and Cultural Organization: Mr. J. Havet.

[2]

4. Consultants in attendance were: American Federation of Labor: Miss Toni Sender; International Cooperative Alliance: Mrs. H. Fuhrman.

5. The Drafting Committee elected the Officers of the Commission on Human Rights as its Officers: Mrs. Franklin D. Roosevelt as Chairman; Dr. P. C. Chang as Vice-Chairman; and Dr. Charles Malik as Rapporteur.

6. Professor John P. Humphrey was Secretary of the Drafting Committee.

7. The Drafting Committee adopted the Provisional Rules of Procedure of the Commission on Human Rights as its Rules of Procedure.

8. The Drafting Committee authorized the Chairman, or in the absence of the Chairman, the Rapporteur, to present this Report to the Commission on Human Rights.

9. The expression of the views of the Members of the Drafting Committee is embodied in the verbatim and summary records of the meetings.

Chapter II

Preliminary Draft of an International Bill of Human Rights

10. The Drafting Committee reviewed its terms of reference as contained in the letter of the Chairman of the Commission on Human Rights of 24 March 1947 (document E/383) to the President of the Economic and Social Council, and approved by decision of the Council of 28 March 1947 (document E/325). It noted in particular that its function in this session was to prepare on the basis of documentation supplied by the Secretariat, a preliminary draft of an International Bill of Human Rights.

11. In addition to the Draft Outline of an International Bill of Human Rights prepared by the Secretariat (document E/CN.4/AC.1/3, constituting Annex A of this Report and document E/CN.4/AC.1/3/Add.1, issued as a separate volume), the Drafting Committee had before it the text of a letter from Lord Dukeston, the United Kingdom Representative on the Commission on Human Rights, transmitting (a) a draft International Bill of Human Rights and (b) a draft resolution which might be passed by the General Assembly [3] when adopting an International Bill of Human Rights (document E/CN.4/AC.1/4), constituting Annex B of this Report. These two documents were considered and compared, together with certain United States proposals for the rewording of some items appearing in the Secretariat Draft Outline (documents E/CN.4/AC.1/8 and Revs. 1 and 2), constituting Annex C of this Report.

12. Concerning the form which the Preliminary Draft might take, two views were put forward. In the opinion of some Representatives it was necessary that the Preliminary Draft, in the first instance, should take the form of a Declaration or Manifesto; others felt that it should be in the form of a Convention. It was agreed, however, by those who favoured the Declaration form that the Declaration should be accompanied or followed by a Convention or Conventions on specific groups of rights.

It was also agreed by those who favoured the Convention form that the General Assembly in recommending a Convention to Member Nations might make a Declaration wider in content and more general in expression. The Drafting Committee, therefore, while recognizing that the decision as to the form of the Bill was a matter for the Commission, decided to attempt to prepare two documents, one a working paper in the form of a Preliminary Draft of a Declaration or Manifesto setting forth general principles, and the second a working paper outlining a Draft Convention on those matters which the Committee felt might lend themselves to formulation as binding obligations.

13. The Committee established a temporary working group, composed of the Representatives of France, Lebanon, and the United Kingdom, with the Chairman of the Committee as an *ex officio* member. It requested this working group:

- (a) to suggest a logical re-arrangement of the articles of the Draft Outline supplied by the Secretariat;
- (b) to suggest a redraft of the various articles in the light of the discussions of the Drafting Committee; and

[4]

- (c) to suggest to the Drafting Committee how the substance of the articles might be divided between a Declaration and a Convention.

14. The temporary working group had three meetings, and after a general discussion decided to request Professor Cassin to undertake the writing of a draft Declaration based on those Articles in the Secretariat Outline which he considered should go into such a Declaration. It was the consensus of opinion that such a document would have greater unity if drawn up by one person. The Representatives of the United Kingdom and Lebanon, together with the Chairman, were asked independently to go over the Secretariat Outline and the United Kingdom draft with a view to determining which Articles could readily lend themselves to a Convention.

Professor Cassin produced a draft containing a Preamble and forty-four suggested Articles. The working group revised the Preamble and the first six Articles before submitting them to the Drafting Committee (document E/CN.4/AC.1/W.1). The remaining Articles were submitted to the Drafting Committee in the form proposed by Professor Cassin (document E/CN.4/AC.1/W.2/Rev.1), constituting part of Annex D of this Report.

The Chairman, the Representative of Lebanon and the Representative of the United Kingdom agreed that the Articles contained in Part II of the Draft Convention (Annex I of document E/CN.4/AC.1/4) in the United Kingdom document could be submitted to the Commission on Human Rights as possibly forming

the basis of a draft Convention and that the following three subjects might be added to this draft:

- (a) physical integrity, torture and cruel punishments;
- (b) the right to a legal personality; and
- (c) the right of asylum.

15. The Drafting Committee read the draft Preamble, but recognized that its final wording could not be determined until later. The various suggestions for a Preamble of the Manifesto or Declaration are found in Annex E of this Report.

[5]

16. The Drafting Committee considered in detail each of the six draft Articles submitted by the working group, then considered in like detail the remaining draft Articles submitted by Professor Cassin. Members made comments on the form and substance of the various articles. These comments are found in the verbatim and summary records. All Members of the Drafting Committee understood that nothing said by any of them during the session was to be considered binding upon their Governments, and reserved the right to make further suggestions at a later stage. Professor Koretsky's remarks were confined in the main to procedural matters, and for all issues he specifically reserved the right to present the observations and proposals of his Government at a later stage. The United States reserved the right to urge before the Commission on Human Rights the inclusion of its rewording of certain Secretariat Articles in the Draft Declaration (Annex C of this Report).

17. The Drafting Committee accepted Professor Cassin's offer to prepare, on the basis of the discussion of his draft, a revised Draft Declaration. This Draft (document E/CN.4/AC.1/W.2/Rev.2) was examined by the Drafting Committee and further revised. It was agreed that where more than one view was expressed, all alternatives would on request be included. The result of this examination is embodied in Annex F of this Report, which is submitted to the Commission on Human Rights as a working paper for a preliminary draft of an International Manifesto or Declaration on Human Rights.

18. The Drafting Committee used Annex I, part 2 of the United Kingdom proposal (document E/CN.4/AC.1/4) as the basis for a general examination of the possible substantive contents of a Draft Convention. The result of this examination is embodied in Annex G of this Report, which is submitted to the Commission on Human Rights as a working paper for a preliminary draft of an International Convention on Human Rights which the Commission may wish to consider and elaborate.

[6]

Chapter III

The Question of Implementation of an International Bill of Human Rights

19. The Drafting Committee found it necessary from time to time to take into account possible methods of enforcement, particularly when considering the problem of a Draft Convention and the United Kingdom proposals. It devoted one meeting specifically to the question of implementation, taking as a basis for discussion a paper prepared by the Secretariat (Paragraphs 1–13 of Annex H of this Report).

The Drafting Committee acted on the assumption that the international community must ensure the observance of the rights to be included in the International Bill of Human Rights. However, a wide range of views was expressed as to the precise manner in which this objective could be achieved.

The following is a summary of the principal observations made by one or more individual members of the Drafting Committee during the discussion:

- (a) that a Declaration of Human Rights and Fundamental Freedoms in a resolution of the General Assembly would in itself have considerable moral weight; but
- (b) that a more effective method for establishing human rights would be to embody them in a Convention in which the signatories would recognize them as international law;
- (c) that the signatories of such a Convention should also accept the obligation to ensure that these rights be enforceable by domestic laws in domestic courts; (it was clear from the discussion that in this connection the position of federal States, of States without written constitutions and of States where law has not been codified would require special study);
- (d) that among possible deterrents against violation of a Convention are publicity and international censure which might be achieved by
 - (i) petitions by individuals and groups to the United Nations,
 - (ii) extension of the powers of the Human Rights Commission [7] or creation of new machinery within the framework of the United Nations to receive, sift, examine and deal with communications alleging the violation of human rights,
 - (iii) requests by the Secretary-General to Member Nations for reports on their observance of human rights,
 - (iv) discussion in the General Assembly;
- (e) that an International Court of Human Rights, along the lines of the Australian proposal, be established for the adjudication of cases of alleged violation of human rights;
- (f) that any State persistently violating human rights should be expelled from the United Nations.

None of the above suggestions was approved by the Drafting Committee as such; indeed strong objections were voiced against many of them. The Drafting Committee merely transmits them to the Commission on Human Rights for its information.

20. The Drafting Committee considered that in addition to enforcement measures the United Nations should promote through education the widest possible respect for human rights. It was suggested by individual Members of the Drafting Committee that a special international organ might be required for this purpose. The Committee also recognized that observance of human rights could not be completely ensured unless conditions of social progress and better standards of life were established in larger freedom.

[8]

Annex A

***Report of the Drafting Committee on an International Bill of Human Rights
Draft Outline of an International Bill of Human Rights
(Prepared by the Division of Human Rights of the Secretariat)***

[9]

[The text is identical to that of document E/CN.4/AC.1/3.]

[25]

[The text is identical to document E/CN.4/AC.1/4.]

[41]

Annex C

***Report of the Drafting Committee on an International Bill of Human Rights
United States Suggestions for Articles to be Incorporated in an International
Bill of Human Rights
(Article Numbers Correspond to those of the Declaration in Annex E)***

Article 3

“The state is created by the people for the promotion of their welfare and the protection of their mutual rights. In the exercise of his rights everyone is limited by the rights of others.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 2.)

Articles 5, 6

“There shall be equal protection before the law in the enjoyment of the rights enumerated in this Bill of Rights, without distinction as to race, sex, language or religion.” (E/CN.4/AC.1/11 referring to Secretariat Article 45.)

Article 8

“The right to life is fundamental and may not be denied to any person except upon conviction of the gravest of crimes under general law providing for the penalty of death.”

“No one shall be deprived of life or personal liberty, or be convicted or punished for crime in any manner, save by judgment of a competent and impartial tribunal, in conformity with law, after a fair public trial at which he has had the opportunity for a full hearing, the right to be confronted with the witnesses against him, the right of compulsory process for obtaining witnesses in his favour, and the right to consult with and be represented by counsel.” (E/CN.4/AC.1/11 referring to Secretariat Articles 3 and 6.)

Articles 9, 10

“No person shall be subjected to arbitrary or unauthorized arrest or detention. Every person who is arrested or detained shall be immediately [42] informed of the charges on which he is held, and shall have the right to prompt judicial determination of the legality of his detention. Trial of the charges must be afforded within a reasonable time, or he shall be released from detention. Every person shall be entitled to secure his release pending trial upon furnishing reasonable security for his appearance, except where such release would defeat the administering of justice.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 7.)

“No one shall be subjected to torture, or to any unusual punishment or indignity.” (Secretariat Article 4)

“No one shall be convicted of crime except by judgment of a competent and impartial tribunal for violation of a law in effect at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that applicable at the time of the commission of the offence. No one acquitted or convicted of a crime shall thereafter be again put in jeopardy of life or liberty for the offence of which he was acquitted or convicted.” (E/CN.4/AC.1/8 referring to Secretariat Article 26.)

“Every person has the right to have any civil claims or liabilities determined without undue delay by a competent and impartial tribunal before which he has the opportunity for a fair hearing, and has the right to consult with and to be represented by counsel.” (E/CN.4/AC.1/8 referring to Secretariat Article 27.)

Article 11

“No one shall be held in slavery, nor be required to perform compulsory labour in any form other than as part of punishment pronounced by a competent judicial tribunal. No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 8.)

Article 12

“No one shall be subjected to arbitrary or unauthorized searches and seizures of his person, home, papers and effects, or to unreasonable [43] interference with his person, home, family, relations with others, reputation, privacy, activities or property. The secrecy of correspondence shall be respected.” (E/CN.4/AC.1/11 referring to Secretariat Article 11.)

Article 13

“All persons shall equally enjoy the right to freedom of movement from one part of the territory of the state to another, and to free choice of residence in any part of the territory.

“Every person shall, subject to equitable immigration and deportation laws, be free to enter, travel through or over, and remain temporarily in the territory of another state, provided always that he observes local laws and police regulations.

“The right of emigration and expropriation shall not be denied.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 9; Secretariat Article 10.)

Article 15

“Everyone has the right to a legal personality. No person shall be restricted in the exercise of his civil rights except under general law based on reasons of age or mental incompetence, or as punishment for a criminal offence, or as otherwise permitted in this bill.” (E/CN.4/AC.1/11 referring to Secretariat Article 12.)

Article 16

“There shall be equal opportunity to engage in any vocation or profession, not constituting public employment, subject to such reasonable qualifications as are inherent in the work to be performed.” (E/CN.4/AC.1/11 referring to Secretariat Article 24.)

Article 17

“Everyone has the right to own and transfer property, subject to reasonable regulation, under general laws, governing the acquisition and use thereof, and determining, in the interest of national welfare and security, those things not susceptible of private ownership. No one shall [44] be deprived of property except in accordance with due process of law, nor suffer his property to be taken other than

for public use with just compensation to him.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 22.)

Article 18

“Every person shall have the right to a nationality”. (E/CN.4/AC.1/11 referring to Secretariat Article 32.)

Article 21

“Everyone has the right to form and hold opinions and to receive them from, and impart them, within or beyond the borders of the State.” (E/CN.4/AC.1/11 referring to Secretariat Article 15.)

Article 22

“Freedom of everyone to receive, read and listen to all matters of information shall not be impaired, and there shall be free and equal access to all sources of information both within and beyond the border of a State.

“There shall be freedom of speech, of the press and of expression by any means whatsoever, and there shall be reasonable access to all channels of communication.” (E/CN.4/AC.1/11 referring to Secretariat Articles 16, 17.)

Article 23

“There shall be freedom of assembly.

“There shall be freedom to form associations.” (E/CN.4/AC.1/11 referring to Secretariat Articles 19, 20.)

Article 24

“No State shall abridge the right of everyone, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievance.” (E/CN.4/AC.1/11 referring to Secretariat Article 28.)

[45]

Articles 26, 27

“Government derives its just powers from the consent of the governed. Everyone has the right to take an effective part in the government of the state or territory of

which he is a citizen. The citizens of the state or territory are accordingly entitled to exercise self-government through representatives freely and fairly chosen by them in periodic democratic elections by secret ballot.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 30.)

Article 28

“Everyone shall have equal opportunity to engage in public employment in the State of which he is a citizen.” (E/CN.4/AC.1/11 referring to Secretariat Article 31.)

Articles 29–36

In lieu of these articles the United States suggests the following:

Article 29

“Everyone has the right to a fair and equal opportunity to advance his own physical, economic, spiritual and cultural wellbeing and to share in the benefits of civilization.

“It is the duty of the State, in accordance with the maximum use of its resources and with due regard for the liberties of individuals, to promote this purpose by legislation or by other appropriate means. Among the social rights thus to be achieved progressively by joint effort of the individual and the State are those defined in the following Articles.” (E/CN.4/AC.1/8/Rev.1, page 3 – no corresponding Secretariat article.)

Article 30

“Everyone, without distinction as to economic or social condition, has a right to the highest attainable standard of health.

“The responsibility of the State for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.” (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 35; identical with Article 33 of the Committee’s Declaration.)

[46]

Article 31

“Everyone has the right to education.

“Each State has the duty to require that each child within territories under its jurisdiction receive a fundamental education. The State shall maintain adequate and

free facilities for such education which, however, shall not be exclusive of private educational facilities or institutions. It shall also assure development of facilities for further, including higher education, which are adequate and effectively available to all the people within such territories. (E/CN.4/AC.1/8/Rev.1 referring to Secretariat Article 36.)

Article 32

“Everyone has a right to a decent standard of living, to a fair and equal opportunity to earn a livelihood; to wages and hours and conditions of work calculated to insure a just share of the benefits of progress to all; and to protection against loss of income on account of disability, unemployment or old age.

“It is the duty of the State to undertake measures that will promote full employment and good working conditions; provide protection for wage-earners and dependents against lack of income for reasons beyond their control; and assure adequate food, housing, and community services necessary to the wellbeing of the people.” (E/CN.4/AC.1/11 referring to Secretariat Article 38.)

Articles 33, 34

No articles suggested.

Article 35

“Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.” (Secretariat Article 44).

Article 36

No article suggested.

[47]

Articles on Implementation

1. The Articles in this Bill of Rights shall be referred to the appropriate organs or agencies of the United Nations with a view to the formulation of a series of international conventions to be submitted individually to the member states for ratification or other appropriate action in accordance with their respective constitutional processes.

2. The Conventions thus conceded shall be deposited with the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter.

3. The Conventions shall provide for submission to the Secretary-General of copies of the laws or regulations by which the member state gives effect to the provisions of the Convention together with the name of the competent authority responsible for compliance, and of periodic reports concerning the enforcement and revisions of such laws.

4. The Secretary-General shall inform the General Assembly each year of the Conventions embodying the provisions of this Bill of Rights which have been proposed to the member states, and the number of states which have ratified or have failed to ratify them. (E/CN.4/AC.1/13).

[48]

Annex D

Suggestions Submitted by the Representative of France for Articles of the International Declaration of Human Rights

(The English text is an official translation of the Articles suggested by Professor Cassin. The Drafting Committee did not work from this text but from a rough translation.)¹⁹⁸

[49–50]

Annex D

Preamble

Whereas:

1. ignorance and contempt of human rights have been among the principal causes of the sufferings of humanity and particularly of the massacres which have polluted the earth in two world wars;
2. there can be no peace unless human rights and freedoms are respected and, conversely, human freedom and dignity cannot be respected as long as war and the threat of war are not abolished;
3. it was proclaimed as the supreme aim of the recent conflict that human beings should enjoy freedom of speech and worship and be free from fear and want;
4. in the Charter of 26 June 1945 we reaffirmed our faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women;

¹⁹⁸ René Cassin's original draft was issued on 18 June as E/CN.4/W.2/Rev.1. There are substantial differences between that document and Annex D of the report.

5. it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion;
6. the enjoyment of such rights and freedoms by all persons must be protected by the community of nations and guaranteed by international as well as municipal law,

[51–52]

Now, therefore, we the Peoples of the United Nations have resolved to define in a solemn Declaration the essential rights and fundamental freedoms of man, so that this Bill, being constantly present in the minds of all men, may unceasingly remind them of their rights and duties, and so that the United Nations and its Members may constantly apply the principles hereby formulated.

And we have therefore adopted the following Bill:

Chapter 1. (General Principles)

Article 1

All men, being members of one family are free, possess equal dignity and rights, and shall regard each other as brothers.

Article 2

The object of society is to enable all men to develop, fully and in security, their physical, mental and moral personality, without some being sacrificed for the sake of others.

Article 3

As human beings cannot live and achieve their objects without the help and support of society, each man owes to society fundamental duties which are: obedience to law, exercise of a useful activity, acceptance of the burdens and sacrifices demanded for the common good.

Article 4

The rights of all persons are limited by the rights of others.

Article 5

The law is the same for all. It applies to public authorities and judges in the same way as to private persons. Anything not prohibited by law is permissible.

Article 6

The rights and freedoms hereinafter declared shall apply to all persons. No person shall suffer discrimination by reason of his race, sex, language, religion, or opinions.

[53–54]

Chapter 2. (Right to Life and Physical Inviolability)**Article 7**

Every human being has the right to life and to the respect of his physical inviolability.

No person, even if found guilty, may be subjected to torture, cruelty, or degrading treatment.

Chapter 3. (Personal Freedoms)**Article 8**

Everyone has the right to personal liberty and security.

Article 9

Private life, the home, correspondence and reputation are inviolable and protected by law.

Article 10

No person may be arrested or detained save in the cases provided for and in accordance with the procedure prescribed by law. Any person arrested or detained shall have the right to immediate judicial determination of the legality of the proceedings taken against him.

Article 11

Every accused shall be presumed innocent until found guilty.

No person may be punished except in pursuance of a judgment of an independent and impartial court of law, delivered after a fair and public trial, at which he has had a full hearing or has been legally summoned, and has been given all the guarantees necessary for his defence.

Article 12

No person may be convicted of a crime unless he has violated a law in force at the time of the act charged as an offence, nor suffer a penalty greater than that legally applicable at the time of the commission of the offence.

Article 13

Slavery, being inconsistent with human dignity, is prohibited.

No public authority may exact personal service or work except by virtue of the law and for the common interest.

[55–56]

Article 14

Subject to any general legislative measures adopted in the interest of security and the common good, there shall be liberty of movement and free choice of residence within the State; individuals may also freely emigrate or expatriate themselves.

Chapter 4. (*Legal Status*)***Article 15***

Every individual has a legal personality everywhere.

Article 16

No person may be deprived of the personal exercise of his civil rights except in virtue of a general law based on considerations of age, or of a mental or other condition requiring protection, or as a punishment for a criminal offence.

Article 17

Every person has the right to contract marriage in accordance with the laws.

Article 18

All private occupations or professions shall be open to all on equal terms.

Article 19

Every person has a right to own property.

No person shall be deprived of his property except in the public interest and in return for just compensation.

The State may determine the property capable of private appropriation and regulate the acquisition and use of such property.

The right to full or part ownership of any industrial, commercial or other profit-making private or collective enterprise, is governed by the law of the country within which such enterprise is situated.

[57–58]

Article 20

Every person shall have access whether as plaintiff or defendant, to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law. He shall have the right to obtain legal advice and, if necessary, to be represented by counsel.

Chapter 5. (Public Freedoms)**Article 21**

The personal freedom of conscience, belief and opinion is an absolute and sacred right. The practice of a private or public creed and the expression of conflicting convictions may not be subjected to any restraints except those necessary to protect public order, morality and the rights and freedoms of others.

Article 22

No person may be molested for his opinions, even if they derive from other than national sources.

Every person is equally free to change, affirm, or impart his opinion, or to hear and discuss the opinions of others.

Article 23

There shall be freedom of expression by word of mouth, in writing, in the press, in books or by visual, audible or other means; provided, however, that the author, and the publishers, printers and others concerned shall be answerable for any abuse

of this right by defamation of character or failure to present information and news in a true and impartial manner.

Article 24

The freedom of assembly and of association for political, cultural, scientific, sporting, economic and social purposes compatible with this Bill is recognized and guaranteed, subject only to the protection of public order.

[59–60]

Article 25

No State may deny any individual the right, either for himself or in association with others, to petition the authorities or government of his country or of his residence, or the United Nations, for the redress of grievances.

Article 26

Whenever a government seriously or systematically violates the fundamental human rights and freedoms, individuals and peoples have the right to resist oppression and tyranny, without prejudice to their right of appeal to the United Nations.

Chapter 6. (Political Rights)

Article 27

Every person has an equal right to take part, directly or through his representatives, in the formation of the law, the institution of the taxes necessary for public expenditure and generally the government of the State of which he is a citizen. Each citizen shall bear his share of public expenses according to his means.

Article 28

The government shall conform to the wishes of the people, as expressed in democratic elections. Elections shall be periodic, free and fair.

Article 29

The protection of Human Rights requires a public force. Such force shall be instituted for the service of all and not for the private use of those to whom it is

entrusted. Each citizen should regard it as an honour to perform military service in States where such service exists.

Article 30

All public offices shall be open to all citizens equally; such offices may not be considered as privileges or favours, [61–62] but should be granted to the ablest on the basis of competitive examinations or on the grounds of their qualifications.

Article 31

There can be no guarantees of Human Rights where the authors of or accessories to arbitrary acts go unpunished and where there is no provision establishing the liability of public authorities or their agents.

Chapter 7. (*Nationality and Protection of Aliens*)

Article 32

Every person has the right to a nationality.

It is the duty of the United Nations and Member States to prevent statelessness as being inconsistent with human rights and the interests of the human community.

Article 33

Every State has the right to grant asylum to political refugees.

Article 34

No alien legally admitted to the territory of a State may be expelled therefrom without being given a hearing. If his residence is of at least one year's standing, his expulsion may not take place except in pursuance of a judicial decision or recommendation for reasons recognized by law.

Chapter 8. (*Social, Economic and Cultural Rights*)

Article 35

All persons have the right and the duty to do work useful to society and to develop their personalities fully.

Article 36

Services may be hired for a term, but no person may alienate his person or place himself in a state of servitude to another.

[63–64]

Article 37

Human labour is not a chattel. It must be performed in suitable conditions. It must be justly remunerated according to its quality, duration and purpose, and must yield a decent standard of living to the worker and his family.

Article 38

Every worker has the right to protect his professional interests. In particular, he may, either in person or through his representatives or his trade union organization, take part in the collective determination of conditions of work, the preparation of general plans of production or distribution, and in the supervision and management of the undertaking in which he works.

Article 39

Every human being has the right to assistance from the community to protect his health. General measures should, in addition, be taken to promote public hygiene and the betterment of housing conditions and nutrition.

Article 40

Every person has the right to social security. The community should take steps to prevent unemployment and to organize with contributions from those concerned, insurance against disability, illness, old age and all other involuntary and undeserved loss of work and of livelihood.

Mothers and children have the right to special attention, care and resources.

Article 41

All persons have an interest in learning and a right to education. Primary education is obligatory for children and the community shall provide appropriate and free facilities for such education.

Access to higher education should be facilitated by the grant of equal opportunities to all young persons and adults without distinction as to [65–66] race, sex, language, religion, social standing or financial means.

Vocational and technical training should be generalized.

Article 42

Every person has the right to a fair share of rest and leisure and to a knowledge of the outside world.

Every person has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits of science.

Article 43

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

Article 44

In all countries where there are substantial communities of a race, language or religion other than that of the majority of the inhabitants, persons belonging to such ethnical, linguistic or religious minorities shall have the right, within the limits required by public order, to open and maintain schools and religious or cultural institutions. Subject to the same limitations, they may use their language in the press, at public meetings and when appearing before the courts or other authorities of the State.

Article 45

The provisions of the present International Bill of Human Rights are part of the fundamental principles of International Law and shall become an integral part of the Municipal Law of the States Members of the United Nations; their application is a matter of concern to public international order, and the United Nations is competent to take cognizance of violations of the said provisions.

[67–68]

Article 46

Each State Member of the United Nations has the duty to take such legal measures and make such legal arrangements as may be necessary within the scope of its jurisdiction to apply and ensure respect for the rights and freedoms proclaimed in the present Bill. If necessary, Members shall co-operate to this end.

The United Nations and its specialized agencies shall recommend all such international conventions, and shall each take such measures as may be necessary to give full effect to the provisions of the Charter and of the present Bill to safeguard these rights and freedoms throughout the world.

[69–70]

Annex E

Suggestions for the Preamble of an International Declaration on Human Rights

Secretariat Draft Outline

The Preamble shall refer to the four freedoms and to the provisions of the Charter relating to human rights and shall enunciate the following principles:

1. that there can be no peace unless human rights and freedoms are respected;
2. that man does not have rights only; he owes duties to the society of which he forms part;
3. that man is a citizen both of his State and of the world;
4. that there can be no human freedom or dignity unless war and the threat of war is abolished.

Temporary Working Group of the Drafting Committee

We, the Peoples of the United Nations,
Considering

1. that ignorance and contempt of human rights have been among the principal causes of the sufferings of humanity and of the massacres and barbarities which outraged the conscience of mankind before and especially during the last world war; and
2. that there can be no true peace unless human rights and freedoms are respected; and only by abolishing war and the threat of war can human freedom and dignity be assured to all mankind; and
3. that it has been proclaimed as the supreme aim of the recent strife that human beings shall be free in speech and in worship and free from fear and want; and
4. that the Charter begins by reaffirming our faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women; and

[70]

5. that it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and

fundamental freedoms for all without distinction as to race, sex, language, or religion; and

6. (There were two points of view: (1) that the wording as submitted by Professor Cassin, "That the enjoyment of such rights and freedoms by all persons must be protected by the commonwealth of nations and secured by international as well as national laws", be retained and modified; (2) that the previous and following paragraphs covered the substance and that it was more suited to the preamble of a Convention.)

Now, therefore, we the Peoples of the United Nations have resolved to define in a solemn Declaration the essential rights and fundamental freedoms of man, so that this Declaration, being forever present in the minds of all men, may constantly remind them of their rights and duties and that the United Nations and the Member States may constantly be inspired by the principles so formulated to translate them into reality.

Chile

1. Whereas freedom and dignity are essential and inalienable attributes of the human person;

2. Whereas in order to enjoy fully the fundamental freedoms of thought, expression and activity, the human being must be biologically and economically protected against social insecurity;

(Note: These two Articles are drafted by the Representative of Chile for possible inclusion in the suggested Draft Preamble of the Temporary Working Group.)

United Kingdom Proposals for a Preamble of a Convention

1. Whereas the peoples of the United Nations have reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person;

[71]

2. Whereas it is one of the purposes of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion;

3. Whereas all men are members of communities and as such have the duty to respect the rights of their fellow men equally with their own;

4. Whereas the just claims of the State, which all men are under a duty to accept, must not prejudice the respect of man's right to freedom and equality before the law and the safeguard of human rights, which are primary and abiding conditions of all just government;

5. Whereas the denial of human rights and fundamental freedoms endangers the general welfare and friendly relations among nations and the enjoyment of such

rights and freedoms by all persons must be secured by international law and protected by the organized community of States;

6. Whereas it is expedient to define more exactly the aforesaid human rights and fundamental freedoms and to make provision for their universal observance and protection;

Now therefore the States parties to this International Bill of Rights have accepted the following provisions:

United States Suggestions for a Portion of the Preamble

“Whereas one of the purposes of the United Nations as set forth in its Charter is to achieve international co-operation in promoting and encouraging respect for and observance of human rights and fundamental freedoms for all;

“Whereas all Members of the United Nations have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion;

“Whereas the adoption of a bill of human rights will promote the fulfilment of this purpose;

[72]

“Therefore the General Assembly calls upon the Member States to make effective the rights set forth in this bill by international convention and national legislation.”

Suggestions for a Preamble taken by the Drafting Committee from the Last Article of Professor Cassin's Revised Text

The United Nations and their specialized agencies shall recommend all international conventions and shall take, each within their respective spheres, all measures for the implementation of the provisions of the Charter and of this Declaration, in view of protecting these rights and freedoms all over the world.

[73]

Annex F

Suggestions of the Drafting Committee for Articles of an International Declaration on Human Rights*

Article 1

All men are brothers. Being endowed with reason and conscience, they are members of one family. They are free, and possess equal dignity and rights.

Articles 2, 3 and 4
First Alternative (three Articles)
Article 2

The object of society is to afford each of its members equal opportunity for the full development of his spirit, mind and body.

Article 3

As human beings cannot live and develop themselves without the help and support of society, each one owes to society fundamental duties which are: obedience to law, exercise of a useful activity, willing acceptance of obligations and sacrifices demanded for the common good.

Article 4

In the exercise of his rights, everyone is limited by the rights of others.

Second Alternative (one Article only)
Article 2

These rights are limited only by the equal rights of others. Man also owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom.

Article 5

All are equal before the law and entitled to equal protection of the law. Public authorities and judges, as well as individuals are subject to the rule of law.

[*] The United States suggested alternative Articles which appear in Annex C.

[74]

Article 6

Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction as to race, sex, language, or religion.

(1. The Drafting Committee suggested that this matter be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, for thorough consideration. 2. The view was expressed that the substance of this Article might be included in the Preamble to the Declaration, in which case, it could be omitted here.)

Article 7

Everyone has the right to life, to personal liberty and to personal security.

Additional Text (Chilean proposal)

Unborn children and incurables, mentally defectives and lunatics, shall have the right to life.

All persons shall have the right to the enjoyment of conditions of life enabling them to live in dignity and to develop their personality adequately.

Persons unable to maintain themselves by their own efforts shall be entitled to maintenance and assistance.

Alternative Text (Lebanon)

Everyone has the right to life and bodily integrity from the moment of conception, regardless of physical or mental condition, to liberty and security of person.

Article 8

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

(1. There was a feeling in the Drafting Committee that Articles 8, 9 and 10 would need to be reconsidered in the light of any convention that might be recommended for adoption. 2. The Representative of the United States felt that the following alternative wording for the second sentence might be considered: [75] “Everyone placed under arrest or detention shall have the right to release on bail and if there is a question as to the correctness of the arrest shall have the right to have the legality of any detention to which he may be subject determined in a reasonable time.”)

Article 9

No one shall be held guilty of any offence until legally convicted.

No one shall be convicted or punished for any offence except by judgment of an independent and impartial court of law, rendered in conformity with law after a fair and public trial at which he has had an opportunity for a full hearing and has been given all guarantees necessary for his defence.

Article 10

No one can be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence nor be subjected to a penalty greater than that applicable at the time of the commission of the offence.

No one, even if convicted for a crime, can be subjected to torture.

Article 11

Slavery, which is inconsistent with the dignity of man, is prohibited in all its forms.

(1. The consensus of opinion of the Drafting Committee was that the substance of the following sentence, which formed a part of this Article, might be included and elaborated in

a Convention: “Public authority may impose a personal service or work only by application of a law and for the common interest.”)

Article 12

The privacy of the home and of correspondence and respect for reputation shall be protected by law.

Alternative Text (Chile and France)

The inviolability of privacy, home, correspondence and of reputation shall be protected by law.

Article 13

There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by [76] any general law adopted in the interest of national welfare and security.

Individuals may freely emigrate or renounce their nationality.

(The Committee expressed the opinion that this text should be passed on to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for further consideration.)

Article 14

Everyone has the right to escape persecution on grounds of political or other beliefs or on grounds of racial prejudice by taking refuge on the territory of any State willing to grant him asylum.

Article 15

Everyone has the right to a status in law and to the enjoyment of fundamental civil rights.

Everyone shall have access to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law. He shall have the right to consult with and to be represented by counsel.

(1. In considering this Article the Drafting Committee discussed the right to contract marriage, but decided to wait until the Sub-Commission on Prevention of Discrimination and the Protection of Minorities had reviewed recommendations made on this subject by the Commission on the Status of Women and had reported back to the Commission on Human Rights on its findings. 2. The Representative of France suggested the following text in French to replace the second sentence of the second paragraph of this Article: “Il aura le droit d’être assisté et, toutes les fois que sa comparution personnelle ne sera pas exigée par la loi, représenté par un conseil.”)

Article 16

There shall be equal opportunity for all to engage in all vocations and professions not constituting public employment.

(The Drafting Committee expressed the opinion that the rights of foreigners in relation to this Article should be the subject of a Convention.)

Article 17

Everyone has a right to own personal property.

No one shall be deprived of his property except for public welfare and with just compensation.

The State may determine those things, rights and enterprises, that [77] are susceptible of private appropriation and regulate the acquisition and use of such property.

(1. The Representative of the United States stated the opinion that it was sufficient to say, "Everyone has a right to own property" and objected to the use of the word "personal" as qualifying "property" because of its technical meaning (chattels as distinguished from real property) in English-American law. 2. The Representatives of Australia and of the United Kingdom stated the opinion that the Article should be deleted altogether. 3. The Representative of Chile felt that the concept of the right to property, as stated in the Draft submitted by his Government, should be included.)

Article 18

Everyone has the right to a nationality.

(The Drafting Committee expressed the opinion that this Article should be considered at greater length as the subject of a Convention.)

Article 19

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

(Members of the Drafting Committee appreciated that the subject of the Article constitutes a difficult problem and stated the opinion that it needed further consideration.)

Article 20

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

The practice of a private or public worship, religious observances, and manifestations of differing convictions, can be subject only to such limitations as are necessary to protect public order, morals and the rights and freedoms of others.

Alternative Text (United Kingdom)

1. Every person shall be free to hold any religious or other belief dictated by his conscience and to change his belief.

2. Every person shall be free to practise, either alone or in community with other persons of like mind, any form of religious worship and observance, subject only to such restrictions, penalties or liabilities as are strictly necessary to prevent the commission of acts which offend laws [78] passed in the interests of humanity and morals, to preserve public order and to ensure the rights and freedoms of other persons.

3. Subject only to the same restrictions, every person of full age and sound mind shall be free to give and receive any form of religious teaching and to endeavour to persuade other persons of full age and sound mind of the truth of his beliefs, and in the case of a minor the parent or guardian shall be free to determine what religious teaching he shall receive.

Article 21

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

Alternative Text (France)

The Representative of France suggested that this Article read in French as follows:

“Personne ne peut être inquiété en raison de ses opinions.

“Chacun est libre de soutenir ou d’exprimer son opinion, de connaître celle des autres, de recevoir ou de rechercher des informations à toutes les sources possibles.”

Article 22

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

(This would need to be considered by the Sub-Commission on Freedom of Information and of the Press for possible inclusion in the Convention or the Declaration and would have to be elaborated further.)

Article 23

There shall be freedom of peaceful assembly and of association for political, religious, cultural, scientific, professional and other purposes.

(This would need to be considered for possible inclusion in the Convention or the Declaration and would have to be elaborated further.)

Article 24

No State shall deny to any individual the right, either individually [79] or in association with others, to petition or to communicate with the Government of his State or of his residence or the United Nations.

Article 25

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

(There was a substantial expression of opinion in favour of including this Article in the Preamble instead of as an Article.)

Article 26

Everyone has the right to take an effective part in his Government directly or through his representatives.

Alternative Text (Chile, France, Lebanon)

Everyone has the right to take an effective part directly or through his representatives in the formulation of law, the framing of a tax policy for public expenses and his government whether State or territorial.

Article 27

The State can derive its authority only from the will of the people and has a duty to conform to the wishes of the people. These wishes shall be manifested particularly by democratic elections, which shall be periodic, free, and by secret ballot.

Article 28

Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examinations for public employment shall not be a matter of privilege or favour.

(It was felt that the Article might be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, after which it might be elaborated further.)

Article 29

Everyone has the right to perform socially useful work.

Article 30

Human labour is not a merchandise. It shall be performed in good [80] conditions and shall secure a decent standard of living to the worker and his family.

Article 31

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

Article 32

Everyone has the right to a fair share of rest and leisure.

Article 33

Everyone, without distinction as to economic or social conditions, has a right to the highest attainable standard of health.

The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

(The Drafting Committee suggested that each Article referring to economic and social rights should be referred to the appropriate Specialized Agencies for their consideration and comment.)

Article 34

Everyone has the right to social security. To the utmost of its possibilities, the State shall undertake measures for the promotion of full employment and for the security of the individual against unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.

Mothers and children have the right to special regard, care and resources.

Article 35

Everyone has the right to participate in the cultural life of the community, to enjoy the arts, and to share in the benefits that result [81] from scientific discoveries.

(It was the opinion of some of the members that the thought back of this Article should be included in the Preamble.)

Article 36

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

(In view of the supreme importance of this Article to many countries, the Drafting Committee felt that it could not prepare a draft Article without thorough pre-examination by the Commission on Human Rights and suggested that it might if necessary be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for examination of the minority aspects.)

Footnote to this document: The consensus of opinion of the Drafting Committee was that the substance of the following draft article might receive consideration for inclusion in an International Convention:

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

[82]

[Annex G containing draft articles for a convention has been omitted.]

[87]

Annex H

Memorandum of Implementation Prepared by the Division of Human Rights of the Secretariat at the Request of the Drafting Committee

1. The attention of the Drafting Committee is respectfully drawn to the resolution of the Economic and Social Council of 21 June 1946. This resolution reads as follows:

“Considering that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of human rights and of an international bill of rights, the Council requests the Commission on Human Rights to submit at an early date suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms, with a view to assisting the Economic and Social Council in working out arrangements for such implementation with other appropriate organs of the United Nations.”

(Journal of the Economic and Social Council, No. 29, page 521).

2. In a memorandum prepared for the Commission on Human Rights at its first session in January 1947, the Secretariat drew attention to Professor Lauterpacht’s discussion of the problem of implementation in his book, *An International Bill of the Rights of Man*.

3. In the same memorandum, the Secretariat raised the following questions:

- (a) whether or not the Bill should contain a provision to the effect that it cannot be unilaterally abrogated or modified;

- (b) whether or not the Bill should include an express statement to the effect that the matters dealt with in it are of international concern;
- (c) whether or not the Bill should become part of the fundamental law of States accepting it; and

[88]

- (d) whether or not the provisions of the Bill should be declared to be directly applicable in the various countries without further implementation by national legislation or transformation into national law.

It would seem that provisions of the nature mentioned in (c) and (d) are necessary if the Bill is to be enforceable as part of the national law of the various countries accepting it. Insofar as implementation on the international plane is concerned, it is suggested that the Commission might consider the possibility of providing in successive stages for international supervision and enforcement. The following successive stages are suggested:

- (a) the establishment of the right of the General Assembly and other organs of the United Nations, including possibly the Commission on Human Rights, to discuss and make recommendations in regard to violations of the Bill;
- (b) the establishment of the right of individuals to petition the United Nations as a means of initiating procedure for enforcement of human rights;
- (c) the establishment of a special organ of the United Nations with jurisdiction and the duty to supervise and enforce human rights *motu proprio*;
- (d) the establishment of jurisdiction in this organ to consider cases of suspension of the Bill of Rights, either in whole or in part;
- (e) the establishment of local agencies of the United Nations in the various countries with jurisdiction to supervise and enforce human rights therein. The Commission might find it useful, in this connection, to study the precedents established, for example, by the Convention between Germany and Poland on Upper Silesia of 15 May 1922.

The Commission may want also to discuss the role which the Security Council might play in the implementation of the Bill. According to [89] Article 2, paragraph 7, of the Charter, the exception of domestic jurisdiction cannot be invoked in cases where enforcement measures are being taken by the Security Council under Chapter VII. The Commission may want to consider the question whether the Security Council should not be given a more extended jurisdiction in the matter (E/CN.4/W.4, pages 13 and 14).

4. The first session of the Commission on Human Rights devoted relatively little time to the problem. Nevertheless, Colonel Hodgson, the member for Australia, submitted a draft resolution for the establishment of an International Court of Human Rights. This draft resolution reads as follows: (E/CN.4/15)

“1. There is hereby established an International Court of Human Rights. The Court shall be constituted and shall function in accordance with the Articles contained in this Part and in the Statute of the Court.

2. The Court shall have jurisdiction to hear and determine all disputes concerning the rights of citizenship and enjoyment of human rights and fundamental freedoms provided for in the Declaration of Human Rights. Subject to such conditions as shall be contained in the Statute of the Court, the jurisdiction of the Court shall be both original and appellate, and shall extend to questions of interpretation arising in such disputes as are brought before administrative tribunals or administrative authorities.

3. The Appellate jurisdiction shall extend to appeals from all decisions of the courts of the States bound by the obligations contained in the Declaration of Human Rights, in which any question arises as to the rights of citizenship or the enjoyment of human rights, or fundamental freedoms.

4. The Court shall be open to any person or group of persons. It shall also be open to any of the States acceptors of the Declaration.

[90]

5. Each of the States accepting the Declaration shall comply with the judgment of the Court in any case to which the State is a party and with any order which the Court may make against it.

6. Any judgment or order made by the Court in favour of any person or group of persons within the jurisdiction of any of such States shall be fully effective according to its terms and shall be enforced in and by the State affected by the judgment or order.

7. Each of such States undertakes that the provisions contained in the declaration shall be recognized as fundamental laws and that no law, regulation or official action shall conflict or interfere with those provisions, nor shall any law, regulations or official action prevail over them.

8. The Court shall also have jurisdiction, both original and appellate, to hear and determine disputes concerning such rights of citizenship and enjoyment of human rights and fundamental freedoms as shall be provided for in the treaties of peace which will be made by any of the Allied and Associated Powers with Romania, Bulgaria, Hungary, Finland, Austria, Germany or Japan.

9. The Court shall be composed of a body of independent judges, selected according to the standards laid down by the Charter of the United Nations for the election of judges of the International Court of Justice.

10. The Court shall consist of not less than three members appointed in the manner set out in the Statute of the Court.

11. The Court shall make an annual report to the Economic and Social Council of the United Nations on the working of the Court in relation to the rights and freedoms within its jurisdiction. The Court may also make other reports to that Council if and when it thinks proper to do so.”

5. At the fifteenth meeting of the Commission on Human Rights, Colonel Hodgson made the following comments: (E/CN.4/SR.15, page 2) [91]

“... The Australian Government considered that the resolution of the General Assembly Committee regarding this Bill should not be a simple recommendation, but a multilateral Convention binding Member States. These States should incorporate the principles laid down in this Bill in their own legislation.”

He recalled that similar principles were incorporated in the Peace Treaties following the 1914–1918 war. In view of the negative results of those different declarations, the Australian Government had proposed, at the Paris Conference, the setting up of definite machinery for the application of these principles; that is to say, an International Court of Human Rights. By this action, the Australian Government was only conforming with the terms of a letter of June 1946 from Mr. Trygve Lie to the various governments. The Members of the Paris Conference, however, rejected this proposal on the grounds that the United Nations had at its disposal a body competent to settle the question; the Security Council. The objection was, in fact, unjustifiable as the Council could only intervene if peace were in danger. In view of the great number of Stateless persons whose future could only be settled on the international plane, the question was now even more acute.

The Australian Government therefore proposed that the Commission on Human Rights should recommend to the Economic and Social Council and to the General Assembly, the creation of an International Court of Human Rights. This Court would be the Central Appeal Court to which States, groups of individuals or even single individuals could appeal when all domestic possibilities of appeal had been exhausted.

6. At the sixteenth meeting, again commenting on the Australian draft resolution, Colonel Hodgson recalled: (E/CN.4/SR.16, pages 2–3)

“...that the objection had been raised that the Commission could not consider implementing an international bill of rights before deciding on its contents. He believed, however, that the Commission [92] had an obligation under Article 56 to implement those rights and freedoms already laid down in the Charter. It was necessary to establish effective machinery to make those human rights and fundamental freedoms a reality.”

Moreover, it was not premature to consider machinery for implementation of the Bill, since the definitive rights to be enforced would be known by the time the bill was submitted to the General Assembly. The various principles enunciated therein would subsequently be incorporated in an international convention for ratification by States members. Therefore, the elaboration and implementation of the Bill constituted parallel processes.

Colonel Hodgson also recalled that it had been suggested that the human rights and fundamental freedoms embodied in the bill should first be implemented by

Governments through national legislation. He considered, however, that this function belonged to an international tribunal, to which there could be appeal over and beyond national courts.

In conclusion, the representative of Australia stated that the Commission should not confine itself to abstractions but was bound to consider immediately effective machinery for implementing human rights and fundamental freedoms, in accordance with its solemn obligations. He moved, therefore, that the Australian proposal for the establishment of an International Court of Human Rights should be referred to the drafting group for consideration, with a view to reporting on the implementation of human rights and fundamental freedoms, as contained in the proposed bill of human rights, to the next session of the Commission.

7. The question of implementation is also raised in the draft resolution for the General Assembly which was presented by Mrs. Hansa Mehta, the member of the Commission for India, at the first session of the Commission on Human Rights. This draft resolution reads as follows: (E/CN.4/11)

[93]

“The General Assembly,

Recognizing the fact that the United Nations has been established for the specific purpose of enthroning the natural rights of man to freedom and equality before the law, and for upholding the worth and dignity of human personality;

Having taken note of the Preamble and the relevant clauses of the United Nations Charter; the resolutions of the Economic and Social Council; the Human Rights Clauses of the Trusteeship Agreements as approved by the First Assembly of the United Nations; and the Human Rights Clauses of the European Treaties,

Resolves that the following be incorporated into a General Act of the United Nations Assembly:

1. (a) Every human being is entitled to the right of liberty, including the right to personal freedom; freedom of worship; freedom of opinion; freedom of assembly and association; and the right to access to the United Nations, without risk of reprisal, whenever there is an actual or threatened infringement of human rights.

(b) Every human being has the right of equality, without distinction of race, sex, language, religion, nationality or political belief.

(c) Every human being has the right of security, including the right to work, the right to education, the right to health, the right to participate in government, and the right to property, subject only to the over-riding consideration of public weal when the State or its appropriate organs acquire it after paying equitable compensation.

2. (a) This General Act is an obligation undertaken by Member States of the United Nations, and comes into force within twelve calendar months from the date on which it is passed by the United Nations Assembly.

(b) Non-self-governing areas and areas under the trusteeship of the United Nations automatically come under the regime of this Act.

[94]

(c) Non-Member States are eligible to adhere to this Act.

3. Nothing mentioned in this Act shall be construed as not obligating the individual to his corresponding duties to his own State and to the international community under the United Nations.

4. No State Member of the United Nations, non-self-governing territory, trusteeship area or non-member of the United Nations which has adhered to this Act, shall have the right to suspend it in whole or in part once it was adhered to in due form.

5. The Security Council of the United Nations shall be seized of all alleged violations of human rights, investigate them and enforce redress within the framework of the United Nations.”

8. In accordance with the instructions of the Economic and Social Council, the Secretariat prepared a draft outline of an International Bill of Rights to serve as the basis of discussions in the Drafting Committee. This outline contains several articles which touch on the question of implementation, to wit: (E/CN.4/AC.1/3)

Article 28: “Everyone has the right, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievances.”

Article 47: “It is the duty of each member State to respect and protect the rights enunciated in this Bill of Rights. The State shall, when necessary, co-operate with other States to that end.”

Article 48: “The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and of the national law of each of the member States of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.”

9. Immediately before the opening of the present session of the Drafting Committee, Lord Dukeston, the member of the Commission for the United Kingdom, submitted a document (E/CN.4/AC.1/4) which deals with the question of [95] implementation in some detail. This document is now before the Drafting Committee and, since it is long and must be read as a whole, no extracts are reproduced herein.

10. Reference to implementation will also be found in the proposal of the United States for modification of Article 28 of the Secretariat draft. The United States proposal reads as follows: (E/CN.4/AC.1/11, page 32)

“No State shall abridge the right of everyone, either individually or in association with others, to petition the government of his State or the United Nations for redress of grievances.”

11. Article 24 of Professor Cassin’s draft deals with the same point; the Article reads as follows: (E/CN.4/AC.1/W.2/Rev.1, page 4)

“No State shall deny to any individual the right, either individually or in association with others, to petition the government of his State or of his residence or the United Nations for redress of grievances.”

12. Professor Cassin also suggests that the Preamble to the Declaration should include the following words: (E/CN.4/AC.1/W.1, page 2)

“... that the enjoyment of such rights and freedoms by all persons must be protected by the commonwealth of nations and secured by international as well as national laws”.

Some of the members of the Drafting Group were of the opinion, however, that if this provision were to be retained it should be modified and put in the Preamble of a Convention.

13. The question of implementation is raised in the final paragraph of the proposal submitted by the Delegation of France to the Drafting Committee. This paragraph reads as follows: (E/CN.4/AC.1/5, page 2)

“And that the General Assembly of 1947 instruct the Commission on Human Rights to study the constitution of an appropriate international organ with a view to ensuring effective observance of those rights.”

[96]

This memorandum does not discuss the various suggestions for implementation that have been submitted by individuals and organizations.

14. During the session of the Drafting Committee, the United States made the following suggestions concerning implementation:

1. The Articles in this Bill of Rights shall be referred to the appropriate organs or agencies of the United Nations with a view to the formulation of a series of international conventions to be submitted individually to the member States for ratification or other appropriate action in accordance with their respective constitutional processes.

2. The Conventions thus concluded shall be deposited with the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter.

3. The Conventions shall provide for submission to the Secretary-General of copies of the laws or regulations by which the member State gives effect to the provisions of the Convention together with the name of the competent authority responsible for compliance, and of periodic reports concerning the enforcement and revisions of such laws.

4. The Secretary-General shall inform the General Assembly each year of the Conventions embodying the provisions of this Bill of Rights which have been proposed to the member States, and the number of States which have ratified or have failed to ratify them.

15. The consensus of opinion of the Drafting Committee was that the following three Articles should be referred to the Commission on Human Rights for consideration in connection with the problem of implementation:

Article A

There is no protection of human rights where the authors of tyrannical or arbitrary acts or their accomplices are not punished and where there is no provision for the liability of public authorities or their agents.

[97]

Article B

The provisions of this International Bill of Rights shall be deemed fundamental principles of international law and shall become part of the national law of each of the member States of the United Nations. Their observance is therefore a matter of international concern and it shall be within the jurisdiction of the United Nations to discuss any violation thereof.

Article C

It is the duty of each Member State to take, within its jurisdiction, all measures and legal dispositions for the enactment and effective respect of the rights and freedoms proclaimed in this Declaration. The State shall, when necessary, co-operate with other States to that end.

E/CN.4/AC.1/15

17 July 1947

**Disposition of Agenda Items and Check List of
Documents, First Session [of the Drafting Committee of the
Commission on Human Rights], 9 to 25 June 1947**

Prepared by the Documents Index Unit

A. Introduction

1. Membership

The Economic and Social Council at its eighty-second plenary meeting, 28 March 1947, approved the appointment by the Chairman of the Commission on Human Rights of a Drafting Committee consisting of the members of the Commission on Human Rights for Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, (Resolution No. 46 (IV) of the Economic and Social Council). The Drafting Committee was charged with the preparation of a preliminary draft of an International Bill of Human Rights.

2. Officers

The officers of the Drafting Committee during the first session were: Chairman, Mrs. Franklin D. Roosevelt (USA); Vice-Chairman, Dr. P. C. Chang (China); Rapporteur, Dr. Charles Malik (Lebanon). All were elected at the first meeting, 9 June 1947.

3. Secretary

Prof. J. Humphrey was Secretary of the Drafting Committee.

4. Temporary Working Group

A Temporary Working Group was appointed at the sixth meeting, 13 June 1947. It was composed of representatives of France, Lebanon, and the United Kingdom, with the Chairman of the Committee as an *ex officio* member. Its functions were: (1) to suggest a logical rearrangement of the articles of the draft outline [2] supplied by the Secretariat, (2) to suggest a redraft of the various articles in the light of the discussions of the Drafting Committee, and (3) to suggest to the Drafting Committee the division of the substance of the articles between a Declaration and a Convention. The Temporary Working Group held three meetings. The draft texts prepared by the Working Group (E/CN.4/AC.1/W.1 and E/CN.4/AC.1/W.2/Rev.1) were submitted to the Drafting Committee at its seventh meeting, 17 June 1947.

5. Report

The report of the Drafting Committee is E/CN.4/21.

B. Check List of Meetings*

Meeting	Date	Summary Record	Press Release
1	9 June 1947	E/CN.4/AC.1/SR.1	Press Release SOC/167
2	11 June 1947	E/CN.4/AC.1/SR.2	Press Release SOC/169
3	11 June 1947	E/CN.4/AC.1/SR.3	Press Release SOC/170
4	12 June 1947	E/CN.4/AC.1/SR.4	Press Release SOC/171
5	12 June 1947	E/CN.4/AC.1/SR.5	Press Release SOC/172
6	13 June 1947	E/CN.4/AC.1/SR.6	Press Release SOC/173
7	17 June 1947	E/CN.4/AC.1/SR.7	Press Release SOC/176
8	17 June 1947	E/CN.4/AC.1/SR.8	Press Release SOC/179
9	18 June 1947	E/CN.4/AC.1/SR.9	Press Release SOC/180
10	18 June 1947	E/CN.4/AC.1/SR.10	Press Release SOC/181
11	19 June 1947	E/CN.4/AC.1/SR.11	Press Release SOC/183
12	20 June 1947	E/CN.4/AC.1/SR.12	Press Release SOC/184
13	20 June 1947	E/CN.4/AC.1/SR.13	Press Release SOC/185
14	23 June 1947	E/CN.4/AC.1/SR.14	Press Release SOC/186

Meeting	Date	Summary Record	Press Release
15	23 June 1947	E/CN.4/AC.1/SR.15	Press Release SOC/187
16	24 June 1947	E/CN.4/AC.1/SR.16	Press Release SOC/188
17	24 June 1947	E/CN.4/AC.1/SR.17	Press Release SOC/190
18	25 June 1947	E/CN.4/AC.1/SR.18	Press Release SOC/191
19	25 June 1947	E/CN.4/AC.1/SR.19	Press Release SOC/192

* No records have been published of meetings of the Temporary Working Group.

[3]

C. Disposition of Agenda Items, First Session, 9 to 25 June 1947

1. Opening of the Session by the Chairman of the Commission. *See* E/CN.4/AC.1/SR.1.
2. Election of Officers. Chairman: Mrs. Franklin D. Roosevelt (USA); Vice Chairman: Dr. P.C. Chang (China); Rapporteur: Dr. Charles Malik (Lebanon). Summary record of election: E/CN.4/AC.1/SR.1
3. Adoption of Provisional Agenda. (E/CN.4/AC.1/1) Adopted at first meeting. *See* E/CN.4/AC.1/SR.1
4. Adoption of Rules of Procedure. Rules of Procedure of the Human Rights Commission adopted at first meeting. *See* E/CN.4/AC.1/SR.1.
5. Review of Terms of Reference. Documents submitted: E/325, 383, E/CN.4/AC.1/2. Summary records of discussion: E/CN.4/AC.1/SR.1. *See Report* (E/CN.4/21), p. 2.
6. Preparation of a preliminary draft of an International Bill of Human Rights on the basis of documentation supplied by the Secretariat. Documents submitted: E/CN.4/AC.1/3, 3/Add.1, 3/Add.2, 3/Add.3 (U.K.), 4 (U.K.), 4/Add.1 (U.K.), 5 (France), 6, 6/Add.1, 7, 8 (USA), 8/Rev.1 (USA), 9, 10 (AF of L), 11, 12, 13 (USA), W.1*, W.2* (France), W.2.Rev.1* and 2* (France). Summary records of discussion: E/CN.4/AC.1/SR.1, SR.2, SR.3, SR.4, SR.5, SR.5/Corr.1, SR.6, SR.7, SR.8, SR.9, SR.10, SR.11, SR.12, SR.13, SR.14, SR.15. *See Report* (E/CN.4/21), pp. 2–5.
7. Other items. No discussion.
8. Adoption of the report of the Committee to the Commission on Human Rights. (E/CN.4/AC.1/14). Summary records of discussion: E/CN.4/AC.1/SR.16, SR.17, SR.18, SR.19. *See Report* (E/CN.4/21).

D. Check List of Documents

The check list of documents contains the following information:

<i>Left-hand column:</i>	Series symbol and document number in series.
<i>Middle column:</i>	Short title of document; number of pages (English or bilingual text); date of registration of basic text with Documents Control Unit.
<i>Right-hand column:</i>	Language of issue, Single-language texts are [4] indicated as English (abbreviated E), French (F), Chinese (C), Russian (R), or Spanish (S). Bilingual texts are indicated as English and French together (E&F).

(1) Documents in Series of the Drafting Committee

Document No. in Series	Short Title General Documents	Issued In
E/CN.4/AC.1/1	Draft Provisional Agenda 1 p. (28 May 1947)	E F
E/CN.4/AC.1/2	Memorandum on Historical Background of the Committee. Submitted by the Division of Human Rights. 7 pp. (29 May 1947)	E F
E/CN.4/AC.1/3	Draft Outline of International Bill of Rights. 17 pp. (4 June 1947)	E&F R
E/CN.4/AC.1/3/ Add.1	Table of Contents for addendum 1. 2 pp. (11 June 1947)	E
E/CN.4/AC.1/3/ Add.2	Addendum to Text. 408 pp. (2 June 1947)	E
E/CN.4/AC.1/3/ Add.3	Table of Contents for addendum 1. 2 pp. (11 June 1947)	E&F
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* Restricted distribution.

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(2) *Documents in Other Series*

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E/259	Report of the Commission on Human Rights. 7 pp. (11 February 1947)	E F R

Document No. in Series	Short Title General Documents	Issued In
E/325	Human Rights: Resolutions Adopted by the Council on 28 March 1947. 5 pp. (22 April 1947)	E F R
E/383	Report of the Commission on Human Rights. (Letter from the Chairman of the Commission to the President of the Economic and Social Council.) 1 p. (27 March 1947)	E F
E/CN.4/21	Report of the Drafting Committee on an International Bill of Human Rights. 1st Session. 97 pp. (1 July 1947)	E

E/533**7 August 1947**

Draft Resolution Proposed by the Delegations of the United Kingdom, The Netherlands, and the United States

The Economic and Social Council

Having received the Report transmitted by the International Labour Organization in pursuance of the Council's request at its Fourth Session that the memoranda on the subject of Trade Union Rights submitted to the Council by the World Federation of Trade Unions and the American Federation of Labor might be placed on the agenda of the International Labour Organization at its next Session and that a Report might be sent for the consideration of the Economic and Social Council at its next meeting,

Takes note of the Report and observes with satisfaction the action taken and proposed by the International Labour Organization within its recognized competence,

Resolves to transmit the Report to the General Assembly,

Awaits further Reports on the subject to be transmitted by the International Labour Organization and awaits also the Report which it will receive in due course from the Commission on Human Rights on those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights,

Notes that proposals for the establishment of international machinery for safeguarding Freedom of Association are to be examined by the Governing Body of the International Labour Organization,

Considers that the question of enforcement of rights, whether of individuals or of associations, raises common problems which should be considered jointly by the United Nations and the International Labour Organizations, and

Requests the Secretary-General to arrange for cooperation between the International Labour Organization and the Committee [sic] on Human Rights in the study of these problems.

E/SR.108¹⁹⁹

8 August 1947

***Summary Record of the Hundred and Eighth Meeting [of the
Economic and Social Council]***

Held at Lake Success, New York, on Friday, 8 August 1947
at 11.15 a.m.

Acting President: MR. JAN PAPANEK (Czechoslovakia)

**46. Discussion of trade union rights (documents E/372, E/C.2/32,
E/C.2/50 and E/485)**

THE PRESIDENT, in welcoming the representative of the International Labour Organization, explained the history of the question. The World Federation of Trade Unions had asked the Council to place on the agenda an item regarding trade union rights. This had been discussed at the previous session of the Council and then referred to the International Labour Organization which had arrived at certain conclusions.

...

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...

MISS SENDER (American Federation of Labor) . . . pointed out that the American Federation of Labor had taken an active part in the work of the Commission of Human Rights which was also considering the two resolutions submitted by her organization and the World [169] Federation of Trade Unions and that the basic rights of labour had already been incorporated in the draft international bill of human rights. She expressed the hope that the final draft of that bill would not be modified in any respect likely to weaken the decisions already taken with respect to the rights of labour.

...

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...

¹⁹⁹ The text of the document is taken from *Official Records of the Economic and Social Council*, Second Year, Fifth Session, 19 July–16 August 1947, pp. 166–171.

MR. PHILLIPS (United Kingdom) expressed his approval of the report of the International Labour Organization and pointed out to the Council that it reflected the agreed opinions of the workers, the employers and Governments of almost fifty countries.

He noted that apart from studying the questions submitted to it by the Council, the ILO had also mapped out a further programme of action relating to the implementation of international conventions. He felt that such a study was closely related to what was being considered by the Commission on Human Rights concerning the implementation of human rights. He hoped, therefore, that there would be close cooperation on the study of that question between the ILO and the Commission on Human Rights.

...

E/SR.109²⁰⁰

8 August 1947

***Summary Record of the Hundred and Ninth Meeting [of the
Economic and Social Council]***

Held at Lake Success, New York, on Friday,
8 August 1947 at 3 p.m.

Acting President: MR. JAN PAPANEK (Czechoslovakia)

**47. Continuation of the discussion of trade union rights (documents
E/533, E/534 and E/C.2/32)**

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...

[MR. THORP (United States of America)] The basic problem was whether the Council should maintain its decision that the question should be studied by the ILO and the Commission on Human Rights, or whether it should adopt the Czechoslovak proposal (document E/534), which mentioned the Social Commission and not the Commission on Human Rights. Mr. Thorp said that he would not like to see the Commission on Human Rights drop out of the picture, since the problem in question was one which would certainly have to be covered in the bill of rights.

...

²⁰⁰ The text of the document is taken from *Official Records of the Economic and Social Council*, Second Year, Fifth Session, 19 July–16 August 1947, pp. 171–182.

[175]

...

[MR. MARTIN (Canada)] The Council must now decide upon the best course of action and to what bodies it intended to entrust the problem for further study. Overlapping must be avoided. The Commission on Human Rights could not be excluded because of its obvious concern with the bill of human rights.

...

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...

MR. SANTA CRUZ (Chile) expressed satisfaction that it was now clear that neither the Czechoslovak nor the French proposals, which his delegation had supported were intended to diminish the role of the ILO.

With reference to enlisting the participation of the Commission on Human Rights, he pointed out that both the joint United Kingdom, United States and Netherlands draft resolution and the previous Council resolution merely requested the Commission to take the matter into consideration in connexion with the elaboration of an international bill of rights. Since the bill of rights was envisaged as only enunciating general principles, the Commission would not be called [179] upon to make a report to the Council on the question of trade union rights, unless the Council specifically requested such a report in its resolution.

...

[180]

...

The proposal of the representative of the USSR that the original proposal of the WFTU (document E/C.2/28) should be used as the basis for a decision was put to a vote.

Decision: The proposal was rejected by ten votes to two, with six abstentions.

The Czechoslovak draft resolution was then put to a vote.

Decision: The draft resolution was rejected by nine votes to one, with eight abstentions.

The amendment of the Norwegian representative to the joint draft resolution of the United Kingdom, the United States and the Netherlands, formulated as below, was put to a vote:

“The Economic and Social Council,

Resolves to transmit the report to the Social Commission, requesting the Commission to present its comments to the next session of the Economic and Social Council, in order that the Council may present the comments it desires for the consideration of the International Labour Conference in drafting one or more conventions in this matter.”

Decision: The amendment was rejected by seven votes to five, with six abstentions.

MR. SANTA CRUZ (Chile) proposed an amendment to the joint draft resolution of the United Kingdom, the United States and the Netherlands to the effect that paragraph (b) of the Czechoslovak draft resolution should be incorporated therein.

Decision: The amendment was adopted by five votes to four, with nine abstentions.

MR. MALIK (Lebanon) likewise proposed an amendment to the joint draft resolution to the [181] effect that paragraph (a) of the Czechoslovak draft resolution should be incorporated therein.

Decision: The amendment was adopted by thirteen votes, with five abstentions.

MR. MALIK (Lebanon) suggested that his amendment should be included in the second paragraph immediately before the words “to transmit the report. . .”, and MR. SANTA CRUZ (Chile) suggested that his amendment should be inserted immediately after Mr. Malik’s amendment.

The joint draft resolution was then put to a vote.

Decision: The resolution was adopted by fifteen votes to two, with one abstention.

...

E/RES/84(V)
8 August 1947

Trade Union Rights (Freedom of Association) **Resolution of 8 August 1947**

The Economic and Social Council,

Having received the report transmitted by the International Labour Organization in pursuance of the Council’s request at its fourth session that the memoranda on the subject of trade union rights submitted to the Council by the World Federation of Trade Unions and the American Federation of Labor might be placed on the agenda of the International Labour Organization at its next session and that a report might be sent for the consideration of the Economic and Social Council at its next session,

Takes note of the report and observes with satisfaction the action taken and proposed by the International Labour Organization within its recognized competence,
Decides

- (a) To recognize the principles proclaimed by the International Labour Conference;
- (b) To request the International Labour Organization to continue its efforts in order that one or several international conventions may be quickly adopted;
- (c) To transmit the report to the General Assembly;

Awaits further reports on the subject to be transmitted by the International Labour Organization and awaits also the report which it will receive in due course from the Commission on Human Rights on those aspects of the subject which might appropriately form part of the bill or declaration on human rights,

Notes that proposals for the establishment of international machinery for safeguarding freedom of association are to be examined by the Governing Body of the International Labour Organization;

Considers that the question of enforcement of rights, whether of individuals or of associations, raises common problems which should be considered jointly by the United Nations and the International Labour Organization; and

Requests the Secretary-General to arrange for co-operation between the International Labour Organization and the Commission on Human Rights in the study of these problems.

A/C.3/166

13 October 1947

Original Text: Spanish

Draft Resolution Submitted by the Delegation of the Dominican Republic

The General Assembly:

Considering:

- (a) That the resolution adopted on 8 August 1947 by the Economic and Social Council aims at the establishment, as soon as possible, of international machinery for safeguarding the freedom of association of trade unions, citing this need as one of the essential features of the proposed Bill of Human Rights;
- (b) That improvement of the living conditions of workers depends not only on respect for freedom of association but also on such other social safeguards as will assure to all men a minimum of economic well-being, and;
- (c) That the first step towards effective establishment of human rights should be an effort on the part of all countries that are Members of the United Nations for the international protection of the worker as regards his material means of existence;

Requests:

The Secretary-General to take the necessary measures in order that both the International Labour Organization and the Commission on Human Rights may study the possibility of establishing, as rights inherent in the human person, the principle of free association and any other safeguards, such as minimum wages and compulsory social insurance, as may provide the basis for a *minimum* of well-being within the reach of all the workers of the world.

A/C.3/167

13 October 1947

Original Text: French

Draft Resolution Submitted by the Delegation of France

The General Assembly:

Taking Note of the decision of the Economic and Social Council to transmit to the General Assembly of the United Nations the Report of the International Labour Organization on Trade Union Rights

Decides

- (a) To recognize the principles proclaimed by the International Labour Conference;
- (b) To request the International Labour Organization to continue its efforts in order that one or several international conventions may be quickly adopted;

Requests the Secretary-General to arrange for the Commission on Human Rights to collaborate in the study of those aspects of trade union rights which would form part of the bill or declaration on human rights.

A/C.3/170

15 October 1947

Original Text: Spanish

Argentine Amendment to the Draft Resolution Proposed by the Dominican Republic (A/C.3/166)

Add to the operative part of the draft resolution, after the words: “freedom of association”, the following concepts:

1. The Right to Work
2. The Right to a fair Remuneration
3. The Right to Social advancement
4. The Right to appropriate working conditions
5. The Right to preservation of health
6. The Right to Welfare
7. The Right to Social security
8. The Right to the protection of his family
9. The Right to better economic conditions
10. The Right to the Defence of professional interests

A/C.3/171

16 October 1947

Original Text: Spanish

Chile: Amendment to the Draft Resolution of the Dominican Republic (A/C.3/166) and to the Draft Resolution of France (A/C.3/167)

The General Assembly:

Taking note of Resolution No. 84 adopted by the Economic and Social Council at its fifth session, to transmit to the General Assembly of the United Nations the report of the International Labour Organization on trade union liberty; to recognize the principles proclaimed by the International Labour Conference; to request the International Labour Organization to continue its efforts in order that one or several international conventions may be quickly adopted;

Taking note also of Resolution No. 52 adopted by the said Council at its fourth session, to transmit the views of the World Federation of Trade Unions and the American Federation of Labor on trade union rights and liberties to the Commission on Human Rights, “in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights”;

Approves these two resolutions, and

Declares that it endorses the principles proclaimed by the International Labour Conference;

Decides to transmit the said report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in Resolution No. 52 of the Economic and Social Council;

Considering also

- (a) that the improvement of the living conditions of workers depends not only on respect for freedom of association but also on social safeguards that will assure to all men a minimum of economic well-being;
 - (b) that the first step towards effective establishment of human rights should be an effort on the part of all countries that are Members of the United Nations for the international protection of the worker as regards his material means of existence;
- [2]
- (c) that in the preliminary stages of the preparation of the Declaration on Human Rights these principles have already been considered;

Recommends the Commission on Human Rights and the Economic and Social Council when drafting the Declaration on Human Rights prepared by the Drafting Committee, to include among the rights inherent in the human person social rights and liberties and a minimum of economic security for the worker against unemployment

and social insecurity, in accordance with the principles of human dignity and of non-discrimination on grounds of race, sex, language or religion proclaimed in the Charter.

A/C.3/172

16 October 1947

**India: Amendment to the Draft Resolution Proposed by
France (A/C.3/167)**

At the end of the French Resolution (A/C.3/167) *add* the following: “particularly with a view to abolish racial discrimination in any form in the organization and functioning of Trade Unions”.

A/C.3/175

20 October 1947

Original Text: French

France: Draft Resolution (Revised Text)

The General Assembly:

Taking note of Resolution No. 84 adopted by the Economic and Social Council at its fifth session, to transmit to the General Assembly of the United Nations the report of the International Labour Organization on trade union liberty; to recognize the principles proclaimed by the International Labour Conference; to request the International Labour Organization to continue its efforts in order that one or several international conventions may be adopted;

Taking note also of Resolution No. 52 adopted by the said Council at its fourth session, to transmit the views of the World Federation of Trade Unions and the American Federation of Labor on trade union rights and liberties to the Commission on Human Rights, “in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights”;

Approves these two resolutions, and

Declares that it endorses the principles proclaimed by the International Labour Conference (as well as other principles the importance of which to labour has already been recognized by the ILO, such as . . .) *or (Recalls* the other principles the importance of which to labour has already been recognized by the ILO, such as: minimum wages, equal pay for equal work, abolition of racial discrimination, full employment, struggle against unemployment. . .);

Decides to transmit the said report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in Resolution No. 52 of the Economic and Social Council;

Recommends to the International Labour Organization, in collaboration with the United Nations and qualified labour organizations, the study of the control of the practical application of these rights.

A/C.3/176

21 October 1947

**Dominican Republic: Amendment to
Revised Draft Resolution Presented
by France (A/C.3/175)**

After: “*Approves* these two resolutions, and”

Add: “*Declares* that it endorses the principles proclaimed by the International labour Conference in respect to Trade Union Rights”

And after: “application of these rights”

Add: *Recommends* also that all Nations members of the United Nations who are also members of the International Labour Organization ratify all those Conventions which consecrate the above-mentioned guarantees in order that they may enter into force with the greatest possible speed.

A/C.3/177

21 October 1947

**United Kingdom Amendments to
Revised Resolution Submitted by
the Delegation of France (A/C.3/175)**

1. Alter title to read: “*Trade Union Rights* (Freedom of Association)”.
2. Delete portions of the Resolution which are in brackets.
3. Add to the penultimate paragraph, paragraph (b) of the original French resolution.
4. Delete last paragraph and substitute:

“*Recommends* the ILO to pursue urgently the study of practical application and observance of freedom of association as proposed in the resolution of the International Labour Conference concerning international machinery for safeguarding Freedom of Association.”

A/C.3/179

22 October 1947

**Argentina: Amendment to Revised Resolution Presented by
France (A/C.3/175)**

Replace paragraph 4 by the following:

Declares that it endorses the principles proclaimed by the International Labour Conference in respect to Trade Union Rights and recognizes the following rights as being of fundamental importance for the workers: the rights to work, to adequate working conditions, to minimum wages, to social advancement, welfare, and security, to protection of the family, to the preservation of health, to equal pay for equal work; the abolition of racial discrimination.

E/CN.4/Sub.2/5

23 October 1947

**Activities of Other Organs of the United Nations Relating to the
Prevention of Discrimination and the Protection of Minorities
(memorandum by the Division of Human Rights)**

...

[7]

Drafting Committee on an International Bill of Human Rights

9. At the fifth meeting of the Drafting Committee of the Commission on Human Rights, its Chairman, Mrs. Roosevelt, stated that the Drafting Committee was not called upon to define the principle of equality or non-discrimination; this, she said, would be undertaken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/AC.1/SR.5, page 7). However, some members of the Committee expressed views on the subject. It will be noted that none of the views expressed in the Drafting Committee were considered to be binding upon any government.

10. The representative of the Union of Soviet Socialist Republics stated that in his opinion the question of discrimination was the most important one to be raised in connection with the formulation of an International Bill of Rights (E/CN.4/AC.1/SR.5, pages 7–8). He felt that the Question should be considered in the light of present historical, concrete, material conditions. Whatever discrimination still exists in the

world should be destroyed, he felt; and this must be done in such a manner that the Organization of the United Nations never again would have to consider items dealing with discrimination. Discrimination, he continued, could be considered an international political act, a phenomenon which has to be fought, which has to be treated, and which will threaten peace and security unless it is ended. The representative of the United Kingdom agreed that it was important to establish the principle of non-discrimination.

11. At the sixth meeting of the Drafting Committee, the representative of the Union of Soviet Socialist Republics stated (E/CN.4/AC.1/SR.6, pages 3–4) that it was not sufficient simply to proclaim the principle of equality or of non-discrimination; that idea must be implemented. He felt that women were not yet treated with equality. He felt, also, that it was insufficient to say that equality without regard to race, sex, language or religion should be proclaimed; certain conditions, such as terrorism and certain forms of taxation, which had the effect of transforming equality into factual inequality, would have to be eliminated.

12. In the course of its discussion of Article 6 of the revised suggestions submitted by the representative of France for Articles to be included in an International Declaration of Human Rights (Document E/CN.4/21, page 51), it was suggested that the general principles of non-discrimination might be included in the Preamble rather than as a separate Article. At the Chairman's suggestion, a footnote to this Article was inserted in the draft, [8] suggesting that if the thought were embodied in the Preamble, it might be deleted in the Declaration (Document E/CN.4/AC.1/SR.12, page 5). The representative of France, however, was of the opinion that the substance of Article 6 should have a place in the body of the Declaration, or should be stated very strongly in the Preamble.

13. In the rough-draft English translation of Professor Cassin's suggested articles, the phrase "No one shall suffer discrimination by reason of his race, sex, language, religion, or political opinions" appeared. Professor Cassin pointed out that his French text had mentioned only "opinions", not "political opinions". The representative of the Union of Soviet Socialist Republics felt that elimination of the word "political" would broaden the Article, since there were many other types of beliefs. The representative of Lebanon pointed out, however, that politics was one of the fundamental activities of man in which discrimination existed; there was no harm, he maintained, in stating that a man is free to hold political convictions without danger of discrimination and persecution. The Chairman felt that it would be wiser to stick to the wording of the Charter until the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had been received.

14. Similarly, the Committee felt that several other proposed Articles dealing with equality and non-discrimination should be referred by the Commission on Human Rights to its Sub-Commission on Prevention of Discrimination and Protection of Minorities. It so recommended in the case of Article 13, 15 and 28, of the proposed Declaration, in addition to Article 6. In the case of Article 36, dealing specifically with

the protection of minorities, the Committee felt that it could not prepare a draft Article without thorough pre-examination by the Commission on Human Rights, and suggested that it might if necessary be referred to the Sub-Commission for examination of its minority aspects (Document E/CN.4/21, page 81). However, the representative of France expressed the view, in connection with the wording of this Article proposed by the Secretariat, that the language of this Article should be appropriate for situations existing all over the world, and suggested that the word “conglomeration” might be better than the phrase “a considerable number of persons”. The representative of Chile said that in his opinion the form and substance of this Article called for careful study, in view of the fact that many countries of America had been created by immigration of people from other countries. The representative of Lebanon agreed that in the New World there was assimilation, but pointed out that in the Old World there were wide divisions of ethnic groups. He maintained that [9] the question did not necessarily refer to “minority” groups but was concerned rather with the rights of ethnical groups in a body politic (Document E/CN.4/AC.1/SR.15, pages 6–7).

15. At the time the Drafting Committee met, it was understood that the Commission on Human Rights would convene for its second session prior to the date set for the first session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Subsequently the sequence of meetings was altered. The Commission therefore has not yet had an opportunity to refer any specific questions to the Sub-Commission.

16. When the Drafting Committee came to consider the substance of Articles to be included in a Draft Convention on Human Rights, it decided that the Articles suggested by the United Kingdom would be completed by provisions prohibiting distinctions based on race, sex, language and religion; but it made no attempt to draft these provisions in advance of the reports of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the Commission on the Status of Women (E/CN.4/21, page 86).

A/C.3/181

26 October 1947

Original Text: French

Compromise Proposal Presented by the French Delegation

The General Assembly:

Taking note of Resolution No. 52 adopted by the Economic and Social Council at its fourth session, to transmit the views of the World Federation of Trade Unions and the American Federation of Labor on “Guarantees for the Exercise and

Development of Trade Union Rights” to the Commission on Human Rights, “in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights”;

Taking note also of Resolution No. 84 adopted by the said Council at its fifth session, to transmit to the General Assembly of the United Nations the report of the International Labour Organization entitled “Decisions concerning Freedom of Association adopted unanimously by the Thirtieth Session of the International Labour Conference on 11 July 1947”;²⁰¹ to recognize the principles proclaimed by the International Labour Conference; to request the International Labour Organization to continue its efforts in order that one or several international conventions may be adopted;

Approves these two resolutions, and

Considering that the inalienable right of trade union freedom of organization is as well as other social safeguards essential to the improvement of the standard of living of workers and to their economic well-being,

Declares that it endorses the principles proclaimed by the International Labour Conference in respect of Trade Union Rights as well as the principles the importance of which to labour has already been recognized and which are mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia,

Decides to transmit the said report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in Resolution No. 52 of the Economic and Social Council,

[2]

Recommends to the ILO on its tripartite basis to pursue urgently in collaboration with the United Nations and in conformity with the Resolution of the International Labour Conference concerning international machinery for safeguarding Trade Union Rights and Freedom of Association, the study of the control of their practical application,

Recommends also that all Nations members of the United Nations who are also members of the International Labour Organization ratify all those conventions which give expression to the above-mentioned guarantees in order that they may enter into force with the greatest possible speed.

²⁰¹ At the close of its 30th session on 11 July 1947, the International Labour Conference adopted several resolutions submitted by the Committee on Freedom of Association: Resolution concerning Freedom of Association and Protection of the Right to Organise and to Bargain Collectively, submitted by the Committee on Freedom of Association; Resolution to place on the Agenda of the next Session of the Conference: (1) the Questions of Freedom of Association and of the Protection of the Right to Organize, with a View to the Adoption of one or Several Conventions at that Session, and (2) the Questions of the Application of the Principles of the Right to Organize and to Bargain Collectively, of Collective Agreements, of Conciliation and Arbitration, and of Co-operation between the Public Authorities and Employers' and Workers' Organisations, for First Discussion; Resolution concerning International Machinery for Safeguarding Freedom of Association, submitted by the Committee on Freedom of Association.

A/C.3/183

28 October 1947

Sub-Committee 1 of the Third Committee
Trade Union Rights
Report to the Third Committee

1. At its 66th meeting, on 17 October 1947, the Third Committee instructed a Sub-Committee of fifteen members to study the proposal submitted to date concerning Trade Union rights (Freedom of Association) and to draft an unanimous compromise proposal or to submit a minimum number of alternative proposals. The drafting sub-committee elected the representative of Lebanon, Dr. Malik, as its chairman.

2. The Sub-Committee held four meetings during which it considered documents A/C.3/166, 167, 169, 170, 172, 175, 176, 177, 179, 181.

3. At its first meeting a draft resolution submitted by France was adopted as basis of discussion (A/C.3/175). At the second meeting, the three first paragraphs of this document were unanimously adopted. Divergences of opinion on the following paragraphs became apparent.

4. At the beginning of its third meeting, a new compromise proposal prepared by France was unanimously adopted as a basis of further discussion (A/C.3/181). During the third and fourth meetings, this new text was discussed, paragraph by paragraph, and the following draft resolution was adopted by a vote of 11 for, and 4 against.

- (1) *The General Assembly:*
- (2) *Taking note* of Resolution No. 52 adopted by the Economic and Social Council at its fourth session, to transmit the views of the World Federation of Trade Unions and the American Federation of Labor on “Guarantees for the Exercise and Development of Trade Union Rights” to the Commission on Human Rights, “in order that it may consider those aspects [2] of the subject which might appropriately form part of the bill or declaration on human rights”;
- (3) *Taking note also* of Resolution No. 84 adopted by the said Council at its fifth session, to transmit to the General Assembly of the United Nations the report of the International Labour Organization entitled “Decisions concerning Freedom of Association adopted unanimously by the Thirtieth Session of the International Labour Conference on 11 July 1947”; to recognize the principles proclaimed by the International Labour Conference; to request the International Labour Organization to continue its efforts in order that one or several international conventions may be adopted;
- (4) *Approves* these two resolutions, and

- (5) *Considers* that the inalienable right of trade union freedom of organization is as well as other social safeguards essential to the improvement of the standard of living of workers and to their economic well-being,
- (6) *Declares* that it endorses the principles proclaimed by the International Labour Conference in respect of Trade Union Rights as well as the principles the importance of which to labour has already been recognized and which are mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia,
- (7) *Decides* to transmit the said report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in Resolution No. 52 of the Economic and Social Council,
- (8) *Recommends* to the ILO on its tripartite basis to pursue urgently in collaboration with the United Nations and in conformity with the Resolution of the International Labour Conference concerning international machinery for safeguarding Trade Union Rights and Freedom of Association, the study of the control of their practical application,

[3]

Remarks

- (a) Paragraphs 1, 2 and 3 were adopted unanimously.
- (b) Paragraph 4 was adopted by a vote of 11 against 3 (Czechoslovakia, Union of Soviet Socialist Republics, Yugoslavia) and 1 abstention (China).
- (c) Paragraph 5 was adopted, after a draft amendment to this paragraph had been lost, by 11 against 3 (Czechoslovakia, Union of Soviet Socialist Republics, Yugoslavia) and 1 abstention (Argentina).
- (d) Paragraph 6 was adopted after an Argentine amendment had been lost by 10 against 4 (Argentina, Czechoslovakia, Union of Soviet Socialist Republics, Yugoslavia) and 1 absent (Chile).
- (e) Paragraph 7 was adopted by 13 votes against 0, 1 abstention (Argentina) and 1 absent (Chile).
- (f) The Czechoslovakian representative moved a paragraph to be inserted between paragraphs 7 and 8. This amendment was lost by 3 votes against 8 (3 abstentions, 1 absent).
- (g) Paragraph 8 was adopted, after one Soviet amendment and 1 Czechoslovakian amendment had been lost, by 10 votes against 3 (Czechoslovakia, Union of Soviet Socialist Republics, Yugoslavia), 1 abstention (Argentina) and 1 absent (Chile).
- (h) Paragraph 9 of the original proposal (A/C.3/181) was withdrawn.

6. The representative of the Soviet Union felt that in spite of his desire to see the Sub-Committee present a unanimous resolution, he was forced to note that in the final

draft none of the amendments presented or supported by his delegation had been taken into consideration and that he had therefore to reserve his right to present or support in the Committee amendments to the text submitted by the Sub-Committee.

7. With a view to facilitating the work of the Sub-Committee, the representatives who voted against the above resolution accepted not to urge alternative proposals but to confine themselves to amendments of the above resolution which they reserved their right to present and defend in the Committee.

A/C.3/186

28 October 1947

**Czechoslovakia: Amendments to the Draft Resolution Presented
by Sub-Committee One (A/C.3/183)**

A. Insert before paragraph 6:

Recommends to the Economic and Social Council that it adopt, after having received the new study of the International Labour Organization mentioned in the Resolution No. 84 of the Council, a resolution on Trade Union rights on the basis of the draft resolution of the World Federation of Trade Unions, points I-V, Annex 1, to its letter of 26 February 1947.

B. Delete paragraph 8 and replace:

Requests the Secretary-General to study in cooperation with the World Federation of Trade Unions, the International Labour Organization and the Commission for Human Rights the practice of establishing Trade Union Freedom of Association and Trade Union rights.

A/C.3/187

28 October 1947

**Yugoslavia: Amendments to the Draft Resolution Submitted by
Sub-Committee One (Document No. A/C.3/183)**

1. Delete the following paragraph:

“*Approves* These two resolutions and,”

2. Substitute for the paragraph:

“*Considers* that . . . economic well-being”, the following text:

“*Considering* furthermore that improvement of the living conditions of workers depends not only on respect for freedom of association but also on such other social safeguards as well assure to all men a minimum of economic well-being.”

3. Substitute for the paragraph “*Declares* . . . Declaration of Philadelphia”, the following text:

“*Requests* the Secretary-General to take urgent measures in order that the World Federation of Trade Unions, the International Labour Organization and the Commission on Human Rights may study the practice of establishing, as rights inherent in the human person, the principle of freedom, of trade union association, and any other safeguards such as minimum wages, equal pay for equal work for men and women, abolition of racial discrimination, economic and social activities, full employment, effective struggle against unemployment especially in a period of crisis and compulsory, social insurance, as may provide the basis for a minimum of well-being within the reach of all the workers of the world.”

4. Delete the last paragraph.

A/C.3/184

28 October 1947

**Argentina: Amendment to Text Presented
by the Sub-Committee
(A/C.3/183)**

Replace Paragraph 6 by the following:

Declares that it endorses the principles proclaimed by the International Labour Conference in respect to Trade Union Rights as well as the principles mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia and recognizes the following rights as being of fundamental importance for the workers: the rights to work, to adequate working conditions, to minimum wages, to equal pay for equal work, to social advancement, welfare, and security, to protection of the family, to the preservation of health, the abolition of racial discrimination.

A/C.3/184/Rev.1
29 October 1947

**Argentina: Amendment to Text Presented
 by the Sub-Committee
 (A/C.3/183)**

Replace Paragraph 6 by the following:

Declares that it endorses the principles proclaimed by the International Labour Conference in respect to Trade Union Rights as well as the principles mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia and recognizes the following rights as being of fundamental importance for the workers:

- (a) Full employment and the raising of standards of living;
- (b) The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) The provision, as a means to the attainment of this and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) Policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- (e) The effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- (f) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- (g) Adequate protection for the life and health of workers in all occupations;
- (h) Protection for child welfare and maternity protection;
- [2]
- (i) The provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) The assurance of equality of educational and vocational opportunities.

E/CN.4/31
12 November 1947

Memorandum by the Division of Human Rights

[The Table of Contents is omitted.]

[1]

Section A

I. The Task of the Commission on Human Rights in the Sphere of Trade Union Rights (Freedom of Association)

At its Fourth Session on 24 March 1947, the Economic and Social Council adopted a Resolution (No. 52 IV) in which it resolved to transmit certain documents on the Guarantees for the Exercise and Development of Trade Union rights presented to the Council by the World Federation of Trade Unions and the American Federation of Labor to the Commission on Human Rights “in order that it may consider those aspects of the subject which might appropriately form part of the Bill or Declaration of Human Rights”. At the same time, the Council decided to transmit the documents to the International Labour Organization with the request that the item “guarantees for the exercise and development of Trade Union Rights” may be placed upon its agenda and considered at the forthcoming (1947) Session and that a report be sent by the ILO to the Economic and Social Council for its consideration at the next meeting of the Council.

At its Fifth Session on 8 August 1947, when it had before it the report by the International Labour Organization, the Economic and Social Council passed a Resolution (Resolution 84(V)) where it said, *inter alia*, that it “awaits further reports on the subject to be transmitted by the ILO and awaits also the report which it will receive in due course from the Commission on Human Rights on those aspects of the subject which might appropriately form part of the Bill or Declaration of Human Rights”. The Economic and Social Council also stated that it “considers that the question of enforcement of rights, whether of individuals or of associations, raises common problems which should be considered jointly by the United Nations and the ILO.” It requested the Secretary-General to arrange for co-operation between the ILO and the Commission on Human Rights in the study of these problems.

The subject of Trade Union Rights (freedom of association) was also on the agenda of the Second Regular Session of the General Assembly (1947). On 30 October 1947, the Third Committee of the General Assembly adopted a resolution (document A/C.3/183) which at the time of writing had not yet come before the plenary session of the General Assembly, to the effect that the General Assembly approves the Economic and Social Council Resolutions No. 52 and 84 and decides to transmit the report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in the Resolution No. 52 of the Economic and Social Council. The full text of Resolutions 52 and 84 of the Economic and Social Council and of the Resolution adopted by the Third Committee of the General Assembly are attached to this paper as Annexes A, B

and C. From these, it will be seen, therefore, that the Commission on Human Rights has a dual task:

[2]

1. To examine the *substantive* proposals submitted by the World Federation of Trade Unions and the American Federation of Labor and, according to the Resolution of the General Assembly, also the ILO Report in connection with the drafting of the International Bill of Human Rights;
2. To study – in co-operation with the International Labour Organization – the problem of enforcement (implementation).

Questions arising from this dual task which the Commission on Human Rights may wish to consider will be found in Section E of this paper.

Section B

II. Suggestions made by the World Federation of Trade Unions and the American Federation of Labor

1. The WFTU requested the Secretary-General of the United Nations by a letter dated 14 January 1947 to place on the agenda of the Economic and Social Council, *inter alia*, the item “Guarantees for the Exercise and Development of Trade Union Rights”. On 26 February 1947, the WFTU submitted to the Economic and Social Council the following draft resolution on the guarantees for the exercise and development of trade union rights (document E/C.2/28; see also document A/374, Annex 1).

Draft Resolution Suggested by the World Federation of Trade Unions

- I. Trade Union Rights are recognized as an inviolable prerogative enjoyed by salaried workers for the protection of their professional and social interests.
- II. Trade union organizations should be able to administer their own affairs, to deliberate and freely decide on all questions falling within their competence, in conformity with the law and with their constitution, without interference in their duties from governmental or administrative bodies.
- III. There should be no obstacle to the federation of trade union organizations on the occupational or inter-occupational level, whether locally, regionally, nationally or internationally.
- IV. All legislation which places restrictions on the above-mentioned principles is contrary to the economic and social collaboration laid down by the Charter of the United Nations.

- V. The Economic and Social Council decides to set up a Committee for Trade Union Rights which will safeguard, in a permanent fashion, respect for trade union rights. On every occasion on which the aforementioned principles are violated, the Committee will make the necessary enquiries and will submit recommendations to the Economic and Social Council as to the measures to be adopted.”

[3]

2. The American Federation of Labor, by a letter dated 12 March 1947, requested the Secretary-General to submit to the Economic and Social Council its memorandum and draft resolution on the guarantees for the exercise and development of trade union rights (document E/C.2/32; see also document A/374, Annex II). This memorandum referred to the draft proposals of the International Bill of Rights submitted by the American Federation of Labor and circulated to the members of the Council on 20 August 1946 as document E/CT.2/2. The American Federation of Labor, after examining in detail the proposals submitted by the WFTU suggested that these proposals be amended as follows:

[These materials concern recommendations to the International Labour Organization and do not mention the Universal Declaration of Human Rights.]

[5]

IV. Proceedings and Decision of the Fifth Session of the Economic and Social Council

The Economic and Social Council had before it the Report of the ILO. The International Federation of Christian Trade Unions also presented a statement on the Freedom of Association and Trade Union Rights (document E/C.2/50). The Council heard the representatives from the ILO, the WFTU, and the American Federation of Labor, and the International Federation of Christian Trade Unions. The World Federation of Trade Unions expressed its feeling, without in any way disparaging the work of the International Labour Organization, that the problem with which it was concerned had not been dealt with satisfactorily and insisted that the Economic and Social Council itself should act on the matter immediately. It asked the Council to adopt a declaration of principles to serve as a basis for the recognition that the question of Trade Union Rights was associated with all the activities of the Council and to create a special commission which, in a flexible and practical manner, would be able to effectuate those principles. The American Federation of Labor felt that, though the report of the ILO had not fulfilled all the

requests expressed in the document submitted by the American Federation of Labor, a new committee set up by the United Nations would never have been capable of acting as rapidly or of developing within a short period of time an adequate machinery for implementation. The American Federation of Labor also hoped that the final draft of the Bill of Human Rights would not weaken the decisions of the Drafting Committee of the Commission on Human Rights and that the draft may be adopted not later than 1948. The IFCTU pointed out that it would be necessary to create special machinery for safeguarding freedom of association and that the Council, the Commission on Human Rights and the General Assembly should give their full backing to the ILO.

[6]

The discussion between the various delegations in the Council centred on three points: First, whether the Council should take up the original proposal of the WFTU as a basis for a decision; this proposal of the Delegation of the Union of Soviet Socialist Republics was based on the contention that the report of the ILO should be regarded as an information document, complementary to the main proposals made by the WFTU. The proposal was rejected. The second point which was put forward early in the course of the discussion by the French Delegation was, that the Economic and Social Council, through its subsidiary organs, ought to carry on its own studies in order to co-ordinate the results, and that the Social Commission should be asked to give advice to the Council on the social aspects of the rights of Trade Unions just as the Commission on Human Rights had been asked to give its advice on human rights. The Delegation of Czechoslovakia desired to transmit the report of the ILO to the Social Commission, requesting that Commission to make proposals in order to complete and consolidate the text transmitted to the Council by the ILO, in a practical form, by an analysis of the legal situation and of the actual facts, taking into account the observations of the interested parties; and to bring its recommendations to the Council concerning the implementation of the proposed principles. A Norwegian amendment to this proposal, providing for the transmission of the Report of the ILO to the Social Commission for its comments upon the ILO report to the next session of the Council in order that the Council may present the comments it desired for the co-ordination of the ILO in drafting one or more conventions in this matter was rejected. The United Kingdom delegation, which submitted a resolution, together with the Delegations of the Netherlands and the United States, felt that any proposal for submitting the question to another organ besides the ILO would mean duplication of work, a loss of special competence available in the ILO, and that in the working out of practical measures to deal with this subject, the actual and practical groundwork should be undertaken by an organization in which the workers have the right of full participation and the right to vote.

The Resolution as adopted by the Economic and Social Council was substantially the same as the one put forward by the Delegations of the United Kingdom, Netherlands, and the United States of America, with the addition of two paragraphs forming (a) and (b) of paragraph three which originally formed items (a) and (b) of the Czechoslovak Draft Resolution. The text of Resolution No. 84 (V) is reproduced in Annex B of this document.

It will be noted that in this Resolution, the Economic and Social Council has expressed its wish to receive a report from the Commission on Human Rights. The Commission has also been asked to study the problem of enforcement in addition to the work concerning the substance of the International Bill of Human Rights.

V. Proceedings and Decision of the Second Session of the General Assembly (1947)

The Economic and Social Council transmitted its Resolution No. 84 (V) and the Report of the ILO to the General Assembly at its Second Session (documents A/374 and A/374/Add.1). The item on Trade Union Rights (Freedom of Association) was placed on the agenda of the Third Committee of the General Assembly.

[7]

The Third Committee discussed the subject at its sixty-third, sixty-fourth, sixty-fifth and sixty-sixth meetings. The Committee failed to agree upon a resolution and decided to establish a Sub-Committee of fifteen members at its sixty-sixth meeting to study the proposals submitted to date by the various delegations and to draft a unanimous compromise proposal or to submit a minimum number of alternative proposals. The discussion in the Third Committee elicited that there were three points of view. The delegations of France, the United Kingdom and the United States of America, among others, felt that the ILO was specially well-fitted to give effective assistance to the Economic and Social Council in the matter of Trade Union Rights and that the Commission on Human Rights should collaborate with the ILO in connection with those aspects of Trade Union Rights (Freedom of Association) which would form part of the Bill of Human Rights. The General Assembly should give an immediate support to the matter and the work of the ILO, as hitherto the supervision of the undertakings given by the various governments had been ineffective.

The delegations of the Dominican Republic and Argentina, among others, proposed to broaden the scope of the resolution of the Economic and Social Council so as to include the consideration of other safeguards such as minimum

wages, compulsory social insurance, right to work, as might provide for the minimum wellbeing within the reach of all the workers of the world.

The delegations of the Union of Soviet Socialist Republics, Czechoslovakia and Yugoslavia, among others felt that the Economic and Social Council, without discussing the substance of the ILO Report, had accepted its principles and referred it to the General Assembly. Further, this Council had failed to recognize and give adequate consideration to the principles embodied in the request made by the WFTU to the Council. The ILO included other groups as well as workers and it placed employers' organizations on the same footing as the workers. The ILO had not dealt specifically with Trade Union Rights, but with Freedom of Association. The subject under consideration was the safeguarding of the workers' rights. There had been no discussion of the principles embodied in the Report of the ILO, which, especially as regards Articles 7 and 8 of the decisions of the International Labour Conference placed Trade Union Rights in the hands of the employers. Moreover, it was not enough to consider the problem simply as a question of the workers' rights to form Trade Unions; those Trade Unions had to have freedom of action. The ILO had approached the problem purely from a legal standpoint without giving sufficient consideration to the social and economic aspects, and on the supposition that employers and employees were wholly free to make their decisions independently. It was obvious that there was no lack of general declarations of "paper" rights; it was their application which had to be watched. The resolutions put forward by the other delegations were not effective since no concrete measures for verifying the extent to which Trade Union Rights were being implemented in various countries had been included. The Secretary-General of the United Nations, together with the ILO, the WFTU and the Commission on Human Rights, ought to be asked to study the minimum guarantees required to ensure the rights of Trade Unions (Freedom of Association).

[8]

The Sub-Committee failed to reach a unanimous agreement as regards any one resolution and it submitted to the Third Committee a compromise proposal agreed upon by a majority of the members. Some concession was made in this resolution to meet the desires of certain delegations by the inclusion of paragraphs five and six. The delegations of Argentina, Czechoslovakia, and Yugoslavia submitted their own amendments. The Third Committee, at its seventy-third meeting, approved the Resolution of the Sub-Committee by a majority vote and rejected all the amendments. (See Report of Third Committee to the General Assembly, document A/444.) The text of the Resolution is reproduced in Annex C of this document.

This Resolution not only approves the two Resolutions Nos. 52 and 84 of the Economic and Social Council but transmits to the Commission on Human Rights the report of the ILO (last but one paragraph) and recommends collaboration between the ILO and the U.N. in the matter of enforcement (last paragraph).

Section D

The Report of the International Labour Organization and the Proposals of the WFTU

VI. General Observations

[This does not concern the drafting of the Universal Declaration of Human Rights.]

[9]

...

VII. Analysis of the ILO Resolution on Freedom of Association and of Items I to IV of the WFTU Proposals on Matters of Substance

1. The Resolution of the ILO concerning Freedom of Association and Protection of the Right to Organize and to Bargain Collectively is divided into two parts dealing respectively with (I) Freedom of Association (Articles 1–7) and (II) Protection of the Right to Organize and to Bargain Collectively (Articles 8–10).

Roughly speaking, “freedom of association” as used by the International Labour Conference refers to the relations between individuals and organizations consisting of individuals on the one part, and the State on the other, while “right to organize” is used to describe the relations between individuals amongst themselves. “Freedom of association” would seem, therefore, to mean protection against interference by the State and the “right to organize”, protection against interference, mainly by the employer.

2. The Commission will note that the ILO Resolution used the general term “freedom of association”. This term is, of course, not restricted to the right to form organizations for professional purposes of workers or of workers and employers. The Commission will note, on the other hand, that the principles formulated by the International Labour Organization, though using the wider term “freedom of association”, deal only with the freedom of association of employers and workers *qua* employers and workers. In examining the principles proclaimed by the ILO, the Commission on Human Rights may therefore wish to consider in each individual case whether the respective principle is appropriate to the right to form trade unions only, or whether it could or should be made to apply to the right of association for whatever purpose.

3. Article 427 of the Peace Treaty of Versailles (usually quoted as Article 41 of the Constitution of the ILO) enumerates among the methods and principles for regulating labour conditions which all industrial communities should endeavour to

apply as one of special and urgent importance, the right of association for all *lawful* purposes.

[10]

Article 20 of the Secretariat outline (document E/CN.4/21, page 15) of an International Bill of Rights provides that “there shall be freedom to form associations for *purposes not inconsistent with this Bill of Rights*”. The Secretariat outline provides for restrictions on the freedom to form associations in order to prevent associations being formed for purposes which are contrary to the Bill of Rights or to prevent associations from engaging in activities violating the Bill of Rights.

Article 16 of the United Kingdom Draft (document E/CN.4/21, page 37) which has been adopted by the Drafting Committee as one of the Articles to be considered for inclusion in a Convention (document E/CN.4/21, page 85, Art. II) provides that all persons shall be free to constitute associations in whatever form may be appropriate *under the law of the state* for the promotion and protection of their *legitimate interests* and of any other *lawful* object. The United Kingdom draft reserves to the State the right to lay down by its municipal law the appropriate forms for constituting associations. It guarantees the establishment of associations only for the promotion and protection of *legitimate interests* and *lawful* objects. The implication clearly is that it is for municipal law to ordain what are legitimate interests of persons forming associations and what can and what cannot be a lawful object of an association.

Article 23 of the United States suggestion (document E/CN.4/21, page 44) states only that “there shall be freedom to form associations”.

Article 24 of the suggestion submitted by the representative of France (document E/CN.4/21, page 58) “recognizes and guarantees” the freedom of association for political, cultural, scientific, sporting, economic and social purposes compatible with this Bill, subject only to the protection of public order”. The French Draft embodies therefore both the reservation of the Secretariat Draft (purposes compatible with this Bill) and, in a different form, the restriction reserved in the British Draft, because it is again envisaged that municipal law will decide what is public order and what are the steps necessary for its protection. The French Draft differs from the Secretariat outline and from the United Kingdom Draft in that it enumerates six types of “purposes” for which the freedom of association is guaranteed. It is to be assumed that Trade Union Rights are covered mainly by the “economic” purposes of the French Draft.

The Draft Declaration suggested by the Drafting Committee states in its Article 23 (document 3/CN.4/21, page 78) that there shall be freedom of association for political, religious, cultural, scientific, professional and other purposes. The “purposes” of the Draft Declaration are not therefore identical with those of the French proposal; Trade Union Rights here probably come under the heading of

“professional” purposes and are certainly covered by the *clausula generalis* of “other purposes”. The Declaration is, of course, purposely drafted in general terms and is not intended to prevent the municipal legislator from enacting provisions protecting public order and similar interests. This becomes clear from a comparison between Article 23 of the Draft Declaration and Article 11 of the Draft Articles for inclusion in a Convention (document E/CN.4/21, page 85) the text of which is identical with the above quoted Article 16 of the United Kingdom Draft.

[11]

It may be useful to mention in this connection that also other draft international declarations or proposals on human rights which were submitted by member governments are based on the same principles. Reference is made to the declarations or proposals suggested by the Governments of Chile, Cuba, Ecuador, India and Panama. (Documents E/CN.4/AC.1/3/Add.1, page 147; E/CN.4/W.8, pages 12–131; E/CN.4/32.)

By way of illustration and to show the common approach to this basic problem, reference is also made to Professor Lauterpacht’s book *An International Bill of the Rights of Man* where the author suggests a provision to the effect that “there shall be full freedom of association...” (Article 5 of Lauterpacht’s draft, page 110) and where he says that “The Bill of Rights is necessarily a document of great generality. Its details must be filled in by the mass of legislation and judicial precedent within various States. Any Bill of Rights must be subject to two fundamental exceptions – the welfare of the State and the legally recognized rights of the members of the community. The way in which these exceptions operate in various States is the result of a variety of factors which must necessarily differ from State to State . . . What is regarded as a sufficient measure of protection in one State may be utterly inadequate in another. The fact is that within the orbit of fundamental rights there is room for a wide divergence of law and practice, and with regard to most of the rights guaranteed in the International Bill of the Rights of Man. . . the law and the judicial practices of States have evolved their own solutions and their own procedures. It is possible – though highly improbable – that at some distant date the laws of States will merge into one world law in this and in other matters. The International Bill of the Rights of Man cannot attempt to introduce such a world law. On the contrary, it must be enforced through the law of States, suitably adapted, if need be, to the fundamental requirements of the Bill of Rights” (page 175).

As to constitutional provisions concerning the right of association, the compilation submitted by the Secretariat (document E/CN.4/AC.1/3/Add.1, pages 147–158) may be consulted.

The Commission on Human Rights will find that the International Labour Conference, though using the term “inviolable right” did not advocate an absolute and unrestricted right, which would not be subject to reasonable provisions of municipal legislation. This is clear from its Article 3, according to which, employers’ and workers’ organizations should not be liable to be dissolved or have their activities suspended by administrative authority. This provision impliedly recognizes the dissolution or suspension of organizations by court decisions or by acts of the legislature. In Article 6, it is recognized that the municipal legislator has a right to subject the acquisition of legal personality by employers’ and workers’ organizations to conditions, if these are not of such a character as to restrict the freedom of association as defined in the document. That the freedom of association is not unfettered appears also from Article 7 which emphasizes the full share of responsibilities and obligations of workers’ and employers’ organizations. M. Jouhaux, the Rapporteur of the Committee on [12] the Freedom of Association of the International Labour Conference, in his speech, delivered before the Conference, also made allowance for restrictions on the right of association in saying that “provided that that liberty *does not interfere with the general interests of the collectivity* in which it exists, then freedom of association must, if I may use a pleonasm be free”. The Deputy Rapporteur of the Committee, M. Cornil, employers’ delegate of Belgium, also stressed this point. He said, “Our task would be simple if it were merely to draw up texts which would guarantee complete freedom of association irrespective of any restraints. It would be simple, but it would be pointless, since the exercise of complete freedom of association can be justified only if there is respect for other equally essential freedoms. . . it is therefore for us to define the framework in which freedom of association can be exercised without prejudicing the other essential liberties.”

4. In the Third Committee of the 1947 General Assembly, some delegates took exception (a) to the fact that the ILO Resolution in their opinion dealt not with the rights of trade unions, but with the right of association in general; (b) to the fact that the International Labour Organization Report places employers’ organizations on an equal footing with workers’ organizations.

In the following paragraphs of this paper, the text of the ten articles of the ILO Resolution on Freedom of Association will be reproduced, with annotations by the Division of Human Rights.

Part I. Freedom of Association

1. *Article 1. Employers and workers, without distinction whatsoever, should have the inviolable right to establish or join organizations of their own choosing without previous authorization.*

Annotation

- (a) The right to establish or join organizations is guaranteed to employers and workers “without distinction whatsoever”. These words intend to afford protection against two kinds of discrimination:
- (i) discrimination as to race, sex, language or religion;
 - (ii) distinction as to occupation.

From the Provisional Record of the International Labour Conference No. 30 (XXX-1947), Appendices, it appears that the ILO purposely abstained from providing for exceptions which would have limited the right of association of civil servants, of members of the police and members of the armed forces. The Indian Government member was of the opinion that the armed forces and the police should not be included in the field of application of freedom of association because they were not authorized to take part in collective negotiations and had not the right to strike. [13] Several Government members drew the attention of the Committee to the fact that in certain countries the members of the police force and other public services were organized in the same way as workers in private undertakings; in other countries, their organizations were either forbidden or merely tolerated. It was also pointed out that in some countries, the armed forces have the right to organize. The French Workers' member warned the Committee against the adoption of a text which did not recognize the liberty of trade union organization in force in the most advanced countries. A restrictive convention could not serve as a model for the less advanced countries. Public employees should enjoy full freedom of association, including members of the police force under municipal authorities not directly under the State. The Amendment to exempt the armed forces and the police from the guarantee of the right of association was rejected by 1 vote to 57 with 3 Governments' members and the Employers' members abstaining. It is not entirely clear, however, whether there was any consensus of opinion on the question whether special restrictions on the right of association of the police personnel should be allowed or not. The statement by the French Workers' representative, quoted above, shows that he intended to guarantee the right of association to members of the police force under municipal authorities not directly under the State, from which it could be argued *a contrario* that a special regime concerning the state police would not be repugnant to the opinion prevailing among the members of the ILO Conference.

- (b) When the ILO principles were discussed in Committee, the Employers' members proposed that the right of association should be guaranteed only “for purposes of regulating relations between employers and employees and all

other purposes not contrary to the general laws". Several Workers' members of the Committee observed that this amendment was unnecessary and dangerous. It was unnecessary, they said, because trade unions, in common with other organizations and with ordinary citizens, *had to be conducted according to general laws which were imposed on the whole population*. The amendment, they said, was dangerous because it could enable a government to declare illegal a trade union object which in itself was perfectly legitimate.

After an exchange of views between the different groups in the Committee, the Employers' members withdrew their amendment, it being understood that freedom of association – like every other freedom – is bound by national laws, as is envisaged in the Constitution of the International Labour Organization which, in Article 41, Clause 2 cites, among the main principles of special urgent importance, "the right of association for all lawful purposes by the employed as well as by the employers".

[14]

- (c) An amendment submitted by the Employers' members that the "right not to join" an organization also should be guaranteed, was rejected by the Committee by 41 votes to 50. The rejected amendment had, of course, intended to deal with the questions commonly known as "closed shop" and "union shop". This question will be discussed later in connection with Article 9(2) of the ILO Resolution.
- (d) It will be seen that Article 1 of the ILO Resolution deals with the subject matter of paragraph I of the Resolution submitted by the WFTU which is quoted above under II (1). The differences between the two proposals are as follows:
 - (1) The proposal of the World Federation of Trade Unions speaks of trade union rights, whereas the ILO Report speaks of the right to establish or join organizations by employers and workers.
 - (2) The proposal by the WFTU grants rights to "salaried workers" only – the ILO Report to employers and workers.
 - (3) The WFTU speaks of an inviolable prerogative. The ILO of an inviolable right.
 - (4) The proposal by the WFTU is restricted to the protection of professional and social interests. The ILO Report contains no such restriction.
 - (5) The ILO Resolution, as distinguished from the WFTU proposal, guarantees the right to join organizations "of their own choosing" and "without previous authorization".

2. *Article 2. Employers' and workers' organizations should have the right to draw up their constitutions and rules, to organize their administration and activities*

and to formulate their programmes; there should be no interference on the part of the public authorities which would restrict this right or impede the organizations in the lawful exercise of this right.

Annotation

- (a) This Article purports to safeguard the autonomy of employers' and workers' organizations.
- (b) From the discussions in the Committee on Freedom of Association of the International Labour Conference, it appears that an amendment proposed by the Employers members to replace the words "public authorities" by "administrative authorities" was rejected. The amendment had intended to restrict the guarantee of Trade Union autonomy to the effect that it should be protected only against interference by administrative authorities and not against intervention by the legislature or by judicial authorities.

[15]

The Workers' members were opposed to this amendment mainly for the three following reasons:

- (1) It was necessary to protect trade unions against interference by political authority. Under the totalitarian regimes, political authority entirely dominated all other types of authority.
- (2) The value of a guarantee would be lessened if legislation could authorize a Government to interfere with the activities of trade unions.
- (3) The intervention of tribunals, especially by means of injunctions – as was the practice in the United States – would be not less dangerous for trade unions than intervention on the part of administrative authorities.
- (c) Several Governments' members observed that the State could not abstain from all intervention if only because it had to ensure that the trade unions carried on their activities within the limits of the law. It was subsequently proposed by the Employers' members that interference with the autonomy of organizations by "due process of law" should be allowed. This proposal was also rejected. Nor was a further amendment accepted to provide that the effective exercise of such rights shall be subject to compliance with the formalities decreed by law. Several Governments' members stated that in practice organizations had to observe certain rules laid down by legislation such as, for example, provisions concerning the registration or depositing of rules. The Workers' members, however, considered that the text, if so modified, would be susceptible of a wide interpretation by certain Governments which would permit them to control the organizations.

- (d) The Commission will note that the principle of autonomy of the organization is stressed emphatically in the resolution. Interference by public authority is not, however, excluded altogether. It is implied in the adopted text that the public authorities have the right to interfere if the organization embarks upon activities which are not the “lawful exercise of the right” of association. From the quoted discussions, it appears that the words “public authorities” are used in a wider sense, not restricted to administrative authorities, but also comprising the legislature and the courts. This means that legislative and judicial authorities also are prevented from interference in the internal affairs of the organization with the proviso, however, that the constitutions, rules, administration, activities and programmes do not constitute an “unlawful exercise” of the organization’s right. The Resolution might for this reason be interpreted in the sense that, in principle, municipal law remains the yardstick for answering the question whether an organization’s constitution, a rule, activity or programme is or is not lawful. A law or a court decision, however, which interferes in the internal affairs of an organization to such an extent [16] that the organization no longer retains its freedom to draw up its constitution and rules, to organize its administration and activities and to formulate its programmes would, of course, be contrary to the international obligation undertaken in accepting a convention based on Article 2.
- (e) The Commission will further note, however, that while Article 2 protects the autonomous life of the organization against interference not only by administrative authorities, but also by the legislature and the judiciary, Article 3 does not exclude the dissolution or suspension of organizations by legislative measures and court decrees.
- (f) Article 2 of the ILO Report covers, together with the subsequent Article 3, the ground which is dealt with in point II of the WFTU Resolution. A comparison between the two proposals will be found below in the Annotations to Article 3 of the ILO Resolution.

3. *Article 3. Employers’ and workers’ organizations should not be liable to be dissolved or have their activities suspended by administrative authority.*

Annotation

- (a) This provision protects the existence and the activities of the organization against action by administrative authority as distinguished from measures taken by the legislature itself, or by the courts.
- (b) In some legal orders, organizations are liable to be dissolved for certain reasons by administrative decision, *e.g.*, because they engage in criminal activities. Such administrative measures are, under the general laws of some countries, subject to review by either the ordinary Courts of the land or by

special administrative courts. It appears that this system is incompatible with the provisions of Article 3 of the ILO Resolution.

- (c) The Commission will find that there is no substantive difference between the proposals contained in Articles 2 and 3 of the ILO Resolution and Article II of the WFTU proposal. The safeguards provided for by the ILO are more elaborate and its Article 2 protects the organizations against interference by public authorities of all kinds, including legislative and judicial authorities, while the WFTU had demanded only the exclusion of the interference by governmental or administrative bodies.

4. *Article 4. Employers' and workers' organizations should have the right to establish federations and confederations as well as the right of affiliation with international organizations of employers and workers.*

Annotation

- (a) Insofar as the right to establish federations and confederations of organizations within the State is [17] concerned, the Article is nothing but an explanatory statement on the general right of association from which the right of the associations to associate logically flows. The international guarantee of the right of affiliation with international associations, though no novelty in fact (there have existed international organizations of trade unions for many decades) appears as a matter of law to contain a development beyond the present legal position. In the law of some countries, it may be doubted whether the right of association, guaranteed by the Constitution or constitutional doctrine, includes the right to associate with foreign associations.

The Commission on Human Rights will find that Article 4 is a provision of an international character under two aspects: (1) The subject matter itself transcends national boundaries in that the right is given and guaranteed to citizens of one State to associate with citizens of other States. (2) This right is, moreover, declared to be a matter of international concern. This appears, to a certain extent, to be a new departure in international law.

- (b) The Commission may wish to consider whether, and in what respect, there is a difference between "federation" and "confederation".
- (c) In connection with Article 4, also, the Employers' members proposed to insert the words "for lawful purposes". The amendment was withdrawn under the same conditions as the similar amendment presented under Article 1.
- (d) An amendment submitted by the Turkish Government member, indicating the terms under which the affiliation of a trade union to an international organization should be subject to previous governmental authorization where national legislation provided that this was necessary, was also withdrawn.

- (e) The Commission will find that there is no substantive difference between the provisions of Article 4 of the ILO Resolution on the one hand and item III of the WFTU proposal on the other, though the two are drafted differently. The WFTU proposal does not speak of confederations; it goes however into more detail in enumerating that there should be no obstacle to federation on the occupational or inter-occupational level and adding to it “whether locally, regionally, nationally or internationally”.

5. Article 5. The guarantees defined in paragraphs 1, 2 and 3 herein with regard to the establishment, functioning, dissolution and suspension of employers' and workers' organizations should apply to federations and confederations of such organizations.

Annotation

This provision has no counterpart in the WFTU proposals.

[18]

6. Article 6. The acquisition of legal personality by employers' and workers' organizations should not be made subject to conditions of such a character as to restrict freedom of association as hereinbefore defined.

Annotation

- (a) The Commission on Human Rights will note that the proposals of the ILO proceed on the assumption that, in general, trade unions are not and will not be exempted from municipal legislation and regulation. Article 6 embodies, however, restrictions on the scope of municipal legislation, because it purports to prevent the municipal legislature from enacting laws which restrict freedom of association as defined in the preceding Articles.
- (b) Article 6 of the ILO Resolution corresponds to item IV of the WFTU proposals and here, again, the Commission will note that there is no fundamental difference between the two proposals. The WFTU proposal refers to the Charter of the United Nations and thus implies that legislation placing restrictions on the principles formulated by the WFTU would be contrary to the Charter of the United Nations. The ILO proposal, though not based on this interpretation of the Charter of the United Nations, purports to have the same effect by stipulating that such restrictive legislation would be contrary to the principles proclaimed by the ILO, and, therefore, to a convention based upon them.

7. Article 7. The acquisition and exercise of the rights as outlined in this part should not exempt the employers' and workers' organizations from their full share of responsibilities and obligations.

Annotation

- (a) This Article was not contained in the text prepared by the International Labour Office. It was proposed by the Employers' members. The Workers' members considered that such a provision was too general and lacking in precision. However, the Committee on Freedom of Association adopted the Article by 54 votes to 51 and it has become part of the principles unanimously adopted by the ILO Conference.
- (b) The Article has no counterpart in the WFTU proposals.
- (c) In examining this Article, the Commission may consider it relevant to form an opinion on its scope and may consider whether a convention embodying Article 7 would place upon the signatories the obligations to repeal municipal legislation which grants to trade unions certain immunities as far as their liability in private law is concerned. This is the case, *e.g.*, in the British Trade Disputes Act of 1906.

[19]

Part II. Protection of the Right to Organize and to Bargain Collectively

8. *Article 8. There should be agreement between organized employers and workers mutually to respect the exercise of the right of association.*

Annotation

- (a) Part II deals with the protection of the right to organize and to bargain collectively and has as its purpose the protection of the right of association against interference not by the State, but mainly by employers and their organizations and agents. Consequently, the legal character of this Article differs fundamentally from that of the preceding Articles. Article 8 does not formulate a legal right to which a legal obligation corresponds and which, as a consequence, can be enforced in a court, but it formulates a postulate addressed to organized workers and employers, *i.e.*, to persons and organizations different from States. The State, party to a convention based on Article 8, would only promise to induce by recommendation and persuasion organizations of employers and workers under its jurisdiction to comply with the *voeu* which is contained in the Article. The national legislature may, of course, support its general policy aimed at this objective by enacting provisions which might go as far as placing a *legal* duty on the employers' and workers' organizations to come to an agreement in accordance with Article 8. This duty imposed by municipal legislation might be supported by provisions of criminal law, making non-recognition of the right of association by the other party a criminal offence.

- (b) The view has been expressed in the debate in the Third Committee of the General Assembly by some delegates that this Article makes the protection of the right to organize and to bargain collectively dependent on the consent of the organized employers.

9. Article 9

1. *Where full and effective protection is not already afforded, appropriate measures should be taken to enable guarantees to be provided for:*

- (a) *the exercise of the right of freedom of association without fear of intimidation, coercion or restraint from any source with the object of:*
- (i) *making the employment of the worker conditional on his not joining a trade union or on his withdrawing from a trade union of which he is a member;*
 - (ii) *prejudicing a worker because he is a member or agent or official of a trade union;*
 - (iii) *dismissing a worker because he is a member or agent or official of a trade union;*

[20]

- (b) *the exercise of the right of association by workers' organizations in such a way as to prevent any acts on the part of the employer or employers' organizations or their agents with the object of:*
- (i) *furthering the establishment of trade unions under the domination of employers;*
 - (ii) *interfering with the formation or administration of a trade union or contributing financial or other support to it;*
 - (iii) *refusing to give practical effect to the principles of trade union recognition and collective bargaining.*

2. *It should be understood, however, that, a provision in a freely concluded collective agreement making membership of a certain trade union a condition precedent to employment or a condition of continued employment does not fall within the terms of this Resolution.*

Annotation

- (a) Article 9 (1) contains two sets of provisions. The first, under (a) purports to give protection against intimidation, coercion or restraint, directed against *the individual worker*. The second set, under (b), aims at preventing the employer, employers' organizations and agents from interfering with or influencing *trade unions*.
- (b) It may be appropriate to point out that the text of what is now Article 9 (1) (a) had undergone two amendments during the examination in Committee. While

the original text proposed by the International Labour Office had suggested to prohibit “any acts on the part of the employer or his agents” the text as adopted prohibits only “intimidation, coercion or restraint” which are capable of causing fear in the mind of the employee. The other change effected during the proceedings in Committee consists in the fact that in the original draft the prohibition was addressed to the employer and his agents only; the final text guarantees the exercise of the right of freedom of association against intimidation, coercion and restraint “from any source”. An important exception from this rule is, however, embodied in Article 9 (2).

- (c) It may further be mentioned that the Committee on the Freedom of Association rejected by 53 votes to 57, amendments which proposed that the guarantee of the right to join, and the guarantee of the right to refrain from joining, an organization be put on an equal footing.
- (d) The provisions of Article 9 (b) (i) and (ii) are directed against so-called company unions. The ways and means to be adopted are left to municipal legislation.

[21]

- (e) As far as paragraph 2 of Article 9 is concerned, its deletion was suggested by the Turkish government member who put forward the argument that no worker should be obliged to belong to any given trade union in order to obtain or continue in employment. The majority of the Workers’ members were opposed to this amendment. They emphasized the necessity of securing to trade unions the right of maintaining and entering into collective agreements which include such a provision. The view was also expressed that it would be unfair to protect the worker who wished to enjoy all the advantages obtained by the trade unions but who refused to join the union. Some countries possessed legislation providing for compulsory trade union membership and the position would be highly prejudiced if the amendment were carried. The Employers’ members, in supporting the amendment, urged that this was not a fit subject for discussion at this juncture, nor was it opportune to prejudge what a future convention might contain. They further stressed that the principle involved was one of freedom and that the liberty of the individual was directly involved. The amendment was rejected by 51 votes to 64.

10. *Article 10. Appropriate agencies should be established, if necessary, for the purpose of ensuring the protection of the right of association as defined in paragraph 9 herein.*

Annotation

- (a) This Article deals with the problem of implementation. It is not expressly said that the appropriate agencies mentioned should be international agencies

or agencies ensuring the protection of the right of association on an international level. The reference to paragraph 9 of the Resolution indicates that the appropriate agencies which were in the mind of the Conference when adopting Article 9 were municipal agencies, judicial or otherwise, whilst the problem of international implementation is dealt with in the special Resolution concerning international machinery for safeguarding freedom of association which will be the subject of the following paragraph of this document.

- (b) The problem of implementation is dealt with in item V of the WFTU proposals. It will be discussed in this paper in connection with the ILO Resolution mentioned under (a).

VIII. The Resolution of the International Labour Conference Concerning International Machinery for Safeguarding Freedom of Association

The Resolution recalls in its paragraph (1) the reference to freedom of association in the Declaration of Philadelphia and the Constitution of the ILO and it reaffirms belief in, and attachment to the principle of freedom of association in all countries as an essential element in those wider personal freedoms which are the foundation of peace, prosperity and happiness.

In its paragraph (2), the Resolution expresses concern “at the widespread reports that conditions may exist prejudicial to freedom of association in many countries”.

[22]

In paragraph (3), it is said that the Conference “feels that steps should be taken to encourage, expand and universally establish freedom of association”. The Conference lists as such “steps” the reminding of Governments of all States, whether Members of the International Labour Organization or not, of their obligations in this respect under the Constitution of the ILO and/or the Charter of the United Nations. It also mentions “other practical means”.

In its fourth paragraph, the Resolution deals with the proposals made by the World Federation of Trade Unions and the American Federation of Labor. It notes the proposals of these organizations for the establishment of international machinery for safeguarding freedom of association and “feels that these proposals deserve close and careful examination”.

In paragraph (5) the Resolution lists some of the issues of great complexity and difficulty which are raised by these proposals under the following headings:

1. *Questions involving the sovereignty of States.* This is an issue which is common to all aspects of the protection of the individual rights against the action of sovereign States within their territorial jurisdiction. It is one of the fundamental

questions with which any plan of the international protection of human rights is faced, namely of determining where the line should be drawn between matters which are “essentially within the domestic jurisdiction of the State” (Article 2, paragraph 7 of the Charter of the United Nations) and subjects which are, or become matters of international concern.

2. The resolution further lists as an issue of great complexity and difficulty *the relationship of any such machinery* as proposed by the World Federation of Trade Unions and the American Federation of Labor *to the proposals under examination by the United Nations for giving effect to an International Bill of Human Rights* and establishing machinery for supervising the exercise of other fundamental freedoms, including freedom of speech, of information and of lawful assembly.

Here the question is raised whether Trade Union Rights or the right of association of workers, or of employers and workers, shall be the subject of special machinery or whether the general machinery which will eventually be envisaged for the implementation of the International Bill of Human Rights shall be used also as an instrument of implementation of Trade Union Rights or the rights of association of workers and employers.

3. The third issue stressed by the Resolution is that concerning the *composition, scope, powers* (including powers of enquiry and investigation) *and procedure* of the proposed machinery.

This again is a problem which in one form or another will arise in any system of implementation of human rights.

[23]

It may be appropriate to recall in this connection that Articles 24 to 34 of the Constitution of the International Labour Organization already provide for a nuclear machinery for the handling of complaints concerning the failure to secure the observance of international labour conventions.

4. The fourth issue to which the Resolution draws attention is the question *of the authority under which the proposed machinery would act*. The word “authority” here may mean either the legal instrument from which the jurisdiction of the proposed organ would be derived, or the international organization or organizations to which this machinery would be subject or of which this machinery would form a part.

Paragraph (6) of the Resolution again stresses the necessity of giving to such questions, which may involve changes in the inter-relationship of States, the detailed examination and careful preparation which they merit and without which any international action would be bound to fail and likely to leave the situation worse than it is at present.

Paragraph (7) of the Resolution contains, however, the expression of some definite views of the International Labour Conference. These opinions of the International Labour Conference amount to the following:

- (a) The Conference says that the establishment of permanent international machinery may be an indispensable condition for the full observance of freedom of association throughout the world.
- (b) The Conference is quite positive about the question that *if such machinery should be established*, it should be established *in consultation with* the United Nations. This would seem to indicate that the machinery should *not* be established *by* the United Nations.
- (c) It is further said that the machinery should, if established, operate under the guarantees provided by the tripartite Constitution of the International Labour Organization.
- (d) From these propositions, it follows that in the opinion of the International Labour Conference there should be special international machinery for the observance of freedom of association of workers and employers, different from the international machinery eventually to be adopted for the implementation of the International Bill of Human Rights. The relationship of this machinery with the general machinery to be established for implementing the International Bill of Human Rights, is, however, under paragraph 5 (ii) of the Resolution one of the “issues of great complexity and difficulty” which merits, according to paragraph (6) “detailed examination and careful preparation”.

[24]

- (e) The reference to the guarantees provided by the tripartite Constitution of the ILO indicates that the special machinery suggested shall not have jurisdiction in all cases of alleged violation of freedom of association, in general, but be restricted to the question of the freedom of association of employers and workers as such. The tripartite organization of the suggested machinery would, it is submitted, be inappropriate for the safeguarding of other human rights than the right of association of employers and workers *quo* employers and workers.

Section E

IX. Questions for the Consideration of the Commission on Human Rights

In view of the two Resolutions of the Economic and Social Council and of the Resolution of the General Assembly, which have referred the matter to the

Commission on Human Rights, the Commission may wish to consider, *inter alia*, the following questions:

A. Concerning Substance

1. Whether the International Bill of Human Rights should contain special provisions concerning trade union rights, additional to and different from, the general provisions safeguarding freedom of association which will form part of it.

In examining this question, the Commission may wish to take into account the probability that international agreement might be easier of achievement concerning the guarantee of the rights of workers' unions than on the safeguarding of the right of other forms of associations. States may, for instance, be less prepared to undertake obligations on an international level concerning the right of association for political purposes, than in the matter of trade union rights. The Commission on Human Rights may, on the other hand, wish to examine the possible consequences of granting a privileged position to a certain kind of association, it may, *e.g.*, form an opinion on whether this could react unfavourably on the development of, and international protection for, the right of association for other than trade union purposes, and of human rights in general.

2. In case the Commission on Human Rights should arrive at the opinion that special provisions concerning associations of workers, or of workers and of employers should be included in the International Bill of Human Rights, the Commission may wish to examine the proposals of the WFTU and the American Federation of Labor and of the ILO, which were analysed above, with a view to deciding which of these provisions should be embodied in the International Bill of Human Rights and which should be left to special International Conventions dedicated exclusively to the right of association of workers, or of workers and employers.

[25]

In considering this question, the Commission may wish to have regard on the one hand, to the necessary generality of a document like the International Bill of Human Rights, and on the other hand, to the desire to give to those rights of workers, or of workers and employers, which the Commission considers of great relevance and of general importance, as wide a field of application as possible.

B. Concerning Machinery

3. The Commission may further wish to express an opinion on the question whether special machinery should be established, on the international plane, for the enforcement of trade union rights (the right of association of workers, or of workers and employers) or whether there should be established one centralized machinery for the implementation of the Bill of Human Rights which would also

cover those aspects of Human Rights which are of special importance for the rights of Trade Unions.

In giving attention to this question, the Commission may wish to have regard to the following considerations:

- (a) that there already exists international machinery for dealing with complaints for the violation of International Labour Conventions in the Constitution of the ILO;
- (b) that this existing constitutional machinery might be an appropriate basis for establishing, in connection with it, the envisaged machinery for the protection of trade union rights;
- (c) that, on the other hand, the establishment of two separate and independent machineries, one for the right of association of workers and employers, the other for other cases of the right of association and of all other human rights embodied in the International Bill of Human Rights, might lead to duplication of procedure and to unwarranted diversities of practice;
- (d) that a machinery established under the auspices of a specialized agency on which important members of the United Nations are not represented might be lacking in the authority to safeguard Trade Union Rights in all countries, particularly in those which are not members of the parent Specialized Agency;
- (e) The Commission may also wish to envisage the establishment, by the United Nations, of one centralized international machinery for the implementation of the International Bill of Human Rights, in the framework of which a special body, organized perhaps on the tripartite basis of governments, workers and employers could be entrusted with those of its activities which pertain to Trade Union Rights.

[26]

Annex A

Guarantees for the Exercise and Development of Trade Union Rights

The following is the text of the Resolution adopted by the Council at its Plenary Session on 24 March 1947:

The Economic and Social Council

Having taken note of the item regarding Trade Union rights placed on its agenda at the request of the World Federation of Trade Unions, and the memoranda submitted by the World Federation of Trade Unions and the American Federation of Labor,

Resolves to transmit these documents to the International Labour Organization with a request that it may be placed upon its agenda and considered at the forthcoming Session

of the International Labour Organization, and that a report be sent to the Economic and Social Council for its consideration at the next meeting of the Council.

The Economic and Social Council

Further resolves to transmit the documents to the Commission on Human Rights in order that it may consider those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights.

[27]

Annex B

[see document E/RES/84(V)]

[28]

Annex C

Trade Union Rights (Freedom of Association) Report of the Third Committee

Rapporteur: Mr. Charles Malik (Lebanon)

1. At its fourth session, the Economic and Social Council agreed to place on its agenda the following item proposed by the World Federation of Trade Unions:

“Guarantees for the exercise and development of Trade Union Rights”.*

The Council had also before it a memorandum submitted by the American Federation of Labor.**

The Council adopted, on 24 March 1947, the following resolution:

“The Economic and Social Council,

“Having taken note of the item regarding trade union rights placed on its agenda at the request of the World Federation of Trade Unions, and the memoranda submitted by the World Federation of Trade Unions and the American Federation of Labor,

“Resolves to transmit these documents to the International Labour Organization with a request that it (the item) may be placed upon its agenda and considered at the forthcoming session of the International Labour Organization, and that a report be sent to the Economic and Social Council for its consideration at the next meeting of the Council;

“The Economic and Social Council,

“Further resolves to transmit the documents to the Commission on Human Rights, in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights.”

2. At its fifth session, the Council had before it a report from the International Labour Organization entitled “Decisions concerning freedom of association adopted unanimously by the thirtieth session of the International Labour

Conference on 11 July 1947”, prepared in accordance with the terms of the above resolution.

[*] See Annex I to document A/374.

[**] See Annex II to document A/374.

[29]

The Council, on 8 August 1947, adopted the following resolution:

[See Resolution 84(V).]

3. The report prepared by the International Labour Organization was submitted to the General Assembly in accordance with the direction of the Economic and Social Council (document A/374/Add.1).

4. In the course of its sixty-third to sixty-sixth meetings inclusive, the Third Committee to which this report was referred [30] by the Assembly, considered a draft resolution presented by the delegation of the Dominican Republic (A/C.3/166) and a draft resolution submitted by the delegation of France (A/C.3/167). Amendments were proposed to the Dominican Republic’s draft resolution by the delegation of the Union of Soviet Socialist Republics (A/C.3/169) and by the delegation of Argentina (A/C.3/170). The Third Committee had also before it an amendment to the French draft resolution proposed by the delegation of India (A/C.3/172) and an amendment to both the Dominican and French draft resolutions proposed by the delegations of Chile and Colombia (A/C.3/171).

5. At its sixty-sixth meeting on 17 October 1947, the Third Committee instructed a Sub-Committee of fifteen members to study the proposals submitted and to achieve, if possible, a unanimous text of a resolution, otherwise to present as few alternative versions of a resolution as possible. This Drafting Sub-Committee, on 28 October 1947 (A/C.3/183), submitted a draft resolution based upon a compromise text proposed by the delegation of France which had been adopted by the Sub-Committee by eleven votes to four. Details of the voting on the draft resolution by the Drafting Sub-Committee are noted on page 3 of document A/C.3/183.

The following is the text of the resolution submitted by the Drafting Sub-Committee:

“(1) *The General Assembly,*

“(2) *Taking note* of resolution 52 (IV) adopted by the Economic and Social Council at its fourth session, whereby it was decided to transmit the views of the World Federation of Trade Unions and the American Federation of Labor, on “Guarantees for the Exercise and Development of Trade Union Rights” to the Commission on Human Rights, “in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights”,

“(3) *Taking note* also of resolution 84 (V) adopted by the Council at its fifth session, whereby it was decided to transmit to the General Assembly of the United Nations the

report of the International Labour Organization entitled “Decisions concerning freedom of association adopted unanimously by the thirtieth session of the International Labour Conference on 11 July 1947,” to recognize the principles proclaimed by the International Labour Conference, and to request the International Labour Organization to continue its efforts in order that one or several international conventions may be adopted,

“(4) *Approves* these two resolutions;

“(5) *Considers* that the inalienable right of trade union freedom of association is, as well as other social safeguards, essential to the improvement of the standard of living of workers and to their economic wellbeing;

[31]

“(6) *Declares* that it endorses the principles proclaimed by the International Labour Conference in respect to trade union rights as well as the principles the importance of which to labour has already been recognized and which are mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia;

“(7) *Decides* to transmit the report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in resolution 52 (IV) of the Economic and Social Council; and

“(8) *Recommends* to the International Labour Organization on its tripartite basis to pursue urgently, in collaboration with the United Nations and in conformity with the resolution of the International Labour Conference concerning international machinery for safeguarding trade union rights and freedom of association, the study of the control of their practical application.”

6. At its seventy-third meeting on 30 October 1947, the Third Committee considered the Drafting Sub-Committee’s report. Amendments to the draft resolution were presented by the delegations of Argentina (A/C.3/184/Rev.1), Czechoslovakia (A/C.3/186) and Yugoslavia (A/C.3/187).

(a) The Yugoslav amendment suggested the deletion of paragraph 4 of the draft resolution. This proposal was rejected by twenty-nine votes to eight, with five abstentions.

(b) The Yugoslav amendment further suggested that paragraph 5 of the draft resolution be replaced by the following text:

“*Considering* furthermore that improvement of the living conditions of workers depends not only on respect for freedom of association but also on such other social safeguards as will assure to all men a minimum of economic wellbeing.”

This amendment was rejected by twenty-seven votes to six, with ten abstentions.

- (c) The delegation of Czechoslovakia proposed the insertion between paragraphs 5 and 6 of the draft resolution of the following paragraph:

“*Recommends* to the Economic and Social Council that it adopt, after having received the new study of the International Labour Organization mentioned in resolution 84 (V) of the Council, a resolution on trade union rights on the basis of the draft resolution of the World Federation of Trade Unions, points I-V, Annex I, to its letter of 26 February 1947.”

[32]

This amendment was rejected by twenty-three votes to eight, with fourteen abstentions.

- (d) The delegation of Yugoslavia proposed that paragraph 6 of the draft resolution should be replaced by the following text:

“*Requests* the Secretary-General to take urgent measures in order that the World Federation of Trade Unions, the International Labour Organization and the Commission on Human Rights may study the practice of establishing, as rights inherent in the human person, the principle of freedom, of trade union association, and any other safeguards – such as minimum wages, equal pay for equal work for man and woman, abolition of racial discrimination in economic and social activities, full employment, effective struggle against unemployment especially in a period of crisis and compulsory social insurance – as may provide the basis for a minimum of wellbeing within the reach of all the workers of the world.”

This amendment was rejected by twenty votes to seven, with thirteen abstentions.

- (e) The delegation of Argentina suggested that the proposed paragraph 6 be replaced by the following text:

“*Declares* that it endorses the principles proclaimed by the International Labour Conference in respect of trade union rights as well as the principles mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia and recognizes the following as being of fundamental importance for the workers:

- (a) Full employment and the raising of standards of living;
- (b) The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common wellbeing;
- (c) The provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) Policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;

[33]

- (e) The effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- (f) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- (g) Adequate protection for the life and health of workers in all occupations;
- (h) Provision for child welfare and maternity protection;
- (i) The provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) The assurance of equality of educational and vocational opportunities.”

The delegation of India submitted a sub-amendment to the Argentine amendment to the effect that after “Item j” of the Argentine amendment the following should be added:

“(k) Abolition of racial discrimination in any form in the organization and functioning of trade unions.”

The Indian sub-amendment was adopted by twenty-one votes to one, with nineteen abstentions. The Argentine amendment, however, was rejected in a vote by roll-call, by nineteen votes to sixteen, with eight abstentions.

The delegation of Czechoslovakia suggested the deletion of paragraph 8 of the draft resolution and the substitution of the following text:

“*Requests* the Secretary-General to study, in co-operation with the World Federation of Trade Unions, the International Labour Organization and the Commission on Human Rights the practice of establishing trade union freedom of association and trade union rights.”

This amendment was rejected by twenty-one votes to seven, with eleven abstentions.

7. All the amendments having been rejected, the Third Committee voted upon the resolution paragraph by paragraph.

The resolution, as a whole, was adopted by thirty-one votes to five, with six abstentions.

8. The Third Committee therefore submits for the approval of the General Assembly the following draft resolution:

Trade Union Rights (Freedom of Association)

The General Assembly,

Taking note of resolution 52 (IV) adopted by the Economic and Social Council at its fourth session, whereby it was [34] decided to transmit the views of the World Federation of Trade Unions and the American Federation of Labor on “Guarantees for the Exercise and Development of Trade Union Rights” to the Commission on Human Rights, “in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights”,

Taking note also of resolution 84 (V) adopted by the Council at its fifth session, whereby it was decided to transmit to the General Assembly of the United Nations the report of the International Labour Organization entitled “Decisions concerning freedom of association adopted unanimously by the thirtieth session of the International Labour Conference on 11 July 1947”, to recognize the principles proclaimed by the International Labour Conference and to request the International Labour Organization to continue its efforts in order that one or several international conventions may be adopted,

Approves these two resolutions;

Considers that the inalienable right of trade union freedom of association is, as well as other social safeguards, essential to the improvement of the standard of living of workers and to their economic wellbeing,

Declares that it endorses the principles proclaimed by the International Labour Conference in respect of trade union rights as well as the principles the importance of which to labour has already been recognized and which are mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia;

Decides to transmit the report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in resolution 52 (IV) of the Economic and Social Council; and

Recommends to the International Labour Organization on its tripartite basis to pursue urgently, in collaboration with the United Nations and in conformity with the resolution of the International Labour Conference concerning international machinery for safeguarding trade union rights and freedom of association, the study of the control of their practical application.

E/CN.4/32

12 November 1947

Draft Charter of International Human Rights and Duties

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the Commission on Human Rights the text of a draft Charter of International Human Rights and Duties submitted by the Delegation of Ecuador. This item was included in the supplementary list of items for the Agenda of the second regular Session of the General Assembly and circulated as document A/341. By a note received on 18 September 1947 and issued as document A/391, the Chairman of the delegation of Ecuador to the General Assembly of the United Nations requested the

Secretary-General that the draft Charter of International Human Rights submitted by the Government of Ecuador be referred to the Commission on Human Rights. The Secretary-General notified the General Committee that it had received this communication from the delegation of Ecuador and the General Committee therefore in its report (document A/392) recommended that this item should not be included in the Agenda of the Second Session of the General Assembly.

[2]

Draft Charter of International Human Rights and Duties Proposed by the Delegation of Ecuador

Article I

Everyone has the following rights:

1. *Right to Life*: There shall be no death penalty. Mutilation, flogging, and other tortures and degrading procedures are categorically forbidden, whether as penalties, corrective measures, or means of investigating offences.

Everyone, including incurables, imbeciles, and the insane, has the right to life from the moment of conception.

Persons unable to support themselves by their own efforts have the right to sustenance and support, and the State has the corresponding duty of seeing to it that such support is made available.

2. *Right to Personal Liberty*: The right to personal liberty includes the right to freedom of movement from one part of the national territory to another, and the right to leave that territory upon presentation of a pass issued by the member States.

It also includes freedom to reside in any part of the territory, subject only to the restrictions that may be imposed by general laws for the maintenance of public order and national security.

The right to personal liberty includes the inviolability of the home and of private correspondence.

The State may restrict this right only to the extent necessary to protect public health, safety, morals and general welfare, in accordance with subsequent provisions of this Declaration.

[3]

The right of the State to call upon the services of the individual in time of emergency or to meet the necessities of national defence shall not be regarded as a limitation of the fundamental right to personal liberty, but merely as a temporary restriction operating during the existence of the national need.

No person shall be arrested or kept in prison in consequence of a mere breach of contractual obligations.

3. *Right to Freedom of Speech and of Expression* through the press or other means of utterance or diffusion provided that such statements imply no abuse, calumny, personal insult, or immoral sentiments and are not opposed to the national interest, offences which would be liable to the penalties or proceedings prescribed by national law.

Accordingly everyone shall have the right of access to sources of information both domestic and foreign.

4. *Right to Freedom of Conscience* in all its forms and aspects, in so far as it is compatible with morality and public order.

National laws shall make no discrimination on religious, ideological, or racial grounds.

5. *Right to Freedom of Assembly and of Association for Peaceful and Other purposes not Prohibited by Law.*
6. *Right to Petition the Government* either individually or in association with others, for the redress of grievances, or in respect to any other matter of public or private interest.

The publication of such petitions shall not be made a ground for penalizing in any way, directly or indirectly, the person or persons making the petition.

7. *The Right of Private Property* is guaranteed by the State in so far as this is compatible with the needs of society.

[4]

8. *Right to Nationality.* No State may refuse to grant its nationality to persons born upon its soil.

No person may be deprived of the nationality of his birth, unless by his own free choice he acquires another nationality.

Every person is obliged to renounce the nationality of his birth or adoption upon acquiring a new nationality.

9. *Right to Establish a Home* and to be free from interference in his family relations. It is, accordingly, the duty of States to regulate and protect marriage, the family and family property. No one shall be compelled to make any statement on a birth certificate as to the nature of filiation and only in pursuance of the provisions laid down in national legislation shall the investigation of paternity be permitted.

Illegitimate children have the same right as legitimate children to be brought up and educated by their parents and to be their heirs. National legislation shall declare family property to be inalienable and exempt from sequestration.

10. *The Right to Habeas Corpus*: Save in cases of *flagrante delicto*, offences against police regulations or military law, no one may be detained, arrested, or imprisoned without a warrant signed by the competent authority, stating the motive, which must be one specified by law.
11. *Right not to be Outlawed*, or refused access to the ordinary courts, or tried by special commissions, or deprived of the right of defence. No person shall be punished without due course of law or under a law enacted subsequent to the offence with which he is charged.
12. *Right to freely elect* and be elected to public office in conformity with the law.
- [5]
13. *Right to belong to Parties* and other political associations which are not anti-constitutional, for the purpose of taking part in national politics.
14. *Right to work in all its forms* as a social duty especially protected by law, which shall provide the worker with the minimum conditions compatible with a dignified existence.
15. *Right to enjoy the fruits of his discoveries*, inventions, and other scientific, literary and artistic activities under conditions prescribed by law, and to share in the benefits accruing from scientific discoveries and inventions.
16. *Right to Social Security*: The State has the duty to ensure that all persons enjoy the benefits of social security. To this end the State shall promote measures of public health and safety and establish systems of social insurance and cooperative agencies which will ensure all persons an adequate standard of living and protection against the contingencies of unemployment accident, disability and ill health, and the eventuality of old age.

Every person has a duty to co-operate with the State according to his powers in the maintenance and administration of measures taken to promote his own social security.

17. *Right to Education*: The right of children to education is paramount. The State has the duty to assist the individual in the exercise of the right to education in accordance with the resources of the State. Opportunities of education must be open to all on equal terms in accordance with their natural capacity and their desire to take advantage of the facilities available. The State has the right to fix general standards to which educational institutions must conform, provided that [6] these standards are in accord with generally accepted fundamental principles and are the same for public and for private schools.

The right to education includes the right to teach, subject to the restrictions laid down by law. The State shall respect the right of parents or those representing them to provide the type of education they prefer for their children.

18. *The Right to protection against arbitrary discrimination* in the provisions and the application of the law because of race, religion or any other reason.

Article II

The rights and duties agreed upon in this Declaration shall be incorporated in the constitutional law of each Member State and shall not be abrogated.

Article III

Aliens in each State shall enjoy, within the limits laid down in national legislation, the same rights as nationals, with the exception of the political rights and guarantees established solely in favour of such nationals.

A/374

2 September 1947

Trade Union Rights (Freedom of Association)**Resolution adopted by the Economic and Social Council and transmitted to the General Assembly by the Secretary-General**

1. At its fourth session, the Economic and Social Council agreed to place on its agenda the following item proposed by the World Federation of Trade Unions:

“Guarantees for the exercise and development of Trade Union Rights”. (Annex I)

The Council had also before it a memorandum submitted by the American Federation of Labor. (Annex II)

The Council adopted, on 24 March 1947, the following resolution:

“The Economic and Social Council

“Having taken note of the item regarding Trade Union Rights placed on its agenda at the request of World Federation of Trade Unions, and the memoranda submitted by the World Federation of Trade Unions and the American Federation of Labor,

“The Economic and Social Council

“Further resolves to transmit the documents to the Commission on Human Rights in order that it may consider those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights.”

2. At its fifth session, the Council had before it a report from the International Labour Organization entitled “Decisions concerning Freedom of Association adopted unanimously by the Thirtieth Session of the International Labour Conference on 11 July 1947”, prepared in accordance with the terms of the above resolution.

The Council on 8 August 1947, adopted the following resolution:

[2]

[For the text of the Resolution, see E/RES/84(V).]

3. The report* prepared by the International Labour Organization is herewith transmitted to the General Assembly in accordance with the direction of the Council.

[*] A limited distribution of this report to the delegations to the General Assembly will be made as Annex III. As the number of copies available will be strictly limited, delegations are requested to bring theirs to the meetings of the Assembly.

[3]

Annex I

Letter from the Secretary-General of the World Federation of Trade Unions, to the Secretary-General of the United Nations, Transmitting a Memorandum and Draft Resolution for the Consideration of the Economic and Social Council

[For the text of the letter and the draft resolution, see E/C.2/28.]

[8]

Annex II

Letter from the American Federation of Labor to the Secretary-General Transmitting a Memorandum and Draft Resolution for the Consideration of the Economic and Social Council*

New York, 12 March 1947

Attached please find a memorandum prepared by the Executive Council of the American Federation of Labor. We would appreciate it if you would submit the latter to the Economic and Social Council.

(Signed) Matthew Woll, David Dubinsky, Consultants; Toni Sender, Assistant Consultant.

[*] The contents of this annex were published in document E/C.2/32.

[9]

[For the text of the memorandum and draft resolution, see E/C.2/32.]

A/RES/128(II)

17 November 1947

Trade Union Rights (Freedom of Association)

The General Assembly,

Taking note of resolution 52(IV) adopted by the Economic and Social Council at its fourth session, whereby it was decided to transmit the views of the World Federation

of Trade Unions and the American Federation of Labor on “Guarantees for the Exercise and Development of Trade Union Rights” to the Commission on Human Rights, “in order that it may consider those aspects of the subject which might appropriately form part of the bill or declaration on human rights”;

Taking note also of resolution 84(V) adopted by the Council at its fifth session, whereby it was decided to transmit to the General Assembly of the United Nations the report of the International Labour Organization entitled “Decisions concerning freedom of association adopted unanimously by the thirtieth session of the International Labour Conference on 11 July 1947”, to recognize the principles proclaimed by the International Labour Conference and to request the International Labour Organization to continue its efforts in order that one or several international conventions may be adopted,

Approves these two resolutions;

Considers that the inalienable right of trade union freedom of association is, as well as other social safeguards, essential to the improvement of the standard of living of workers and to their economic well-being;

Declares that it endorses the principles proclaimed by the International Labour Conference in respect of trade union rights as well as the principles the importance of which to labour has already been recognized and which are mentioned in the Constitution of the International Labour Organization and in the Declaration of Philadelphia, and, in particular, sub-section (a) of section III, which are given in the annex to this resolution;

Decides to transmit the report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in resolution 52 (IV) of the Economic and Social Council, and

Recommends to the International Labour Organization on its tripartite basis to pursue urgently, in collaboration with the United Nations and in conformity with the resolution of the International Labour Conference concerning international machinery for safeguarding trade union rights and freedom of association, the study of the control of their practical application.

Annex

Principles set forth in Section II(a) and Section III(a) to (j) of the Declaration of Philadelphia

Section II

- (a) All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

Section III

- (a) Full employment and the raising of standards of living;
- (b) The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) The provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) Policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- (e) The effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- (f) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- (g) Adequate protection for the life and health of workers in all occupations;
- (h) Provision for child welfare and maternity protection;
- (i) The provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) The assurance of equality of educational and vocational opportunity.

E/CN.4/Sub.2/16
24 November 1947

**(The Secretariat has received the following statement from the
American Federation of Labor)**

Prevention of Discrimination and Protection of Minorities

I. Introduction

The American Federation of Labor has consistently advocated the extension of individual freedom to all the peoples of the earth. In August of 1946 the American Federation of Labor submitted a proposal for an International Bill of Human Rights (Document E/CT.2/2) which set forth in concise terms, the rights that were to be granted to all persons. Included in this paper was the following: "All human beings

... are free from discrimination on account of race, colour, creed or difference of political belief from the government in control or the party in power.” Since that time the American Federation of Labor has taken an active part in the deliberations of the Commission on Human Rights, its Drafting Committee, and the Sub-Commission on Freedom of Information and of the Press. The work of the Sub-Commission on Discrimination and the Protection of Minorities is no less important. Freedom for one individual or for one group cannot long exist when other individuals or groups are persecuted or discriminated against. The United Nations have ample evidence of this in the results of the actions of the Fascist aggressors in the last decade. Such a situation cannot again be permitted to arise.

The American Federation of Labor therefore believes that in the interests of international peace, security, and good will, the Sub-Commission on Discrimination and the Protection of Minorities should recommend to the Commission on Human Rights the following Principles for the Protection of Minorities:

II. Definition

1) As hereinafter used, a minority consists of any considerable number of persons who differ from the greater proportion of persons of a state or an area in race, sex, language, nationality, religion, tribal association or political belief.

A minority shall be eligible for international protection whether it lives as a geographical entity or is dispersed throughout a country or an area.

[2]

III. Principles of Protection

A. General

2) Minorities are entitled to the rights and freedoms as expressed in the International Bill of Rights without distinction as to race, sex, language, nationality, religion, tribal association, political or other beliefs. (Adapted from Article 6 of the Draft Bill)

3) There shall be liberty of movement and free choice of residence within the borders of each state. This freedom may be regulated by any general law adopted in the interests of national welfare and security. (US Article 13 for the International Bill of Rights)

B. Education

4) There shall be equality of opportunity for all, and equal access to such facilities for technical, cultural, and higher education as can be provided by the state or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, political affiliation or financial means. (Article 31 of the Draft Bill)

5) In accordance with the general laws of the State, the Minorities have the right to set up and maintain private schools.

6) The State may determine the curriculum which may include the majority language, but the minorities have the right to teach such additional subjects as they may deem appropriate, subject only to limitations in the interests of public decency, safety, and welfare. Such state direction shall not be interpreted to permit the erasure of a minority culture.

7) The State must provide free and compulsory elementary education, for minorities.

8) The facilities for public education must be the equal of those provided for the majority or for any other group within the State.

9) Minorities may not be denied admission to institutions of secondary or higher education on the grounds of race, religion, nationality, tribal association, or political affiliation or belief.

C. Economic

10) There shall be no special considerations for the engagement, in public or private employment, of workers on the grounds of race, sex, language, nationality, religion or tribal association. Language examinations shall not be required of manual workers for admission to or maintenance of employment.

11) Persons of any race, sex, language, religion, nationality or political belief shall not be denied an equal opportunity for vocational education.

12) Regardless of race, sex, language, religion, nationality or political belief, all workers shall be equally protected and provided for by the state in respect to hours and conditions of work.

[3]

13) Workers of whatever race, sex, language, religion, nationality or political belief have the right to equal pay for equal work.

14) Every worker within a state without respect to race, sex, language, religion, or political belief shall be protected in the same manner as regards workers compensation, unemployment, health, old-age, permanent disability, and survivor's insurance.

Workers cannot be denied the right to organize and belong to unions or associations of their own choosing, and to bargain collectively for a constantly more equitable distribution of the national wealth and income, and for the enhancement of their moral and material well-being.²⁰²

16) Minorities, subject only to generally applicable laws, have the right to establish, maintain or dispose of agencies set up for any legal industrial purpose;

²⁰² The paragraph is not numbered in the original; obviously, it should be paragraph 15.

obtain, use or dispose of any property, publish and distribute and form of literature, practice their profession, or otherwise earn a livelihood.

17) Minorities shall be granted an equitable share of the public credit for the legally decreed purposes. This shall be determined by factors other than racial, linguistic or national ones.

18) Minorities or Minority Institutions shall not be required to pay any extraordinary taxes.

19) Members of a minority shall not be denied licenses for the sale of monopoly products on the grounds of race, sex, language, nationality, religion or political belief.

D. Political Rights

20) Everyone has the right to a Nationality (Article 18 of the Draft bill). The State may not deprive any persons of nationality or civil rights because of race, sex, language, nationality, religion, or political belief.

...

E/CN.4/Sub.2/SR.1

24 November 1947

Summary Record of First Meeting [of the First Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities]

held at the Palais des Nations, Geneva, on Monday
24 November 1947 at 4 p.m.

Present: Temporary Chairman: Prof. J. P. Humphrey (Secretariat). Members: Mr. W. M. J. McNamara (Australia); Mr. Joseph Nisot²⁰³ (Belgium); Dr. C. H. Wu (China); Mr. Samuel Spanien²⁰⁴ (France); Mr. Hérard Roy (Haiti); Mr. M. R. Masani (India); Mr. Rezazada Shafaq (Iran); Mr. E. E. Ekstrand (Sweden); Mr. A. P. Borisov (Union of Soviet Socialist Republics); Miss Elizabeth Monroe (United Kingdom); Mr. Jonathan Daniels²⁰⁵ (United States of America). Specialized Agencies: Mr. Rodolphe Lopes (International Labour Organization). Secretariat: Mr. Edward Lawson; Mr. Emile Giraud; Mr. A. H. Hekimi.

[2]

²⁰³ Joseph Nisot had served in the Minorities Section of the League of Nations Secretariat.

²⁰⁴ Samuel Spanien, a socialist lawyer, defended former French president Léon Blum when he was put on trial by the Pétain regime in 1943.

²⁰⁵ Jonathan Daniels served as administrative assistant to President F. D. Roosevelt. Later, he edited a newspaper in Raleigh, North Carolina.

1. Opening of the Session

THE TEMPORARY CHAIRMAN, on behalf of the Secretary-General, opened the first session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and called for the election of officers.

The task that the Sub-Commission had to perform, he felt, was a very important one. It had been asked to participate in one of the most extraordinary and promising experiments in the history of international cooperation. The Commission on Human Rights and the various agencies related to it are engaged in an effort to write a universal Bill of Human Rights which will define the fundamental rights of man everywhere without distinction as to race, sex, language or religion and which will set up international machinery for the protection of these rights. The Commission on Human Rights had already met twice; once as a nuclear body in the early summer of 1946, and again in January 1947, in its first regular session. The second regular session of the Commission will assemble at Geneva on December 1st for the purpose of receiving a report from its Drafting Committee, which met at Lake Success in June. The report to which he had just referred was already a public document and could be consulted by anyone who was interested in the work of the Commission.

It was hoped that, at its December meeting, the Human Rights Commission would complete its preliminary draft of the Bill of Rights. If the Commission followed the suggestion made by the Drafting Committee, it would probably recommend the adoption of not one but two international bills; a Declaration or Manifesto which would eventually be adopted in the form of a Resolution of the General Assembly and which would constitute a catalogue of human rights without express [3] provisions for implementation; and an International Convention on Human Rights. The essential difference between the two would be, of course, that whereas the resolution of the Assembly would have the force of a recommendation only, a convention would be part of international law and legally binding on those States which signed and ratified it.

The draft, or drafts, as finally prepared by the Commission would be referred to the governments for their comments. The comments would be considered and changes made, if necessary, in the draft or drafts by another session of the Drafting Committee in May, and eventually by the third regular session of the Commission on Human Rights in the same month. This session in turn would report to the 7th session of the Economic and Social Council, which would meet in Geneva in July. After discussion by the Council, the whole matter would be referred to the 1948 session of the General Assembly, which it was hoped would adopt a Bill of Rights.

...

[7]

...

Adoption of the Provisional Agenda

THE CHAIRMAN said the next duty was to adopt the Provisional Agenda.

[8]

MISS MONROE (United Kingdom) remarked that the Articles referred to the Sub-Commission by the parent Commission for discussion were very urgent, and she suggested that these Articles should now be inserted under a special item in the Agenda.

PROFESSOR HUMPHREY (Secretariat) pointed out that the revised Agenda (document E/CN.4/Sub.2/1/Rev.1) had been issued that morning, which excluded the old item No. 6 concerning the adoption of the Regulations of Procedure. He further proposed that the Articles referred to by MISS MONROE (United Kingdom) could be discussed either under Items 7 or 8 or could be made a special item.

MISS MONROE (United Kingdom) said that she had proposed a special item for discussion of these Articles as they seemed to be borderline cases, and that it would be quicker if they were made the subject of a separate item.

After some discussion by MR. ROY (Haiti), MR. BORISOV (Union of Soviet Socialist Republics) and MISS MONROE (United Kingdom) as to whether Items 7 and 8 should be amalgamated, MISS MONROE (United Kingdom) and MR. BORISOV (Union of Soviet Socialist Republics) agreed that Items 7 and 8 should be discussed together as they were inextricable.

THE CHAIRMAN again suggested that Item 6 be adopted by the Sub-Commission, and that Items 7 and 8 should be amalgamated.

The Sub-Commission adopted Item 6. The discussion as to the amalgamation of Items 7 and 8 continued.

MR. MASANI (India) proposed that they should not be amalgamated and referred to document E/CN.4/Sub.2/8, which pointed out that the prevention of discrimination and the protection of minorities were not necessarily co-terminous [9] subjects. He also pointed out that discrimination between the sexes did not involve a minority question, and that an intellectual or political minority would not be within the definitions of discrimination according to race, sex, language or religion.

MISS MONROE (United Kingdom) said that she appreciated the point raised by Mr. Masani (India), but again pointed out that some of the Articles were hard to allot in one particular item, and that there would be a large overlap. She proposed that discussion of the specific Articles be under a separate heading.

MR. SPANIEN (France) said that there should first be a discussion of the Terms of Reference, but that the Commission on Human Rights had referred to the Sub-Commission certain questions on which it would require an answer at its meeting on the 1st December, 1947. On the question of amalgamation, the items should be kept separate, as there would not necessarily be an overlap.

PROFESSOR HUMPHREY (Secretariat) said that originally the items had not been amalgamated because the Report of the Drafting Committee was not yet before the Commission on Human Rights. Document E/CN.4/Sub.2/9 had been prepared by the Secretariat to assist the Sub-Commission in making a recommendation on these items. He reminded the Sub-Commission that from a strictly constitutional point of view the Report was not before the Commission [sic].

DR. WU (China) suggested that the present Agenda be adopted, but that the separation of Items 7 and 8 need not be too strict. There should be an understanding that the Commission could trespass in its discussion of the two items.

[10]

MR. MCNAMARA (Australia) agreed with Dr. Wu.

THE CHAIRMAN stated that the proposal of MISS MONROE (United Kingdom) was to gain time in the discussion of these Articles. He suggested adding after Item 6 a further item on "Discussion of Items Referred to the Sub-Commission".

MR. ROY (Haiti) stated that these Articles had not in fact been referred and suggested some other formula, as he agreed that it was desirable for the Sub-Commission to discuss these articles.

PROFESSOR HUMPHREY (Secretariat) said that the Articles had never been legally referred to the Sub-Commission for discussion, but that he was confident that the Commission would be disappointed if the Sub-Commission did not discuss them. He proposed adding an Item 7 – "Consideration of Articles of International Bill of Rights Relative to the Questions of Discrimination and Protection of Minorities".

MR. BORISOV (Union of Soviet Socialist Republics) said that the Sub-Commission could only make observations on the Articles specifically referred by the Drafting Committee, i.e. nos. 6, 13, 15, 18 and 36, and that the actual drafting of these Articles must be done by the Drafting Committee itself. As to the other Articles which had not been referred, including nos. 5, 14, 16, 20 and 31, he suggested that the Sub-Commission should not discuss these at all because they had no instructions to do so.

MR. DANIELS (United States of America) agreed with this proposal.

THE CHAIRMAN again said that the intention was to accelerate discussion so as to produce an opinion of the Sub-Commission by the 1st December. He again proposed that after Item 6 there should be included an item on "Examination [11] of Articles 6, 13, 15, 28 and 36" and asked for the opinion of the Sub-Commission on that point.

MR. ROY (Haiti), after some discussion by MR. MCNAMARA (Australia), MR. SPANIEN (France) and MR. BORISOV (Union of Soviet Socialist Republics) as to exactly where on the Agenda this new item should come – whether after Item 6 or Item 8, suggested that the subject of the new item be discussed with the present Items 7 and 8 as they were fundamentally the same.

THE CHAIRMAN stated to the Sub-Commission the proposal of Mr. Roy (Haiti), which was supported by Mr. Nisot (Belgium), to adopt the Agenda as it was and under Items 7 and 8 to discuss the Articles which the Drafting Committee had suggested might be referred to the Sub-Commission.

MISS MONROE (United Kingdom) accepted this proposal as long as discussion of Items 7 and 8 was on the basis of the five Articles recommended for referral to the Sub-Commission.

MR. DANIELS (United States of America) suggested that the Sub-Commission should not give its final approval or disapproval on any issue until the end of the discussion of Items 7 and 8.

MR. MCNAMARA (Australia) asked whether points of order could be raised at a later time which might exclude discussion of any Article.

THE CHAIRMAN said that points of order must always be admitted and could not be excluded at the beginning of the meeting. It was difficult to separate the items, and he proposed that the Sub-Commission now vote on the adoption of the Agenda as it stood.

DR. WU (China) supported the suggestion of the Chairman.

[12]

MISS MONROE (United Kingdom) agreed, subject to the reservation that the five Articles be discussed under Items 7 and 8.

The Agenda was adopted, subject to the reservation made by MISS MONROE (United Kingdom).

...

E/CN.4/35

25 November 1947

**(The Secretariat has Received the Following Memorandum from
the Inter-Parliamentary Union)**

Memorandum

In the course of its work in the period between the two world wars, the Inter-Parliamentary Union, as the mouthpiece of democratic forces within elected Parliaments, had occasion to adopt a number of resolutions relating to the protection and rights of the individual, in connection with the question of national minorities, colonial problems, and the development of the representative system.

We have the honour to submit to the attention of the members of the Committee on Human Rights some extracts from those resolutions which may be of interest to them. Although adopted before the last war, these texts have lost none of their value,

since the problems which the Committee has been asked to study are not connected with any particular period.

The Inter-Parliamentary Union, which has been granted consultative status (Category A) by the Economic and Social Council, will follow the work of the Committee on Human Rights with the most sympathetic attention. If necessary, it will examine the possibility of recommending the convention or conventions which may be drawn up by the Committee to the Parliaments affiliated to the Union.

August 1947.

Léopold Boissier, Secretary General.

[2]

Right of Existence and Right to Physical Safety

Declaration of the Rights and Duties of Minorities (Adopted by the XXIXth Inter-Parliamentary Conference, Copenhagen, 1923). (Excerpts.)

Article I. The States agree to grant to all their inhabitants full and complete protection of life and liberty, without distinction of birth, nationality, language, race, or religion.

Every inhabitant of a State shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

Article III. The fact of belonging to a majority of race, religion, or language, does not in any way liberate a national of a State from the duties imposed by the Constitution and Laws of that State.

Article IV. On the other hand, the States agree to grant to all their nationals equality before the law and the enjoyment of the same political and civil rights, without distinction of race, language, or religion, in particular with respect to electoral rights and admission to public educational institutions, to government employ, functions, or honours, in the exercise of professions and industries, and in the application of the agrarian laws. The States shall, in their political administration, take into account the state of feeling of nationals belonging to a minority, a state which is created by the very fact of belonging to a minority, and shall seek to establish a system of government which shall give satisfaction to all their nationals.

Individual Liberties

Resolution adopted by the XXIXth Inter-Parliamentary Conference, Madrid, 1933

The XXIXth Inter-Parliamentary Conference,

notes with regret that slavery and the slave-traffic still exist at the present time, and asks that every form of slavery, whether direct, indirect or disguised, shall be abolished.

The XXIXth Inter-Parliamentary Conference recalls the resolution adopted by the XXIInd Inter-Parliamentary Conference in 1924 and,

considering that the time has come for the immediate prohibition in the colonies of forced labour to the profit of private persons or enterprises,

considering, moreover, that forced labour, still exceptionally countenanced in the case of public utility works, should be abolished as early as possible,

invites the National Groups of the Union to take action in favour of the immediate ratification of the Convention relating to forced or compulsory labour adopted in 1930 by the International Labour Conference at its XIVth Session.

[3]

The XXIXth Inter-Parliamentary Conference is of opinion that in future no penal clauses should be introduced or renewed in the labour contracts concluded with natives. It asks the Groups to use their influence for that purpose within their respective Parliaments.

Public Liberties. Political Rights

Declaration of the Rights and Duties of Minorities (Adopted by the XXIst Inter-Parliamentary Conference, Copenhagen, 1923). (Excerpts.)

Article V. No restriction shall be decreed against the free use by all nationals of a State of any language whatsoever, either in private or commercial intercourse, in religion, in the press, or any sort of publications, or at public meetings.

Article VI. Nationals of a State who belong to minorities of race, religion or language, shall enjoy the same treatment and the same guarantees in law and in fact as the other nationals of that State. In particular, they shall have the same right to found, manage and control, at their own expense and without being subject to special conditions, charitable, religious, social, and economic institutions, as well as schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein. The possession and the free use of endowments or properties intended for the upkeep of their religious and educational institutions must be secured and, if necessary, restored.

Resolution adopted by the XXIXth Inter-Parliamentary Conference, Madrid, 1933. (Excerpts.)

The XXIXth Inter-Parliamentary Conference recalls the resolution passed by the London Conference in 1930 in which the Union declared that the parliamentary system contributes to the education of the peoples by calling upon every citizen to take part in public life through universal suffrage and the exercise of the essential democratic liberties (freedom of political, social and religious opinion, freedom of

assemblies, freedom of association, freedom of the press, freedom and secrecy of voting). . .

Juridical Status

Resolution adopted by the XXVIIth Inter-Parliamentary Conference, Bucharest, 1931

The XXVIIth Inter-Parliamentary Conference recommends that the legal status of *persons without nationality*, and more particularly of children without nationality, should be regularized as soon as possible by an international convention.

Nationality and Protection of Foreigners

Resolution adopted by the XXVth Inter-Parliamentary Conference, Berlin, 1928, on Migration Problems

The XXVth Inter-Parliamentary Conference, [4] considering the world-wide importance of migration problems,

considering that it is the right of each State, in conformity with the principle of national sovereignty, to regulate immigration into its own territory,

but considering nevertheless that the measures enacted might, by their reaction on the standard of life and prosperity of other countries, disturb good relations between the nations and, consequently, international peace,

Expresses the wish that States shall endeavour to conclude amongst themselves bi-lateral treaties making it possible to conciliate their points of view and to safeguard the economic and social interests of emigrants.

Such treaties should in particular bear on the following points:

- 1) The organization of national and international information services.
- 2) Rules relating to the conditions under which emigrants may leave the country and be admitted into foreign territory.
- 3) The protection of the emigrant, with special reference to the simplification of the passport system, to health and to moral conditions, particularly in the case of women, children and young people; measures to combat the white slave traffic and prostitution.
- 4) Sanitary conditions: housing, preventive measures against contagious diseases, addiction to drugs, *etc.*
- 5) The application to immigrants of the social legislation in force in the country receiving them, and particularly of insurance measures.
- 6) Practical measures relating to the application of laws on nationality.
- 7) Military obligations.

Cultural Rights

Resolution adopted by the XXth Inter-Parliamentary Conference, Vienna, 1922

The XXth Inter-Parliamentary Conference expresses the wish that in the interest of science and intellectual co-operation all scientific congresses shall be open to scientists and men of letters of all countries without distinction of nationality.

Resolution adopted by the XXIXth Inter-Parliamentary Conference, Madrid, 1933

Contact between the coloured races and western civilisation sometimes results in so rapid and radical a transformation of the customs and habits of those races that it constitutes a threat to [5] their very existence. This being so, it is the duty of the colonial power to watch over the gradual evolution of those races in order to render them capable of adapting themselves little by little to the conditions of modern life.

The Conference regrets the errors committed in the effort for the intellectual and moral education of native races and believes that such education, while taking fully into account the customs and traditions of the civilisation under which it is given, should aim at leading these races gradually to a point at which they will be fit for final emancipation.

E/CN.4/38

25 November 1947

Statement Regarding the Possible Ways in Which the Recommendations of the Human Rights Commission Might be Presented to the General Assembly, Submitted by the Representative of the United Kingdom on the Commission on Human Rights

1. There appear to be three possible forms in which the Human Rights Commission can present its first recommendations to the General Assembly.

- (a) They can take the form of a Human Rights declaration to be adopted by an Assembly resolution, and nothing more.
- (b) They can take the form of a convention or International Bill of Rights to be recommended for adoption by members of the United Nations, and no declaration.
- (c) They can take the form of a declaration plus a convention or International Bill of Rights, both introduced by an Assembly resolution which explains the relationship between the two.

2. For the reasons given below either (b) or (c) would be a proper course for the Commission to adopt whereas course (a) might easily do more harm than good and is highly undesirable.

3. Any declaration which *ex hypothesi* is not a convention will be framed in terms of short principles and will consist of a statement of ideals and aims which the United Nations will endeavour to promote and secure. It can thus provide a valuable basis for the progressive extension and refinement of human rights, through education, teaching and its moral influence on mankind. But its phraseology will of necessity be general and lacking in detail, and it is therefore probable that no country will be able to observe many of its provisions literally and absolutely.

4. It is therefore clear that such a declaration, by itself, cannot create international obligations on the members of the United Nations. Consequently, if there is a declaration and nothing else, there can be no procedure for enforcement nor can there be any provisions with regard to petitions or anything else of a like nature. The Government of the United Kingdom, and most other governments will be quite unwilling to contemplate any attempt to enforce a declaration which is only in broad general terms, and which creates no actual legal obligations of any kind. [2] They would not agree to any procedure for the consideration of petitions based on an instrument which constitutes ideals and aims, and does not purport to constitute any obligation. It is only possible to consider methods of enforcement, including appeals to the General Assembly, and the procedure for dealing with petitions *etc.* in relation to an instrument which creates obligations precisely defined and which can, in case of dispute, be interpreted by the International Court of Justice. Course (a) cannot, however, be considered to be an adequate fulfilment of the aims expressed in the Charter. While it is to be hoped that such a declaration of aims and ideals may ultimately, by its persuasive force, have a considerable influence in ameliorating the lot of mankind there is a real danger that if it stands by itself, it may lead men to believe that more progress had been achieved than would in fact be the case.

5. Course (b) was the one which was proposed by the United Kingdom delegate at the meeting of the Drafting Group. The drafts then submitted by the United Kingdom contain a Bill of Rights in the form of a convention and also the elements of a declaration, since there is inserted into the draft Assembly resolution a number of principles which should be accepted as aims but which cannot yet take the form of precise legal obligations. The Government of the United Kingdom still consider that this is a possible and proper course.

6. Course (c) is one which might well form a compromise between those who most favour a declaration and those who most desire a convention. Under this course, everything that can immediately be made the subject of precise obligations

would be set forth in the Bill of Rights and be made subject to a suitable enforcement procedure. The declaration would then contain (1) certain broad principles which were formulated in terms of precise obligations in the Convention and (2) a statement of further ideals and aims which were not susceptible of immediate formulation as legal obligations.

7. It is impossible to exaggerate the importance of adequately safeguarding human rights and fundamental freedoms. The maintenance of these rights and freedoms, as we know from our own history, forms an essential curb on the ambitions of those who are in power in the individual states. They provide the means through which the individuals in each state, enjoying the rights of full information and of free speech and criticism, can check the reckless courses in which those in power are sometimes prone to plunge their populations. Therefore the establishment of human rights and fundamental freedoms as part of international law, with obligations on each state to observe and maintain them, is an essential safeguard against the danger of war resulting from the ambitions and desires for power by individual states.

8. In this connection attention should be paid to a small paper presented by the eminent Belgian, Professor Charles de Visscher, to the Institute of International Law for discussion this year at Lausanne entitled "The Fundamental Rights of Man as the basis for the restoration of International Law".²⁰⁶ He rightly points out that:

"respect for human personality . . . becomes . . . the great restraining influence on the Executive; . . . it brings about that just balance which prevents the Executive [3] from degenerating at home into an instrument of tyranny, and abroad into an engine of aggression and conquest. . . The key of the problem therefore lies above all in the relations between man and the State, in an adjustment of the behaviour of the individual towards the body politic, and in the intellectual and institutional counter-weights which in truly democratic countries preserve the Executive from those deviations which arise from the pursuit of power for its own sake. . .

"This indissoluble connexion between human liberties and the creation of an international order founded upon law have been thrown into tragic relief during the last 25 years. The totalitarian ideologies, built on a perverted morality, made every effort to sanctify the enslavement of human personality to the Nations State's ideal, of power. In absolute contradiction to that 'rule of law', which in countries of liberal tradition safeguards individual rights against the whim of the Executive, national-socialist law was marked by the removal from the constitutional statutes of all mention of these fundamental rights of man which are beyond the reach of political decisions by governments."

²⁰⁶ Charles de Visscher (1884–1973) served as a judge at the Permanent Court of International Justice and later at the International Court of Justice, from 1946 to 1952. He presented "The Fundamental Rights of Man as The Basis for the Restoration of International Law" to the meeting of the Institut de droit international held at the Hôtel du Château at Lausanne in 1947. See: François Rigaux, "An Exemplary Lawyer's Life (1884–1973)," (2000) 11 *European Journal of International Law* 877.

Professor de Visscher is one of the Judges of the International Court of the Hague, and the whole of the paper from which these quotations are taken deserves careful study by the Commission.

9. Further, another point made by Professor de Visscher is in full accord with the United Kingdom draft, namely, that human rights and fundamental freedoms are really based on the law of nature which was the foundation of the law of nations, which was again the foundation of international law. This idea is expressed today in Article 38 of the Statute of the International Court by “the general principles of law recognized by civilised nations.” To a large extent, therefore, the provisions of the United Kingdom draft of an International Bill of Rights or convention are part of international law already. Moreover, most of its provisions are declaratory of what may be described as the general principles of the law of members of the United Nations in the field of the rights of man. A survey of the constitutions of most countries shows that, in the matter of the recognition of the fundamental rights of the individual, there is already a wide uniformity. This applies in particular to provisions safeguarding personal liberty, freedom of religion, of speech, of opinion, and of association, and of equality before the law. The United Kingdom draft is of course based on British practice, and will therefore have to be amended to take account of the practice in other countries, but many of the principles embodied in it are already part of international law. But by reason of lack of precise definition, and of any procedure for dealing with cases where they are violated, they form a part of international law today in a most imperfect manner. In the opinion of His Majesty’s Government these facts were recognized by the Charter itself, and the time has now come to ensure these rights and freedoms by defining them precisely in a convention which will have binding force on all nations which ratify it. To fail to do so would cause bitter disillusionment to the hopes which millions of our fellow-men have placed in the Human Rights Commission, and would thus be a step backwards rather than progress.

[4]

10. If the Commission decides to adopt course (c) it is desirable that the nature and purpose of each document should be clearly stated. This will be of value not only in the actual task of drafting the two documents, but also in making clear the relationship between them when they have been approved by the General Assembly. A draft statement on these lines is accordingly annexed hereto. It is suggested that in the event of course (c) being adopted, this draft statement should be discussed and adopted, with any necessary amendments, by the Commission. Thereafter it might be submitted for adoption, in a suitably modified form, by the General Assembly when the Draft Convention and the Draft Declaration are submitted to it.

Draft Statement for Consideration by the Commission on Human Rights

1. The task of promoting human rights and fundamental freedoms has two aspects, first, the consolidation of the progress which has already been achieved, so that the barbarities of Nazi Germany may be outlawed for all time; and, secondly, the progressive extension and refinement of human rights and freedoms for all men everywhere.

2. It is not possible for a single document to serve both these purposes. The Human Rights Commission has therefore prepared two documents, one a Declaration of Human Rights, and the other an International Bill of Human Rights.

3. The Declaration is designed to promote the progressive extension and refinement of human rights and freedoms. It must therefore, of necessity, be expressed in terms of general principles which answer to the aspirations of all men everywhere. These principles represent the goal towards which mankind is striving, and it may be hoped that their definition by the United Nations will hasten the day when they will be generally accepted and universally applied. But at the present time, and probably for many years to come, most of them must in practice be subject to many exceptions whose enumeration in the Declaration itself would destroy its whole purpose. The Declaration therefore creates no legal obligations, and none of its provisions can be enforced. It must rely for its efficacy, on teaching and education and on the progressive realization of man's social and economic wellbeing.

4. Certain of these general principles however can and should at once be expressed in terms of binding legal obligations if the progress already achieved is to be consolidated. These are the rights which are immediately capable of precise definition and which are already included in the constitutions of most of the members of the United Nations. The example of Nazi Germany shows what results can flow, internationally as well as internally, from the refusal by a Government to recognize elementary human rights and fundamental freedoms. The International Bill of Human Rights is therefore designed to consolidate and codify the general principles of law of the members of the United Nations in the matter of the rights of man by creating legally binding and internationally enforceable obligations on those United Nations which adhere to it. For this reason, its scope is less far-reaching than that of the Declaration of Human Rights, but other parts of the Declaration may from time to time be embodied in the form of Conventions.

5. Thus, while the Declaration cannot, by its very nature, create any legal obligations, the International Bill of Human Rights will, from the moment of its coming into force, form a part of international law.

E/CN.4/Sub.2/21

26 November 1947

Opinion of Mr. Borisov (USSR) on Article 6

Mr. Borisov wishes Article 6 to contain the following provisions:

All people are equal before the law and shall enjoy equal rights in the economic, cultural, social and political life, irrespective of the race, sex, language, religion, property status, national or social origin.

Any advocacy of national, racial and religious hostility or of national exclusiveness or hatred and contempt, as well as any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion, constitute a crime and shall be punishable under the law of the State.

E/CN.4/36

26 November 1947

Proposal for a Declaration of Human Rights Submitted by the Representative of the United States on the Commission on Human Rights

Whereas, by the Charter of the United Nations all Members affirm their faith in the dignity and worth of the human person and pledge themselves to cooperate in promoting respect for and observance of human rights and fundamental freedoms for all.

Now, therefore the General Assembly of the United Nations resolves to set forth in a solemn Declaration these essential rights and fundamental freedoms of man, and calls upon the peoples of the world to promote the rights and freedoms hereby proclaimed.

Article 1

Everyone is entitled to life, liberty, and equal protection under law.

Article 2

Everyone has the right to freedom of information, speech, and expression; to freedom of religion, conscience, and belief; to freedom of assembly and of association; and to freedom to petition his Government and the United Nations.

Article 3

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation. No one shall be arbitrarily deprived of his property.

[2]

Article 4

There shall be liberty to move freely from place to place within the State, to emigrate, and to seek asylum from persecution.

Article 5

No one shall be held in slavery or involuntary servitude. No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.

Article 6

No one shall be subjected to arbitrary arrest or detention. Anyone who is arrested has the right to be promptly informed of the charges against him, and to trial within a reasonable time or to be released.

Article 7

Everyone, in the determination of his rights and obligations, is entitled to a fair hearing before an independent and impartial tribunal and to the aid of counsel. No one shall be convicted or punished for crime except after public trial pursuant to law in effect at the time of the commission of the act charged. Everyone, regardless of office or status, is subject to the rule of law.

Article 8

Everyone has the right to a nationality. Everyone has a right to take an effective part in his Government directly or through his representatives; and to participate in elections, which shall be periodic, free and by secret ballot.

Article 9

Everyone has the right to a decent living; to work and advance his wellbeing; to health, education and social [3] security. There shall be equal opportunity for all to participate in the economic and cultural life of the community.

Article 10

Everyone, everywhere in the world, is entitled to the human rights and fundamental freedoms set forth in this Declaration without distinction as to race, sex, language or religion. The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.

E/CN.4/39

26 November 1947

Proposed Amendments to the Draft Articles on Human Rights and Fundamental Freedoms Contained in Annex G of the Report of the Drafting Committee (Doc. E/CN.4/21)

Submitted by the Representative of the United Kingdom on the Commission on Human Rights.

1. Amend Article 2 to read: "It shall be illegal for any person to be subjected to:-
 - (a) Torture in any form;
 - (b) Any form of physical mutilation or medical or scientific treatment or experimentation against his will.
2. Add a new Article 4 (a) to read as follows:-

"(1) no person shall be convicted of, or punished for, crime save by judgment of a competent tribunal and in conformity with the law.

(2) any person accused of having committed a crime shall be entitled:-

 - (a) to a full hearing of his defence to the charge and of any plea which he may make in mitigation;
 - (b) to hear the testimony of all witnesses;
 - (c) to compulsory process for securing
 - (i) the attendance of witnesses whom he wishes to call and
 - (ii) the production of relevant documents.
 - (d) to consult with and to be represented by counsel."
 3. Amend Article 7 to read "No person shall be prevented from having access to the Courts or entering into lawful contracts save in the case of:
 - (a) Minors;
 - (b) Persons of unsound mind;
 - (c) Persons undergoing imprisonment or subject to disabilities resulting from a conviction."

E/CN.4/Sub.2/SR.3

26 November 1947

***Summary Record of Third Meeting [of the First Session of the
Sub-Commission on Prevention of Discrimination and
Protection of Minorities***

held at the Palais des Nations, Geneva,
on 26 November 1947 at 10 a.m.]

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia); Dr. C.H. Wu (China); Mr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Mr. A.P. Borisov (Union of Soviet Socialist Republics); Miss Elizabeth Monroe (United Kingdom); Mr. J. Daniels (United States of America). Specialized Agencies: Mr. Rodolphe Lopes (ILO); Miss M.L. Barblé (IRO). International Non-Governmental Organizations: Mr. Bienenfeld (World Jewish Congress). Secretariat: Prof. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi.

...

[9]

...

III. Items 6, 7 and 8 of the Agenda

THE CHAIRMAN said the first Article for consideration was Article 6 (document E/CN.4/21, page 74).

MR. BORISOV (Union of Soviet Socialist Republics) reminded the Sub-Commission that it had been decided that discussion of the Articles would be confined to preliminary remarks from the Members, and that the Sub-Commission would not be concerned with drafting. No objection had been raised to this procedure, and he understood that Mr. Spanien had also agreed to it.

THE CHAIRMAN considered that their expressions of opinion must be presented in some way to the Drafting Committee and would to that extent need to be drafted or at least written out in some form.

MR. DANIELS (United States of America) suggested that Members might indicate points of agreement or disagreement with an Article and leave the drafting of the Report to the Rapporteur.

THE CHAIRMAN supported this suggestion.

MR. NISOT (Belgium) agreed to this on the understanding that only points on which a vote had been taken would be incorporated in the Report and that individual viewpoints expressed in the meetings need not be included.

THE CHAIRMAN, on the other hand, felt that reservations made on any particular point would have to be included in the Report.

[10]

MR. BORISOV (Union of Soviet Socialist Republics) contended that Mr. Nisot's point ran counter to a previous decision. The Sub-Commission had not been entrusted with the task of drafting, either by the Drafting Committee or by the Commission on Human Rights; and it therefore had no legal power to do so. He contended that each Member should be free to express opinions on the Articles, and the Report to the Drafting Committee should reflect these opinions. It remained for the Drafting Committee to prepare the draft Articles.

MR. MASANI (India) considered that an expression of the opinion of the Sub-Commission as a whole was required. He agreed with Mr. Nisot that only matters voted upon should be embodied in the Report, but, as already stated by the Chairman, any minority point of view would also be recorded.

MR. NISOT (Belgium) stated that the usual procedure, in cases where a reservation had been expressed, was for the Member concerned to draft a text to be included in the Report.

MR. SPANIEN (France) pointed out that in his opinion there were two aspects to their task: first, to submit a report to the Human Rights Commission; secondly, to submit to the Drafting Sub-Commission of the Commission on Human Rights the results of their study and discussion of specific Articles. He considered it best that the Report should embody the conclusions of the majority of the Members; should reservations be made, the Member concerned should draft a text for inclusion in the Report.

MR. BORISOV (Union of Soviet Socialist Republics) pointed out that, because of legal considerations, the Secretariat had not originally included examination of specific Articles in the Agenda. He felt that opinions expressed might be sent both to the Drafting Sub-Commission and to the Commission on Human Rights. He maintained that the Commission had not asked the Sub-Commission [11] to do any drafting and he therefore felt that all remarks made by Members of the Sub-Commission with regard to these Articles should be embodied in the Report.

MR. NISOT (Belgium) felt that there was some misunderstanding. He had not expressed the opinion that the Sub-Commission was a drafting committee. He had said that the Report should embody the opinions of the majority, and in addition any reservations that might be made. The opinions expressed in the course of the meetings would, of course, be embodied in the summary records of the meetings. In due course, the Rapporteur's Report would be presented to the Members for approval or amendment. He felt this point was clear, and that they could now begin to study Article 6.

MR. DANIELS (United States of America) supported the views expressed by Mr. Nisot.

MR. BORISOV (Union of Soviet Socialist Republics) said that, had it not been for the legal aspect of the question, he could have shared the point of view of Mr. Nisot. However, the terms of reference did not charge the Sub-Commission with the task of voting upon and approving the Articles in question. All that was required was, in his opinion, an expression of the opinions of the Members, not of the Sub-Commission as such. By adopting the procedure proposed by Mr. Nisot, they would be exceeding

their terms of reference. The study of these Articles was not their essential task. He therefore proposed that the opinions of each Member with regard to the Articles should be recorded.

THE CHAIRMAN asked Mr. Borisov whether he would agree to the Report being drafted in such a way as to indicate points of agreement or dissent, without stating that a vote had been taken.

MR. BORISOV (Union of Soviet Socialist Republics) said he would prefer that this section of the Report should be [illegible] [12] as he had proposed and added in the form of an Annex.

MISS MONROE (United Kingdom) could not agree to the proposal of Mr. Borisov. The opinion of the Sub-Commission had been asked for, both by the Commission on Human Rights and by the Drafting Committee. She cited paragraphs 13 and 14 of document E/CN.4/Sub.2/5 to support this contention. It was part of their task to make recommendations, she felt whether these were arrived at after a vote or otherwise was immaterial. However little they might wish to become a Drafting Committee, it was necessary that they find words in which to express their opinions.

MR. SHAFIQ (Iran) said that he was in favour of voting on specific points and recording the consensus of opinion in the Report. He felt that sufficient time had been wasted in discussing procedure.

MR. DANIELS (USA) moved that the Rapporteur should record the action of the Sub-Commission on each of the provisions. Where reservations were made he should, if requested, incorporate a statement drafted by the Member concerned. DR. WU (China) seconded the motion. THE CHAIRMAN put the motion to the vote and it was carried by ten votes, with one abstention.

MR. BORISOV (Union of Soviet Socialist Republics) said he wished to record a reservation on the point. In his opinion, the Members had adopted a procedure contrary to the decisions of the Commission on Human Rights.

The meeting rose at 12:55 p.m.

E/CN.4/Sub.2/SR.4

26 November 1947

***Summary Record of Fourth Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination and
Protection of Minorities***

held at the Palais des Nations, Geneva, on Wednesday,
26 November 1947 at 3 p.m.

Present: Chairman: Mr. E.E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti).
Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia);

Dr. C.H. Wu (China); Mr. J. Daniels (United States of America); Mr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Miss Elizabeth Monroe (United Kingdom); Mr. A.P. Borisov (Union of Soviet Socialist Republics). Specialized Agencies: Mr. Rodolphe Lopes (ILO); Miss M.L. Barblé (IRO). International Non-Governmental Organizations: Mr. Bienenfeld (World Jewish Congress). Secretariat: Prof. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi.

[2]

Continuation of Discussion on Article 6

1. Proposal by Mr. Masani (India)

MR. MASANI (India) wished to make two proposals regarding Article 6. In the first place he did not think it was clear from the text that the idea of colour was included in that of race. The American Federation of Labor had thought fit, in document Sub.2/16,²⁰⁷ to refer explicitly to colour as well as race in connection with discrimination. He proposed therefore that the Sub-Commission while approving this article should make it more explicit by adding the word “colour” after the word “race”. Secondly, the lack of any mention of discrimination based on political opinions seemed to him an omission to be rectified. In his previous statements he had emphasized the importance of political minorities. He therefore proposed that the words “or political opinion” should be added at the end of the article. Article 6 would then read:

“Every one is entitled to the rights and freedoms set forth in this Declaration, without distinction as to race, colour, sex, language, religion, or political opinion.”

THE CHAIRMAN proposed if the Sub-Commission agreed, to discuss each member’s proposal in turn, starting at once with Mr. Masani’s first proposal.

2. Discussion of the amendment proposed by Mr. Masani (India) concerning the addition of the word “colour” after the word “race”

MR. DANIELS (United States of America) pointed out the similarity of the wording proposed by Mr. Masani with that adopted in the American Constitution after the War of Secession. It would however in his opinion be preferable to keep to the terminology of the Charter of the United Nations, which referred to “fundamental freedoms for all without distinction as to race, sex, language, or religion” (Article 1, paragraph 3). The words “for all” clearly showed that the words that followed were not to be taken in any other sense.

[3]

MR. McNAMARA (Australia) urged that if there was the slightest doubt it was better to add the word “colour” than risk leaving out certain groups.

²⁰⁷ E/CN.4/Sub.2/16.

MISS MONROE (United Kingdom) supported this.

MR. NISOT (Belgium) considered the addition superfluous but saw no objection to it.

MR. ROY (Haiti) remarked that if the word "race" was not taken in the general sense as including the idea of colour the whole Charter would have to be revised.

MR. SHAFaq (Iran) said that the word "race" ought to be understood in a general rather than in a scientific sense, and that being so he did not see that the addition proposed by Mr. Masani served any purpose.

DR. WU (China) pointed out that in current usage race meant colour. Mr. Masani's proposed addition therefore seemed to him unnecessary.

MR. SPANIEN (France) said that the Sub-Commission could not embark on ethnological research. There was no scientific definition of the word "race". He therefore thought it desirable for the word "colour" to be added.

MR. MASANI (India) stressed the fact that race and colour were two conceptions that did not necessarily cover one another.

MR. ROY (Haiti), while understanding Mr. Masani's intention, wished to point out to him a certain danger. If the word "colour" were added to an article on non-discrimination, would that not imply that the Charter in dealing with race had failed to envisage discrimination based on colour? He wished it to be possible to refer to the Charter and "race" to be understood as implying colour.

MR. SHAFaq (Iran) pointed out that since there was no precise scientific definition of "race" the word had to be used in [4] a general sense, which included the idea of colour. Moreover the word "colour" in current parlance applied to clearly defined groups and not to all coloured peoples.

MISS MONROE (United Kingdom) pointed out that Mr. Masani's proposal strayed from the purpose of Article 6, i.e. discrimination. In point of fact discrimination only occurred when colour meant race.

MR. MASANI (India) remarked that this was not the case as far as emigration to the United States was concerned. A distinction was made between Caucasian immigrants of the fair type and those of a darker one. The same thing occurred in South Africa.

DR. WU (China) announced his readiness to withdraw his first statement, in view of the ambiguity of the word "race". It seemed to him preferable for the Sub-Commission to define the term more precisely by adding the word "colour"; and the authors of the Charter could not blame it for that.

MR. DANIELS was in favour of keeping to the Charter terminology. It was impossible to add the word "colour" without completing the list and adding political opinions etc.

MR. ROY (Haiti) stressed the fact that at none of the conferences of ILO, WHO and UNESCO, at the Pan-American Conference or in the Charter of the United Nations had any words other than race, sex, language, or religion ever been used. To

add the term “colour” now would be to assume that colour was not implied in any of the international documents that mention race. The effect of the addition would be to prevent reference to any international documents being made in future in connection with discrimination based on colour.

THE CHAIRMAN proposed that since opinions in the Sub-Commission were divided regarding the insertion of this term, a note reading as follows should imply be added to Article 6:

[5]

“It being understood that the term ‘race’ includes the idea of colour.”

The Sub-Commission

Decided

To accept the Chairman’s proposal.

3. Discussion of the amendment proposed by Mr. Masani (India) concerning the addition of the words “or political opinion” after the word “religion”

MISS MONROE (United Kingdom) drew the Sub-Commission’s attention to paragraph 13 of document Sub.2/5, in which it was stated that this point had been discussed by the Commission on Human Rights and referred to the Sub-Commission for study. For her part she would be willing to support the amendment proposed by Mr. Masani in view of the importance of matters of political opinion in the case of minorities.

DR. WU (China) felt that it would not be correct to make this addition, since political opinion was one of the fundamental freedoms and rights, not a qualification of those entitled to them.

THE CHAIRMAN pointed out that Article 6 was a preamble to all the articles in the Declaration. However, since Articles 21 and 22 of the Declaration referred to freedom of political opinion, he questioned the necessity for this addition.

MR. MCNAMARA (Australia) urged that freedoms not expressly guaranteed were always in danger of being denied. He regarded Mr. Masani’s amendment as essential. In some countries discrimination was based on political opinion. It was important that freedom of political opinion should not be denied.

MR. SPANIEN (France) also supported Mr. Masani’s proposal but would prefer the word “political” to be omitted. He referred to the text submitted to the Drafting Committee by the Representative of France (CN.4/21, Annex D, Art. 6), and to the opinion of [6] the Representative of the USSR expressed in paragraph 13 of document Sub.2/5.

MR. MASANI (India) emphasized that his intention in adding the words “political opinion” had been to extend to political opinions the protection granted by the article to religious beliefs. The minorities that would need protection in the future

would be more in the nature of political minorities than the traditional religious minorities, which were tending to disappear.

MISS MONROE (United Kingdom) was in favour of including the word “political opinion” in order to avoid any confusion with the articles dealing with the freedom of the press and of information.

MR. DANIELS (United States of America) asked whether the same procedure might not be adopted here as had been proposed by the Chairman for the addition of the word “colour”.

MR. SPANIEN (France) believed that while the idea of colour could be included in that of race, the idea of political opinion could not be covered by any of the terms race, sex, language or religion. In this connection there was a gap in the Charter which ought to be filled. He therefore proposed that Mr. Masani’s proposal be adopted, with the amendment he had already suggested – viz. by omitting the word “political”. This amendment would give a wider meaning to the proposed addition.

MR. ROY (Haiti) felt that the only serious objection to Mr. Masani’s proposal lay in the mention of freedom of political opinion in Article 21 of the Declaration. He pointed out, however, that Article 20 provided for religious freedom, which was also mentioned in Article 6. The fact that political opinion was mentioned in Article 21 was therefore no obstacle to the addition of the words “political opinion” in Article 6.

MR. BORISOV (USSR) found this Article decidedly inadequate. In the first place it was not sufficient to state that men were [7] equal. It was necessary to give this Declaration a concrete and juridical character by affirming that they were equal before the law and had the same rights in economic, political, cultural and social life, irrespective of their race, sex, religion, financial or social status. Secondly it was necessary to state that any advocacy of hatred, racial conflicts and any action establishing privileges of any kind, was a crime punishable by law. Therefore he proposed firstly that the various fields in which the rights to equality applied should be mentioned and secondly, that it should be affirmed that any propaganda against such equality would be punishable by law.

THE CHAIRMAN pointed out that Mr. Borisov’s proposal applied to Article 5 rather than to Article 6.

MR. NISOT (Belgium) stated that it was only possible to protect what was expressed by acts. For this reason he would confine himself to Articles 21 and 22 which dealt with freedom of expression and opinion.

MR. MCNAMARA (Australia) proposed the following amendment to reconcile the views of the representative of India and the representative of France: “or political or other opinion”. While emphasizing the importance of political opinion, this text could apply to any other opinion.

DR. WU (China) stated that if by political opinion Mr. Masani meant membership of a party, that was in his view a permanent element which could be inserted among

the qualifications of Article 6. In the Constitution of the Chinese Republic, it was stated that all men without distinction as to race, class and party would be equal before the law. He was therefore in favour of this addition.

MR. DANIELS (United States) said that the Sub-Commission was faced with the following alternatives: either it had to accept [8] the terminology of the Charter, it being understood that the terms employed were not restrictive or else, if other rights were mentioned, it had to add political opinion. But in his view, it was then necessary to use the same form of drafting both for colour and political opinion.

MR. MASAMI (India) pointed out that the term "colour" had not been mentioned for the practical reason, to which Mr. Roy had referred, but that it was not possible to deal with political opinion in the same way. With regard to the amendment proposed by the Australian member, he declared his readiness to accept it if the Sub-Commission so recommended unanimously and if the Delegate of France saw no objection. Otherwise he preferred to maintain his original position.

MR. SHAFaq (Iran) thought it would be preferable to mention political opinion in Article 21 in order to keep to the terminology of the Charter.

MISS MONROE (United Kingdom) pointed out that the Sub-Commission had not met to clarify the terminology of the Charter and to make it more effective in its own particular field. Furthermore she supported Mr. Masani's original proposal.

MR. BORISOV (USSR) asked for an explanation concerning Mr. Masani's and Mr. McNamara's proposals. If the Sub-Commission accepted these proposals unreservedly, would the terms "political or other opinion" also cover the political opinions of the Nazis or Fascists concerning, for instance, the superiority of the white race over the black?

MR. SPANIEN (France) asked whether, in order to meet Mr. Daniels' point without weakening the principles of the Charter, though its wording need not be slavishly followed, it would not be advisable to re-instate the Preamble of the Declaration rejected by the Drafting Committee. This Preamble, by reaffirming the [9] inviolable principles of the Charter, would shorten the discussion of the subsequent Articles of the Declaration. Article 21 could thus be left as it stood. This proposal would also alleviate the necessity, pointed out by Mr. Borisov, for defining and enumerating certain rights. He declared his readiness however, to accept the Australian amendment and accepted the formula "political or other opinion".

MR. McNAMARA (Australia) wished for his part to emphasize the gravity of the question raised by Mr. Borisov, and proposed therefore that, if the term "political" were retained, there should be added a reservation similar to that included in Article 13: "This freedom may be regulated by any general law adopted in the interest of national welfare and security."

MISS MONROE (United Kingdom) supported Mr. Borisov's observation and proposed the following reservation: "provided always that it is not an opinion

involving the overthrow of the State by violence, or involving the denial of rights and freedoms to others.”

MR. MASANI (India) thought there was no need to include a reservation in Article 6 and that some confusion had arisen in this connection. Article 6 was only a preamble defining the categories of persons enjoying the rights and freedoms enumerated in Article 7 and thereafter. The rights and limitations should not therefore be inserted in Article 6, but would have their place in subsequent Articles.

MR. DANIELS (United States of America) agreed with Mr. Masani. It was not, he thought, the Sub-Commission's task to seek limitations to the application of rights and freedoms. He agreed with Mr. Borisov, that the expression “or political opinion” involved a certain danger. But experience had shown that any restriction imposed in this sphere was a blow to human freedom.

[10]

MR. SHAFaq (Iran) pointed out that:

1. the right to free expression of opinion should be protected, except where it was used to restrict the rights of other groups or to injure those groups;
2. freedom must be restricted as soon as it infringed the freedom of others, otherwise it would cease to exist.

MR. BORISOV (USSR) thought that Miss Monroe and Mr. Daniels had not understood his previous question. This question was very clear and required a clear answer; he had asked whether the rights and freedoms set forth in Article 6 should be extended to opinions such as those held by Nazis or Fascists, and to theories such as that of the superiority of the white race over other races. He felt that an implicitly affirmative answer to this question, would amount to a defence of these opinions.

MISS MONROE (United Kingdom) replied that her amendment could not be interpreted as a defence of political opinions and rights such as those proclaimed by the “Herrenvolk”. Her reply was unequivocally “No” and was implicit in her amendment, which read “provided always that it is not an opinion involving the overthrow of the State by violence, or involving the denial of rights and freedoms to others”.

MR. SHAFaq (Iran) pointed out that the Nazi and Fascist movements were not purely racial in character, since they brought one section of the white race into conflict with another, that is, the Aryan and the Semitic. He added that the Nazi movement had been finally condemned, and it seemed futile to reopen the question.

MR. DANIELS (United States) agreed with Mr. Shafaq and, while condemning Nazism, found it necessary to include in the Article guarantees of this kind that already existed in other documents.

MR. MCNAMARA (Australia) thought that no clear answer had yet been given to Mr. Borisov's question. He wished to make his meaning clear.

He would allow freedom of opinion even to Nazis, provided their opinions did not lead them to acts of violence or the overthrow of governments. In his opinion freedom should be accorded to all beliefs, but he thought it expedient for the Article to include a guarantee to prevent acts of violence, even if that guarantee were a repetition.

MR. SPANIEN (France) wished to point out that any protection of freedom of opinion in itself implied condemnation of any philosophy based on physical extermination of opponents.

DR. WU (China) thought it was inconsistent not to condemn wrong and foolish opinions calculated to disturb order and peace. He considered Miss Monroe's proposed amendment incomplete. Would the Sub-Commission hold that steps should not be taken against, say, a religion of an obscene character?

MISS MONROE (United Kingdom) replied that Dr. Wu would find the answer to his question in Paragraph 2 of the alternative text proposed by the United Kingdom to Article 20.

MR. MASANI (India) remarked that an amendment and a sub-amendment to Article 6 had been proposed. Mr. McNamara's sub-amendment consisted of the addition of the words "or others". He accepted it subject to the other members agreeing. His own amendment was to the words "or political opinion" after the word "religion".

He thought that Miss Monroe's amendment should be inserted in Article 21 rather than in Article 6.

Mr. Roy (Haiti), on a point of order, asked that if no other members were down to speak on these amendments the vote should be taken.

MR. NISOT (Belgium) stated that he would vote against any [12] amendment to Article 6. Since that article tallied completely with the Charter its wording should be respected.

MR. SHAFaq (Iran) thought that if the words "political opinions" were to be inserted they should appear in Article 21, not Article 6.

THE CHAIRMAN replied that the Sub-Commission had spent the whole afternoon discussing the amendments proposed to Article 6. He reminded the meeting that Mr. Roy had moved the closure.

DR. WU (China) supported this motion.

MR. BORISOV (USSR) asked for an explanation. Did the motion of closure mean that on the discussion being closed the vote would be taken on Article 6? He gave notice that he wished to submit other amendments himself and desired that they should be discussed the following day.

THE CHAIRMAN replied that the motion of closure applied solely to Mr. Masani's and Mr. McNamara's amendments to Article 6 and the Mr. Borisov's proposals could be discussed the following day.

He put to the vote Mr. McNamara's sub-amendment: that the words "or other" be added to the end of the Article.

The Sub-Commission

Decided

To adopt the sub-amendment proposed by Mr. McNamara.

THE CHAIRMAN put to the vote Mr. Masani's amendment: that the words "or political opinion" be added after the word "religion".

The Sub-Commission

Decided

To adopt the amendment proposed by Mr. Masani.

MISS MONROE (United Kingdom) stated that, if her Soviet colleague agreed, she would consent to the insertion of her amendment in Article 21.

[13]

THE CHAIRMAN asked if in that case he might regard Miss Monroe's amendment as withdrawn, subject to its re-introduction in connection with Article 21.

MISS MONROE (United Kingdom) replied in the affirmative.

MR. MCNAMARA (Australia) asked, before the meeting adjourned and in spite of the fact that it had adopted Mr. Masani's amendment, sub-amended by himself, that his desire to see the following clause inserted should be put on record: "provided that political opinions should be subject to the right of the State to regulate the active repression of such opinion by any general law adopted in the interest of national welfare and security".

MR. BORISOV (USSR) asked what was the final result of the vote on Mr. McNamara's and Mr. Masani's amendments.

THE CHAIRMAN replied that the Sub-Commission had adopted those amendments.

The meeting rose at 5:50 p.m.

E/CN.4/36/Add.1

27 November 1947

Explanatory Note on Derivation of Declaration on Human Rights Proposed by Representative of the United States on the Commission on Human Rights

Article 1. This is derived from HRDC Article^x 5, first sentence, "all are equal before the law and entitled to equal protection before the law", HRDC Article 7, first

clause, “everyone has the right to life to liberty and to personal security”, and from HRDC Article 15, first clause, “everyone has the right to a status in law”.

Article 2. This combines HRDC Articles 20, on freedom of religion; 21, on freedom of opinion and information; 22, on freedom of expression; 23, on freedom of assembly and association; and 24, on right of petition.

Article 3. This is derived from HRDC Article 12 on privacy of home, correspondence, and respect for reputation, and from HRDC Article 17 on the right to own property.

Article 4. This is derived from HRDC Article 13, on liberty of movement, free choice of residence, and right of emigration, and Article 14 on right of asylum.

Article 5. This is derived from HRDC Article 11, which prohibits slavery, and the latter half of HRDC Article 10, in regard to torture.

Article 6. This Article is derived from HRDC Article 8, on freedom from arbitrary arrest.

Article 7. This is derived from HRDC Article 9, on the right to a fair trial; HRDC Article 10, on freedom from *ex-post-facto* laws; and the second half of HRDC Article 5, on the universal rule of law. It includes HRDC 19, the right of an alien to fair hearing before expulsion, as it assures *everyone* a fair hearing to determine *all* rights and obligations. It also covers the latter half of HRDC Article 15, on the right to independent and impartial tribunals and the assistance of counsel.

[^x] References to HRDC Articles relate to the Human Rights Drafting Committee (HRDC) Declaration; Annex F, Report of Human Rights Drafting Committee, E/CN.4/21.

[2]

Article 8. This begins with HRDC Article 18, on right to nationality. It goes on with HRDC Articles 26 and 27, on the right to effective participation in Government. HRDC Article 13, on the right to renounce nationality is not specifically mentioned; the freedom to emigrate in Article 4 of the U.S. proposed declaration, taken with this Article, would imply such freedom, and a Convention on nationality might carry this detail further. The United States proposed declaration also omits specific reference to HRDC Article 25, on the right to resist oppression. Effective participation in Government, together with freedom of speech, are regarded as appropriate safeguard against oppression.

Article 9. This is an inclusive statement on social rights, and includes items in the HRDC Articles 29, 30, 31, 33, 34, 35 and 36. HRDC Article 32, on the right to a fair share of rest and leisure, is not specifically included, but is suggested by the addition of the phrase “advance his wellbeing”, and in the adjective “decent” describing “living”. Both of these phrases accentuate the right to good conditions of work and life. HRDC Article 28, on the right of citizens to public employment

and public office, and HRDC Article 16, on the right to engage in all vocations and professions, are not specifically included, but are implied in the right of everyone to work.

Article 10. This Article is derived from HRDC Article 1, that men are brothers, free, possess equal dignity and rights; HRDC Article 2, on the recognition of the rights of others; and HRDC Article 6, on freedom from discrimination.

E/CN.4/Sub.2/SR.5

27 November 1947

***Summary Record of Fifth Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination and
Protection of Minorities]***

held at the Palais des Nations, Geneva, on Thursday,
27 November 1947 at 10 a.m.

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Nisot (Belgium). Members: Mr. W.M.J. McNamara (Australia); Dr. C.H. Wu (China); Mr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Mr. A.P. Borisov (Union of Soviet Socialist Republics); Miss Elizabeth Monroe (United Kingdom); Mr. Jonathan Daniels (United States of America). Specialized Agencies: Mr. Rodolphe Lopes (International Labour Organization); Miss M.L. Barblé (IRO). Non-Governmental Organizations: Mr. Bienenfeld, Mr. Riegner (World Jewish Congress); Mr. A.G. Brotman (Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council). Secretariat: Mr. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi.

[2]

Items of the Agenda

6. Examination of Terms of Reference
7. Prevention of Discrimination
8. Protection of Minorities

THE CHAIRMAN referred to the suggestions (E/CN.4/Sub.2/21) submitted by Mr. Borisov (Union of Soviet Socialist Republics), whom he asked for any further comments.

MR. BORISOV (Union of Soviet Socialist Republics) said that he would prefer first to hear the remarks of his colleagues.

MR. SHAFQAQ (Iran) asked Mr. Borisov (Union of Soviet Socialist Republics) whether his suggestion was meant to be included in an Article or in the Preamble. If

it was meant to be included in an Article, he felt that most of the points had already been expressed in other Articles, for example Articles 13, 16 and 34.

MR. BORISOV (Union of Soviet Socialist Republics) said that if this was the only question he had no objection to his text being included in the Preamble.

MISS MONROE (United Kingdom) said that she agreed with Mr. Shafaq (Iran) that most points were already covered, for example, the first phrase was already included in Article 5. Paragraph 2 was not quite suitable either for a Preamble or for a Declaration, in her opinion.

MR. NISOT (Belgium) said he felt that the substance of Mr. Borisov's suggestion did not belong to Article 6 but to other Articles, and that it therefore should be studied later.

MR. MASANI (India) pointed out that the first phrase of Mr. Borisov's suggestion already appeared in Article 5 of the Drafting Committee's suggestions. He felt that it should not be considered in connection with Article 6.

[3]

He agreed with the substance of the second paragraph but felt that it could not be considered in connection with Article 6.

MR. McNAMARA (Australia) agreed with Mr. Masani (India) that paragraph 2 was substantially different from paragraph 1. As to paragraph 1, he suggested that the proposal of Mr. Daniels (United States of America) should be made a motion, i.e. that three new categories be added to Article 6.

MR. DANIELS (United States of America) said that he would make no motion on this.

MR. McNAMARA (Australia) said he would make a formal motion himself.

MR. SPANIEN (France) said that the two paragraphs were quite different. Paragraph 1 dealt with principles; paragraph 2 with the method of their application. As to paragraph 1, he was ready to agree to the expansion of Article 6 as suggested, subject to re-wording. As to paragraph 2, he did not agree with the opinion of Miss Monroe (United Kingdom) as implementation was a duty of the Sub-Commission. Such a clause, however, should not be included either in the Preamble or the Articles of the proposed Declaration but among the safeguards in the Convention.

THE CHAIRMAN said that in his opinion the suggestion of Mr. Borisov (Union of Soviet Socialist Republics) certainly had elements referring to Article 6. He therefore suggested that it be considered at once.

MR. WU (China) supported the Motion by Mr. McNamara (Australia), and suggested that paragraph 1 be altered to read as follows:

[4]

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

He was in sympathy with paragraph 2 and suggested that it be discussed subject to the reservation made by MISS MONROE (United Kingdom).

MISS MONROE (United Kingdom) supported the Motion by Mr. McNamara (Australia), which had been seconded by Dr. Wu (China). As to paragraph 2, she said that Mr. Spanien (France) may have misunderstood her. She had said that in her opinion this text should not appear in either the Preamble or Articles of the proposed Declaration but in the proposed Convention.

MR. SHAFaq (Iran) supported the joint motion stated by Dr. Wu (China) and Mr. McNamara (Australia).

MR. DANIELS (United States of America) also supported their Motion.

THE CHAIRMAN suggested that the order of the wording might be changed to read “. . . political or other opinion, property status, national or social origin”.

MR. BORISOV (Union of Soviet Socialist Republics) asked if it was considered that the second part of paragraph 1 should go into Article 6. As to the first part he thought that the phrase “. . . equal rights in the economic, cultural, social and political life” should all be included in the body of the proposed Declaration as well as in the Preamble.

MR. DANIELS (United States of America) said that in his opinion Article 6 was not the place to establish specific rights, but merely to lay down the entitlement of all persons to general rights.

[5]

DR. WU (China) asked the Chairman to put the motion of Mr. McNamara (Australia) to the vote, and said that Mr. Borisov (Union of Soviet Socialist Republics) had made a good point but it was covered by Article 2.

THE CHAIRMAN said he would put the additions proposed earlier to the vote and then return to proposals made by Mr. Borisov (Union of Soviet Socialist Republics).

MR. BORISOV (Union of Soviet Socialist Republics) agreed that the other Articles dealt broadly with the issues but said that there should be a complete and substantial list of human rights in Article 6, as suggested by the Drafting committee.

MR. ROY (Haiti) made the new proposal of adding the word “any” before “opinion”.

MR. DANIELS (United States of America) suggested adding the word “all” before “rights and freedoms”.

MISS MONROE (United Kingdom) thought that Mr. Roy (Haiti) meant “without distinction of any kind”. She agreed with the amendment of Mr. Daniels (United States of America).

THE CHAIRMAN said that he appreciated that Mr. Borisov (Union of Soviet Socialist Republics) wished the suggestions of the Sub-Commission to be as complete as possible. However, he pointed out that the first words of Mr. Borisov’s text already appeared in Article 5, and that it would be extraordinary if both Articles started in the same way. He suggested that the members vote on the motion made by Mr. McNamara (Australia) as seconded by Dr. Wu (China) and amended by Mr. Roy (Haiti).

MR. BORISOV (Union of Soviet Socialist Republics) did not agree with the Chairman. Rights had not meaning, he said, unless they were linked with law. He agreed that the first [6] part of his text already appeared in Article 5, but said that in his opinion his revised text was more progressive and went further in describing the fields of full Rights. He added that what the common man needed was equal rights, and that this should be covered by a full formula.

MR. NISOT (Belgium) said that the proposal by Mr. McNamara (Australia) was independent of the first part of the suggestion of Mr. Borisov, which clearly belonged to Article 5 and not Article 6.

THE CHAIRMAN suggested that members vote on the whole of the amendment of Mr. Borisov (Union of Soviet Socialist Republics).

MR. ROY (Haiti) asked for a division of the amendment and for a vote to be taken on the first and second halves. Part I, he felt, belonged to Article 5, and part II was covered by the motion of Mr. McNamara.

MR. BORISOV (Union of Soviet Socialist Republics) proposed that paragraph 1 be divided into three parts:

1. "All people are equal before the law."
2. "Shall enjoy equal rights in the economic, cultural, social and political life."
3. "Irrespective of their race, sex, language, religion, property status, national or social origin."

There was no objection to such a division.,

THE CHAIRMAN said that he did not agree with Mr. Nisot (Belgium) that the motion of Mr. McNamara (Australia) was independent as he considered it an amendment of Mr. Borisov's motion. He called for a vote on the motion.

[7]

MR. SPANIEN (France) raised a question of translation of the French text. He suggested omitting the words "national or social" if Mr. Borisov (Union of Soviet Socialist Republics) agreed. This would leave "origin" to cover everything.

MR. BORISOV (Union of Soviet Socialist Republics) said that in his opinion "origin" did not necessarily include "national origin". The USSR for example had various nationalities of the same origin. As to part II, with the inclusion of "all" as suggested by Mr. Daniels (United States of America) there appeared substantial agreement by the members. As to part III, he felt that the vote should not be delayed. He felt that the majority of members agreed that it concerned Article 6. He again suggested voting on his text in three parts.

MR. NISOT (Belgium) asked the exact meaning of "national origin".

MR. McNAMARA (Australia) replied that in his view it was synonymous with nationality, but that it might also have a wider meaning.

MISS MONROE (United Kingdom) said that she considered the words not synonymous. She felt that the word “origin” must remain.

MR. DANIELS (United States of America) asked if members would not have an opportunity to vote for the joint proposal of MR. MCNAMARA (Australia) and DR. WU (China).

THE CHAIRMAN said that the joint amendment related to part 3 of Mr. Borisov’s proposal and that the Sub-Commission would deal with parts 1 and 2 first, and then vote on the Australian proposal as amended by Mr. Daniels (United States of America).

MR. MCNAMARA (Australia) said that he and Dr. Wu (China) accepted the addition of the word “all”.

THE CHAIRMAN put to the vote the proposal that the words “All people are equal before the law” be inserted in Article 6, [8] with the understanding that the rejection of this proposal would in no way preclude the insertion of those words in any other Article.

The proposal was rejected by 10 votes to 1.

MR. MCNAMARA (Australia) said that although he had voted against the proposal, he would like it to be noted that if those words should be omitted from Article 5, they should be considered for inclusion in some other Article. Such a procedure, he felt, would allay Mr. Borisov’s fear that the words might be omitted altogether.

THE CHAIRMAN noted Mr. McNamara’s remark. He called for a vote on the second part of the first paragraph of Mr. Borisov’s proposal, as amended by Mr. McNamara, Dr. Wu and Mr. Daniels:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration.”

The proposal was adopted by 10 votes with one abstention.

MR. NISOT (Belgium) said that he had abstained from voting because he objected to any alteration which did not faithfully conform with the terms of the Charter. He requested that the reason for his abstention be recorded.

THE CHAIRMAN read the amendment, drafted jointly by Mr. Spanien and Miss Monroe, to the third part of Mr. Borisov’s proposal, proposing that the second part of Article 6 read:

“without distinction of any kind, whether of race, sex, language, religion, political or other opinion, property status, origin or class.”

MR. BORISOV (Union of Soviet Socialist Republics) objected to the new text. He thought that the Sub-Commission should vote on his original suggestion and that the opinion of Mr. Spanien and Miss Monroe as to the interpretation of that text should

be noted in the report. He did not consider that the words “or [9] class” could be used to replace the words “national or social origin”.

MISS MONROE (United Kingdom) explained that in the draft she had proposed with Mr. Spanien the words “or class” had been proposed as a clearer version of, “or social origin”. The word “national” had been omitted because “national origin” was liable to be confused with “nationality”.

MR. BORISOV (Union of Soviet Socialist Republics) agreed that the words “or class” could be used to express “social origin”, but he objected to the omission of the word “national”. It was important, in his opinion, in the interests of countries where people of different national origins lived together under the same government, that the words “national origin” should be specifically mentioned.

MR. DANIELS (United States of America) objected to the use of the word “class” because it had some undesirable meanings which in his view made it unsuitable for inclusion in a Declaration of Rights.

Mr. McNamara agreed with Mr. Borisov that the original wording should be retained. He considered that the omission of the word “national” made the phrase meaningless. He felt that the idea of nationality, which had been the cause of a great deal of discrimination in the past, should be included.

MR. NISOT (Belgium) pointed out that there might be a political connotation in the words “property status”, since in some countries income was one of the factors considered in determining the right to vote.

DR. WU (China) agreed with Mr. Daniels that the word “class” was undesirable, and supported the original wording. In some countries there existed national groups which needed to be protected against discrimination. If the words “national origin” [10] referred to such national groups, he thought that they should be retained.

MR. BORISOV (Union of Soviet Socialist Republics) agreed with Dr. Wu’s definition of the words “national origin”. He had no wish for aliens to be given the right to vote in a foreign country, but he thought that the rights of national groups, living as citizens in a country, should be protected.

THE CHAIRMAN called for a vote on the proposal that the words “property status, origin or class” should be added to the text which had been adopted on the previous day. He explained that since, in his opinion, this was the text with the widest meaning, it would have to be voted on first.

The proposal was rejected by 7 votes to 3 with 1 abstention.

THE CHAIRMAN called for a vote on the proposal that the words “property status, national or social origin” should be added to the text which had been adopted on the previous day.

DR. WU (China) suggested that the proposal under consideration should be amended to read “property or social status or national groups”.

MR. BORISOV (Union of Soviet Socialist Republics) agreed with that text and suggested that the phrase might further be extended to read “national groups or minorities”. He did not consider that the words “social origin” were synonymous with “social status”.

MR. DANIELS (United States of America) suggested that the Sub-Commission should adjourn so that delegates could have time to consider all the proposals.

The meeting closed at 1.15 p.m.

E/CN.4/Sub.2/SR.6

27 November 1947

***Summary Record of Sixth Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination and
Protection of Minorities]***

held at the Palais des Nations, Geneva, on Thursday,
27 November 1947 at 3 p.m.

Present: Chairman: Mr. E.E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia); Dr. C.H. Wu (China); Mr. J. Daniels (United States of America); Mr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Miss Elizabeth Monroe (United Kingdom); Mr. A.P. Borisov (Union of Soviet Socialist Republics). Specialized Agencies: Mr. Rodolphe Lopes (International Labour Organization); Mlle M.L. Barblé (IRO). Non-Governmental Organizations: Mr. Bienenfeld, Mr. Riegner (World Jewish Congress); Mr. A.G. Brotman (Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council). Secretariat: Prof. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi.

[2]

Discussion of Article 6 (Continued)

THE CHAIRMAN pointed out that a document containing suggestions for amendments to Article 6, set out under six headings, had been distributed by the Secretariat. He stated that Point 1: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, sex, language, religion, political or other opinion”, had been adopted by the Sub-Commission. He asked Mr. Borisov, who had drawn up Point 2: “Property status, national or social origin” and Point 6: “Property and social status, national groups and minorities”, whether Point 6 was to replace Point 2 which he had previously proposed.

MR. BORISOV (Union of Soviet Socialist Republics) considered that in Point 6 his idea had been distorted. He withdrew Point 6 and would maintain Point 2: "Property status, national or social origin".

MR. McNAMARA (Australia) and DR. WU (China), in reply to the Chairman, agreed to cancel Point 3 which they had proposed: "Property status, national or social origin" (to be inserted after "political or other opinion").

MISS MONROE (United Kingdom) and MR. SPANIEN (France) withdrew Point 4: "Property status, origin or class".

MR. ROY (Haiti) declared himself in agreement with the wording suggested by Mr. Borisov and was willing to withdraw his proposal (Point 5): "Property and social status, national groups", subject to the consent of Mr. McNamara and Dr. Wu. [3]

THE CHAIRMAN put to the Sub-Commission Mr. Borisov's proposal: "Property status, national or social origin" and the amendment submitted by Mr. McNamara and Dr. Wu: "property status, national and social origin" (to be inserted after "political or other opinion").

MR. SHAFAQ (Iran) considered the term "national groups" inadequate because the meaning of that term was limited by the concept of the State. The term "ethnic" seemed to him preferable but he would accept "national or social origin" provided Mr. Borisov explained exactly what he meant by the term.

MR. MASANI (India) shared Mr. Shafaq's misgiving. He felt that the word "national" was improperly used here because it stood for a concept of a different kind from that implied in the terms "race, sex, etc." He preferred Mr. Borisov's text, as amended by Mr. McNamara and Dr. Wu.

MR. McNAMARA (Australia) said that if the word "groups" were adopted, it would have to be used in the singular.

DR. WU (China) objected to the term "national origin" which might lead to confusion. For example: a Chinaman living in Haiti who was a naturalized Haitian would not be liable to any discriminatory measures on the part of the Government. This would not be the case if that Chinaman took up residence in Haiti without becoming naturalized. The term "national" should be reserved, he felt, for the ethnic group forming a nation.

MR. BORISOV (Union of Soviet Socialist Republics) stated that if the members of the Sub-Commission so desired, he was prepared to revise his first proposal. In any case, he asked for a vote on his proposal²⁰⁸ as a whole and not only on the last few words.

[4]

²⁰⁸ The words "if the members of the Sub-Commission so desired, he was prepared to revise his first proposal. In any case, he asked for a vote on his proposal" are deleted by E/CN.4/Sub.2/SR.6/Corr.1 of 22 December 1947.

THE CHAIRMAN replied that the vote would be taken on the text as a whole, since amendments to the text formed the subject of the present discussion.

MR. ROY (Haiti) felt that the expression "national origin" might be just as dangerous as the term "national groups". He observed that the Constitutions of most of the States Members of the United Nations discriminated between native-born and naturalized citizens. All Haitians for example, were equal before the law, except for privileges granted to Haitians by birth. Naturalized Haitians could not fill certain posts (such as that of President of the Republic), until a certain number of years after naturalization (Document E/CN.4/Sub.2/4).

THE CHAIRMAN stated that in his opinion the same objection held good with regard to the term "national groups".

MR. MCNAMARA (Australia) drew the attention of the members of the Sub-Commission to the grave consequences which might ensue from the use of a general formula in Article 6. This article might conflict with other articles of the draft, such as Article 26, for instance. The Drafting Committee should not overlook this difficulty.

THE CHAIRMAN explained that Article 6 defined principles the application of which was provided for in subsequent articles. He could see no objection to putting the amendments to the vote.

PROFESSOR HUMPHREY (Secretariat) explained that Article 28 defined the application of a principle laid down in Article 6. Article 28 read as follows: "Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examinations for public employment shall not be a matter of privilege or favour." The difficulty pointed out by Mr. Roy could therefore be considered when that article was discussed.

[5]

MR. NISOT (Belgium) was dubious about this. He felt that Article 6 might affect subsequent articles because of the word "all" on the first line of the Article.

MR. ROY (Haiti) observed that many Constitutions discriminated between native-born and naturalized citizens, not only in regard to the holding of public office, but in other spheres also, such as (in Haiti) that of commerce. If Article 6 did not discriminate as to national origin, it would be in flagrant contradiction with other articles which recognized certain limitations. One might say: "...all rights and freedoms, subject to the provisions of the following Articles. . ."

THE CHAIRMAN replied that examples should not be taken from the various Constitutions now in existence; the Sub-Commission should endeavour to secure the maximum protection and freedom for all. It would be the duty of the various States to see that these principles were applied.

MR. ROY (Haiti) accepted this viewpoint. Personally, he was anxious to abolish all inequalities, but he had wished to draw attention to a possible contradiction

between a general formula and the provisions embodied in the Constitutions of several Members of the United Nations. He was not opposed to the insertion of this absolute formula in the Bill of Human Rights, or even in the Convention. But in that case it should be clearly stated that absolute equality was the goal the Commission had in view.

MR. SHAFaq (Iran) proposed a new amendment to Mr. Borisov's text in which only the terms "property status" and "social origin" would be retained, on the understanding that this latter term would cover ethnic and national differences.

He reserved the right to revert to his proposal for the inclusion of the term "national groups" when Article 28 came up for discussion.

[6]

MR. SPANIEN (France) considered that the Sub-Commission should not be slavishly bound by texts. Its task was, not to draw up the texts of the articles submitted to it, but rather to study the principles underlying those articles. It should further be entitled to make special reservations, which would be taken into account when the text was drawn up.

He proposed that the Sub-Commission should revert to Mr. Borisov's first proposal, since the latter's explanation had cleared up the point.

MR. BORISOV (Union of Soviet Socialist Republics) wished to clarify the meaning he attached to the word "national". He did not agree with Mr. Shafaq, for he considered that within the same nationality there could be different origins.²⁰⁹ Article 6 defined equal rights for all. This meant that any citizen of the Soviet Union, were he Jew, Negro, Georgian, Caucasian, etc. could become a member or the President of the Supreme Council.²¹⁰ The social ranks to be found within every country should not stand in the way of equality of rights. He asked whether in the United States a Negro, a Jew or a naturalized Mexican could become President. If there were any discrimination in that field, there could be no equality of rights.

MR. MASANI (India) supported Mr. Shafaq's amendment. The example quoted by Mr. Borisov did not seem to him relevant, for the different categories to which he had referred were ethnic or racial groups, whose rights were guaranteed by the term "race". He suggested that the discussion of the term "or national origin" in Article 6 be resumed.

[7]

MR. DANIELS (United States of America) thought the Sub-Commission was overlooking an important part of the phrase in Article 6, namely the word "all". He recalled that Article I, Paragraph 3 of the Charter mentioned "respect for human

²⁰⁹ Pursuant to E/CN.4/Sub.2/Sr.6/Corr.1, "Insert 'social' between 'different authorities'."

²¹⁰ Pursuant to E/CN.4/Sub.2/Sr.6/Corr.1, "Read as follows: Article 6 should define equal rights for all. In particular, any citizen of the Soviet Union were he Russian, Georgian, Ukrainian etc. could become a member of the President of the Supreme Council."

rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". The list of rights and freedoms must therefore not be expanded. In reply to Mr. Borisov he explained that in the United States there was nothing to prevent a citizen from becoming President, on the sole condition that he was born on United States territory.

THE CHAIRMAN proposed that a vote should be taken on the third part of the first paragraph of Mr. Borisov's proposal: "property status, national or social origin", Now, Mr. McNamara and Dr. Wu had proposed that text again, in the form of an amendment to Article 6. Those words were to be added after "or other opinion". As this amendment was the most far-reaching, it was the one on which the vote should be taken first.

MR. ROY (Haiti) on a point of order, recalled Mr. Shafaq's sub-amendment to the effect that the word "national" be defeated. That sub-amendment should have priority.

THE CHAIRMAN replied by referring to Rule 54 of the Commission's Rules of Procedure which stated that:

"If two or more proposals are moved relating to the same question, or if one or more amendments are moved to a proposal, the Commission shall first vote on the most far-reaching proposal or amendment, and then on the next most far-reaching proposal or amendment, and so on, until . . . all the proposals and amendments have been put to the vote. . ."

[8]

MR. ROY (Haiti) said those Rules of Procedure would be applied as far as possible. Otherwise, the Rules of Procedure of the General Assembly must be applied. Now, the latter in Article 76, provided that: "when an amendment revises, adds to or deletes from a proposal, the amendment shall be voted on first, and if it is adopted, the amended proposal shall then be voted on".

This, moreover, was in conformity with the usual parliamentary procedure.

MR. MASANI (India) asked how, if the more far-reaching amendment were adopted, a decision could be taken with regard to Mr. Shafaq's sub-amendment.

MR. ROY (Haiti) added that the Rule mentioned by the Chairman applied to cases where there were two amendments relating to the same question. In the case in point there was only one amendment, that of Mr. Shafaq, to Mr. Borisov's proposal.

MR. NISOT (Belgium) asked for the straightforward application of the Commission's Rules of Procedure.

THE CHAIRMAN wished to consult Members as to whether the Commission's Rules of Procedure should be applied.

MR. ROY (Haiti) said that if a vote were taken on the question, he would of course vote for application of the Rules of Procedure. The question, however, was badly put, as it was here simply a case of interpretation of the Rules.

MISS MONROE (United Kingdom) preferred a vote to be taken first on Mr. Shafaq's amendment.

MR. MASANI (India) repeated his question: if the amendment of Mr. McNamara and Dr. Wu were adopted, could Mr. Shafaq's amendment be voted on or not?
[9]

MR. MCNAMARA (Australia) thought that a vote could first be taken on the most far-reaching amendment. If it were adopted, the Sub-Commission might then decide that that was sufficient; or they could go on, and vote on each amendment in turn.

THE CHAIRMAN asked whether members regarded Mr. Borisov's text as an amendment or a proposal.

MR. BORISOV (Union of Soviet Socialist Republics) repeated that his proposal constituted a new text, far-reaching and complete as to substance. It was intended to replace Article 6 and could therefore not be regarded as an amendment. Members could decide whether certain terms should be added to Article 6 or to other Articles.²¹¹

THE CHAIRMAN said that all proposals for changes discussed both that day and on the previous day had been regarded as amendments. It would be strange if the Sub-Commission were not to regard Mr. Borisov's additional text as anything else than an amendment.

MR. SHAFaq (Iran) took the view that Mr. Borisov's text was a proposal and not an amendment.

MISS MONROE (United Kingdom) understood that Mr. Borisov was asking for a vote on the third part of the first paragraph of his proposal, with no change. She pointed out that the Sub-Commission had, however, already adopted an amendment to Article 6 to the effect that the words "political or other opinion" be added to the original text, and those words did not appear in Mr. Borisov's text.

MR. NISOT (Belgium) said that the Chairman was right because, while Mr. Borisov might originally have made a separate proposal, this had in point of fact become an amendment. He formally requested the Chairman to apply his previous ruling.
[10]

THE CHAIRMAN said that members were to vote on the third part of Mr. Borisov's original amendment, which consisted of adding to Article 6 the words "property status, national or social origin".

MR. BORISOV (Union of Soviet Socialist Republics) explained that he had proposed a complete text to replace Article 6. The third part of the first paragraph was part of the whole. The first and second parts had been rejected, and he requested

²¹¹ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete the final sentence, from "Members" to "Articles".

that the Sub-Commission should now vote on the whole of the third part and not only on two or three words of it.

MR. NISOT (Belgium) feared that would be incompatible with what the Sub-Commission had decided that morning. In his opinion, the only thing to do was to vote on the last part of the proposal. If Mr. Borisov thought that the Sub-Commission should not vote on the last part, there was no need to take any vote whatsoever.

MR. ROY (Haiti) thought there was some confusion between changing and amending the text. The Sub-Commission was studying Article 6, and if it decided to change that Article this would not, in that particular case, constitute an amendment, but a proposed change. To that proposal, however, there were amendments. Mr. Shafaq should thus be regarded as having moved an amendment to Mr. Borisov's proposal.

MISS MONROE (United Kingdom) understood that Mr. Borisov wished for a vote on the third part of his proposal, beginning with the words "irrespective of" down to the words "national or social origin". She asked Mr. Borisov, in order to avoid any misunderstanding, to be good enough to read out the exact text on which he wished a vote to be taken. She drew the Sub-Commission's attention to the fact that the first and second parts had already been rejected, and that the third part did not contain the words "political or other opinion", which [11] had already been adopted.

MR. BORISOV (Union of Soviet Socialist Republics) again wished to facilitate the Sub-Commission's task. He said that the text he proposed constituted a new proposal, and not an amendment to Article 6. He had never said that he would accept an amended²¹² version of Article 6,²¹³ and that was why he had proposed a new text of which certain parts had not been adopted, while it seemed that agreement might be possible with regard to others. He reminded members that he had asked for a vote on the three parts which formed a whole.²¹⁴ It seemed that the Sub-Commission agreed on the third part except for certain words. He saw no objection to the Sub-Commission taking a majority vote on the whole of that third part.²¹⁵

THE CHAIRMAN requested Mr. Borisov to read out the text on which he wished a vote to be taken.

MR. BORISOV (Union of Soviet Socialist Republics) began by pointing out that the Sub-Commission had not yet voted on the second part of his text, although it had voted on a text which had been modified following a proposal by Mr. Daniels. Amendments had been submitted in regard to the third part, which read "irrespective

²¹² Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete "as amended".

²¹³ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, insert after "Article 6" the words "drafted by the Drafting Committee".

²¹⁴ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete the previous sentence, from "He reminded" to "whole".

²¹⁵ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete the final sentence of the speech by Mr. Borisov.

of their race, sex, language, religion, property status, national or social origin". Some members believed that the terms "race, sex, language, religion" should not be mentioned since they were already incorporated in Article 6; the phrase "property status, national or social origin", then remained.²¹⁶

MISS MONROE (United Kingdom) pressed Mr. Borisov to read out the whole of Article 6, in the form in which he wished it to be drafted.

[12]

MR. BORISOV (Union of Soviet Socialist Republics) stated that the first part of his proposal, reading "all people are equal before the law" had been rejected because this provision was embodied in Article 5. The second part of this proposal had not been accepted because it had been replaced by the word "all", added by the Sub-Commission²¹⁷ in the first line of Article 6. In regard to the third part, reading "irrespective of their race, sex, language, religion, property status, national or social origin", an amendment had been proposed whereby the words "irrespective of their race, sex, language, religion" would be deleted in order to avoid repetition. It appeared, then, that the Sub-Commission wished to retain only the terms "property status, national or social origin" of his proposed text, but he was not sure that no other amendment had been proposed, in respect even of the last mentioned terms.²¹⁸

MR. McNAMARA (Australia) remarked that Mr. Borisov's explanations had clarified the debate and asked whether Mr. Borisov accepted the amendment the purpose of which was to avoid a repetition of the terms "race, sex, language, religion". He was of the opinion that the best procedure would be to vote, as proposed by the Chairman, on the most far-reaching amendment.

THE CHAIRMAN wished to know whether Mr. Borisov was asking for a vote on the phrase "irrespective of their race, sex, language, religion" in view of the fact that these terms were already included in the text adopted by the Sub-Commission.

[13]

MR. BORISOV (Union of Soviet Socialist Republics) replied in the affirmative, since his text was a proposed new draft of Article 6 and was not an amendment to it.²¹⁹ The third part of his proposal followed logically from the first two. He was therefore asking for a vote on the whole text.

MR. ROY (Haiti) was unwilling to accept the procedure proposed by Mr. McNamara. If the Sub-Commission began by voting on the last part of the first paragraph proposed by Mr. Borisov he did not see how it could thereafter vote on

²¹⁶ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, after the words "on the second part of his text" in the first sentence of this speech, delete the remainder.

²¹⁷ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete the words "added by the Sub-Commission" and insert "which met the rights enumerated by him".

²¹⁸ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete the remainder of the sentence starting with "but he was not".

²¹⁹ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete from "replied in" to "amendment to it" and insert "said that".

Mr. Shafaq's amendment, the effect of which would be to omit a term which would by then have been adopted. Such a voting procedure would be illogical.

MISS MONROE (United Kingdom) stated that she would vote on the text proposed by Mr. Borisov provided he agreed to delete the terms "race, sex, language, religion", where they were repetitive.

MR. BORISOV (Union of Soviet Socialist Republics) could not agree to omit these terms from his proposal, which, he repeated, formed a complete text. He stressed the fact that other members having the right to submit amendments, could propose their deletion.²²⁰

THE CHAIRMAN concluded from this exchange of views that the Sub-Commission should proceed to vote on the whole of the third part.

MR. ROY (Haiti) formally moved an amendment, that the words "irrespective of their race, sex, language, religion" be deleted.

THE CHAIRMAN put to the vote Mr. Borisov's text, reading "irrespective of their race, sex, language, religion, property status, national or social origin".

Decision: This text was rejected by seven votes to one, with three abstentions.

THE CHAIRMAN put to the vote the amendment proposed by Mr. McNamara and Dr. Wu, to add the words "property status, national [4] or social origin" to Article 6. Article 6 would then read "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of race, sex, language, religion, political or other opinion, property status, or national or social origin".

MR. ROY (Haiti) said that he had abstained from the preceding vote because he did not agree with the voting procedure. He wished to know when the Sub-Commission would be called upon to vote on Mr. Shafaq's amendment, supported by himself, which was to delete the word "national". The Sub-Commission could not first vote to incorporate this word in Article 6, and vote a second time to delete it.

MR. MCNAMARA (Australia) thought the Sub-Commission could vote on both amendments. Delegates who did not accept the first, would vote for the second, and vice versa.

THE CHAIRMAN stated that the Sub-Commission was therefore required to vote, in turn, on the two following texts:

- (1) "Property status, or national or social origin"
- (2) "Property status, or social origin".

The first text was put to the vote.

Decision: This text was adopted by six votes, with five abstentions.

²²⁰ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete this sentence.

MR. ROY (Haiti), on a point of order asked, what the position would be if the second text were also adopted.

MR. NISOT (Belgium) considered that, since the Chairman had taken a clear-cut decision on the question of voting procedure, the debate was closed.

MR. MASANI (India) did not share the fears expressed by Mr. Roy. In the unlikely event of both texts being adopted, the Sub-Commission could decide to vote for one text, as against the other.

[15]

THE CHAIRMAN accepted this proposal and pointed out that he had had this in mind when deciding to call for successive votes on the two texts. He put the second text to the vote.

Decision: This text was rejected by five votes to three, with three abstentions.

MR. BORISOV (Union of Soviet Socialist Republics) stated that he had abstained from the second vote, since he had voted for the first text.²²¹ He considered that the insertion in the text of the concept conveyed by the term “national” was most important, and that having done this, the Sub-Commission should bring this question to the attention of the Drafting Committee, which would have to produce a final text.

THE CHAIRMAN requested the Sub-Commission to vote on the text as a whole.

MR. DANIELS (United States of America) considered that there was a drafting error in the English text. He thought that the words “as to” had a restrictive meaning by no means in accordance with the Sub-Commission’s intention.

MR. MASANI (India) proposed that the words in question be replaced by “such as”.

The Sub-Commission

Decided

To adopt the formal change proposed by Mr. Masani, while leaving the French text as it stood.

THE CHAIRMAN put to the vote the full text of Article 6, which read:

“Every one is entitled to all the rights and freedoms set forth in this Declaration, without distinction such as race, sex, language, religion, political or other opinion, property status, or national or social origin”.

Decision: This text was adopted by 9 votes to 1 with one abstention.

[6]

MR. DANIELS (United States of America) desired to make some observations on the Sub-Commission’s working methods. He noted that the Sub-Commission had

²²¹ Pursuant to E/CN.4/Sub.2/SR.6/Corr.1, delete from “he had” to “first text”.

spent more than 4 of the 5 1/2 hours of that day's meetings in discussing matters of procedure. He felt that it ought not to waste time by deciding on a final text for the drafting of the Articles. Its business was to express its views on the prevention of discrimination and protection of minorities. He asked the Sub-Commission to grant the Chairman more latitude in taking decisions. Time for discussion ought to be limited, and the Chairman ought to have the necessary authority to plan out the work.

MISS MONROE (United Kingdom) supported Mr. Daniels. Drafting of any changes which the Sub-Commission wished to be made in the draft should be left to the Drafting Committee.

MR. BORISOV (Union of Soviet Socialist Republics) remarked that prompted by his own experience, he had proposed at the first meeting, that the Sub-Commission should confine itself to a general discussion on principles and the expression of members' views, and should not undertake the drafting of the Articles in question. The Sub-Commission had not even been asked to undertake that task. It was to record the views brought to light by the discussion in a report to be submitted to the Commission on Human Rights.

MR. NISOT (Belgium) failed to see any difference between these two methods of procedure. The difficulties would remain whatever method of working was adopted. One could not indeed make one's meaning clear except by drawing up articles or formulating principles.

MR. ROY (Haiti) was of the same opinion as Mr. Nisot. To Mr. Borisov he replied that the report to be submitted to the Commission on Human Rights ought to reflect the opinion of the Sub-Commission not the opinions of members.

MR. SPANIEN (France) stated that preparing texts for the Drafting Committee, drafting articles or altering them by means of amendments was not a quick way of working. He proposed that the Sub-Commission should adopt a method that would enable it to produce not texts of articles for submission to the Drafting Committee, but a report embodying the Sub-Commission's opinion as to the recommendations to be submitted to the Drafting Committee. This method of work would make it possible to avoid long discussions about the drafting of articles and even simple matters of syntax.

MR. NISOT (Belgium) said that he had just learned that the Drafting Committee would not be giving immediate attention to the Sub-Commission's work. The Committee would only undertake the drafting of the Declaration and Convention when it had received the replies from the various governments. He felt that in those circumstances it was not superfluous for the Sub-Commission to do a little drafting.

THE CHAIRMAN reminded members that the Commission on Human Rights expected the Sub-Commission to produce texts that reflected its views. The Drafting Committee moreover would not be meeting before the session of the

Human Rights Commission. The Commission desired to know the Sub-Commission's views, whether in the form of suggestions, proposals, alterations, amendments, additions or deletions. However, experience had shown that it was better not to try to produce a final draft of the Articles. He felt that the Sub-Commission would do well to devote more attention to the expression of concrete views. He proposed therefore that members should adopt the latter method in future. Lastly he gave notice that the Sub-Commission would examine the second paragraph of Mr. Borisov's proposal the following day.

The meeting rose at 5:50 p.m.

E/CN.4/Sub.2/22

28 November 1947

Proposal for Addendum to Article 13 submitted by Mr. S.R. Shafaq (Iran)

The following sentence should be added after the words “. . . national welfare and security”.

“Unless they are legally convicted for any cardinal offence against their nation or the sovereignty of their state in which case they will have first to undergo the punishment prescribed by the law of the state concerned.”

E/CN.4/Sub.2/SR.7

28 November 1947

Summary Record of Seventh Meeting [of the First Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities]

held at the Palais des Nations, Geneva,
on 28 November 1947 at 10 a.m.

Present: Chairman: Mr. E.E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W.M.J. McNamara (Australia); Dr. C.H. Wu (China); Dr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Mr. A.P. Borisov (Union of Soviet Socialist Republics); Miss Elizabeth Monroe (United Kingdom); Mr. J. Daniels (United States of America). International Non-Governmental Organizations: Mr. Bienenfeld (World Jewish Congress); Mr. A.G. Brotman

(Co-ordinating Board of Jewish Organizations). Secretariat: Prof. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi. Specialized Agencies: Mr. Rodolphe Lopes (International Labour Organization); Mlle M.L. Barblé (IRO).

...

[3]

...

II. Items 6, 7 and 8 of the Agenda (Continued)

THE CHAIRMAN stated that paragraph 2 of Mr. Borisov's proposal should now be examined.

MR. NISOT (Belgium) proposed that study of the paragraph in question should be deferred until Monday and be taken under the heading "Consideration of Additional Items".

MR. SHAFaq (Iran) opposed Mr. Nisot's proposal and suggested that the procedure suggested by the Chairman ought to be followed.

MR. BORISOV (Union of Soviet Socialist Republics) also objected to Mr. Nisot's proposal and said he must insist on the Sub-Committee taking up consideration of the rest of his proposal at that meeting.

MISS MONROE (United Kingdom) supported Mr. Nisot's remarks. In her opinion, the proposal was a statement of something which Mr. Borisov wished to see embodied in domestic law. As such, [4] she did not consider it should be incorporated in Article 6, which was part of a Declaration. She formally moved that the second part of Mr. Borisov's proposal did not belong to Article 6 and should be considered later.

MR. NISOT (Belgium) seconded Miss Monroe's motion.

MR. MCNAMARA (Australia) said he could not agree with Miss Monroe's views. The Chairman had given an undertaking at the end of the previous meeting and again that morning that Mr. Borisov's proposal would be discussed. He felt that such undertakings should be honoured.

MR. DANIELS (United States of America) supported the right of Mr. Borisov to have his proposal considered at that meeting. He went on to say, however, that he was directly opposed to the proposal. He mentioned that an International Law Committee had been appointed with the task of coordinating international penal law.²²² In his opinion, a Declaration was not the place for a penal provision. He was personally opposed to any proposal aimed at restricting hostile propaganda, and felt

²²² At its second session in 1947, the United Nations General Assembly, in Resolution 174(II), decided to establish the International Law Commission, an expert body charged with the codification and progressive development of international law. The new Commission was immediately directed to formulate the principles of international law recognized in the Charter of the International Military Tribunal and in the judgment of the Tribunal (GA Res. 177(II)). Over the years, the Commission has fulfilled a number of important functions with respect to international criminal law, including the preparation of the draft statute of the International Criminal Court.

that the virtue in permitting such propaganda was that it served to maintain the liberty of the individual.

DR. WU (China) supported Mr. McNamara's views and pointed out that, when the procedure to be followed had been declared by the Chairman no one had opposed it.

MR. NISOT (Belgium) felt there was no violation of any undertaking to Mr. Borisov. In discussing whether the proposal pertained to Article 6, the Members were discussing a matter of substance.

THE CHAIRMAN put Miss Monroe's motion to the vote; it was rejected by 8 votes to 3. [5]

MR. DANIELS (United States of America) moved that a vote be taken on Mr. Borisov's proposal. In his opinion the members were sufficiently clear on the subject to warrant a vote being taken, without further discussion.

MR. NISOT (Belgium) seconded the motion.

DR. WU (China) considered that further discussion was necessary. He was in general sympathy and agreement with the spirit of the proposal, but felt that the words "shall be punishable under the law" were too concrete. In their place he suggested "should be made illegal". Regarding freedom of speech, he pointed out that no freedom is absolutely unlimited, and cited the example of laws against slander. In his opinion it could not be considered an unwarrantable limitation of freedom of speech to wish to protect races and religions from hostility, in the interests of international order and peace.

MR. MASANI (India) said he was opposed to Mr. Borisov's proposal on the grounds that it was out of place in Article 6. Article 6 was intended to form part of a Declaration, and as such was not the place for the incorporation of a penal clause.

MR. NISOT (Belgium) felt that Mr. Borisov's proposal was not only incompatible with Article 6, but that it directly contradicted Articles 21 and 22, on Freedom of Speech and Expression.

MR. MCNAMARA (Australia) felt that the Members must approve of the spirit of the material in this paragraph, with the exception of the words "of national exclusiveness" contained in the second line. In his opinion no one should be penalized for wishing to be exclusive. He considered that the substance of [6] this paragraph might be suitable for inclusion in a convention and proposed that it be forwarded to the Human Rights Commission for consideration. He pointed out that Article 9, Clause 3, of the suggested Convention contained the points mentioned in Mr. Borisov's proposal. He added that a similar proposal had already been adopted by the General Assembly of the United Nations in general terms.²²³ The Sub-Commission was therefore not entitled to reject it.

²²³ Mr. McNamara may have been referring to GA Res. 110(II), "Measures to be taken against propaganda and the inciters of a new war", and to GA Res. 127(II), "False or Distorted Reports".

MR. SPANIEN (France) agreed with the substance of Mr. Borisov's proposal, but felt it should not be discussed in connection with Article 6. He was of the opinion, however, that the text should be considered at another time.

MR. SHAFaq (Iran) said that, while sharing the views expressed by Mr. Masani and Mr. Spanien that this paragraph did not appear to belong in Article 6, he did not agree with Mr. Nisot regarding its incompatibility with Articles 21 and 22. In his opinion there was nothing in Mr. Borisov's proposal to contradict Articles 21 and 22.

MR. ROY (Haiti) said that it should be possible to decide whether the proposal was relevant to Article 6. If it was relevant, he wished to speak in its support.

MR. NISOT (Belgium) said that he would be against the proposal made by Mr. Borisov (Union of Soviet Socialist Republics), wherever it was placed, as he considered that it impeded freedom of speech.

MISS MONROE (United Kingdom) stated that if Mr. Borisov (Union of Soviet Socialist Republics) desired his proposal to be voted on as a whole, she would be against it because of the words "constitute a crime". Some points of the proposal would [7] be right in their right place, for example, "Religious Hostility" should in her opinion be in Article 8, and "National and Racial Hostility", should be in Article 22. "National Exclusiveness" was part of the so-called "War Mongering Resolution" of the Assembly.

MR. SHAFaq (Iran) suggested that a vote be taken as to whether the proposal of MR. BORISOV (Union of Soviet Socialist Republics) should be considered under Article 6 or not.

MR. BORISOV (Union of Soviet Socialist Republics) said that the Sub-Commission's action on Part 2 of his proposal might indicate whether or not the Union Nations Organization was to be effective in its protection of minorities and whether or not the Sub-Commission could effectively carry out its Terms of Reference. The position was difficult for certain delegates in whose countries he considered that discrimination existed.

MR. NISOT (Belgium) objected to the proposal on legal grounds as it seemed to be against the freedom of the Press.

MR. DANIELS (United States of America) objected on substantial grounds as he said that Part 2 should not be included in any part of the Bill or Convention. Mr. Borisov²²⁴ considered that it was not a question as to whether the proposal was relevant to Article 6 or Article 21. It seemed clear to him that the thought behind the proposal was not accepted.

He was not surprised by the objection of Mr. Daniels (United States of America) as discrimination against the negroes apparently existed in the United States of

²²⁴ Unusually, the summary record appears to shift the identity of the speaker in mid-paragraph. It seems from the context that it is Mr. Borisov who is speaking, and this continues into the next paragraph.

America. Fifteen million Negroes had addressed themselves to the American Government against this discrimination. He cited statistics indicating that [8] up to 1927 there had been 4,000 cases of lynching, and that since the end of the war, there had been 40 cases of lynching. He gave several examples of lynching. Such cases, he maintained, could only be considered as crimes.

If Part 2 of his proposal was not to be accepted, he felt it might indicate that the Sub-Commission was not to be trusted to carry out its Terms of Reference.

MR. DANIELS (United States of America) said that it was strange that any member of the Sub-Commission should advocate measures to suppress freedom of expression.

He pointed out that in the United Kingdom and the United States of America freedom was not “absolute” but was limited, for example, by measures against incitement of violence. He hoped that the Sub-Commission would do something against the discrimination as had been described both in his own and other countries.

He opposed the proposal because he considered that it would result in a suppression of freedom.

He proposed an amendment to include in Part 2 of the Russian proposal all those terms now accepted by the Sub-Commission, i.e. “race, sex, religion, language, political or other opinion, property status, national [sic] social origin”.

THE CHAIRMAN summed up the proposals before the Sub-Commission.

The meeting rose at 12:30 p.m.

E/CN.4/Sub.2/SR.8

28 November 1947

Original Text: French

***Summary Record of Eighth Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination and
Protection of Minorities]***

held at the Palais des Nations, Geneva, on Friday,
28 November 1947 at 2.30 p.m.

Present: Chairman: Mr. E.E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W.M.J. McNamara (Australia); Dr. C.H. Wu (China); Mr. A.M. Pallares (Ecuador); Mr. J. Daniels (United States of America); Mr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Miss Elizabeth Monroe (United Kingdom); Mr. A.P. Borisov (Union of Soviet Socialist Republics). Representative of the Commission on the Status of Women: Mme. Lefauchaux. Specialized Agencies: Mr. Rodolphe Lopes (ILO). International

Non-Governmental Organizations: Mr. F.R. Bienenfeld (World Jewish Congress); Mr. A.G. Brotman (representing the Co-ordinating Board of Jewish Organizations). Secretariat: Prof. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi.
[2]

I. Examination of paragraph 2 of the opinion of Mr. Borisov on Article 6 (Document E/CN.4/Sub.2/21)

(1) *Discussion of the amendment submitted by Mr. Daniels (United States of America)*

THE CHAIRMAN pointed out to the Sub-Commission that a list of the various amendments proposed had been distributed to members. He suggested that they should begin by discussing Mr. Daniels' amendment proposing the rejection of paragraph 2 of Mr. Borisov's text. If this amendment were accepted, there would clearly be no need for the Sub-Commission to proceed further with their examination of the later amendments.

MR. BORISOV (Union of Soviet Socialist Republics) observed that these amendments did not refer especially to Article 6.²²⁵ Thus, even if Mr. Daniels' motion to exclude his proposal from Article 6 were accepted, it would still be possible to include it elsewhere. Moreover, in his first amendment, Mr. Daniels had proposed the omission from Article 6²²⁶ of paragraph 2 of his (Mr. Borisov's) proposal, and in the second, he had accepted the text of this proposal, with certain additions. Mr. Daniels could not expect to reject the motion of the Soviet member and at the same time to share his opinion, if it happened to be the view of the majority.²²⁷ Such a procedure was not acceptable. He proposed therefore that no vote should be taken on the first amendment of Mr. Daniels.²²⁸

MR. DANIELS (United States of America) stated that his second proposal was not coming up for adoption. It was a proposal for the addition to Mr. Borisov's text, if it were adopted, of the categories of discrimination mentioned in the new Article 6.
[3]

MR. BORISOV (Union of Soviet Socialist Republics) declared his readiness, in view of the reservations made by certain members, to have his proposal inserted in Article 6, and, in order to reach a compromise with Mr. Daniels, to withdraw his suggestion for its insertion in Article 6. But he maintained his proposal in the form of an independent point, to be included among the Sub-Commission's recommendations and, as such, to be discussed and examined by the Sub-Commission. In

²²⁵ E/CN.4/Sub.2/SR.8/Corr.1: "Delete first sentence of speech of Mr. Borisov. Insert 'indicated the contradiction that existed between the two motions of the USA submitted simultaneously'."

²²⁶ E/CN.4/Sub.2/SR.8/Corr.1: "Delete from 'Article 6'."

²²⁷ E/CN.4/Sub.2/SR.8/Corr.1: "Delete from 'if it'."

²²⁸ E/CN.4/Sub.2/SR.8/Corr.1: "Delete the last sentence from 'he proposed' to 'Mr. Daniels'."

these circumstances he considered that there was no longer any need to take a vote on Mr. Daniels' first proposal.²²⁹

MR. NISOT (Belgium) proposed that, since Mr. Borisov no longer intended to link his proposal with Article 6, they should pass on to the examination of Article 13.

MR. BORISOV (Union of Soviet Socialist Republics) pointed out that he had not withdrawn his original proposal, but had proposed a compromise between his original proposal and the opinion of Mr. Daniels, which was also shared by certain other members. Not inserting his proposal in Article 6 did not mean that it was withdrawn and he pressed for its immediate discussion.²³⁰ If the Sub-Commission did not take his second proposal in that sense, he would prefer to withdraw it.²³¹

MR. DANIELS (United States of America) stated that he would withdraw his amendment if Mr. Borisov withdrew his proposal in connection with Article 6. He reserved the right to re-submit it when Mr. Borisov's proposal was submitted to the Sub-Commission in connection with other Articles. He suggested that the Sub-Commission should pass on to the examination of Article 13.

[4]

THE CHAIRMAN pointed out that Mr. Borisov had asked that his proposal, divorced from Article 6, be examined immediately and that the question of its position should be considered at a later stage.

MR. DANIELS (United States of America) said that in these circumstances he maintained his amendment.

THE CHAIRMAN then asked the Sub-Commission to vote on Mr. Daniels' amendment understood as a rejection of Mr. Borisov's proposal, wherever it appeared.

MR. NISOT (Belgium) supported the Chairman's proposal.

MR. BORISOV (Union of Soviet Socialist Republics) also expressed his approval of the procedure suggested by the Chairman.

MR. NISOT (Belgium) on a point of order, moved that a vote be taken on the question whether the Sub-Commission should discuss Mr. Borisov's proposal and the amendments made to that proposal immediately.

THE CHAIRMAN put Mr. Nisot's motion to the vote.

MR. BORISOV (Union of Soviet Socialist Republics) declared that he could not accept this procedure. The Sub-Commission had in fact decided on two occasions that his proposal should be examined immediately.

MR. NISOT (Belgium) asked that a vote be taken on the question whether this proposal should be dealt with in relation to Article 6 or not.

²²⁹ E/CN.4/Sub.2/SR.8/Corr.1: "Delete from 'Mr. Borisov' to 'first proposal'."

²³⁰ E/CN.4/Sub.2/SR.8/Corr.1: "Delete from 'but had' to 'withdrawn and'."

²³¹ Pursuant to E/CN.4/Sub.2/SR.8/Corr.1, delete the final sentence.

THE CHAIRMAN pointed out that, as the Sub-Commission was [5] still discussing Article 6 and as the Soviet proposal had been made in connection with this Article, the only motion on which a vote should be taken was that of Mr. Daniels proposing the rejection of this proposal in connection with Article 6.

MR. SHAFaq (Iran) pointed out that by a vote taken that same morning, the Sub-Commission had decided to deal with the Soviet proposal independently of Article 6. He therefore saw no need for a fresh vote on this subject.

MR. McNAMARA (Australia) observed that he would never have submitted his amendment had it not been decided that only the first paragraph of Mr. Borisov's proposal would be inserted in Article 6. His proposal and that of Dr. Wu only made sense if considered independently of Article 6.

THE CHAIRMAN stated that Mr. Borisov's proposal would be dealt with independently of Article 6, in accordance with the decision taken that morning. Mr. Daniels had entitled his amendment "Rejection of the opinion of Mr. Borisov on Article 6" purely for descriptive purposes. He therefore put to the vote the amendment proposing the rejection of this proposal as such, independently of Article 6.

Decision: The amendment of Mr. Daniels was rejected by 5 votes to 4 with two abstentions.

(2) Joint proposal of Mr. McNamara and Dr. Wu

THE CHAIRMAN drew attention to a slight change in the text of this amendment affecting the title which now read: "Joint amendment to paragraph 2 of the opinion of Mr. Borisov on Article 6 to be added to Article 9, paragraph 3, of the Draft Convention".

MR. BORISOV (Union of Soviet Socialist Republics) asked whether the rejection of Mr. Daniels' proposal did not imply that his own proposal and the amendments made to it should be added to Article 6.²³²

[6]

THE CHAIRMAN stated that the Sub-Commission had before it an amendment submitted by Mr. McNamara and Dr. Wu, and that he wished first of all to put the text of this amendment to the vote. If this text were accepted, he would then call for a vote on the question of where it was to be inserted.

DR. WU (China) wished to make some observations on the amendment in question. The terms "or of national exclusiveness, or hatred and contempt" had been omitted because they were superfluous, being already included in the term "hostility". The words "constitute a crime and shall be punishable under the law of the State", at the end of the paragraph, had been altered to "shall be prohibited by the law of the State". The Sub-Commission's task was, in fact, to suggest principles, not

²³² E/CN.4/Sub.2/SR.8/Corr.1: Delete this sentence.

to draft an article. Moreover, this proposal had an international bearing. The term “prohibition” was wider than the term “punishment”, and covered penal as well as any administrative measures that might be required.

MR. NISOT (Belgium) stated that this text was contrary not only to freedom of the press, but also to freedom of religious belief.

THE CHAIRMAN put the text of the amendment proposed by Mr. McNamara and Dr. Wu to the vote. There were five votes for, and five against the amendment, with one abstention.

THE CHAIRMAN read out Rule 39 of the Rules of Procedure, according to which “if a vote is equally divided in matters other than elections, the proposal shall be [7] regarded as rejected”.

Decision: The amendment proposed by Mr. McNamara and Dr. Wu was rejected.

(3) Consideration of the second amendment proposed by Mr. Daniels

MR. DANIELS (United States of America) pointed out that his proposal was simply to add the words “based on national or social origin, race, religion, sex, language, political or other opinions, or property status” to Mr. Borisov’s text, that was all.

MR. BORISOV (Union of Soviet Socialist Republics) observed that this was therefore a new proposal.

THE CHAIRMAN emphasized that Mr. Daniels had simply clarified his amendment.

MR. DANIELS (United States of America) explained that the purpose of his amendment was to add the categories of discrimination, defined and adopted by the Sub-Commission on the previous day, to the text which might be adopted. Therefore a vote could hardly be taken on his amendment before a text had been adopted.

MR. ROY (Haiti) stated that this was an impossible procedure, since a vote ought to be taken on the amendments before the text of the proposal was voted on.

MR. DANIELS (United States of America) withdrew his amendment, but reserved the right to revert to it when the text of the proposal was adopted.

(4) Amendment proposed by Miss Monroe

THE CHAIRMAN pointed out that this amendment had been slightly altered and, in its present form, read: “The Sub-Commission recommends to the Human Rights Commission:

[8]

- (1) The inclusion in Article 8 of the Convention of a clause condemning incitement to violence against religious groups;
- (2) The inclusion in Article 9 of the Convention of a clause condemning incitement to racial or national violence.”

MR. ROY (Haiti), raising a point of order, held that Miss Monroe's proposal should not be considered, since the Sub-Commission had decided to deal separately with the text of amendments, and the place they were to be inserted.

MISS MONROE (United Kingdom) also felt that it would be preferable to discuss this amendment in connection with Article 8 and 9 and with the consideration of omission to the Declaration. She therefore withdrew her amendment and proposed that the Sub-Commission should vote on the proposal submitted by Mr. Borisov.

MR. McNAMARA (Australia) regretted the Sub-Commission's decision not to examine Miss Monroe's amendment, and feared that the Sub-Commission would never get down to studying the omissions to the Declaration.

He therefore wished to take up Miss Monroe's proposal on his own initiative.

DR. WU (China) supported the suggestion made by the representative of Australia and proposed that the words "in Article 8 of the Convention" in Miss Monroe's amendment be amended to "in the Convention", and that "in Article 9 of the Convention" be similarly amended to "in the Convention".

[9]

THE CHAIRMAN pointed out that the Sub-Commission had two proposals before it: first the proposal made by Mr. Borisov, and secondly, the new proposal of Dr. Wu and Mr. McNamara in regard to the place where such a clause should be inserted. He proposed first to call for a vote on Mr. Borisov's proposal. He stressed the fact that any texts adopted by the Sub-Commission would be subject to possible changes by the Drafting Committee.

(5) Consideration of the second paragraph of Mr. Borisov's opinion on Article 6

MR. ROY (Haiti) wished the vote to be taken by sections, and suggested that Mr. Borisov's proposal be divided into a first part, reading "Any advocacy of national, racial or religious hostility, or of national exclusiveness of hatred and contempt", and a second part comprising the remainder of the proposal. He reserved the right to vote against the first part, which restricted freedom of the press and of religious belief, but supported the second part.

MR. NISOT (Belgium) did not believe that such a division was possible.

MR. MASANI (India) pointed out that the second part of this paragraph would be superfluous, since it was a paraphrase of Paragraph 6, which had already been adopted.

MR. BORISOV (Union of Soviet Socialist Republics) observed that in his opinion the second part of this paragraph was, in fact, the vital portion, since it stated that these discriminations constituted a crime.

MR. MASANI (India) felt that in relating the establishment of discrimination, which was a form of State action, to the [10] concept of crime, which was only applicable to the individual, the proposal was inconsistent.

MR. McNAMARA (Australia) thought there would be no difficulty in dividing the sentence, making the words “shall be punishable” apply to both parts.

MR. BORISOV (Union of Soviet Socialist Republics) proposed that, to simplify the Sub-Commission’s work, his text should be divided into five parts:

- 1) Any advocacy of national, racial and religious hostility;
- 2) or of national exclusiveness or hatred and contempt;
- 3) as well as any action establishing privileges or discrimination based on distinctions of race, nationality or religion;
- 4) constitute a crime;
- 5) and shall be punishable under the law of the State.

MR. ROY (Haiti) proposed a division into three parts, the words “constitute a crime and shall be punishable under the law of the State’ being added to each of the first three phrases.

MISS MONROE (United Kingdom) stated that she would have to vote against these proposals, as long as they contained the term “constitute a crime”, which could not properly be inserted in a convention.

MR. NISOT (Belgium) would vote against the first two parts, since they restricted freedom of the press and of religious belief, and would also vote against the third part, because it precluded the establishment of privileges on behalf of a minority requiring special protection.

[11]

MR. BORISOV (Union of Soviet Socialist Republics) observed that it was the business of the Sub-Commission, not to express individual opinions on the subject, but to reach an agreement on certain terms, if not on the whole of his proposal. It was with this in view that he had agreed to a divided vote.²³³ He asked the Sub-Commission to proceed at once to a vote.

THE CHAIRMAN stated that the text proposed by Mr. Borisov embodied two ideas: 1. Certain actions constituted a crime; 2. Certain actions constituting a crime were punishable by law. He considered that the vote should be taken on six sections, that is to say, the first three phrases, accompanied in turn by the words “constituted a crime” and afterwards by the words “shall be punishable under the law”.

MR. SPANIEN (France) wished to record an express reservation. In view of the vagueness of the French text, he would abstain from voting, whether the text were

²³³ E/CN.4/Sub.2/SR.8/Corr.1: “Delete from ‘it was the business’ to ‘divided vote’. Insert ‘in view of the fact that several delegates agreed to support ideas set out in paragraph 2, he proposed to divide his proposal to reach a compromise’.”

sub-divided or not, and would express his opinion in an observation annexed to the Summary Record.

THE CHAIRMAN called for a vote on the first part of Mr. Borisov's proposal: "Any advocacy of national, racial and religious hostility constitutes a crime".

Decision: This proposal was rejected by 5 votes to 3, with 3 abstentions.

THE CHAIRMAN emphasized that he had abstained from voting on this part and would probably abstain when the other parts were voted on, not because he disagreed with the ideas expressed by Mr. Borisov, but owing to the wording of the text.

MR. SPANIEN (France) explained that he had abstained on similar grounds.

MR. SHAFaq (Iran) remarked that he had abstained for the same reason.

[12]

THE CHAIRMAN called for a vote on the second part of Mr. Borisov's proposal: "Any advocacy of national exclusiveness, or hatred and contempt, constitutes a crime".

Decision: This proposal was rejected by 6 votes to 1, with 4 abstentions.

THE CHAIRMAN called for a vote on the third part of Mr. Borisov's text: "Any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion constitutes a crime."

MRS. LEFAUCHEUX (Representative of the Commission on the Status of Women) felt that the omission of the word "sex" was due to an oversight on Mr. Borisov's part.

THE CHAIRMAN thanked Mrs. Lefauchaux for her remark and took the opportunity to express his satisfaction at the presence among the members of a representative of the Commission on the Status of Women.

MR. BORISOV (Union of Soviet Socialist Republics) remarked that it was merely a question of drafting and that he had no objection to inserting the word "sex", since by virtue of the first paragraph, the provisions of the second paragraph should be understood as applying equally to women.

MR. ROY (Haiti) raised a point of order, in view of the demurs voiced by some members.

The Sub-Commission was at the moment engaged in voting, by sections, on the proposal submitted by Mr. Borisov and had already reached a decision with regard to the first and second parts. The third part of this proposal should therefore be left as it stood, without any addition, deletion or revision.

Decision: The third part of Mr. Borisov's proposal was rejected by 4 votes to 4, with 3 abstentions.

[13]

THE CHAIRMAN called for a vote on the fourth part: “any advocacy of national, racial and religious hostility constitutes a crime and shall be punishable under the law of the State”.

Decision: This proposal was rejected by 4 votes to 3, with 3 abstentions.

A vote was then taken on the fifth part: “any advocacy of national exclusiveness or hatred and contempt constitutes a crime and shall be punishable under the law of the State”.

Decision: This proposal was rejected by 5 votes to 1, with 5 abstentions.

THE CHAIRMAN called for a vote on the sixth part: “any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion constitutes a crime and shall be punishable under the law of the State”.

Decision: This proposal was rejected by 4 votes to 4, with 3 abstentions.

MR. McNAMARA (Australia) asked whether the result of this vote would be communicated to the Commission on Human Rights. Should the votes be equally divided the Commission might feel inclined to go more fully into the matter.

MR. NISOT (Belgium) suggested that all the Minutes without distinction be put before the Human Rights Commission.

MR. ROY (Haiti) urged that the Rapporteur should mention explicitly in his report to the Commission cases in which the votes were equally divided. The Commission might be able to give a casting vote.

MR. BORISOV (Union of Soviet Socialist Republics) also asked that the voting results be communicated to the Human Rights Commission in the Rapporteur’s report, so that the Commission might [14] realize that even if the Sub-Commission had not been unanimously in favour of adopting these essential points they had only been rejected by an almost equally divided vote.

MR. ROY (Haiti) moved that the question be put to the vote.

MR. NISOT (Belgium) understood this to mean that the results of all votes would be mentioned in the report, if the Secretariat consented.

PROFESSOR HUMPHREY accepted this proposal.

MR. BORISOV (Union of Soviet Socialist Republics) stated that the points just dealt with were essential to the prevention of discrimination and protection of minorities. The results of the voting consequently showed the Sub-Commission not to be unanimous even as regards the principles of its Terms of Reference, and it might be inferred that the Sub-Commission was in favour of discrimination. If such were not the case it was important that the attention of the Human Rights Commission be drawn to the fact that the Soviet proposal had been rejected on an almost equal vote.

THE CHAIRMAN took it as agreed that the Sub-Commission was in favour of including the results of all voting in the report.

MR. MASANI (India) said that Mr. Borisov appeared to be drawing conclusions from the vote which he (Mr. Masani) would like to correct. Though members were agreed upon the principle of non-discrimination, there were nevertheless several methods of applying that principle. The negative result of the vote did not imply that some members showed less interest than others in the task laid down for the Sub-Commission.

MR. DANIELS (United States of America) and MISS MONROE (United Kingdom) announced their agreement with Mr. Masani.

MR. SPANIEN (France) explained that he had voted against the proposal because he thought it important to free the question of prevention of discrimination from texts he regarded as inadequate and confused.

[15]

MR. BORISOV (Union of Soviet Socialist Republics) stated that he had merely tried to make clear the different tendencies shown by the Sub-Commission's vote, without implying that the Sub-Commission was in favour of discrimination.²³⁴

...

[17]

...

II. Examination of Article 13 (Document E/CN.4/21)

MISS MONROE (United Kingdom) proposed that, for the sake of clarity, they should begin by discussing the first part of the Article concerning liberty of movement within the borders of each State and go on afterwards to the second part concerning freedom to emigrate.

MR. BORISOV (Union of Soviet Socialist Republics) did not think that Miss Monroe's proposal could be applied to the French text. The latter seemed to him to form a single whole in which the second part was subordinated to the first.²³⁵

MR. SPANIEN (France) considered that it was possible to divide up the French text provided the division was made after the words "interieur de l'État". In that case, it would perhaps be necessary to reintroduce the reservation before the second sentence.

MISS MONROE (United Kingdom) asked the Secretariat if it would be possible to have a new French translation made of this Article, as in the English text the

²³⁴ E/CN.4/Sub.2/SR.8/Corr.1: "Delete from 'stated that' to 'in favour of discrimination'. Insert 'said he did not consider all the members of the Sub-Commission were in favour of discrimination but some members voting against effective measures against discrimination showed that they are to a certain extent in favour of discrimination'."

²³⁵ E/CN.4/Sub.2/SR.8/Corr.1: "Delete from 'did not think' to 'the latter'. Insert 'drew attention to the difference between French and English texts of the Article. The French text. . .'"

reservation applied to the first sentence only, whereas in the French text, it appeared to apply to the second sentence as well.

PROFESSOR HUMPHREY pointed out that, at the Drafting Committee's meeting on this Article, at which he was present, so far as he remembered and subject to correction by the record contained in the minutes of that meeting, it had not been the intention of the Drafting Committee, he thought, to make the reservations expressed in the second sentence applicable to the third sentence.

However he could not state definitely that such was the precise intention of the Drafting Committee and in his view both interpretations were possible.

[18]

MISS MONROE (United Kingdom) proposed that, in order to save time, the Rapporteur, Mr. Spanien and the Secretariat should be asked to clear up the point by referring to the minutes of the Drafting Committee's meeting. Meanwhile they should pass on to the examination of the following Article.

PROFESSOR HUMPHREY was of the opinion that the Drafting Committee had referred Article 13 to the Sub-Commission for further consideration on account of some uncertainty in regard to the drafting of that Article. In any such further consideration it was not necessary to take account of the Drafting Committee's intentions, which were moreover somewhat vague.

MISS MONROE (United Kingdom) withdrew her suggestion and proposed that they should begin examination of the first two sentences of Article 13: "There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by any general law adopted in the interest of national welfare and security."

MR. BORISOV (Union of Soviet Socialist Republics) stated that the foregoing discussion had convinced him that the French version differed from the English.

For his part he was unable to accept the Secretariat's observation and would like to know the Drafting Committee's intentions. If there had been differences of opinion on this Article, they should have been mentioned in the present text of Article 13, but this was not the case.²³⁶

MR. McNAMARA (Australia) thought there was nothing to prevent the Sub-Commission from examining the text of the first two sentences without, for the time being, considering the question whether the reservation contained in the second sentence applied to the third sentence.

[19]

MR. NISOT (Belgium) considered that the perfection of the text proposed was not important since all the proposed amendments were admissible.

²³⁶ E/CN.4/Sub.2/SR.8/Corr.1: Delete the final sentence.

PROFESSOR HUMPHREY read the minutes of the Drafting Committee's meeting (E/CN.4/AC.1/SR.18, page 5).

From those minutes it was impossible to draw any conclusion regarding the precise intentions of the Drafting Committee.

DR. WU (China) thought that complete freedom to emigrate or renounce one's nationality was impossible. Liberty of movement within the borders of countries and in the matter of emigration should both be subject to the same reservations.

MISS MONROE (United Kingdom), following the statement by Dr. Wu, proposed the insertion of the words "Subject to the same reservations" before the third sentence of the English text. The latter would then concord with the French text.

MR. NISOT (Belgium) proposed the following text:

"Subject to any law enacted in the general interest and with a view to security, individuals may freely: circulate and choose their own residence within the State; emigrate and renounce their nationality."

MISS MONROE (United Kingdom) thought that the term "general interest" would be more suitably translated in English by the words "general welfare of the people".

MR. DANIELS (United States of America) said that in his view the discussion was getting away from the questions of primary concern to the Sub-Commission.

MISS MONROE (United Kingdom) stated that, on the contrary, it was essential for this reservation to be drafted in such a way that Governments would not be able to make use of it to justify certain forms of persecution, conducted in the name of the general welfare of the people, as had been done by the Nazis.

[20]

MR. BORISOV (Union of Soviet Socialist Republics) pointed out that he could not see that this text had any bearing on the Sub-Commission's task.

MR. SPANIEN (France) supported Miss Monroe's contention. In his view any restriction of the freedom to emigrate might be a flagrant form of persecution.

All reservations made under the head of national sovereignty should be subject to a general principle to the effect that they could not be applied in a spirit contrary to that of the Charter.

The principle of liberty of movement could only be promulgated by an international declaration. Care should therefore be taken not to provide a loophole for States to evade this rule, on the pretext of ill-defined general or mutual interest.

Under the Statute defining the position of refugees, the right of emigrants to leave a country where they were not treated in conformity with the principles of the Charter had been reserved.

He considered therefore that the Charter ought to be mentioned specifically in the text.

MR. NISOT (Belgium) thought that the point Mr. Spanien was anxious about was covered by Article 5.

MR. MCNAMARA (Australia) proposed that the text of the reservation should be changed to the following: "Subject to any law adopted in good faith in the spirit of Article 6. . ."

In his view this addition was not essential, in view of the stipulations of Article 6. His aim in making this proposal was to take account of the objectives of the Sub-Commission.

MR. SHAFaq (Iran) thought that the essential idea underlying the first two sentences was contained in the phrase: "There shall be liberty of movement and free choice of residence within the borders of each State", while the reference to State intervention [21] was only a secondary idea, which should be expressed in the form of an exception in the following manner: "unless in the judgment of the State concerned such freedom constitutes a danger to security and the national interest".

MISS MONROE (United Kingdom) stated that she was fully in agreement with Mr. Spanien and preferred the original English text which did not apply the reservation to the third sentence.

THE CHAIRMAN stated that there were two proposals before the Sub-Commission, the proposal of Mr. Nisot and that of Mr. Shafaq. At the request of Mr. Masani and Mr. Borisov, it was agreed that the proposals concerning Articles 13 and 15 should be transmitted in writing to the Secretariat the next morning, and those concerning other Articles on Monday morning.

The meeting rose at 6 p.m.

E/CN.4/Sub.2/SR.9

30 November 1947

***Summary Record of Ninth Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination and
Protection of Minorities]***

held at the Palais des Nations, Geneva, on Saturday,
30 November 1947²³⁷ at 10 a.m.

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W.M.J. McNamara (Australia); Dr. C.H. Wu (China); Mr. Samuel Spanien (France); Mr. M.R. Masani (India); Mr. Rezazada Shafaq (Iran); Mr. A.P. Borisov (Union of Soviet Socialist Republics);

²³⁷ This is a mistake. The date was 29 November 1947.

Miss Elizabeth Monroe (United Kingdom); Mr. J. Daniels (United States of America). Representative of the Commission on the Status of Women: Mme. Lefauchaux. Specialized Agencies: Mr. Rodolphe Lopes (ILO); Miss M.L. Barblé (IRO). International Non-Governmental Organizations: Mr. Bienenfeld (World Jewish Congress); Mr. A.G. Brotman (Co-ordinating Board of Jewish Organizations). Secretariat: Prof. J.P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A.H. Hekimi.

[2]

Items 6, 7 and 8 of the Agenda

1. Discussion of Article 13

THE CHAIRMAN said the amendments dealing with the whole Article would be discussed first. Mr. Nisot had joined with Mr. McNamara and Dr. Wu and their proposal now read: "Subject to any general law not contrary to the principles of the United Nations Charter and adopted for specific and explicit reasons of security or in the general interest there shall be liberty of movement and free choice of residence within the territory of each State. Subject to the same reservation each individual shall be free to emigrate and renounce nationality."

MISS MONROE (United Kingdom) agreed with the first part of the proposal up to the words "each State". She felt, however, that the reservation should not apply to the right to emigrate. If an individual wished to change his nationality and another country was willing to accept him it would be wrong, in her opinion to limit his freedom.

MR. ROY (Haiti) suggested voting on the proposal in two parts.

MR. SHAFAQ (Iran) thought that a Declaration of Human Rights should not encourage individuals to renounce their nationality, particularly as other Articles emphasized the necessity for loyalty to one's country.

MR. McNAMARA (Australia) wished to add the words "purpose and" before the word "principles". He thought that both the purpose and principles of the United Nations Charter should be mentioned.

MR. NISOT (Belgium) said that he and Dr. Wu were [3] willing to accept Mr. McNamara's proposal. They also wished to delete the words "and explicit" which seemed to be redundant.

MR. MASANI (India) agreed with Mr. Shafaq that disloyalty should not be encouraged, but he felt that the desire to emigrate was not necessarily evidence of disloyalty. He thought that criminals or traitors would be subject to some law preventing their emigration, and it was only the rights of honest citizens which were under discussion. He felt that there should be no reservation to the second part of the proposal.

MISS MONROE (United Kingdom) said that she had proposed the wording: “to change their nationality to that of any country willing to accept then” because she felt that the original wording might encourage people to lose one nationality without taking on another and thus to owe no allegiance to any State.

MR. SPANIEN (France) proposed a new amendment for the second part of the Article: “Each individual shall have liberty of movement outside the territory of each State and shall be free to emigrate and renounce his nationality.” He considered it important to add liberty of movement in the international field as a specific right. He did not think that any reservation should be applied to the last part of the Article.

MR. MCNAMARA (Australia) said that it would be unrealistic to try to do away with the reservation. In his opinion there were certain types of emigration which [4] would have to be regulated. He mentioned as an example the emigration of technical experts whose contribution was necessary to the welfare of their country he thought that if there were no restrictions, criminals might be able to emigrate and thus escape punishment.

DR. WU (China) agreed with Mr. Spanien’s proposal, but he thought that this addition would increase the necessity for the reservation. He wondered whether Mr. Spanien wished to abolish passports.

MR. NISOT (Belgium) agreed with Mr. Spanien’s proposal but he considered the reservation to be necessary. He pointed out that countries were being asked to make their laws in conformity with the purposes and principles of the United Nations Charter, and he thought that that was sufficient safeguard to freedom.

MISS MONROE (United Kingdom) pointed out that the case of criminals was covered by Article 5 of the Draft Convention. She was in sympathy with the principles of Mr. Spanien’s proposal but she felt that it raised the question of passports and she therefore preferred her own wording.

MR. SPANIEN (France) said that it was the Sub-Commission’s duty to draft general principles and not to make regulations concerning passports. His proposal would naturally be subject to the provisions of the Charter, safeguarding the sovereignty of States. He did not consider that the wording of Miss Monroe’s proposal expressed the idea of liberty of movement clearly enough.

[5]

MR. BORISOV (Union of Soviet Socialist Republics) said that he preferred the Drafting Committee’s wording for the first part of Article 13. He thought that the reservation should apply to both parts of the Article. He alleged that emigrants had often been exploited as cheap labour in the past and that they had not been given full rights. He felt that the right to emigrate without any restrictions would encourage people to renounce their nationality.

MR. SPANIEN (France) replied that aliens would be subject to the general laws of the country they entered, including any restrictions as to their liberty of movement within that country which might be applied in accordance with the reservation to the first part of Article 13.

THE CHAIRMAN declared the discussion closed. He put to the vote the first part of the proposal by Mr. Nisot, Mr. McNamara and Dr. Wu:

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

The proposal was adopted by 10 votes with 1 abstention.

MR. BORISOV (Union of Soviet Socialist Republics) explained that he had abstained from voting because he preferred the Drafting Committee’s wording.

THE CHAIRMAN called for a vote on Mr. Spanien’s amendment to the second Part of Article 13:

“Each individual shall have liberty of movement outside the territory of each State and shall be free to emigrate and renounce his nationality.”

[6]

The proposal was rejected by 5 votes to 2, with 4 abstentions.

MISS MONROE (United Kingdom) and MR. DANIELS (United States of America) explained that they were in favour of the idea but had abstained from voting because they were not sure of its legal effect.

MR. ROY (Haiti) said that he had abstained because the proposal did not take existing laws and regulations into account.

THE CHAIRMAN called for a vote on Miss Monroe’s amendment to the second part of Article 13:

“Individuals shall be free to leave their own country and to change their nationality to that of any country willing to accept them.”

The proposal was adopted by 6 votes to 5.

THE CHAIRMAN put the new version of Article 13 as a whole to the vote:

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

Individuals shall be free to leave their own country and to change their nationality to that of any country willing to accept them.”

The proposal was adopted by 8 votes to 2 with 1 abstention.

MR. McNAMARA (Australia) asked that the following note be added to the Sub-Commission’s report: “Further, any general law referred to herein, shall not be inconsistent with Article 6 of the proposed International Declaration on Human Rights as amended by this Sub-Commission.”

MR. SHAFaq (Iran) withdrew his amendment as his point was covered by Article 5 of the Draft Convention.

[7]

Article 15

THE CHAIRMAN said that the Sub-Commission would now discuss Article 15.

MR. BORISOV (Union of Soviet Socialist Republics) said that in his opinion the Drafting Committee wished the Sub-Commission to examine Article 15 only in reference to the status of women and the right to contract marriage. He asked for information as to the contents of the Report of the Commission on the status of women.

MME. LEFAUCHEUX (Delegate of the Commission on the Status of Women) pointed out that the Commission on the Status of Women would not meet before January, at Lake Success.

MR. MASANI (India) asked whether the discussion should only be confined to the status of women. He thought that all of Article 15 should be discussed, and if this view were to be accepted, he wished to add after the word “counsel” the words “of his choice”.

DR. WU (China) indicated that the Sub-Commission should at that time decide whether Article 15 should be discussed wholly, partly, or not at all.

MISS MONROE (United Kingdom) said that she was against discussing Article 15 immediately for two reasons; first, she had been informed that the United Kingdom Representative on the Human Rights Commission would propose that the subject of this Article be introduced into the Convention in another form; secondly, she was not prepared to discuss the question of marriage.

[8]

MR. SHAFaq (Iran) said that he supported the proposal of Mr. Masani (India) that Article 15 should now be discussed as a whole.

MR. DANIELS (USA) said that he supported Dr. Wu (China), and thought that the Sub-Commission should not discuss questions which did not relate directly either to discrimination or to minorities.

MR. MCNAMARA (Australia) felt that the phrase of “status in law” required some explanation. He suggested adding the words “on the basis of Article 6” before the word “status”.

MR. SPANIEN (France) said that, in his opinion, the Sub-Commission should now discuss all of Article 15, because he considered that the question of access to courts involved the issue of discrimination.

MR. MASANI (India) said that evidently the consensus of opinion of Members was against the discussion of Article 15, and that he would hand in a written statement on this question to be included in the Report.

MR. BORISOV (Union of Soviet Socialist Republics) said that he was surprised to hear from Mme. Lefauchaux (Delegate of the Commission on the Status of Women) that the Commission on the Status of Women had made no recommendation on this subject.

MISS MONROE (United Kingdom) moved that Article 15 should not be discussed at that time. She suggested that Members might individually submit their views to the Commission on Human Rights.

[9]

THE CHAIRMAN put Miss Monroe’s motion to the vote. There were 7 votes in favour, 2 against and 2 abstentions.

MR. BORISOV (Union of Soviet Socialist Republics) said that he had abstained from voting because he considered that a vote should have been taken only as to a discussion on the right to contract marriage.

MR. MASANI (India) and MISS MONROE (United Kingdom) indicated that they would each submit written statements for inclusion in the Report.

Article 28

THE CHAIRMAN said that the Sub-Commission should now discuss Article 28.

DR. WU (China) and MISS MONROE (United Kingdom) said that they agreed with Article 28 as already drafted.

MR. DANIELS (United States of America) moved that the Article be accepted as drafted.

MR. NISOT (Belgium) seconded the motion.

MR. BORISOV (Union of Soviet Socialist Republics) said that the first part of the Article was clear, but that the second part was not clear to him. He considered that examinations might conceal methods of discrimination, and that some constitutions did not provide for examinations for public employment.

DR. WU (China) said that the reason for this part of the Article was to ensure that such examinations should be conducted in secrecy and with maximum objectivity.

MR. BORISOV (Union of Soviet Socialist Republics) repeated that examinations might be a subtle discrimination against individuals. He said that, for example, in the United States of America there was an indirect discrimination against Negroes desiring to stay in first-class hotels.

[10]

MISS MONROE (United Kingdom) moved that the Sub-Commission vote on Article 28 as a whole.

MR. DANIELS (United States of America) seconded this motion.

MR. SHAFaq (Iran) said that the objection raised by Mr. Borisov (Union of Soviet Socialist Republics) was not relevant to the subject matter. He asked Mr. Borisov how access to examinations might be discriminatory.

MR. BORISOV (Union of Soviet Socialist Republics) said that examinations could be discriminatory, in his opinion, as a particular set of examiners could favour certain types of candidates. He pointed out that although there had been a secret vote for the election of Members of the Sub-Commission, an influential country might have influenced other countries, both openly and behind the scenes. He thought that the same method of discrimination could apply even to secret examinations. He moved that the Sub-Commission vote on Article 28, divided into the two sentences.

THE CHAIRMAN took the vote on the first sentence. It was adopted unanimously.

THE CHAIRMAN then took the vote on the second sentence. There were 9 votes in favour, 1 against and 1 abstention.

The whole of Article 28 was then put to the vote. There were 9 votes in favour and 2 abstentions.

THE CHAIRMAN asked Members to submit any proposals, in writing, to the Secretary of the Sub-Commission before 10 a.m. on 1 December. He also asked Members to submit their proposals on Article 36 by the afternoon of 29 November if possible.

The meeting rose at 12:45 p.m.

E/CN.4/Sub.2/26
1 December 1947

Proposal by Miss Elizabeth Monroe (UK), regarding additional material for inclusion in the International Declaration on Human Rights

The Declaration contains two Articles which are fundamental to the work of the Sub-Commission. Article 6 enjoins the principle of non-discrimination; and Article 36 is designed for the Protection of Minorities.

It is desirable to resolve at some stage in the Declaration the inconsistency between the principles arising from these two Articles. This inconsistency arises since on the one hand Article 6 aims at securing uniformity of treatment, whilst on the other Article 36 recognizes that certain communities can rightfully claim differential treatment.

In view of the text adopted for Article 36 the UK Member proposes the adoption of the following clarifying motion:

“The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities recommends to the Human Rights Commission the inclusion of a clarifying clause to Article 36. This clause should read:

‘Differential treatment of a Minority or of an individual belonging to a Minority is not discrimination when it is in the interests of contentment and the welfare of the community as a whole.’”

E/CN.4/40
1 December 1947

The following text has been reproduced by the Secretariat for the Information of Delegates to the Commission on Human Rights

Institute of International Law

Lausanne Session

1947

The Fundamental Rights of Man as the basis for a Restoration of International Law

by Charles de Visscher

[This document is not included in the present collection. It is available at (1947) 41 *Annuaire de l'Institut de droit international* 152.]

E/CN.4/41

1 December 1947

(The Secretariat has received the following statement from the Preparatory Commission¹ for the International Refugee Organization.)²

The Preparatory Commission for the International Refugee Organization is following with great interest the deliberations of the Commission on Human Rights, and earnestly hopes that its endeavours may be crowned with success.

No group of human individuals can be more interested in an International Bill of Human Rights than the large number of persons who are the concern of the International Refugee Organization – the refugees and displaced persons. The position of these persons is due, to a considerable extent, to the flagrant violation of human rights by National-Socialist Germany, Japan and their Fascist Allies.

The Preparatory Commission considers the achievement of the aims of the Commission on Human Rights – a universal guarantee of human rights and fundamental freedoms – as a most important feature³ for the regularization of the situation of these persons.

It is for this reason that the Preparatory Commission for the International Refugee Organization feels justified in submitting to the Commission on Human Rights certain points for consideration. The Preparatory Commission has confined its observations to those points which, in its opinion, are of particular importance to the persons within its Mandate.

**1. Equality before the Law; Prevention of Discrimination;
Protection of Minorities**

The Preparatory Commission does not wish to anticipate the conclusions of the Subcommittee on Prevention of Discrimination and Protection of Minorities. It merely wishes to submit the following points for consideration:

(a) Discrimination is frequently based, not only on the grounds of sex, religion, race, or political opinion, but also on the grounds of nationality, or lack of nationality.

¹ E/CN.4/41/Corr.1 of 10 December 1947: “In Document E/CN.4/41, please *insert* the words ‘Executive Secretariat of the ...’ *before* ‘Preparatory Commission for the International Refugee Organization’ wherever this title appears.”

² The International Refugee Organization was established as a specialized agency by the United Nations General Assembly in 1946. It assumed many of the functions of the United Nations Relief and Rehabilitation Administration. In 1952 it was replaced by the Office of the United Nations High Commissioner for Refugees.

³ E/CN.4/41/Corr.1 of 10 December 1947: “*Corrigendum to 3rd paragraph, 4th line*; should read as follows: ‘most important *factor* for the ...’”

Such discrimination may be made either between nationals and aliens, or between different classes of aliens.

It would, therefore, in the opinion of the Preparatory Commission for the International [2] Refugee Organization, be desirable that the following principles be embodied in the Declaration or in the Convention on Human Rights:

There shall, in principle, be no discrimination between persons on the basis of nationality, or lack of nationality.

Nationals and aliens shall enjoy equal rights with the exception of political rights and rights which, under national law and within the limits prescribed by the International Bill on Human Rights, are confined to nationals.

The principle of reciprocity shall be no bar to the equal granting and enjoyment of human rights and fundamental freedoms.

(b) Without prejudice to the decisions of the appropriate organs of the United Nations, on the question of implementation of the International Bill on Human Rights, it is submitted that equality before the law should, in national law, be safeguarded not only by the embodiment of positive rights to this effect, but also by the incorporation in civil and criminal law of adequate safeguards against discrimination, incitement to, and advocacy of, discrimination. Incitement to discrimination is frequently directed against national, religious and racial groups. Civil proceedings and criminal prosecutions against instigators of discrimination, or even violence, against such groups have sometimes failed in the past because the law provided only for the protection of individuals, but not of groups.

It would, therefore, in the opinion of the Preparatory Commission for the International Refugee Organization, be desirable that *municipal laws should contain adequate safeguards against discrimination, incitement to, and advocacy of, discrimination against individuals or groups of individuals.*

2. Nationality

The Preparatory Commission for the International Refugee Organization welcomes the provision that “everyone has a right to a nationality” (Articles 18, Doc. E/CN.4/21, Annex F).

The Preparatory Commission feels, however, that this provision requires implementation. Reference is made in this connection to Article 32, para. 2 of the Draft prepared by the Division of Human Rights of the United Nations Secretariat (Doc. E/CN.4/AC.1/11), which provides for an effective implementation of the right to nationality.

The embodiment of this principle in the national laws of all States would lead to the gradual elimination of statelessness only if at the same time loss of nationality by unilateral act of the State, or of the individual, without simultaneous acquisition of a new nationality, were to be prohibited.

[3]

It is submitted that the incorporation of these rules, desirable as they may be, must depend on the conclusion of an International Convention on Human Rights and its effective enforcement.

In the interim period, there will still exist a class of persons who are stateless in law or in fact, and who, in consequence, do not enjoy the protection of any Government. The protection by the Government of nationality, both within national territory, and abroad through diplomatic and consular representatives, is, however, the most effective safeguard of human rights and fundamental freedoms.

The Preparatory Commission for the International Refugee Organization therefore considers it essential that any International Bill of Human Rights (Declaration or Convention) be supplemented by a clause which would establish the right of unprotected persons to the benefits of protection by an International Authority. Such protection should be similar to that exercised by national governments.

In consequence, the Preparatory Commission for the International Refugee Organization wishes to submit, for the consideration of the Commission on Human Rights, the following principles concerning nationality:

Every person has a right to a nationality.

Every person shall be entitled to the nationality of the State where he is born, unless and until, on attaining majority, he declares for the nationality open to him under the law of another State.

All persons who do not enjoy the protection of any State shall be placed under the protection of an International Organization established by the United Nations.

3. Migration: Expulsion: Right of Asylum

Persons coming within the mandate of the Preparatory Commission for the International Refugee Organization have suffered most severely from migration restrictions. Their position is furthermore frequently endangered by the exercise against them of the right of expulsion, and by the threat of expulsion.

For persons who had to flee from their country of origin or residence, owing to persecution or discrimination, or to fear of such persecution or discrimination, the right of asylum is of paramount importance.

The Preparatory Commission for the International Refugee Organization notes with satisfaction that the right of free movement within the State, the right of migration, problems relating to expulsion and to the right of asylum have been dealt with in the Draft Declaration on Human Rights (Articles [4] 13, 14, 19, Annex F, Doc. E/CN.4/21), and the Draft Convention on Human Rights (Article 5, Doc. E/CN.4/21, Annex G).

Provision for a fair hearing in cases of expulsion (Article 19, Annex F) would, however, in the opinion of the Preparatory Commission for the International

Refugee Organization, not be an adequate safeguard against arbitrary expulsion. The Preparatory Commission for the International Refugee Organization is, on the other hand, aware that too stringent restriction of the right of expulsion might make States more reluctant to admit aliens to their territories.

While Article 14 Annex F lays down the right to escape persecution, the corresponding right of asylum is provided for only as a right of the State and not as a right of the individual. The Preparatory Commission for the International Refugee Organization is aware of the considerations of national policy and of security which may render difficult the granting to the individual of an unconditional right of asylum. It is hoped, however, that the Commission on Human Rights will deem it possible to consider the embodiment of the principle of the right of asylum of certain classes of individuals.

The Preparatory Commission for the International Refugee Organization wishes to submit the following suggestions with regard to emigration, expulsion and asylum for the consideration of the Commission on Human Rights:

Every person who is not subject to any lawful deprivation of liberty, or to any outstanding obligations with regard to national service, shall be free to leave any country, including his own.

Aliens shall be expelled only under conditions laid down by law, and provided that another State is willing to receive them in its territory.

No alien who has been born or educated in the State where he resides, or has been admitted to his territory for an indefinite period, may be expelled therefrom, except in pursuance of a judicial decision, or recommendation, as a punishment for offences laid down by law as warranting expulsion.

Religious, racial or political refugees shall be granted asylum, provided, however, that the right of asylum shall not be granted to political refugees whose opinions are inconsistent with the aims and objects of the United Nations.

E/CN.4/Sub.2/SR.10

1 December 1947

***Summary Record of the Tenth Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination
and Protection of Minorities]***

Held at the Palais des Nations, Geneva, on Monday,
1 December 1947 at 10 a.m.

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti).
Rapporteur: Mr. Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia);

Dr. C. H. Wu (China); Mr. Arthur Meneses P. (Ecuador); Mr. Samuel Spanien (France); Mr. M. R. Masani (India); Mr. Rezazada Shafaq (Iran); Mr. A. P. Borisov (Union of Soviet Socialist Republics); Miss Elizabeth Monroe (United Kingdom); Mr. J. Daniels (United States of America). Representative of the Commission on the Status of Women: Mme. Lefauchaux. Specialized Agencies: Mr. Rodolphe Lopes (ILO). International Non-Governmental Organizations: Mr. Bienenfeld, Mr. G.M. Riegner (World Jewish Congress); Mr. A.G. Brotman (Co-ordinating Board of Jewish Organizations). Secretariat: Mr. Edward Lawson; Mr. Emile Giraud; Mr. A. H. Hekimi.

[2]

THE CHAIRMAN said that in future Professor J. P. Humphrey would be attending the meetings of the Commission on Human Rights and he thanked him for his assistance on behalf of the members of the Sub-Commission.

Article 36

He suggested that the Sub-Commission should finish the discussion of Article 36 at that session.

MR. MASANI (India) proposed that the words “and script” be added after the word “language” in line 6.

THE CHAIRMAN put Mr. Masani’s motion to the vote. The motion was adopted unanimously.

MR. SHAFaq (Iran) said that, in his opinion, the Commission on Human Rights did not desire to encourage a spirit of linguistic or racial isolation among the nations. He had suggested, for this reason, that the words “well defined” be added before the word “ethnic”, as contained in his written proposal (document CHR/INF.9).

MR. DANIELS (United States of America) supported Mr. Shafaq’s proposal in principle. He pointed out, however, that the right of language seemed to him to be the only right enumerated in Mr. Shafaq’s proposal which was not guaranteed elsewhere in the Bill.

THE CHAIRMAN welcomed Mr. Meneses (the Representative of Ecuador) to the Commission.

MR. BORISOV (Union of Soviet Socialist Republics) said that, as a point of order, Article 36 was concerned only with rights. In his opinion, Mr. Shafaq’s proposal contained definitions of minorities which in his view could not be adopted prior to the discussion on the problem of minorities. He proposed that the Sub-Commission should adopt the text of Article 36 as drafted.⁴

MR. MASANI (India) suggested that the word “minorities” might be replaced by the word “groups”.

[3]

⁴ E/CN.4/Sub.2/SR.10/Corr.1: “Delete last sentence of speech of Mr. Borisov.”

MR. BORISOV (Union of Soviet Socialist Republics) said that, in his opinion, this amendment was not a motion of order, and did not affect his proposal.⁵

MR. SPANIEN (France) said that if the Sub-Commission later agreed upon a different definition of minorities, it would then be possible to alter the text of Article 36.

THE CHAIRMAN put to the vote Mr. Borisov's motion that Article 36 should be voted on immediately and independently of Mr. Shafaq's proposal. There were five votes in favour, six against, and one abstention.

DR. WU (China) reserved the right later to propose an amendment.

MISS MONROE (United Kingdom) said that she agreed with the proposal to replace the word "minorities" by the word "groups". She said that she supported Mr. Shafaq's proposal to add the words "if they chose to do so" at the end of the Article. She supported a suggestion that the word "persons" should be replaced by the word "nationals". She considered that the words "established historical evidence" were too vague and added nothing to the words "ethnic, linguistic or religious minorities".

MR. NISOT (Belgium) said that he supported Mr. Shafaq's proposal to introduce the word "groups". He had suggested that the word "persons" should be replaced by the word "nationals", as all relevant treaties had only been concerned with nationals.

MR. MASANI (India) said that he supported Mr. Shafaq's proposal to introduce the word "groups" and that he had no objection to Mr. Nisot's proposal to use the word "nationals".

MR. MCNAMARA (Australia) suggested four alterations. First, to delete the words "a substantial number". He considered that the rights contained in the Article should be granted even to a [4] small numerical group. Secondly, to delete the words "as far as compatible with public order". He considered that this condition could be abused by a dictator government. Thirdly, to add the words "on the basis of loyalty to the State, of which they are resident members" after the words "shall have the right". Fourthly, to add the words "where they have not a practicable facility in the official language" before the words "before the courts".

MR. DANIELS (United States of America) said that he considered Mr. Shafaq's proposal denied those rights to groups which were not "well defined".

MR. BORISOV (Union of Soviet Socialist Republics) said that he would not comment on Mr. Shafaq's proposal, but made the following comments on the present text.⁶ First, to add in line 1 the words "and nationality" after the word "race" as contained in Article 6. Secondly, to add the word "national" after the word "ethnic". Thirdly, to delete the words "as far as compatible with public order". He also

⁵ E/CN.4/Sub.2/SR.10/Corr.1: "Delete Mr. Borisov's speech."

⁶ E/CN.4/Sub.2/SR.10/Corr.1: "Replace 'the present text' by 'the text of Article 36'."

considered that a government could abuse this condition.⁷ Fourthly, to add at the end of the Article words to the effect that “the government has the duty to establish conditions permitting a minority to practice effectively their rights, both by the use of State funds and by the creation of an autonomy”. He considered that this provided a guarantee that a State would effectively secure the rights granted to a minority. Referring to Mr. Shafaq’s proposal, he reserved the right later to make comments.

MR. MENESES (Ecuador) said that he did not support the replacement of the word “minorities” by the word “groups”. He wished to retain the word “persons”, as he considered that the rights of the individual were the most important. He supported [5] the two proposals; first, to delete the words “as far as compatible with public order”; secondly, to add the words “if they chose to do so”.

MR. MASANI (India) said that, in his opinion, both the proposals referring to “public order” and “basis of loyalty” could provide a government with opportunities for abuse.

DR. WU (China) suggested that the proposers of the various amendments might be able to draft a single text.

MR. SPANIEN (France) proposed adding after the word “minorities”, in line 2 of Mr. Shafaq’s proposal, the words “having the wish to benefit from a special status”. He thought that it was important to consider the conditions of a group of persons who wished to be included in community.

MISS MONROE (United Kingdom) said that, in her opinion, the Sub-Commission had not yet agreed upon the object of Article 36. This object could be either that rights be granted to groups in the same manner as to individuals, or that no rights should be granted to groups as the rights already granted to individuals were adequate.

MR. MCNAMARA (Australia) felt that Mr. Shafaq’s proposal added restrictions and were fundamentally different from his.

MISS MONROE (United Kingdom) said, in answer to Mr. Meneses (Ecuador) that she considered that other Articles had already granted rights to individuals, and that the object of Article 36 was to grant rights to groups. She proposed a motion that an Article establishing minority rights, in addition to individual rights, should be discussed.

MR. BORISOV (Union of Soviet Socialist Republics) again said that the question of the definition of minorities should [6] not be raised at that time. He suggested that Article 36, as drafted by the Drafting Committee, should be voted upon⁸ by the Sub-Commission. He suggested that Article 36 would have no object, if it was considered that only individuals, and not groups, existed.⁹

⁷ Pursuant to E/CN.4/Sub.2/SR.10/Corr.1, delete the previous sentence.

⁸ E/CN.4/Sub.2/SR.10/Corr.1: “Replace ‘voted upon’ by ‘discussed’.”

⁹ Pursuant to E/CN.4/Sub.2/SR.10/Corr.1, delete the previous sentence.

MR. DANIELS (United States of America) considered that Article 36 might later prove to be unnecessary.

MISS MONROE (United Kingdom) proposed that no single text be discussed until the Sub-Commission had agreed on the basic definition of "protection of minorities".

MR. MENESES (Ecuador) said that, in his opinion, it was not possible to distinguish between the rights of individuals and the rights of groups composed of individuals.

THE CHAIRMAN proposed the immediate establishment of a Sub-Committee to draft a single text. There was no opposition to his further proposal that the members should be Mr. Shafaq (Iran), Miss Monroe (United Kingdom), Mr. McNamara (Australia) and Mr. Spanien (France).

MR. MASANI (India) proposed that the Sub-Committee should attempt to agree upon the amendments, if they were not able to agree upon a text.

The meeting rose at 12:30 p.m.

E/CN.4/Sub.2/SR.11

1 December 1947

***Summary Record of Eleventh Meeting [of the First Session
of the Sub-Commission on Prevention of Discrimination
and Protection of Minorities]***

Held at the Palais des Nations, Geneva, on Monday
1 December 1947 at 3.05 p.m.

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia); Dr. C. H. Wu (China); Mr. Meneses (Ecuador); Mr. J. Daniels (United States of America); Mr. Samuel Spanien (France); Mr. M. R. Masani (India); Mr. Rezazada Shafaq (Iran); Miss Elizabeth Monroe (United Kingdom); Mr. A. P. Borisov (Union of Soviet Socialist Republics). Representative of the Commission on the Status of Women: Mme. Lefauchaux. Specialized Agencies: Mr. Rodolphe Lopes (ILO). International Non-Governmental Organizations: Mr. F. R. Bienenfeld (World Jewish Congress); Mr. A. G. Brotman (Co-ordinating Board of Jewish Organizations). Secretariat: Prof. J. P. Humphrey; Mr. Edward Lawson; Mr. Emile Giraud; Mr. A. H. Hekimi.

[2]

THE CHAIRMAN congratulated the members of the Committee of Four on the expeditious manner in which they had performed their task and invited Mr. Shafaq to report on the Committee's work.

MR. SHAFaq (Iran) stated that the three members of the Committee; Miss Monroe, Mr. Spanien, and himself had agreed on the following text: "In States inhabited by well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment, citizens belonging to such groups shall have the right as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and authorities of the State, if they so choose." He added that Mr. McNamara, being unable to give his support to this text, had submitted a number of amendments.

THE CHAIRMAN pointed out that Mr. Borisov had also submitted amendments to the text of Article 36 as it appeared in document E/CN.4/21. These amendments did not refer therefore to the text proposed by the Committee of Four and would be discussed later. He considered that, as Mr. McNamara's text was furthest removed from the original, it should be discussed first.

MR. McNAMARA (Australia) stated that the amendments he had proposed to the Committee's text were as follows:

1. Delete the words "well defined".
2. Delete the words "which are clearly distinguished from the rest of the population and which want to be accorded differential treatment".

[3]

3. Replace the word "citizens" by "persons".
4. Delete the words "as far as is compatible with public order and security."

He thought it would be illogical for the Sub-Commission to restrict the rights and that was the justification for his amendments. The least dangerous of those parts of the Committee's text to which he objected was the expression "well defined" but any restriction would be contrary to the spirit which should actuate the Sub-Commission and also to the spirit of the Declaration. He recalled that during the discussion of the right to emigrate and change nationality Miss Monroe had been opposed to any restriction in that field, whereas he himself had recognized certain restrictions on the grounds of security. He noted that Miss Monroe now accepted the ideas he wished to delete by his amendments 1 and 4, because he feared that Governments might find it too easy to take advantage of this text for the purpose of restricting the rights in question. The Sub-Commission's desire, on the other hand, seemed to be actually to extend these rights, particularly insofar as freedom of religious opinions was concerned.

MR. MASANI (India) approved the text of the majority of the Committee, except as regards the phrase "which want to be accorded differential treatment". This

expression implied the desire of a minority to obtain privileges, whereas in point of fact, the Sub-Commission only wished to assume equality of rights for all the groups of the community. He proposed an amendment to replace “to be accorded differential treatment” by “to be treated as such”.

[4]

MR. SPANIEN (France) took it that Mr. Masani did not wish to accord privileged treatment to minorities. In his view the words “to be treated as such”, if their object was to accord equal rights to all sections of the community, did not represent an improvement of the kind desired by the author of the amendment. Replying to the observation made by Mr. McNamara, he pointed out that he had been in agreement with Miss Monroe on the principles of liberty of movement and expatriation, as at that time the Sub-Commission had been engaged in defining a principle, whereas now it was dealing with discriminations. In his view the protection of minorities could only be a temporary thing, the aim being complete non-discrimination. If in the matter of non-discrimination there could be no reservations, when it came to minorities, prudence was advisable.

THE CHAIRMAN noted that there was no agreement on the proposed text. He suggested that they should first discuss Mr. McNamara’s amendment, then the amendment of Mr. Masani followed by the others in their logical order. He declared discussion open on Mr. McNamara’s first amendment proposing the deletion of the words “well defined”.

MR. MENESES (Ecuador) shared Mr. McNamara’s wish not to extend restrictions. As regards the words “well defined” which undoubtedly represented a restriction, it would be wise to delete them. He pointed out that in so doing they would be conforming to the Sub-Commission’s intention not to restrict liberties and equality of rights.

[5]

THE CHAIRMAN put Mr. McNamara’s amendment to the vote.

Decision: The amendment was rejected by 7 votes to 5. The words “well defined” were thus retained.

MR. BORISOV (Union of Soviet Socialist Republics) wished to know who would define the ethnic, linguistic or religious groups, and who would define whether they were well defined.

THE CHAIRMAN said that in his personal view it was a question of national legislation. He declared the discussion open on Mr. McNamara’s second amendment proposing the deletion of the words “which are clearly distinguished from the rest of the population and which want to be accorded differential treatment”.

MR. DANIELS (United States of America) thought that in the text submitted by the Committee an attempt had been made to give a clearer definition of certain rights and not to restrict them. With regard to Mr. McNamara's second amendment, however, he did not see why certain minorities, which might not desire to be assimilated to the majority of the population, could not enjoy complete equality of all rights.

DR. WU (China) considered that after the rejection of the first amendment, Mr. McNamara's second amendment was superfluous.

THE CHAIRMAN pointed out that the second amendment also contained the phrase "which want to be accorded differential treatment" with regard to which Mr. Masani had submitted an amendment.

DR. WU (China) thought that this phrase was unnecessary, since the text concluded with the words "if they so choose".

MISS MONROE (United Kingdom) pointed out that 35 articles of the proposed text defined a large number of rights and she therefore thought it inadvisable for Article 36 to contain a large number of restrictions.

[6]

THE CHAIRMAN observed that Mr. McNamara's second amendment contained two phrases:

1. "which are clearly distinguished from the rest of the population";
2. "which want to be accorded differential treatment".

He proposed that they should discuss these two phrases one after the other.

MR. MENESES (Ecuador) found it somewhat difficult to decide what attitude he should take in connection with the first phrase. He was in favour of deleting it, because it represented a restriction. But on the other hand, he gave due weight to the fact that what precisely characterized a minority was the wish to remain a minority.

MR. McNAMARA (Australia) stated that the retention of the first phrase would be either repetitive or dangerous, for the two reasons given by Mr. Meneses. These words constituted a restriction of the rights of minorities, for instance, that of having their own schools, and led, moreover, to confusion.

The Sub-Commission

Decided: To reject the first part of the amendment, by 6 votes to 5 with one abstention.

The words "which are clearly distinguished from the rest of the population" were retained.

THE CHAIRMAN announced that besides the second part of Mr. McNamara's second amendment there was an amendment by Mr. Masani.

[7]

The Sub-Commission

Decided: To reject the second part of Mr. McNamara's amendment, by 6 votes to 3 with 3 abstentions. The words "which want to be accorded differential treatment" were thus retained.

THE CHAIRMAN called attention to Mr. Masani's amendment to replace the words "to be accorded differential treatment" by "to be treated as such".

MR. ROY (Haiti) pointed out that the difference between the text proposed by the Committee and that of Mr. Masani was purely formal. In the mere matter of a restriction it was difficult to adopt one amendment rather than another. He personally preferred the Committee's text.

MR. MASANI (India) remarked that the French translation of his text might give rise to difficulties. It would be better therefore in the French text to replace the words "régime particulier" by "traitement différentiel"; but in English the word "différentiel" had a restrictive sense. He asked if it would be possible to keep the word "différentiel" in the French text, and to retain the initial wording in the English.

THE CHAIRMAN stated that it was impossible to comply with this request since the Sub-Commission had to adopt a single text, the other being a translation.

MR. ROY (Haiti) remarked that the words "traités comme tels" were meaningless in French.

[8]

THE CHAIRMAN asked whether to facilitate a solution, Mr. Masani could not see his way to accepting the text proposed by the Committee.

MR. MASANI (India) upheld his amendment because he thought it clearer.

MR. MENESES (Ecuador), without wishing to add to the confusion of the discussion, thought that the text lacked clarity. The Sub-Commission ought not to stress the fact that ethnic groups should enjoy equal rights, but that these rights should be accorded them. He therefore proposed that the "bénéficiaire d'un régime particulier", be replaced by "se voient accorder un traitement différentiel".

THE CHAIRMAN proposed that a simultaneous vote be taken on the texts proposed by Mr. Masani and by the Committee. Members could declare themselves in favour of one or the other.

The Sub-Commission

Decided: To retain the Committee's text, Mr. Masani's amendment obtaining 4 votes and that of the Committee 7, there being 1 abstention.

THE CHAIRMAN asked members to express their views on the amendment to this text submitted by Mr. Meneses.

MR. BORISOV (Union of Soviet Socialist Republics) thought the text was not clear. He did not see how¹⁰ it was possible for man, whatever the race, religion, language or ethnic group to which he belonged, not to wish to be treated on an equal footing with other groups in the community. He did not understand the [9] phrase proposed by Mr. Meneses.

MISS MONROE (United Kingdom) supported Mr. Meneses's amendment.

MR. SHAFaq (Iran) saw no objection to the amendment since it was an improvement on the restriction.

THE CHAIRMAN, since there appeared to be no opposition to the proposed text, thought it unnecessary to take a vote.

MR. McNAMARA (Australia) and MR. BORISOV (Union of Soviet Socialist Republics) asked for their abstention to be put on record.¹¹

MISS MONROE (United Kingdom), in reply to Mr. Borisov, stated that she could very well imagine a man wishing to obtain differential treatment.

THE CHAIRMAN put Mr. McNamara's third amendment to the vote.

The Sub-Commission

Decided: To adopt the amendment, by 6 votes to 5 with one abstention. The word "persons" was substituted for "citizens".

THE CHAIRMAN declared discussion open on Mr. McNamara's fourth amendment.

DR. WU (China) was unable to accept the proposed deletion, but submitted an amendment to replace the words "as far as is compatible with public order and security" by "in accordance with the purposes and principles of the United Nations Charter".

MR. McNAMARA (Australia) accepted this proposal and withdrew his amendment.

MISS MONROE (United Kingdom) noted that the Sub-Commission desired to impose limits on certain groups to which it wished to grant the rights provided in Article 36. Dr. Wu's amendment made the limits as wide as possible, since the Sub-Commission was unable to do anything contrary to the purposes and principles of the Charter. She could not therefore accept Dr. Wu's amendment.

[10]

MR. McNAMARA (Australia) announced that on reflection and following Miss Monroe's statement he felt compelled to re-introduce his amendment.

MR. SPANIEN (France) pointed out that the matter at issue was one coming under the sovereignty of the State. It was for that reason that the Committee of Four had

¹⁰ E/CN.4/Sub.2/SR.11: "Replace the words 'see how' by the word 'consider'."

¹¹ E/CN.4/Sub.2/SR.11: "Delete the words 'and Mr. Borisov (Union of Soviet Socialist Republics)'. For 'their abstention' read 'his abstention'."

felt obliged to make a reservation covering anything likely to reduce that sovereignty.

THE CHAIRMAN put Dr. Wu's amendment to the vote.

The Sub-Commission

Decided: To reject the amendment, by 7 votes to 2 with 3 abstentions.

MR. ROY (Haiti) stated that he had abstained because he could not vote against the purposes and principles of the Charter.

THE CHAIRMAN put Mr. McNamara's fourth amendment to the vote.

The Sub-Commission

Decided: To reject the amendment, by 6 votes to 5 with 1 abstention. The words "as far as is compatible with public order and security" were retained.

THE CHAIRMAN declared discussion open on the part of the text proposed by the Committee which read: "to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose".
[11]

MR. ROY (Haiti) regarded the last words "if they so choose" as redundant, since the matter in question was a right, which might or might not be used, and not a duty. He proposed an amendment to the effect that those words be deleted.

MR. SPANIEN (France) pointed out that it would be well to retain the words in order to facilitate the administration of justice. To allow a plaintiff to plead in a language other than the official one might be a source of obstruction.

THE CHAIRMAN put Mr. Roy's amendment to the vote.

The Sub-Commission

Decided: To reject the amendment, by 5 votes to 5 with 2 abstentions. The original text was retained.

THE CHAIRMAN asked the Director of the Human Rights Division to read the text in the form in which it had emerged from the discussion, and on which members would be asked to vote.

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

[12]

THE CHAIRMAN pointed out that three members of the Committee of Four had submitted the text “provided that ‘established historical evidence’ be one of the criteria for distinguishing ethnic or linguistic groups”.

At the request of Mr. Roy, he explained that this reservation reflected the opinion of three members of the Committee, not that of the Sub-Commission.

MR. ROY (Haiti) thought that in that case the matter should be discussed.

MR. DANIELS (United States of America) emphasized that the text to be voted on was an important article in the Declaration. He declared his desire to protect genuine minorities and pointed out that he had made formal proposals to that end. The Sub-Commission had defined minorities and their rights up to a point but the text of Article 36 as just read out contained only a cursory definition of the concept of minorities. He believed that this concept differed in Europe and the United States. To define a minority moreover was a task of the very greatest difficulty. Article 36 placed a very considerable limitation on the rights of a linguistic or religious group and on application of these rights even within a minority. The Sub-Commission did not appear to have realized that the wording of the Article was too narrow to protect genuine minorities and too wide to prevent extension of the rights to fictitious minorities. He therefore found it impossible to accept the text.

[13]

MISS MONROE (United Kingdom) was impressed by the serious warning given by Mr. Daniels. She admitted the subject was one of great difficulty; but she was sorry Mr. Daniels’ attitude was purely negative. She would like to know what points Mr. Daniels could give his consent to.

MR. SHAFaq (Iran) did not think the article in question raised the problem of a definition of minorities. In any case, that problem would be dealt with at another time. He did not think Mr. Daniels’ apprehensions were justified.

MR. McNAMARA (Australia) shared Mr. Daniels’ views with regard to the Sub-Commission’s task. The Commission would have to continue the study of the documents, and it would then realize that the Sub-Commission had merely outlined a definition of the concept of a minority. It would be a pity if the text proposed for Article 36 were rejected. Members who did not approve of the text might abstain from voting. That would enable the Sub-Commission to submit a text to the Human Rights Commission, which would consider the necessity of taking into account the opinions of an important minority of members of the Sub-Commission.

MR. NISOT (Belgium) said he would vote against the text because the application of the article was not reserved for “citizens” alone.

MR. DANIELS (United States of America), replying to Miss Monroe, explained that he was against the text because it was drafted in a negative form, which resulted in an appreciable limitation of rights, particularly of those granted in other articles of

the Declaration. The text was an attempt to establish a definition of the concept of a minority before the Sub-Commission had even started to discuss the subject.

[14]

MR. MENESES (Ecuador) agreed with the views expressed by Mr. Daniels and Mr. McNamara. It was too soon to attempt to define a minority, although the text spoke only of groups. In his opinion, the text was not complete.

MISS MONROE (United Kingdom) said she would abstain from voting for the same reasons as Mr. Nisot had given for his decision to vote against the text. To grant the same rights to foreigners as to nationals might result in persons who already enjoyed rights granted by one Government attempting to enjoy rights granted by other Governments also.

DR. WU (China) also thought that the Sub-Commission should not attempt to define the concept of a minority, That question would be discussed when other articles were examined.

MR. MASANI (India) said he agreed with the text but for the word “persons”, which had been substituted for “citizens”.

MR. NISOT (Belgium) added that the drafting was such that the text was equally applicable to the majority and to the numerical minority of a population.

MR. SPANIEN (France) did not think those objections need interfere with the Sub-Commission’s work. As a member of the Committee of Four, he would, however, abstain for the same reasons as Miss Monroe. The Sub-Commission had decided at its morning meeting that the definition of minorities would be discussed later in connection with some other article, and had reserved the right to revert to the text of Article 36 if subsequent discussion of a definition made it necessary.

[15]

THE CHAIRMAN confirmed that point. He proposed the meeting should start discussing the reservation made by three members of the Committee of Four.

MR. DANIELS (United States of America) regarded that reservation as a fresh attempt to define minorities.

MR. NISOT (Belgium) wished to know what was meant by the words “established historical evidence”. Did they refer to a group which had been established in a country for a long time, or to a group which had for a long time enjoyed a privileged position?

MR. MASANI (India) thought that the fact that the three members in question wished to make a reservation did not necessarily mean that the other members of the Sub-Commission had to share it.

MR. ROY (Haiti) pointed out that the reservation in question had not been retained in the text of Article 36.

THE CHAIRMAN said that the reservation would be maintained in the report as being the opinion of the three members of the Committee.

DR. WU (China) wished to associate himself with these three members.

THE CHAIRMAN declared the discussion open on Article 36 as given in document E/CN.4/21, and the amendments to it proposed by Mr. Borisov.

MR. MASANI (India) pointed out that Mr. Borisov's second amendment, to the effect that the words "in so far as compatible with the public order" be excluded, had been retained when the previous text had been discussed. Further, the Sub-Commission had decided to retain that text. Therefore, only Mr. Borisov's first and third amendments remained to be considered.

[16]

THE CHAIRMAN replied that the texts were different and should therefore be discussed. He proposed that they should start by examining Mr. Borisov's first amendment to the effect that the word "nationality" be inserted after the word "race", and the word "national" after the word "ethnic". These amendments could, of course, only stand if Article 36 in document 4/21 were itself adopted.

MR. MCNAMARA (Australia) thought that some members had a different idea of the concept of "nationality". Mr. Borisov appeared to interpret it as meaning the citizenship of a State. He would suggest that instead of "nationality" the words "of national origin" be adopted. That would prevent any confusion, as those words had already been adopted in some earlier articles.

MR. MASANI (India) thought the question raised by Mr. Borisov was covered by the words "race" and "ethnic". The difficulty arose from the fact that Mr. Borisov was only considering the case of a multi-national State. By adopting the words "national origin", it could be made clear that this concept was included in that covered by the terms "race" and "ethnic".

MR. BORISOV (Union of Soviet Socialist Republics) explained that his idea of the concept "national" was the same as that given to this term in Article 6 by the majority of members.¹²

MR. MCNAMARA (Australia) could not accept Mr. Masani's proposal, which made no distinction between "race" and "national origin".

[17]

The French emigrants in Canada, for instance, were of the same race as the Canadians, but were not of the same national origin. To give equal rights to Canadians and French Canadians, the words "national origin" must necessarily be included.

MR. DANIELS (United States of America) said he would accept the word "national" proposed by Mr. Borisov, provided it was given the sense of "national origin".

¹² E/CN.4/Sub.2/SR.11: "Delete the whole of the paragraph commencing 'Mr. Borisov . . .'"

MR. MASANI (India) pointed out that by accepting the words “national origin”, the Sub-Commission would not avoid difficulties over the use of the word “nationality”.

MR. MENESES (Ecuador) remarked that if the Commission accepted the word “nationality” in the sense of “national origin” he did not see why it was necessary to retain the term “nationality”.

MR. BORISOV (Union of Soviet Socialist Republics) stated that he agreed to the replacement of the term “nationality” by “national origin”, but that, for reasons of Russian grammar, it would be better to retain the adjective “national” in the enumeration of minorities. Nevertheless he was prepared to assign the sense of “national origin” to this term also.¹³

MISS MONROE (United Kingdom) opposed the use both of the term “national origin” and of the term “nationality”.

MR. MCNAMARA (Australia) proposed that the terms “ethnic, linguistic or religious” should be deleted, since those three qualifications were covered by the term “national”, used in the sense of “national origin”.

[18]

MR. SPANIEN (France) pointed out that just as Article 6 was of general application and admitted no exceptions, so Article 36 called for the protection of specific groups and advocated certain restrictions in the exercise of these rights. If in the case of French legislation, the words “national origin” meant that naturalized citizens would regard themselves as a minority on the grounds that they were of different national origin, he would vote against the words “national origin”.

MR. DANIELS (United States of America) requested that a vote be taken.

THE CHAIRMAN recalled that Mr. Borisov had agreed to the replacement of the word “nationality” by “national origin”, which would be inserted in the text after “race”.

Decision: Mr. Borisov’s amendment was adopted by six votes to five, with one abstention.

THE CHAIRMAN recalled that Mr. Borisov had also proposed that the word “national” used as an adjective, should be inserted after “ethnic”.

MR. MCNAMARA (Australia) believed that Mr. Borisov’s objection would be overcome by omitting all the qualifying adjectives: “ethnic”, “linguistic” and “religious”.

MR. BORISOV (Union of Soviet Socialist Republics) asked members not to try to interpret his opinion in a different way from himself. He could not agree to the deletion of these adjectives, which were intended to define the minority groups to

¹³ E/CN.4/Sub.2/SR.11: “Delete sentence commencing ‘Nevertheless. . .’”

which rights should be extended. The adjective “national” was employed here, in his opinion, in the same sense as in Article 6 and in Article 36, line 1. The omission of these adjectives would detract from the clearness of the text.¹⁴

[19]

THE CHAIRMAN called for a vote on the second part of Mr. Borisov’s first amendment.

Decision: Mr. Borisov’s amendment was adopted by six votes to five, with one abstention.

THE CHAIRMAN stated that the purpose of Mr. Borisov’s second amendment was to exclude the words: “as far as is compatible with public order”. As the principle involved had already been discussed, he thought the Sub-Commission could proceed to a vote.

MR. MCNAMARA (Australia), on a point of order, observed that the phrase differed from that employed in Mr. Shafaq’s amendment. The amendment did not contain the term “public security”.

MR. BORISOV (Union of Soviet Socialist Republics) pointed out that experience had shown that measures taken nominally to ensure public order often concealed large-scale restrictions and discriminations. He considered it necessary to delete these words.

THE CHAIRMAN put Mr. Borisov’s amendment to the vote.

Decision: The amendment was adopted by seven votes to five.

THE CHAIRMAN declared the meeting open for discussion on Mr. Borisov’s third amendment, the purpose of which was to append to Article 36 the sentence “the Government has the duty to establish conditions permitting the minorities to practice effectively their rights (both by the use of State funds and by the creation of an autonomy, etc.)”.

MR. MCNAMARA (Australia) stated that many States had already gone a long way in the direction of allowing minorities to organize schools such as those in which teaching was carried on in the language of certain minorities; he could not, however, accept [20] this amendment, since it would compel States to initiate action in the matter.

MR. MENESES (Ecuador) opposed the amendment because in his view the object should be to encourage assimilation and not to promote the creation of minority groups.

THE CHAIRMAN was in favour of the amendment because it would serve to protect minorities.

¹⁴ E/CN.4/Sub.2/SR.11: “Delete end of paragraph, from ‘The adjective. . .’ to ‘the text’.”

MR. BORISOV (Union of Soviet Socialist Republics) explained that he had made this proposal with the object of compelling the governments to intensify their efforts¹⁵ to create conditions in which minorities could develop, and to make the rights of such minorities effective, in particular by measures backed¹⁶ by financial aid from the State.¹⁷

MR. SPANIEN (France) stated that he would vote against the amendment in view of Article 2, paragraph 7 of the Charter, which stated that “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the jurisdiction of any state”. France did not set aside public funds for private education. Whilst favouring the widest possible protection of minorities he could not agree to a modification of France’s national and democratic standpoint, in consequence of which the law would be an expression of the opinion of a minority of the population.

MR. BORISOV (Union of Soviet Socialist Republics) wished, before a vote was taken, to reply to Mr. Spanien’s argument. He did not see how it would interfere with the sovereignty of the French State if the latter earmarked part of its public funds for the protection of minorities, or for ensuring equality of treatment¹⁸ for them as regards education.

[21]

MR. SPANIEN (France) replied that public education was organized in conformity with a law. There were State schools of all types maintained by the public finances. If a religious group, for instance, wished to organize special instruction it was perfectly free to do so at its own expense.

MR. SHAFaq (Iran), raising a point of order, reminded members that the Chairman had declared the discussion closed.

DR. WU (China) stated that he would vote against the proposal. He was not opposed to the principle of the State’s subsidizing special education for any minority as was done in China for instance. But he could not accept the principle that the State was under an obligation to do so.

THE CHAIRMAN put Mr. Borisov’s third amendment to the vote.

Decision: The amendment was rejected by ten votes to two.

THE CHAIRMAN reminded members that they had to choose between two texts: first, that proposed by Mr. Shafaq on behalf of the Committee of Four, as amended

¹⁵ E/CN.4/Sub.2/SR.11: “Delete the words: ‘to intensify their efforts’.”

¹⁶ E/CN.4/Sub.2/SR.11: “Delete the words ‘by measures backed’.”

¹⁷ E/CN.4/Sub.2/SR.11: “Add after the word ‘State’ the words “and the guarantee of the right of nationalities and ethnic groups, living within the territory in question, to national and territorial autonomy’.”

¹⁸ E/CN.4/Sub.2/SR.11: “Replace the words ‘equality of treatment’ by the words ‘equal rights’.”

by the Sub-Commission, which was designed to replace Article 36, and, secondly, the amended text of the original Article.

Decision: The text prepared by the Committee of Four was adopted by six votes to four, with two abstentions.

MR. BORISOV (Union of Soviet Socialist Republics) stated that he had abstained, and reserved the right to express his opinion on the text adopted, at a later stage.

THE CHAIRMAN stated that Article 36 in document E/CN.4/21 had been rejected and replaced by the text proposed by the Committee of Four, as amended by the Sub-Commission. This text was [22] as follows: "In States inhabited by well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment, persons belonging to such groups shall have the right as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language or script in the press, in public assembly and before the courts and other authorities of the State, if they so choose."

MR. SPANIEN (France) stated that he had voted for the text because he had assisted in its drafting in the Committee of Four and because he felt that it was preferable to the original text of Article 36. He pointed out, however, that the Sub-Commission could review this text if later discussion in regard to the definition of the concept "minority" made it necessary. In any case he reserved his decision entirely, in company with Miss Monroe and Mr. Shafaq, as to the replacement of the term "citizens" by "persons".

...

E/CN.4/SR.23*

2 December 1947

Summary Record of the Twenty-Third Meeting [of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Tuesday,
2 December 1947, at 10 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Col. W. R. Hodgson (Australia); Mr. F. Dehousse (Belgium); Mr. A. S. Stepanenko¹⁹

¹⁹ Afanasi Stepanovich Stepanenko was a Byelorussian educator and consultant to the Ministry for Foreign Affairs.

(Byelorussian SSR); Mr. P. García de la Huerta (Chile); Mr. O. Loutfi²⁰ (Egypt); Mr. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); Mr. M. Klekovkin²¹ (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Mr. Campbell (United Kingdom); Mr. V. Ribnikar (Yugoslavia). Specialized Agencies: Mr. J. Bessling (ILO); Mr. J. de Givry (ILO); Mr. Albert Cohen (Preparatory Commission for the International Refugee Organization).

[¹] The 24th Meeting of the Commission was held in closed session, and by decision of the Commission is distributed as a Restricted document (E/CN.4/SR.24) to members of the Commission only.²²

[2]

Non-Governmental Organizations: Category A: Mr. A. R. de Cléry and Mr. L. Boissier (Interparliamentary Union); Miss Toni Sender (American Federation of Labor); Category B: Mr. A. G. Brotman (Co-ordinating Board of Jewish Organizations); Mr. F. R. Bienenfeld (World Jewish Congress); Mr. C. Pilloud (International Red Cross Committee); Miss Louise C. A. van Eeghen (International Council of Women). Secretariat: Professor J. P. Humphrey; Mr. Edward Lawson.

1. Opening of the Session

THE CHAIRMAN opened the twenty-third meeting of the Commission on Human Rights, and apologized for the delay which had been occasioned by her unavoidable absence the day before. She then suggested that the Commission should hold its meetings from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., which was unanimously accepted.

2. Adoption of the Agenda (Document E/CN.4/22/Rev.2.)

THE CHAIRMAN presented the provisional Agenda to the Commission and asked for observations upon it.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) opposed the inclusion in the revised Agenda of the documents appearing in brackets after Item 5, with the exception of Document E/CN.4/21, which was, in his opinion, an integral part of the [3] Item. In view of the heavy Agenda and the limited time at the disposal of the Commission he felt that the necessary consideration could not be given to these documents, which included a memorandum on Trade Union Rights, not previously submitted to the representatives. In his opinion, the question of Trade Union Rights was a very important one, having a direct bearing on the lives of tens of millions of people. He felt that the Commission's efforts should be devoted to the items in the

²⁰ Omar Loutfi was an Egyptian prosecutor and judge who represented his country at the United Nations from 1949 to 1961. He was United Nations Under-Secretary General for special political affairs from 1961 to 1963.

²¹ Michael Klekovkin was a Soviet architect.

²² Document E/CN.4/SR.24 concerns communications by alleged victims about human rights violations and is not of any particular relevance to the drafting of the Universal Declaration of Human Rights.

original Agenda and that a decision as to whether or not to include consideration of new documents should be deferred meantime.

PROFESSOR HUMPHREY (Director of the Human Rights Division), at the request of the Chairman, explained that the documents in brackets after the items of the Agenda did not constitute part of the Agenda. They were merely references to the documentation available, and had been placed there for the convenience of the Representatives. A document would become part of the Agenda only if adopted as a basis for discussion of a particular item.

MR. RIBNIKAR (Yugoslavia) said that it appeared to him that the documents mentioned in Item 5 fell into three categories:

- 1) those referring to a Bill of Rights,
- 2) those referring to an International Convention, and
- 3) those referring to Trade Union Rights.

He suggested that the third category should form a separate item in the Agenda.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) felt that Professor Humphrey's explanation would be perfectly satisfactory if Document E/CN.4/21 did not appear in brackets after Item 5. He thought that the Commission should confine itself under Item 5 to discussion of the Drafting Committee's Report, [4] the other documents being for information only. In his opinion Trade Union Rights should not form part of Item 5. He felt the Commission should be free to decide at a later date whether or not to insert a separate item in the Agenda on this question.

THE CHAIRMAN asked if Representatives would like to add a new item to the Agenda entitled "Trade Union Rights", as suggested by the Representative of Yugoslavia.

MR. DEHOUSSE (Belgium) said he believed it was the intention of the Commission to constitute, as soon as practicable, Committees to deal with special subjects. He therefore felt it might be a means of expediting their work to establish a Committee to study, within the framework of the Terms of Reference of the Commission, the question of Trade Union Rights.

MRS. MEHTA (India) was of opinion that the Commission could consider the question of Trade Union Rights only as part of its consideration of the International Bill of Rights, and was therefore opposed to its inclusion as a separate item in the Agenda. MR. CAMPBELL (United Kingdom) supported the views of Mrs. Mehta.

THE CHAIRMAN drew the attention of the Representatives to the Resolution adopted by the Economic and Social Council at its Plenary Session on 24 March 1947 (Document E/CN.4/31, page 26). She felt that the insertion of a separate item to consider Trade Union Rights, as part of the consideration of the International Bill of Rights, would not be incompatible with that Resolution. She also pointed out that the matter had been referred to the Commission by the General Assembly of the United Nations.

MR. CASSIN (France), while of the opinion that the question of Trade Union Rights could not be considered separately from that of the Bill of Rights, felt that the Representatives of India and of the Union of Soviet Socialist Republics might both be satisfied if the question were referred to a Committee. [5] The Committee's work should be confined to consideration of material to be inserted in a draft Convention, such as the one received from the Drafting Committee.

MR. KLEKOVKIN (Ukrainian SSR), in view of the importance of the question and of the fact that the Representatives had had a comparatively short time in which to study the relevant documents, proposed that the question of Trade Union Rights should be deleted from Item 5 and inserted as a separate item in the Agenda. It had been argued that the question of Trade Union Rights was closely linked with that of the Bill of Rights. He pointed out that other subjects, such as Freedom of the Press and Protection of Minorities, were equally closely linked and yet appeared as separate items in the Agenda.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that he had no objection to the list of documents appearing after Item 5, as, following the discussion, it was clear that only the Report of the Drafting Committee would be studied in detail. He suggested that a decision as to whether or not a separate item on Trade Union Rights should be inserted in the Agenda should be deferred for a few days, until the Commission had had an opportunity to see whether time permitted them to give adequate consideration to such an important question.

THE CHAIRMAN suggested that the Commission accept the Agenda provisionally, and reconsider later the insertion of a separate item on Trade Union Rights.

MR. DEHOUSSE (Belgium) pointed out, however, that Rule 8 of the Rules of Procedure did not allow the Commission to accept the Agenda provisionally.

MR. STEPANENKO (Byelorussian SSR) said that he had not yet received the documents pertaining to Trade Union Rights and [6] was not in a position to express his views on the matter. He therefore opposed the insertion of a separate item regarding Trade Union Rights. He supported Mr. Bogomolov's proposal to defer a decision on the matter for a few days.

THE CHAIRMAN proposed that the Agenda be adopted and pointed out that, according to Rule 9 of the Rules of Procedure, the Commission was free to revise the Agenda later, should it consider this desirable.

MRS. MEHTA (India) supported the Chairman's proposal.

COLONEL HODGSON (Australia) felt it was quite clear from the Resolution of the Economic and Social Council that the Commission should consider Trade Union Rights only insofar as they were related to the Bill of Rights, and, in his opinion, that could be done under Item 5. He agreed with Mr. Bogomolov that Document E/CN.4/21 should be included as an integral part of Item 5, the subsidiary documents remaining in brackets. He supported the Chairman's proposal to adopt the

Agenda and felt that, were it considered necessary later, a committee might be established to deal with the subject.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that the Soviet Union Delegation accepted the Chairman's proposal, but reserved its right to return, in accordance with Rule 9 of the Rules of Procedure, to the question of the insertion of a separate item in the Agenda relating to Trade Union Rights.

THE CHAIRMAN declared the Agenda adopted. She then called on Mr. Moderow, Director of the European Office of the United Nations, to address the Commission.

MR. MODEROW (Director of the European Office of the United Nations) welcomed the Representatives to the European Headquarters of the United Nations and assured them that the Administration would do everything possible to supply complete and comprehensive [7] services in order to facilitate the work of the Commission. Unfortunately, budgetary restrictions might limit the services the Administration could provide. He mentioned that strictly limited credits were placed at the disposal of the European Office to provide conference services and it had been suggested at the General Assembly of the United Nations that the danger of overspending these credits should be pointed out to Representatives. He drew attention in particular to the fact that the staff assigned to the Conference from Headquarters had been reduced to a minimum and that, during the period of overlapping of the Conferences, of the Commission on Human Rights and that of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, difficulties might arise. He finished by expressing his sincere desire for the success of the Commission in its important task.

THE CHAIRMAN, on behalf of the Representatives, thanked Mr. Moderow. In connection with Item 5 of the Agenda she gave a summary of the stages through which the draft Bill of Human Rights had already passed and through which it had still to go. After the first session of the Commission on Human Rights, a Drafting Committee had been constituted with the task of preparing a preliminary draft of an International Bill of Human Rights. Its draft would be considered by the Commission under Item 5 of the Agenda. The Commission had three main questions to decide:

- (1) Whether there should be a Declaration;
- (2) Whether there should be a Convention; and
- (3) What measures were necessary for implementation of the Convention.²³

[8]

She pointed out that the Commission's task was to define principles and to give them form but *not* to prepare a final draft. After the Commission's Report had been

²³ In December 1947, the Commission decided to divide the project into three parts. This collection of documents traces the origins of that decision, but from the moment when the Commission was discussing the draft Declaration as a distinct component of the International Bill of Rights, documents or portions of documents concerned exclusively with the Convention or Covenant and with the subject of implementation have been omitted.

sent to Member Governments for their comments, it would be considered at a meeting of the Drafting Committee to be held in the early part of May 1948, and thereafter by the third Session of the Commission on Human Rights in the latter part of May 1948. The Report would then be submitted to the Economic and Social Council at its meeting in July 1948 and, finally, if approved, to the General Assembly of the United Nations in September 1948. It would thus be seen that many stages lay ahead of the Report, and, while it was important that the Commission should lay down the principles, it need not feel that the actual wording was final.

In connection with the Preamble to the Declaration of Rights, she asked the Representatives to take into account both political and literary considerations, in order to have clear cut ideas for discussion. She suggested that it be considered that a subject could best be handled by a Sub-Committee, she hoped that such Sub-Committees would be established.

3. Invitation to the Officers of the Commission on the Status of Women

PROFESSOR HUMPHREY, at the Chairman's request, directed the attention of the Representatives to a Resolution of the Economic and Social Council adopted at its Fourth Session (Document E/437, Resolution 46, Item (f)), which requested the Commission to invite the Officers of the Commission on the Status of Women to be present and participate without voting in its deliberations when sections of the draft of the International Bill of Human Rights concerning the particular rights of women were being considered.

[9]

THE CHAIRMAN, with the concurrence of the Representatives, requested the Secretariat to extend formal invitations to the Officers of the Commission on the Status of Women, in accordance with the Resolution.

4. Communications

PROFESSOR HUMPHREY directed the attention of the Representatives to a Resolution of the Economic and Social Council taken at its Fifth Session (Document E/573; page 20, Resolution 75). In his opinion, that Resolution might involve three distinct steps: (1) consideration of the Resolution of the Council; (2) reception by the Commission of the list of communications prepared by the Secretariat in accordance with the terms of the Resolution; and (3) the appointment of an *ad hoc* Committee to consider, before the next Session of the Commission, the list of communications. He pointed out that the list could only be distributed to Representatives in a private

meeting. He therefore suggested that a meeting be held in private for the time necessary to distribute the list.

THE CHAIRMAN asked if the Representatives were agreeable to having a private meeting the next morning for reception of the list of communications, the meeting being thereafter opened to the public.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said he wished to remind Representatives that, at the Fifth Session of the Economic and Social Council, the Soviet Union Delegation had expressed its views regarding the substance of the communications in question and also regarding the establishment of an *ad hoc* Committee to study them. The Soviet Union Delegation had felt and still felt, that priority [10] should be given to the consideration of communications from non-self-governing territories and from the largest democratic organizations and that individual communications should not be taken into account. He was therefore opposed to the establishment of an *ad hoc* Committee for the purpose of studying these communications.

MR. CAMPBELL (United Kingdom) did not agree with the Soviet Union Representative's views. In his opinion there was nothing in the political status of a non-self-governing territory which made petitions from such an area different from petitions received from a self-governing territory, and he felt that no distinction should be made in dealing with them. He directed the attention of the Representatives to the procedure laid down in the Draft Report of the Joint Committee of the Trusteeship Council and the Economic and Social Council for dealing with petitions from Trust territories. The Report had been approved and adopted by the Economic and Social Council and, in his opinion, the Commission should follow the procedure established in that Report.

THE CHAIRMAN thought that the discussion regarding the establishment of an *ad hoc* Committee should be deferred until the list of communications had been received by Representatives.

The Chairman pointed out that the Economic and Social Council had not directed the Commission to appoint an *ad hoc* Committee, but only suggested that it might do so. She asked Representatives to study Document E/CN.4/27 which set out in full the Economic and Social Council's resolutions and suggestions on the subject, and suggested that further discussion be deferred until the following morning.

[11]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) agreed with the Chairman's views regarding postponement of the discussion. He could not agree with the United Kingdom Representative that there was no difference in status between non-self-governing territories and self-governing territories. He maintained that in autonomous territories there existed means of communication, such

as the Press, to give information regarding conditions of life, while no such means existed in non-self-governing territories.

MRS. MEHTA (India) did not feel that a general discussion of the subject was necessary. The Commission was asked by the Economic and Social Council to appoint an *ad hoc* Committee with definite functions. The Commission had not been requested to classify the communications in question.

MR. CAMPBELL (United Kingdom) did not agree with the Soviet Union Representative that no media existed in non-self-governing territories to allow expression of opinion. In such territories administered by the United Kingdom there existed the Press, broadcasting and the right of public assembly in exactly the same way as in self-governing territories.

COL. HODGSON (Australia) fully agreed with the views of the Representative of India. He considered that all that was necessary was that a decision be taken as to whether to appoint an *ad hoc* Committee, and if so, elect its Members.

MR. DEHOUSSE (Belgium) could not agree with the views of the Representatives of India and of Australia. He thought the Resolution of the Economic and Social Council established a procedure of a permanent character, to govern all future meetings [12] of the Commission, and that procedure must be implemented. In his opinion, consideration of communications was a vital part of their task, which was not only to make a Declaration on Human Rights, but to make those Rights a living reality. He proposed that the Commission should establish immediately an *ad hoc* Committee to meet during the Session. He felt the provision of the Economic and Social Council for private discussion of the subject was a very wise one.

MR. CASSIN (France) said he attached very great importance to the part which the Commission would have to play in connection with petitions. Nevertheless, he supported the postponement of the discussion until the following morning.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked if it would be possible for the list of communications to be presented to the Representatives at the afternoon meeting, in order to give time for study before the general discussion.

THE CHAIRMAN said that it would be possible to do as Mr. Bogomolov asked, and it was agreed to hold a closed meeting at 3 p.m. to receive the list of communications, thereafter opening the meeting to the public. She requested the Representatives to give consideration to two points remaining to be decided the following morning:

1. whether to appoint an *ad hoc* Committee to function before the next Session of the Commission; and

2. whether to appoint an *ad hoc* Committee to function during the present Session.

5. Report of the Drafting Committee

THE CHAIRMAN reminded Representatives that, at the first session of the Drafting Committee of the Commission, two documents had been produced, a Declaration and a [13] Convention, which were respectively Annexes F and G of the Report. She thought the first question to be decided was whether the Commission should draft a Declaration only, a Convention only, or both, and invited observations on the subject.

MR. RIBNIKAR (Yugoslavia) recalled that, at the first Session of the Commission, most of the Representatives had shared his view that the Declaration of Rights should take the shape of a Resolution by the General Assembly of the United Nations. The Members of the Drafting Committee appeared to have been divided in opinion on the point and had prepared suggestions for a Convention as well as for a Declaration. He felt it would be impossible for the Commission to elaborate all the Articles necessary for a Convention of Human Rights. In his opinion, a Convention was an expression of the will of sovereign States and he therefore proposed that the Draft Conventions contained in Document E/CN.4/21 should be sent to Member Governments for their comments.

MR. DEHOUSSE (Belgium) said that, in his opinion, the Yugoslav Representative's argument was not a valid one. The Commission was only preparing a rough draft of a Convention. That draft would have to pass through all the stages enumerated by the Chairman, including that of being sent to Member Governments for their comments.

MR. CAMPBELL (United Kingdom) reserved the right of the United Kingdom Representative to amplify the statement made in Document E/CN.4/38.

COLONEL HODGSON (Australia) asked Professor Humphrey, through the Chairman, whether Document E/CN.4/21 had been circulated to Member Governments or only to the Representatives. [14] Even if it had been circulated only to the Representatives, he felt sure that Member Governments would be aware that discussion of a Draft Declaration and of a Draft Convention had been envisaged, in which case precise instructions on the points must have been issued by them to their Representatives.

PROFESSOR HUMPHREY (Director of the Human Rights Division) stated that the Document in question was an unrestricted one and had been distributed through the routine channels to Member Governments.

The meeting rose at 1 p.m.

E/CN.4/Sub.2/29

2 December 1947

**Proposal for a new Article (to be the first Article
in the proposed Declaration of Rights).**

Submitted by Mr. McNamara (Australia).²⁴

1. In those Articles where the following words are used – “no one”, “everyone”, “all men”, “all” (in the sense of all men), “any individual”, or where other words are used in the same sense, then the following phrase shall be read in conjunction therewith: “without distinction of any kind such as race, sex, language, religion, political or other opinion, property status, national or social origin”.

E/CN.4/SR.25

2 December 1947

Original Text: French

Summary Record of the Twenty-Fifth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Tuesday,
2 December 1947, at 3:55 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Col. W. R. Hodgson (Australia); Mr. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Mr. P. García de la Huerta (Chile); Mr. O. Loutfi (Egypt); Mr. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom); Mr. V. Ribnikar (Yugoslavia). Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Bessling (ILO). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Category B: Mr. F. R. Bienenfeld (World Jewish Congress); Mr. A. G. Brotman (Co-ordinating Board of Jewish Organizations); Miss van Eeghen (International Council of Women). Secretariat: Professor J. P. Humphrey; Mr. Edward Lawson.

[2]

²⁴ The same proposal is submitted in paragraph 1 of E/CN.4/Sub.2/34 of 2 December 1947.

Examination of the Report of the Drafting Committee

THE CHAIRMAN raised the preliminary question of whether the Commission should concern itself with the drafting of a Declaration or of a Convention or of both, and of how it proposed to act on the decision taken in this connection.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought it too soon to take a decision on this subject. Item 5 of the Agenda mentioned the examination by the Commission of the Drafting Committee's Report. This Report consisted mainly of a draft Declaration of 36 articles. There should be a general discussion of these articles, and the question of what form a final draft should take would only arise after this had been discussed and adopted. It was therefore in the Commission's interests to concentrate its attention first of all on the examination of the preliminary draft Declaration on Human Rights. He pointed out the difficulties the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities had encountered in its consideration of the six articles referred to it. While hoping that the Commission would obtain quicker results, he did not think that it could take any immediate decision about the document in which its work would be embodied. He therefore proposed that this question be deferred until a later date.

MR. CASSIN (France) considered that this question was within the competence of the Plenary Commission. Although it was not essential for the Commission to reach a decision that same day, it was essential that the general lines of the discussion [3] should be fixed straight away. If they confined themselves to drafting a Declaration, the immediate result would be a considerable increase in the length of that document; if they only prepared a Convention, the scope of the discussion would be restricted.

The French Delegation believed that the Commission should draw up both a short general Declaration and a number of successive Conventions, which could be drafted when time allowed. It was essential that a Declaration on Human Rights should be drawn up, as it had been openly stated that the omission of such a Declaration from the Charter was due solely to lack of time, and that it remained the duty of the United Nations to draft such a Declaration. The text of this Declaration, if not the preamble, which could be set aside, should be the first subject for discussion by the Commission. However, conventions were also essential. How could Trade Union rights be specified in a Declaration? How could a Declaration embody the specific obligations which would have to be undertaken in this connection? The same applied to the question of nationality. In this connection the Drafting Committee had proposed a very short paragraph, affirming that everyone had the right to a nationality; but that was nothing more than a principle which would have to be taken up in one or more Conventions. Before they could accept the admission of stateless persons and the abolition of the loss of nationality, States would need

time and the advice of experts. The same was true in regard to non-discrimination and the protection of minorities. The Declaration could only lay down principles which should be taken up and developed later in conventions. Even during [4] the present session, the Commission might draft an initial Convention on the classic freedoms and the right to life, which were now recognized by practically all the constitutions or written laws of the whole world. Thus, on the day a draft Convention was submitted to Governments, the General Assembly of the United Nations could vote on the Declaration on Human Rights.

A third point remained to be decided by the Commission, *i.e.* the implementation of those rights. Since June 1946, the Commission had been required under its terms of reference to inform the Economic and Social Council of the measures required to protect Human Rights. Owing to the shortness of the present Session there was no possibility of a thorough examination of this question. Nevertheless, it was the Commission's duty, when drawing up the Declaration on Rights, to envisage the means of practical implementation, choosing those which were simplest and conformed most closely to the terms of the Charter, thus showing its desire to carry out its terms of reference, and as regards the initial Convention, to include various enforcement measures going further in this field than the Charter.

General measures would thus be provided to give effect to the Declaration and more elaborate machinery for the enforcement of the Conventions. These would advance the Commission's projects very considerably.

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MR. AMADO (Panama) pointed out that the Charter recognized Human Rights in seven different places. In his view the first thing was to draw up a draft Declaration on Human Rights. Only when this had been done should a series of rights to be embodied in one or more Conventions submitted to the Governments for their approval, be drawn up. Even if all such Conventions were not approved by all Governments, there would still remain the obligation for all Members of the United Nations to respect human rights, under the terms of Article 2, paragraph 2 of the Charter.

MR. LOUTFI (Egypt) supported the view expressed by the Representative of France, and hoped the Commission would be able to submit, at the close of the present session, a draft Declaration and a preliminary draft Convention relating to the rights on which agreement could readily be reached by the members of the Commission.

LORD DUKESTON (United Kingdom) thought it a pity to view a declaration and a convention as two opposite ways of dealing with the same thing. A declaration could hardly deal with anything but very general principles, already embodied in the Charter. If the Commission confined itself to producing such a declaration without any means of enforcement it would produce a text too vague to be of real value. The

present discussion might moreover go on and on without arriving at any result within the time limit fixed for the completion of the Commission's work. The Commission business was to arrive at concrete results. If its function was to protect human rights it ought to define precisely what those rights were. It should surely not devote more than one meeting [6] to general discussion, and should proceed immediately to drafting a Convention binding the signatory Governments so that it would be possible to set up machinery for appeal in the event of their not respecting their undertakings. He thought that the most profitable working method would be to examine the Draft Convention article by article. The only reason for having a general discussion was to define more clearly what was to be understood by the word "convention". General discussion of any other kind would be contrary to the purposes of the Commission. His Delegation was prepared to accept a Draft Declaration if that were to precede a Convention, but if the Draft Declaration were to take the place of the Draft Convention his Delegation would be unable to support it.

MR. DEHOUSSE (Belgium) remarked that the same differences and vagueness of viewpoint seemed to be appearing within the Commission as had been noticeable at the outset of its work. His Delegation was there to arrive at practical solutions. There were three points to be considered. That of a Declaration on Human Rights seemed to him of little importance. The real point at issue was not the definition of these rights. However, the Belgian Delegation was not opposed to such a Declaration, since it would supplement the Charter and moreover meet the wishes expressed by certain representatives. The Draft Convention on the other hand he regarded as more important, since it involved obligations embodied in international law and in the municipal law of each of the States participating. Certain matters such as individual freedom and the economic and social rights of workers [7] in particular, might be introduced into such a Convention. Emphasis must however be laid on the difficulty of solution, when so many different Conventions might be drawn up, and on the importance of seeing that the conference of the Human Rights Commission was not turned into a codification conference. The third point, implementation, seemed to him the essential one. Either the Commission would become involved in academic arguments or it would produce something new and progressive, though that would only be possible if it set up machinery to secure the implementation of its plan. The difficulties were not only political but technical as well. One could aim at a single general system, which was what he thought preferable, or at a special system for each convention. In this connection he drew attention to the proposal that had been submitted by the Australian representative on various occasions at other conferences. This proposal was to set up an International Court of Human Rights. The Belgian Delegation would be entirely in favour of this and proposed that the Court in question should form part of the International Court of Justice, and become a special chamber of that Court. As regards methods of work he suggested two

practical solutions. One was to appoint a small Sub-Committee to study the different drafts of the form the text produced by the Commission should take; after hearing the Sub-Committee's report, the Commission would be asked to take a formal decision by a vote. The second solution was to sub-divide the Commission into three Working Groups, each to devote itself to a particular question:

1) a general declaration;

[8]

- 2) the question of conventions, which might cover, as he had already suggested, classical or individual freedoms on the one hand and the economic and social rights of workers on the other;
- 3) the machinery for implementing the various solutions proposed.

MADAME MEHTA (India) felt the Commission was making very little headway; while a certain measure of agreement had been reached in the Drafting Committee's Report as to the content of the Draft Declaration, no final solution was recommended there as to the form the Draft should take. The Delegation of India could not give its consent to a solution consisting merely in drafting a Declaration. It would like to see measures for its implementation included in the Declaration, such as those proposed by the Secretariat in Articles 47 and 48 of its Draft Declaration. The Delegation of India was in favour of a preliminary declaration followed by conventions, and would like the Commission before going further to take a formal decision regarding the form of the text it would draw up.

THE CHAIRMAN announced that the Representative of the American Federation of Labor wished, with the Commission's permission, to make a statement.

MISS SENDER (American Federation of Labor) said she represented, before the Commission, the opinion of the workers affiliated to the Federation. Among them, the Commission's activities met with a scepticism which would disappear only if they were fully successful. It was essential to increase confidence throughout the world, that the Commission [9] should not be satisfied with making verbal promises, but should give proof of its determination to implement its declarations. It was certainly necessary to promulgate a Declaration defining the rules to be embodied in subsequent conventions. Moreover, such international rules would rank above the rights of national sovereignties, as was already the case with the principles of the Charter, and should therefore be respected whether the conventions were ratified or not. She agreed with the French representative that such a Declaration should be short and clear. As regards the conventions, she also agreed with the Belgian representative's proposal to the effect that the Commission should at this session prepare two draft conventions, on individual freedoms and economic and social rights, including, of course, trade union rights. The pressure of public opinion was

one of the important factors which might lead Governments to ratify such conventions. The Commission could therefore, at this session, adopt not only a draft Declaration, but also draft conventions on the questions about which it could readily reach agreement. Finally, it might attempt to establish an International Court of Human Rights attached to The Hague Court.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stressed the fact that there still remained in the world Nazi and Fascist elements whose aim it was to sow doubt and hatred and spread the idea of a new war. In its draft the Commission should therefore incorporate statements designed to eliminate any remaining traces of the Nazi spirit, to develop democratic forces, strengthen the bonds uniting individuals, and reinforce individual rights in democratic communities. For that purpose, it should prepare a document which would be concrete and brief, but rich in content and easily understandable. He therefore [10] proposed that they should adopt as a working method a general discussion, in the course of which the Commission would gather the material to be included in the draft Declaration. Other material might be furnished by Governments if the latter so wished.

THE CHAIRMAN said there had been a slight evolution in the United States' position with regard to the form which a Declaration on Human Rights should take. Her delegation thought that priority should be given to the draft Declaration, and that the latter should not be drawn up in such a way as to give the impression that Governments would have a contractual obligation to guarantee human rights. As regards the draft Convention or Conventions, the United States considered that the Commission should not proceed to draw them up until it was sure that such Conventions could be accepted and applied in all good faith by the participating States. Flagrant, prolonged and repeated violations of those Conventions could not fail to harm the United Nations. That did not mean, however, that her delegation would not be willing to examine the draft Convention or Conventions if the Commission so desired. The Commission should, however, take the time factor into account, and, if they had to make a choice, should first tackle the draft Declaration.

She hoped the United Kingdom representative was right in thinking that agreement could readily be reached on the draft Declaration, and that the Commission could then go on to study the draft Convention. Her delegation had proposed a draft Declaration which seemed to fit the type of document at which the Commission should arrive. Finally, while emphasizing the primary importance of the Declaration, she was prepared for one or more draft Conventions to be drawn up, which could be adopted as soon as possible.

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LORD DUKESTON (United Kingdom) said it seemed to him dangerous to prepare a draft Declaration without a draft Convention. If the Commission did confine itself to

drawing up a Declaration, delegates would tend to propose various amendments with a view to embodying in the Declaration ideas which could more appropriately be included in a Convention. The Commission would thus get a hybrid result which would be neither a Declaration nor a Convention. Moreover, machinery for implementation could not be contemplated within the framework of a Declaration. The latter could not legally bind Governments as could a Convention. A Declaration was nothing more than a document of propaganda. He recognized the difficulties involved in drafting conventions, but that was what the world needed today. Most delegates so far had expressed themselves in favour of combining the two systems of a Declaration and Conventions. Although he would have preferred to incorporate such Conventions in a single draft Convention, he would not oppose the method of drafting several Conventions. On this subject the general opinion of the Commission should be ascertained. Delegates who accepted the draft Convention would not on that account reject the idea of a draft Declaration. He therefore moved a formal proposal that a vote be taken on the question of whether the Commission was in favour of drafting a Convention (Document E/CN.4/42/Rev.1).

MR. DEHOUSSE (Belgium) recalled that he had also put forward a proposal, consisting of two parts, the second of which he wished to retain as a formal proposal; this was to the effect that three working groups be set up. One of [12] those working groups might be appointed at once, and the two others the following week. His proposal involved an important question of principle: the simultaneous establishment of three working groups, one on the draft Declaration, another on the draft Conventions, and the third on implementation.

THE CHAIRMAN said that the Commission would vote on the two proposals at the end of the general discussion.

The meeting rose at 6:10 p.m.

E/CN.4/42/Rev.1

3 December 1947

Revised Proposal Submitted by the United Kingdom Delegation

The Commission on Human Rights

1. Decides to proceed immediately to the preparation of a draft Bill of Human Rights, the terms of which will be binding on the States ratifying it.
2. Decides to give consideration to the preparation of a draft International Declaration of Human Rights expressed in terms of general principles representing the goal to which mankind is striving.

3. Decides accordingly to examine the Draft Convention and Declaration on Human Rights which have been prepared by its Drafting Committee with the object of adopting a Bill and a Draft Declaration for submission to Member States.

E/CN.4/43

3 December 1947

Consolidated Terms of Reference

Commission on Human Rights

The Economic and Social Council, being charged under the Charter with the responsibility of promoting universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility.

Establishes a Commission on Human Rights.

The work of the commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

- (a) An international bill of rights;

...

(resolution of 21 June 1946)

[2]

Drafting Committee on an International Bill of Rights

[The text is in E/386.]

...

E/CN.4/44

3 December 1947

Original Text: French

Belgian Proposal

1. The immediate setting up of *three Working Parties*, to deal respectively with the problem of the Declaration, the Convention or Conventions, and implementation.

2. The membership of these Working Parties would be determined in accordance with the Chairman's proposal.

3. The first Working Party (Declaration) would begin its work immediately upon its establishment. The second and third Working Parties would begin work as soon as the Secretariat services were in a position to assist them, and at latest on Monday, 8 December.

4. These Working Parties would present reports to the Plenary Commission as soon as possible; the Commission would, in the course of the present session, take such decisions in regard to their proposals as it deemed advisable.

E/CN.4/SR.26

3 December 1947

Original Text: French

Summary Record of the Twenty-Sixth Meeting
[of the Commission on Human Rights]

Held in closed session at the Palais des Nations, Geneva,
on Wednesday, 3 December 1947, at 10:00 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Col. W. R. Hodgson (Australia); Mr. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Mr. P. García de la Huerta (Chile); Mr. O. Loutfi (Egypt); Mr. R. Cassin (France); Mrs. H. Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); Mr. M. Klekovkin (Ukrainian SSR); Lord Dukeston (United Kingdom); Mr. A. E. Bogomolov (USSR); Mr. V. Ribnikar (Yugoslavia). Secretariat: Professor John Humphrey; Mr. Edward Lawson.

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Taking advantage of the fact that the Commission was in private session, [PROFESSOR DEHOUSSE (Belgium)] said that he had been very sorry to find that UNESCO, a specialized agency, had just published a report on "The Bases of an International Bill of Human Rights", a report which the UNESCO Committee had sent to the Human Rights Commission of the United Nations.²⁵ He wished to know

²⁵ The title is erroneous, possibly because Dehousse was referring to the French-language version of the document. In English, "The Grounds of an International Declaration of Human Rights (Report of the UNESCO Committee on the Philosophic Principles of the Rights of Man to the Commission on Human Rights of the United Nations)" was issued as Document Phil./10 on 31 July 1947. The following year, UNESCO published a much more

whether UNESCO had been asked by the Secretariat to draw up that Report or whether the Secretariat had been consulted as to its opportuneness. Extracts from that Report had been published in the Weekly Bulletin of the United Nations, and he would like to know on whose initiative that Report had been drawn up. It would be regrettable if the initiative in the matter had been taken by UNESCO alone.

PROFESSOR HUMPHREY (Secretariat) said that the Secretary-General had not asked UNESCO to prepare either a Bill of Human Rights or documentation for such a Bill. He had the impression that UNESCO had acted on its own initiative. Nothing in the Resolutions of the Commission or of the Economic and Social Council could have decided UNESCO to draw up that Report.

[12]

As regards its publication in the Bulletin, although the question was outside his competence, he thought he could say that the fact that extracts had been published in the Bulletin in no way meant that the initiative in question had been sponsored by any United Nations organ whatsoever.

THE CHAIRMAN said that at the Commission's last session, Dr. Huxley, Director of UNESCO, had been present at one or two meetings. He had told her, in the course of a private conversation, that UNESCO would endeavour to establish certain principles of human rights. She explained that her opinion had not been asked. She did not know whether the Report submitted by UNESCO was the result of that endeavour.

PROFESSOR DEHOUSSE (Belgium) was relieved to find that the United Nations Secretariat and more especially, the Human Rights Division, was not responsible for the UNESCO Report. Nevertheless, UNESCO's action was most regrettable. The Review "Synthèses", published in Brussels, had devoted a special number to the Bill of Human Rights prepared by UNESCO. In all its articles the Human Rights Commission of the United Nations was not mentioned once. Political, diplomatic and literary circles in Brussels had been wondering, a few days previously, whether it was the Bill drawn up by UNESCO that was going to be discussed this week in Geneva. He urged that in future such incidents should be avoided.

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PROFESSOR HUMPHREY (Secretariat) explained that the Report in question bore the title "The Bases of an International Bill of Human Rights". The sub-title explained that it was a "Report submitted by the UNESCO Committee on the Philosophical Principles of Human Rights to the Human Rights Commission of the United Nations". UNESCO had asked him to distribute the document to

substantial collection of materials on human rights, with an introduction by Jacques Maritain: "Human Rights, Comments and Interpretations", UNESCO/PHS/3(rev.). Its work is discussed by Mary Ann Glendon, "Knowing the Universal Declaration of Human Rights", (1997-98) 73 *Notre Dame Law Review* 1153.

members of the Commission, and he intended to have it distributed later in the session. In his opinion, UNESCO had the right to request the distribution of such documents: he read out paragraph 6, Article 3 of the Agreement concluded between UNESCO and the United Nations, which authorized such distribution.

He took the opportunity of raising a somewhat similar question. He recalled that the nuclear Commission had recommended that the Secretary-General gather all useful information on the subject of war crimes where human rights were involved. That request had been confirmed on 21 June 1946 by a resolution of the Economic and Social Council.²⁶ The Secretariat had asked the International War Crimes Commission to prepare the documentation in question.

In the latter case, therefore, the Secretariat bore full responsibility for having requested that documentation from the War Crimes Commission. He asked representatives whether the voluminous document prepared by the United Nations Commission, although necessarily incomplete since all the trials had not been completed, should be reproduced and distributed as an official document of the United Nations. He proposed that the Commission, if it approved the action taken by the Secretariat, should vote a resolution thanking the United Nations Commission for the useful documentation it had got together.

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THE CHAIRMAN proposed that the two questions be discussed separately. She considered that, as regards the UNESCO report, the Commission might either leave it to the Secretariat to solve the difficulty or take up the principles which might be useful in drawing up the Declaration and decide later whether to publish the UNESCO report or not. She explained, however, that the Secretariat was of the opinion that, under the terms of the Agreement between UNESCO and the United Nations, the document ought to be published.

COLONEL HODGSON (Australia), on a point of order, asked the Chairman to take a decision on the subject. In his view the two documents had no bearing on item 4 of the Agenda now under discussion, but were related to item 5.

THE CHAIRMAN agreed, but pointed out that this question had been brought up for discussion because the Commission was sitting in closed session.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) did not agree with the representative of Australia that there was a considerable difference between items 4 and 5 of the Agenda. He felt that the Commission should not devote any more time to the UNESCO document, particularly as several members of the Commission were not members of UNESCO. He proposed that the UNESCO report and the document of the United Nations War Crimes Commission be treated differently from the reports submitted by the Institute of International Law and the League of

²⁶ E/RES/9(II).

Human Rights. Those reference documents should be dealt with in the same way as the documents mentioned between brackets after item 5 of the Agenda.

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THE CHAIRMAN stated that these documents, not being communications, could not be discussed before item 5 of the Agenda. . .

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THE CHAIRMAN invited the representatives to express their views on the advisability of distributing the UNESCO document. She recalled that the Secretariat was of the opinion that, under the terms of the Agreement between UNESCO and the United Nations, this document ought to be reproduced and distributed.

PROFESSOR HUMPHREY (Secretariat) stated that had the members of the Commission not started a discussion on this point, the document would have been published. He pointed out to representatives that if they were to decide not to publish the document, UNESCO would be entitled to ask why the Commission did not treat its documents in the same way as the other documents reproduced by the Commission.

MR. DEHOUSSE (Belgium) wanted to turn the question round. He wondered why UNESCO had prepared this report without consulting the United Nations. He thought this constituted a very dangerous [17] precedent. He proposed that, to show the Commission's disapproval, the UNESCO report should not be reproduced but should be distributed to the members of the Commission only.

THE CHAIRMAN thought it would be preferable to reproduce and distribute the document in conformity with the existing agreement but the Secretariat should be requested to point out to UNESCO and to all the other specialized agencies that in similar cases contact with the Human Rights Commission was essential prior to any action such as had been taken by UNESCO.

MR. CASSIN (France) supported this proposal.

MR. AMADO (Panama) agreed with the representative of Belgium. He had heard that the first International Philosophic Congress, which met at Rome last year, had dealt with the problem of human rights and had decided to pass on the study of this problem to UNESCO.

COLONEL HODGSON (Australia) stated that the Commission had not asked UNESCO for the report, that UNESCO a specialized agency, had not consulted the United Nations, and that there had been no co-operation or liaison. The UNESCO document claimed to define the philosophical principles of an International Bill of Human Rights and even the implementation of such a Bill. Personally, he did not approve of the majority of the ideas put forward in the report

and therefore saw no reason why the Commission should itself undertake public action.

THE CHAIRMAN, before putting the question to a vote, explained that, at the Commission's first session, Mr. Darchambeau, delegate of UNESCO, had informed the Commission that UNESCO intended to deal with the problem of human rights. She had replied that the Commission could not take up any position at that time. From that day to this she had heard no more of the matter.

Decision: The Commission decided, by eight votes to four with one abstention, not to reproduce the UNESCO report for distribution to all the Members of the United Nations.

The meeting rose at 1:35 p.m.

E/CN.4/SR.27

3 December 1947

***Summary Record of the Twenty-Seventh Meeting [of the
Commission on Human Rights]***

Held at the Palais des Nations, Geneva, on Wednesday,
3 December, 1947, at 3 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Col. W. R. Hodgson (Australia); Mr. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Mr. O. Loutfi (Egypt); Mr. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom). Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Bessling (ILO); Mr. J. Havet (UNESCO); Miss M. L. Barblé (Preparatory Commission for the International Refugee Organization). [2] Non-Governmental Organizations: Category A: Mr. A. van Istendael and Mr. P. V. S. Serrarens (International Federation of Christian Trade Unions); Mr. A. R. de Cléry (Interparliamentary Union); Category B: Mr. O. F. Nolde²⁷ (Commission of the Churches on International Affairs); Mlle. de Romer (Union Internationale des Ligues Feminines Catholiques. Union Catholique Internationale de Service Social); Mr. A. G. Brotman (Co-ordinating Board of Jewish Organizations); Mr. C. Pilloud (Comite Internationale de la Croix-Rouge); Miss van Eeghen (International Council of

²⁷ Otto Frederick Nolde was director of the Churches' Commission on International Affairs. Upon Nolde's retirement, John Humphrey said: "It isn't generally known that the human rights articles in the Charter are largely the result of a campaign carried on by a few individuals representing voluntary organizations at the San Francisco Conference, but this is the historical fact; and one of those individuals was Fred Nolde." For a short biography of Nolde, see "Chapter 2. The Man: Fred Nolde" in John S. Nurser, *For All Peoples and All Nations, The Ecumenical Church and Human Rights*, Washington: Georgetown University Press, 2005.

Women); Mrs. Myrdal (International Federation of Business and Professional Women). Secretariat: Professor J. P. Humphrey; Mr. Edward Lawson.

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3. Report of the Drafting Committee (Continuation of Discussion)

COLONEL HODGSON (Australia) felt that a great deal of confusion had been evoked by the terminology used in the previous [5] day's meeting, particularly as to the terms "declaration" and "bill". He was of opinion that the Commission's Terms of Reference did not require it to draft a Declaration of Human Rights. The Draft Declaration presented by the Drafting Committee was, in his opinion, equivalent to a preamble to a Bill of Rights, and as such it should contain a statement of general principles to cover the whole range of human rights and fundamental freedoms. He maintained that the Commission's task was to draft a Bill of Human Rights, not a Declaration which, he felt, entailed no legal obligations and would not in any way affect the lives of men and women unless translated into concrete action. In his opinion, an international bill was a law in both the domestic and international fields, and no executive or legislative organ of a government would be able to override its provisions. It was the Bill of Human Rights which should be submitted to Member Governments, in order that it might be seen whether its contents were in conflict with national legislation and whether new legislation to comply with its provisions would be necessary. Colonel Hodgson reminded the representatives that the Commission's work would continue for some time, as sufficient information was not yet available on certain subjects, but he felt that every effort should be made to carry on as far as possible in conformity with agreed principles. He considered that the Bill would be a great historic document, constituting a landmark in the progress and wellbeing and happiness of mankind, and that its preparation should not be delayed. He maintained that it would be difficult for the Commission to draft a precise declaration of general principles without first knowing the contents of the Bill, and foresaw that difficulties of interpretation might arise, if the Declaration were drafted before the Bill.

[6]

Regarding the question of implementation, Colonel Hodgson felt that some confusion of ideas existed. In his opinion, the only effective machinery for implementation of the Bill would be the establishment of an International Court of Human Rights, a suggestion that was receiving increasing support from all over the world. That Court would provide an opportunity for appeal, should redress in national

courts be denied. He would support the proposal of the Belgian representative to establish working parties, if the first working party were to deal with the Bill of Rights, and the two subsequent ones with the Declaration and implementation.

THE CHAIRMAN said that she understood that a bill did not become law in the international field until it was put into the form of a treaty or a convention. A convention required ratification by governments, after which its contents became law. That explained the use of the term "Convention" by the Drafting Committee.

MRS. MEHTA (India) said she desired to see the International Bill of Rights become part of both international and domestic law. Most of the fundamental human rights had been incorporated by her Government in the Constitution which had been formulated, and after ratification they would become part of the national law. She was of opinion that the Bill should be in the form of both a Declaration and a Convention. She agreed with Colonel Hodgson that the Declaration should contain nothing which would not be implemented and felt that an article or clause should be inserted, either in the Declaration or in the Preamble, to the effect that the rights therein set out were to be implemented by the Member States of the United Nations. She felt that adequate machinery for implementation already existed in the International Court of Justice, and was opposed to the idea of creating new machinery.

[7]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) opposed the Belgian representative's proposal to establish Working Parties before the Commission had studied the Report of the Drafting Committee. Agreement had not yet been reached on the essential principles of human rights and there was, therefore, no basis on which Working Parties could work. He stated that the Soviet Union Delegation could, however, agree to consideration being given to the Draft Declaration contained in the Drafting Committee's Report. Regarding the Draft Convention, he reserved the Soviet Union Delegation's right to speak at a later stage of the Commission's work. He then moved that the Commission proceed without delay to consider the suggested "Declaration on Human Rights" submitted by the Drafting Committee and postpone the present discussion until after the Draft had been considered.

MR. AMADO (Panama) said his Government was not opposed to the drafting of one or more conventions, as the Commission might decide, or to the creation of machinery to implement such conventions, but in his opinion its first task was to draft a Declaration of Human Rights. He did not agree with the contention that a Declaration imposed no obligations on its signatories, and felt it was hardly possible that governments would appoint representatives to the Commission and afterwards disclaim all responsibility for its work. He warmly supported the proposal and the views of the United States representative.

LORD DUKESTON (United Kingdom) directed the attention of the Representatives to the original Terms of Reference of the Commission established by the Economic and Social Council at its meeting in London on 16 February 1947.²⁸ He submitted that the Terms of Reference established an order of priority for the work of the Commission and that its first task was to produce a Draft International Bill of Human Rights, which would become a legal [8] document and which could be implemented. He felt it was important to continue to use the term “bill”, which had a significance for the ordinary person not possessed by the terms “declaration” and “convention”. The question of a preamble was one on which he had an open mind. He had received an impression that some representatives favoured the idea that a declaration was an alternative to a bill, and he trusted that there was no support for that view. He proposed that the Commission should proceed to the preparation of a Draft Bill of Human Rights. This necessitated the alteration of the Resolution proposed by the United Kingdom. The words “to the preparation of a Draft Bill of Human Rights” should be inserted in place of “Draft International Convention”. He requested the Chairman to give a ruling on the Terms of Reference.

MR. CASSIN (France) thought that no detailed convention could replace a declaration of general principles and he felt that agreement on those principles could be reached by the Commission. Problems existed, such as the questions of nationality, minorities, agreement on the solution of which would be difficult, but he felt that the drafting of a Declaration to include fundamental freedoms could be done immediately. While agreeing with the order for consideration contained in the Belgian representative’s proposal, he considered that in practice no great difference existed between the Belgian proposal to create three Working Parties and the Soviet Union representative’s proposal to deal first with the Declaration. He was of opinion that the three parts of their work, the Declaration, the Convention and implementation, formed one entity.

MR. KLEKOVKIN (Ukraine) felt it was extremely difficult at that state to come to a decision. In his opinion it would be difficult to agree to the United Kingdom proposal to draft a [9] convention, because a convention entailed preliminary agreement as to principles; those principles had not yet been discussed by the Commission. For the same reason he opposed the Belgian proposal. He proposed that the Commission should start work on a Draft Declaration and that the question of drafting a convention should be laid aside for the time being.

THE CHAIRMAN pointed out that although the Terms of Reference specifically mentioned an International Bill of Rights, they did not say what form such a Bill should take. She reminded representatives that the Draft Report of the Drafting Committee included not only a Declaration but Conventions, and she maintained that the two points should be considered simultaneously by the Commission.

The meeting rose at 6 p.m.

²⁸ The reference is to E/RES/5(I), adopted on 16 February 1946 and not 1947 as stated here.

E/CN.4/46

4 December 1947

Original Text: French

**Information on activities concerning human rights
of organs of the United Nations**

...
[5]

Chapter I

Resolutions

Section I. Resolutions Adopted by the General Assembly

I. First Session

a) Resolution no 43(I); Draft Declaration on Fundamental Human Rights and Freedoms.

[See A/RES/43 for the text of the Resolution.]

...
[8]

...

II. Second Session

...

[13]

d) Resolution on Trade Union Rights (Freedom of Association)

[See A/RES/128(II) for the text of the Resolution.]

...

2nd Section. Resolutions Adopted by the Economic and Social Council

I. First Session

1/5. Commission on Human Rights and Sub-Commission on the Status of Women

[See E/27 for the text of the Resolution.]

...

[22]

III. Fourth Plenary Session

a) Resolution no. 46(IV). Human Rights – Resolutions of 28 March 1947 (document E/325)

[See E/RES/46(IV) for the text of the Resolution.]

...

[24]

...

a) Resolution no. 48(IV). Status of women – Resolutions of 29 March 1947 (document E/425)

[See E/RES/48(IV) for the text of the Resolution.]

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[26]

...

IV. Fifth Plenary Session

...

[37]

...

e) Resolution no. 84(V). Trade union rights (freedom of association). Resolution of 8 August 1947 (Document E/533)

[See E/RES/84(V) for the text of the Resolution.]

...

E/CN.4/47

4 December 1947

Original Text: Russian

**Proposal by the Soviet Delegation concerning
Item 5 of the Agenda**

That the Commission proceed without delay to consider the Draft Declaration on Human Rights submitted by the Drafting Committee and postpone the present discussion until after the Draft has been considered.

E/CN.4/48

4 December 1947

Original Text: French

Proposal Submitted by the French Delegation

The Commission considers it in conformity with its terms of reference to prepare and submit simultaneously to the Economic and Social Council and to the Governments of the United Nations:

1. A draft International and General Declaration on Human Rights, to become a Charter annexed to the United Nations Charter.
2. A draft for a first multilateral convention concerning the definition and safeguarding of certain human rights.
3. Proposals for the practical implementation of human rights to be inserted both in the Declaration and in the first standard-Convention.

The Commission decides to discuss the Report of the Drafting Committee on the draft Declaration, and subsequently to establish, for the examination of the other questions, two working parties whose report will be discussed at the present session of the Commission.

E/CN.4/49

4 December 1947

Proposal Submitted by the United Kingdom Delegation

The Commission considers that it is necessary to prepare two documents, a Bill of Human Rights in the form of a Convention, and a Declaration of Human Rights.

The Commission will endeavour to draft both documents at this session.

The Commission will start considering the substantive articles of both simultaneously in plenary session, but will refer the precise drafting to a small committee.

The Commission will appoint a committee to consider the question of implementation and to report to the Commission at its present session.

E/CN.4/SR.28**4 December 1947**

Summary Record of the Twenty-Eighth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Thursday,
4 December 1947, at 10.15 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Dr. Charles Malik (Lebanon). Members: Col. W.R. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A.S. Stepanenko (Byelorussian SSR); Mr. Wu, Nan Ju (China); Mr. Omar Loutfi (Egypt); Professor René Cassin (France); Mrs. Hansa Mehta (India); Mr. A.G. Pourevaly (Iran); Mr. Miguel Amado (Panama); Mr. Salvador P. Lopez (Philippine Republic); Mr. Klekovkin (Ukrainian SSR); Lord Dukeston (United Kingdom); Mr. A.E. Bogomolov (Union of Soviet Socialist Republics); Dr. V. Ribnikar (Yugoslavia). Representatives of the Commission on the Status of Women: Mrs. Bodil Begtrup; Mrs. E. Uralova. [2] Secretariat: Professor J.P. Humphrey; Mr. E. Lawson. Specialized Agencies: Mr. Jean de Givry (ILO); Mr. Jacques Havet (UNESCO). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. J.S. Serrarens (International Federation of Christian Trade Unions). Non-Governmental Organizations: Category B: Mr. O. Frederick Nolde (Commission of the Churches on International Affairs); Mr. J.M.E. Duchosal (International Red Cross Committee); Miss de Romer (International Union of Catholic Women's Leagues); Dr. Bienenfeld (World Jewish Congress).

Discussion of the Report of the Drafting Committee (E/CN.4/21)

PROFESSOR DEHOUSSE (Belgium) wished to clarify certain aspects of his proposal (E/CN.4/44). He pointed out that behind the divergences of view on procedure lay disagreement on matters of substance. A certain number of representatives seemed resolved to go no further than a Declaration, whilst others demanded the immediate formulation of one or more Conventions. With the object of bridging the gap between those two standpoints, the Belgian delegation had submitted a proposal for a compromise solution, involving mutual [3] concessions. Paragraph 1 of the proposal called for a simultaneous examination of the three main problems arising from the international protection of human rights; the Declaration, the Convention or Conventions, and implementation. Paragraph 4 gave the Commission the right to take a final decision on the conclusions reached by the three Working Groups. The objection that the proposal would lead to an examination of the problems of the Convention and implementation before agreement had been reached on the principles of the Declaration could, in his view, be met by co-ordinating the deliberations of the three Groups. Furthermore, the Group or Groups would have concrete

considerations, such as the freedom of the individual and economic and social rights, as a basis for discussion. As regards the problem of implementation, it was not essential to know the substance of the Declaration or Conventions before deciding whether an International Human Rights Office should be established, whether there should be a Court of Justice, or how those organs should work.

The Declaration was almost ready. The Convention and implementation provisions could be quickly formulated in positive terms or even in formal texts. The Belgian proposal would enable the Commission to produce, by the end of its present session, a Declaration, a draft Convention and draft implementation provisions, which the Drafting Committee would be able to examine at its next session.

The Belgian proposal left the plenary Commission in full possession of its powers of final decision. The Belgian delegation made no secret, however, of the fact that it would press for the final decision to be the adoption of a draft Declaration, one or more draft Conventions, and draft implementation provisions.

[4]

Those members who were in favour of a Convention only were cherishing an illusion, as the Declaration was the most advanced of the three drafts and it was the wish of the majority of the Commission's members that the present discussions should at least produce a Declaration. He maintained that, despite its shortcomings, the present Declaration represented a substantial advance on the San Francisco Charter.

In his view the Commission should not disregard the question of the form of the Declaration. He believed that the only possible form was a recommendation of the United Nations General Assembly. A recommendation of the Assembly was, however, no more than an opinion, an advisory statement, a suggestion, which Members might or might not follow.

That was the precise legal character of a recommendation. Furthermore this was proved, as he saw it, by the fact that in at least two cases Members of the United Nations had refused to comply with recommendations of the Assembly. The first case concerned the treatment of Indians in South Africa;²⁹ the second concerned a country which had not carried out a recommendation regarding relations with Franco Spain.³⁰ A mere Declaration would be a frail and precarious form of

²⁹ In 1946, South Africa enacted the racist Asiatic Land Tenure and Indian Representation Act, known as the "Ghetto Act". By Resolution 44(I), "Treatment of Indians in the Union of South Africa", adopted on 8 December 1946, the General Assembly declared that it was "of the opinion that the treatment of Indians in the Union should be in conformity with the international obligations under the agreements concluded between the two Governments and the relevant provisions of the Charter". South Africa did not comply with the Resolution.

³⁰ By Resolution 39(1) of 12 December 1946, the General Assembly recommended "that all Members of the United Nations immediately recall from Madrid their Ambassadors and Ministers plenipotentiary accredited there". It furthermore recommended "that if, within a reasonable time, there is not established a government which derives its authority from the consent of the governed, committed to respect freedom of speech, religion

international protection of human rights. For this reason the Belgian delegation pressed for the Declaration to be accompanied by a Convention.

He also wished to draw the attention of representatives to the question of terminology. Some representatives spoke of a “Bill” of Human Rights, instead of a Convention. He accepted that term in the sense of a legal instrument having binding force, but it was an expression for which there was no French translation. He also rejected the term “Convention”, [5] which designated international agreements of less importance than treaties. He preferred “Covenant” to “Charter”. The latter term should, he thought, be reserved exclusively for the basic instrument of the United Nations.

Although paragraph 2 of the Belgian proposal left it to the Chairman to determine the composition of the Working Groups, he hoped that each of the Groups would consist of 6 members.

He asked the Chairman to put his proposal to the vote paragraph by paragraph. He added that if it did not obtain a majority, he would vote for the United Kingdom proposal (E/CN.42/Rev.1), which seemed to come closest to his own views. He had no wish to hide the fact that the Commission had reached a decisive point in its work. The solution it adopted would determine whether it was to linger over academic considerations or whether it would perform original and progressive work. An academic vote might even endanger the Commission’s existence and would cause immense disappointment to a world that was awaiting positive solutions capable of influencing human destiny. He was thinking more particularly of all those who had clung to the hope of a reconciliation between the ideologies of the East and the West.

COLONEL HODGSON (Australia) stated that he had learnt from a study of the documentation that one of the first documents submitted to the Commission was a draft “Statement of Essential Human Rights”, presented by the delegation of Panama. In his view, that draft advanced general principles but did not provide for any juridical obligation. The Economic and Social Council had referred the document in question to the Drafting Committee of the Commission on Human Rights for consideration during the elaboration of an [6] International Bill of Human Rights. Under the Commission’s terms of reference, drawn up by the Economic and Social Council, it was an International Bill of Rights which was to be drawn up, not a Declaration.

and assembly and to the prompt holding of an election in which the Spanish people, free from force and intimidation and regardless of party, may express their will, the Security Council consider the adequate measures to be taken in order to remedy the situation”. The following year, in GA Res. 114(II), the Assembly “[e]xpress[ed] its confidence that the Security Council will exercise its responsibilities under the Charter as soon as it considers that the situation in regard to Spain so requires”. The Security Council decided not to include on its agenda the issue of relations of members of the United Nations with Spain: S/PV.327. Spain was admitted to the United Nations in 1955.

The representative of the Soviet Union wanted the Commission to confine itself to a Declaration. He therefore appeared to disregard the need for giving priority to essential tasks. Specifically, those tasks consisted of drawing up, as soon as possible, the text of a Bill of Human Rights. If the Commission followed the suggestions made by the Drafting Committee, it would have to draw up a Declaration or manifesto enumerating human rights and an international Convention relating to those rights. The difference between those two texts was that the second only would have the force of law. He would like to know whether the Declaration submitted by the United States delegation (E/CN.4/36) was to take the form of a recommendation of the General Assembly or whether it was a Declaration, to be ratified by States, in which case it would have binding force under both municipal and international law. Those who favoured a Declaration should explain what they meant; if it was merely to be a recommendation, the peoples of the whole world would be disappointed and the Commission would have taken a hypocritical decision. He was convinced that such was not the Commission's aim.

He approved the Belgian proposal (E/CN.4/44) with the exception of paragraph 3, which in his view was not convincing.

As regards the French proposal (E/CN.4/48), he could agree with the first three paragraphs, but could not accept the paragraph in which the Commission was recommended to [7] consider first of all a Declaration and afterwards a Convention. He was anxious to know when the Commission would be able to begin consideration of the Convention.

He would vote in favour of the first, second and fourth paragraphs of the Belgian proposal, but against the third because he considered that the Commission had an essential task to perform and the Covenant should have priority.

LORD DUKESTON (United Kingdom) pointed out that the Resolutions of the Economic and Social Council and the General Assembly were perfectly clear. The Commission's task was to prepare a Bill of Human Rights. The discussion had shown, however, that some representatives wished to confine themselves to the drafting of a Declaration, whilst others had taken up a position midway between the two extremes. The debate on the priority to be assigned to one or the other of the proposals gave rise to certain difficulties and a prolonged discussion would make it increasingly difficult, if not impossible, to reach a compromise solution.

The Commission should study a Declaration setting forth the aims, objectives and ideals, and imposing on States the moral obligation to implement its provisions according to the varying conditions in each country. History showed that Declarations imposing no juridical obligations had remained inoperative for centuries. According to jurists, a Convention was a legal instrument which had to be submitted to States for ratification on the international level. He was in favour of a Convention accompanied by a Declaration. His delegation would never agree to the Commission

elaborating a Declaration without a Convention. He proposed that the Commission should prepare two documents; a Bill in the form of a Convention, and a Declaration of Human [8] Rights. The form of the latter was not very important, so long as it was followed by a Bill imposing a moral obligation to implement it. They should be careful, however, not to give those drafts a form which would prove unacceptable to certain States. Above all, the world should not receive the impression that the drafting of the Declaration would not be followed by a Convention until sometime in the more or less distant future. The Commission should act quickly since the world expected some practical result from its deliberations. If the sole fruit of its labours were to be the draft of a Declaration, irreparable harm would have been done.

As regards working procedure, it would be possible for Annexes F and G of the Report of the Drafting Committee (E/CN.4/21) to be discussed clause by clause by the plenary Commission. The texts were clear enough to be discussed in the Commission before being referred, together with the Commission's instructions, to the Working Groups. The Commission's primary task was to prepare a Bill in the form of a Convention and it was the completion of that task that public opinion anxiously awaited.

The United Kingdom delegation was not opposed to the Commission preparing the two documents simultaneously, if that were possible. In no circumstances would it agree to the Commission confining itself to the preparation of a mere Declaration. It would not allow itself to be drawn gradually into a position in which it would have to agree to examine the preparation of a Convention at a later session.

MR. AMADO (Panama) stated that the draft Declaration was to contain the general principles of human rights and that the implementation of those principles was subsequently to be ensured by one or more Conventions. He also recalled [9] that the Commission was under an obligation to the United Nations to secure the application of those principles. That obligation arose from Article 2, paragraph 2, of the Charter of the United Nations, and the Charter was the very essence of the Declaration. He was surprised that some representatives, appointed by their Governments and in possession of terms of reference from the United Nations, could take part in the Commission's discussions, draw up a mere Declaration of principles and avoid assuming responsibilities in connection with the implementation of those principles. A Declaration of that nature would be a legal monstrosity.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) observed that the Commission had spent three days on a discussion as to whether it was going to prepare a Declaration, or a Declaration and Conventions. It was also discussing whether it should or should not appoint Working Groups to prepare those documents. Four proposals had already been made regarding the last point. How could the three Groups carry out their work if the principles of a Declaration, such as for example the protection of the man-in-the-street against racial, national or religious discrimination

had not been discussed beforehand? The Commission had as yet accomplished nothing in regard to the essential problems, whose solution was awaited by the whole world. He formally moved the closure of the discussion in progress and proposed that “the Commission proceed without delay to consider the draft Declaration on Human Rights submitted by the Drafting Committee and postpone the present discussion until after the draft has been considered.” Only after that had been done could agreement be reached on the question of which document the Commission should prepare.

[10]

DR. RIBNIKAR (Yugoslavia) recalled that the Economic and Social Council had instructed the Commission to prepare a Declaration on Human Rights. The Commission had also to decide whether that document should take the form of a resolution or of a recommendation to be submitted to the General Assembly. In his view it would rest with the Assembly to decide, after consultations between the Governments, whether a Bill or a Covenant should be drawn up as well. He also recalled his previous statement that he had no objection in principle to the preparation of one or more Conventions, provided they came after the drafting of a Declaration. It was impossible to prepare a draft Convention at present, even should agreement be reached on general principles. He therefore proposed that the Commission should prepare a Declaration, to be submitted to Governments for study and comment. He would vote against the proposals made by the representatives of Belgium, France and the United Kingdom, and would support the resolution submitted by the delegation of the Soviet Union.

DR. MALIK (Rapporteur) observed that the discussion was bringing out the same difficulties as had been encountered at the Commission’s first session. In his view it was the intention of the Economic and Social Council and also of the authors of the Charter that, in addition to a Declaration, a more substantial document should be drawn up – a legal instrument which would be submitted to States for ratification under the same conditions as any other international document. It was imperative that the Commission’s work should result in the drawing up of a Bill, a Convention or a Covenant, and not just a mere proclamation.

[11]

He did not underrate the importance of a Declaration and was at one with the representative of the Union of Soviet Socialist Republics in asserting that the general principles should be defined, but he also felt that the Commission’s terms of reference and the international situation demanded the immediate elaboration of a Convention or a Covenant. The real point at issue was whether there was in the world today an international moral sense, whose principles could be incorporated in national laws, or whether such an anarchy existed in that field that only a vague proclamation of general principles could be achieved. If the latter were the case, the world would be in a very grave situation; the situation was already very gloomy, but the Commission should

enlist the support of all men of goodwill to bring about an understanding which would help to brighten it. The Commission's work was the acid test of the world situation, and if it were to end in a breakdown, that situation would become desperate.

If certain representatives had received such narrow instructions that a breakdown could not be averted, he suggested that they should request their Governments to broaden them. He recalled that whilst the Commission was beginning its second Session, the "Big Four" were meeting in London to prepare the peace treaties. It could not be forgotten that for more than ten years the Hitler regime had trampled on the most sacred of human rights. Moreover, it was to those recent events that the Commission owed its creation. He could understand the difficult position of some Great Powers, but he believed that if the medium and small Powers combined their efforts, they could invite the "Big Powers" to follow their lead, in the same way as the [12] small and medium Powers followed the Great Powers in their efforts to secure peace; they could by contrast speak more frankly and act more freely to promote general agreement. He gathered from the Commission's discussions that the issue of a "Declaration" or a "Convention" was a challenge between small and great Powers. He trusted that hopes of agreement would not be disappointed.

He recalled that the Drafting Committee had decided to study the Declaration and Convention simultaneously, but it had soon become apparent that it had time only to prepare a Declaration; it was for that reason that Document E/CN.4/21 devoted so much space to the Declaration. If the Commission now decided to study both documents simultaneously, he was afraid it would encounter the same difficulties as the Drafting Committee. It would be dishonest, he thought, to say that the Commission wanted to prepare a Convention when it knew that the latter was a practical impossibility. Therefore representatives should say clearly whether they wished to have a Convention or not.

After examining the proposals presented by certain delegations he had decided that the one advanced by France was the least suitable, since the most important document was the Convention, which was moreover the end to which the Declaration was directed. The Belgian proposal seemed to him the best one since it conformed most closely to the Commission's terms of reference. As to the proposal submitted by the Soviet Union, it was very important for agreement to be reached on the general principles of Human Rights, and he would not be opposed to a prior examination of those principles, provided the Commission were determined to go further. He believed the proposals submitted by the [13] Union of Soviet Socialist Republics and Belgium could be brought together and harmonized provided only that the Commission declared its determination to prepare a Convention and stated that it would never publish a Declaration without a Convention. He supported the two latter proposals.

THE CHAIRMAN stated that the representative of Australia had submitted an amendment to the proposal made by the Belgian delegation, which had accepted it. The amendment in question replaced the word "Declaration" by "Covenant or Convention".

The meeting rose at 1 p.m.

E/CN.4/SR.29

4 December 1947

Summary Record of the Twenty-Ninth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Thursday,
 4 December, 1947, at 3 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Col. W. R. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Mr. Nan-Ju Wu (China); Mr. O. Loutfi (Egypt); Prof. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); Gen. C. P. Romulo (Philippine Republic); Mr. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (Union of Soviet Socialist Republics); Lord Dukeston (United Kingdom). Representatives of the Commission on the Status of Women: Mrs. B. Begtrup, Chairman; Mrs. E. Uralova, Rapporteur. Secretariat: Professor J. P. Humphrey; Mr. Edward Lawson. [2] Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO); Mr. Weis (Preparatory Commission for the International Refugee Organization). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. P. V. S. Serrarens (International Federation of Christian Trade Unions); Mr. A. R. de Cléry (Interparliamentary Union). Non-Governmental Organizations: Category B: Mr. O. F. Nolde (Commission of the Churches on International Affairs); Mr. J. M. E. Duchosal (Comité Internationale de la Croix Rouge); Dr. Bienenfeld (Consultative Council of Jewish Organizations); Miss de Romer (Union Internationale des Ligues Feminines Catholiques. Union Catholique Internationale de Service Social); Miss van Eeghen (International Council of Women).

[3]

1. Report of the Drafting Committee (continuation of discussion)

THE CHAIRMAN welcomed General Romulo, representative of the Philippine Republic, to the Commission.

GENERAL ROMULO (Philippine Republic) thanked the Chairman and apologized for his late arrival. He went on to say that it appeared perfectly clear to him, from the Terms of Reference, that the Commission's primary function was to produce a draft International Bill of Human Rights. The drafting of a Declaration on Human Rights,

although not excluded by the Terms of Reference, would appear to be subordinate to the main task. He shared the opinions of the representatives of Australia, Belgium and Lebanon concerning the lack of value of a Declaration, which might be approved by the General Assembly in the form of a recommendation to Member States. He cited the case of Chapter XI of the United Nations Charter, entitled "Declaration regarding Non-Self-Governing Territories". That chapter, he declared, had been attacked in the Committees of the General Assembly on the grounds that, because it is called "a Declaration" it was not legally binding on the metropolitan powers; it had been maintained that its force was exclusively moral. He said he wished to make it clear that, while he favoured the drafting of a Declaration, he considered it was incidental to the main task of drafting the Bill of Rights and some form of international agreement to secure implementation thereof. He therefore supported the Belgian resolution, as likely to produce concrete results. He was also prepared to support the Soviet Union resolution, provided it could clearly be inferred therefrom that the draft "Declaration on Human Rights" would form the basis for both a Declaration and a Convention, embodying a Bill of Rights.

[4]

He went on to say that, in his opinion, the representatives represented not only their own Governments, but the other Member States of the United Nations as well, and that they had a task to perform of the first importance for all the peoples of the world.

THE CHAIRMAN said that she wished to clarify the position regarding nomenclature. Paragraph (a) of the Terms of Reference spoke of "an International Bill of Rights", but did not define the term. She maintained that, whatever its meaning might be in the domestic field, the term had no accepted meaning in the international realm; there was no existing concept of "bills" as such in international law. Certain well-known terms existed in international law, such as treaties, conventions, resolutions, declarations, pacts, *etc.*, to define international instruments. Such terms had come, through usage, to have well accepted meanings as to their binding effect. She stated that what the Commission was doing, or hoped to do, was to give the term "bill" a meaning in the international field; at the same time she pointed out that the effect of the work accomplished would not depend on the name of the instrument drafted, but on its type. In support of the view that "a Bill of Rights" need not necessarily be cast in convention form, she cited the opinions of a distinguished international lawyer, Mr. Lauterpacht, expressed in his book *An International Bill of Rights of Man*.

She went on to restate the position of the United States. Her Government felt that it would be fairly easy for the Commission to produce during the present session a very good Declaration; the material to do this was at hand in concise form. Her Government did not object to consideration of the Convention, but felt that the

principles for the Convention would emerge from the discussion [5] of the Declaration. While agreeing that the Declaration had no legal method of enforcement, she considered its moral value would be great. Her Government did not consider it would be wise to draft the Convention until Member Governments had had an opportunity to comment on the draft Declaration.

THE CHAIRMAN went on to state that four proposals had been made, falling into two categories. The Belgian and the Soviet Union proposals dealt with procedural questions and she ruled that the Belgian proposal should be voted upon first, followed by a vote on the Soviet Union proposal. She considered that the two remaining proposals dealt with matters of substance and, as such, should be voted upon in accordance with Article 54 of the Rules of Procedure: first the French proposal, because it was most far-reaching, and second the United Kingdom proposal.

She added that the United States Government opposed the Belgian proposal as not likely to produce results. It would have been better, in her opinion, to have reached substantial agreement in Plenary Session and then appointed Committees for final drafting purposes. Her Government would support the Soviet Union proposal provided it was clearly understood that it did not exclude the possibility of work being started on the Convention. In the French proposal there were certain points, such as the plan to amend the Charter, and the proposal for implementation to be included in the Declaration as well as the Convention, with which her Government could not agree. She proposed an amendment to the United Kingdom proposal that the first sentence should read: "The Commission considers that it is necessary to prepare two documents, of which one will be a Declaration and the other a Convention". With that amendment, and with the exception of the [6] third paragraph, her Government would vote in favour of the United Kingdom proposal. She added that the Belgian representative had requested that the vote on his proposal should be taken paragraph by paragraph and that he accepted the amendment proposed by the representative of Australia that the word "(Declaration)" be changed to "(Bill or Convention)".

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked that the Soviet Union proposal be voted upon first. While it proposed the immediate discussion of the draft Declaration on Human Rights contained in the Drafting Committee's report, it did not preclude the possibility of discussion and elaboration of other documents at a later stage.

DR. MALIK (Lebanon), in an effort to simplify the procedure, suggested that there were only two basic issues to be decided: (1) whether or not the Commission should prepare in the present Session both a Declaration and a Convention; and, once that question was settled, (2) whether or not the study and preparation should be undertaken by committees or by the Commission as a whole. The question of

implementation would be the only one remaining for a decision after these two points had been voted on.

THE CHAIRMAN, in view of Dr. Malik's remarks, felt it might be better to vote first on the proposals of substance.

GENERAL ROMULO (Philippine Republic) considered that the United Kingdom proposal and the Belgian proposal were alike in substance. He enquired what would happen to paragraphs 3 and 4 of the United Kingdom proposal if the vote on the Belgian proposal were taken first.

[7]

THE CHAIRMAN said that, if the votes were taken first on the proposals of substance, they would be taken in the following order: the French proposal with the exception of the last paragraph, the United States amendment to the first paragraph of the United Kingdom proposal, the Belgian proposal, the third paragraph of the United Kingdom proposal and the last paragraph of the French proposal. If the Belgian proposal were carried, the fourth paragraph of the United Kingdom proposal would automatically fall. The last vote would be on the Soviet Union proposal.

MR. DEHOUSSE (Belgium) disagreed with Dr. Malik's analysis of the position and said he could not accept the procedure he had proposed, which, in his opinion, involved an immediate choice between a Declaration and a Convention. He said that he preferred the original ruling of the Chairman, but that he had no objection to the Soviet Union proposal being voted upon first. In view of the importance of the votes, he requested that they should be taken by roll call.

MR. CASSIN (France) felt that the questions of substance ought to be decided first. He pointed out that a recommendation of the Economic and Social Council requesting the Commission to submit at the earliest possible date proposals as to means to assure the effective observance of human rights and fundamental freedoms had been omitted from the document embodying the Commission's Terms of Reference. It was important that the Commission keep that task in mind.

THE CHAIRMAN asked if her original ruling on procedure was challenged by any representative and, as no objection was raised, said they would therefore vote on procedural proposals first and would begin with the Soviet Union proposal.

[8]

M. CASSIN (France), while accenting the Chairman's ruling, requested that the Soviet Union proposal be voted upon in two parts: first "That the Commission proceed without delay to consider the draft 'Declaration on Human Rights' submitted by the Drafting Committee", and second "That the Commission postpone the present discussion until after the draft has been considered".

DR. MALIK (Lebanon) felt it was a dangerous procedure to vote first on the Soviet Union proposal. He cited the experience of the Drafting Committee to support his

contention that there was a danger of exhausting the time at their disposal in the present session in elaborating the Declaration without doing anything about the Convention. He therefore proposed an amendment to the Soviet Union proposal: "That the Commission proceed without delay to consider the draft Declaration contained in Annex F, and the draft Articles for inclusion in a Convention contained in Annex G of the Report submitted by the Drafting Committee."

GENERAL ROMULO (Philippine Republic) supported the Lebanon amendment.

COL. HODGSON (Australia) asked the Soviet Union representative, through the Chairman, to indicate whether he accepted the undertaking asked for by the representative of the United States that the passage of the Soviet Union proposal did not preclude the immediate consideration of a Convention and of implementation at the present session.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said his proposal did not preclude the possibility that the Commission might formulate proposals as to the consideration of a draft Convention or any other document at a later stage of the Commission's discussions, after the draft Declaration had been considered. [9] He did not agree with the representative of Lebanon's views. If all the time at the disposal of the Commission were going to be used in considering the draft Declaration, how could Dr. Malik argue that it would take less time to consider simultaneously two documents?

THE CHAIRMAN asked the Soviet Union representative if he would accept Dr. Malik's amendment.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said the amendment of the representative of Lebanon merely tended to complicate the issue and maintained that it would be better for the Commission to concentrate its efforts on the draft Declaration. If agreement as to the contents of the Declaration were reached, he felt the further tasks would be more easily discharged.

DR. RIBNIKAR (Yugoslavia) was of opinion that the Lebanon proposal should be considered separately. In his opinion it was not an amendment to the Soviet Union proposal because it destroyed the very substance of it.

DR. MALIK (Lebanon) pointed out that, if his amendment were passed, the last clause of the Soviet Union proposal would automatically fall.

THE CHAIRMAN, in answer to the representative of Yugoslavia, stated that Dr. Malik's proposal was presented as an amendment to the Soviet Union proposal and would have to be considered as such.

LORD DUKESTON (United Kingdom) supported Dr. Malik's amendment. He felt it was quite clear that the intention of the Soviet Union proposal was to give priority to the Declaration; it was equally clear that the Commission was not going to have an opportunity of discussing the Convention in the present Session. He considered [10] the issues were, whether or not to have both a Declaration and a Convention, and,

whether these should be considered and drafted simultaneously. In his opinion those questions had to be settled.

MR. CASSIN (France) said that by asking for the vote on the Soviet Union proposal to be taken in two parts, he had implied that its first paragraph was sufficient in itself. On that point he was in agreement with Dr. Malik. He said that he had an amendment to propose when the second part of the Soviet Union proposal was considered.

COL. HODGSON (Australia) asked the Chairman whether, if the Soviet Union proposal, as amended by the representative of Lebanon, were carried, it would follow that the Belgian, French and United Kingdom proposals would automatically fall? The question of implementation was contained in those proposals and should the Chairman rule them out, he felt he would be bound to submit another amendment.

MR. DEHOUSSE (Belgium) said he wished to support the remarks of the representative of Australia concerning implementation, and pointed out that should the Soviet Union proposal, as amended, be accepted, no decision on organization and method of work would have been taken. He therefore considered it necessary that the Belgian proposal dealing with procedure should be put to the vote.

THE CHAIRMAN ruled that regardless of what decision was taken on the Soviet Union proposal, votes would also be taken on the Belgian, French and United Kingdom proposals.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said he noted that the Soviet Union proposal had given rise to amendments [11] by the representatives of Lebanon, Australia and Belgium. If action were taken on all these amendments, he felt he would be in the position of having to vote against his own proposal. He contended that the original Soviet Union proposal should be voted upon and that the amendments should be considered as separate proposals.

THE CHAIRMAN said that only one amendment to the Soviet Union proposal had been made, that of the representative of Lebanon. The representative of France had suggested that the vote on the Soviet Union proposal should be taken in two parts. She asked the representative of the Soviet Union if he agreed to that.

MR. KLEKOVKIN (Ukrainian SSR) contended that the Lebanon amendment changed the substance of the Soviet Union proposal and it should therefore be considered separately. The Soviet Union proposal tended to exclude consideration of the draft Convention for the time being; after deciding on the draft Declaration the Commission would be able to decide whether or not to have a Convention. The Soviet Union proposal in its original form was merely a procedural one and should be retained in that form.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the Soviet Union Delegation could not agree to the amendments proposed by the

representatives of Belgium, Lebanon and Australia. Regarding the French proposal to divide the vote into two parts he understood the procedure was that a division might be requested by any representative. In view of the fact that the whole proposal consisted of one sentence only, however, he was of the opinion that it would be more advisable to vote on it as a whole.

MR. DEHOUSSE (Belgium) understood the perplexity of the Soviet Union representative and suggested two means whereby the difficulty might be solved: (1) the Soviet Union representative might withdraw his resolution, or, (2) he might agree to the Belgian [12] proposal being voted upon first.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) was unable to accept either of those suggestions.

THE CHAIRMAN requested a vote by roll call on the amendment to the Soviet Union proposal:

“That the Commission proceed without delay to consider the draft ‘Declaration on Human Rights’ contained in Annex F, and the draft Articles for inclusion in a Convention contained in Annex G of the Report submitted by the Drafting Committee.”

*The amendment was accepted by 10 votes to 4 with 1 abstention.*³¹

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the Soviet Union Delegation had refused to accept the amendments of the representatives of Belgium, Lebanon and Australia and it considered the proposal just voted on, not as a Soviet Union proposal, but as a Lebanon proposal. The Soviet Union Delegation therefore withdrew its proposal.

THE CHAIRMAN requested a vote by roll call on the first paragraph of the Belgian proposal:

“1. The immediate setting up of *three Working Parties*, to deal respectively with the problem of the Declaration, the Convention or Conventions, and implementation.” The proposal was accepted by 8 votes to 6, with 1 abstention.

A vote by roll call was taken on paragraph 2 of the Belgian proposal:

“2. The membership of these Working Parties would be determined in accordance with the Chairman’s proposal”, and it was accepted by 10 votes to 1, with 4 abstentions.

DR. MALIK (Lebanon) raised a point of order in connection with paragraph 3 of the Lebanon proposal. He considered that “the first Working Party” really referred to the second Working Party and [13] suggested altering the numbering of the groups to put paragraph 3 into harmony with the principles in paragraph 1.

³¹ Although a roll call vote was requested, there is no record of the results.

MR. CASSIN (France) proposed that the original draft of the Belgian proposal should be retained in the third paragraph.

MR. DEHOUSSE (Belgium) said he agreed with Dr. Malik regarding the alteration of the numbering of the groups in paragraph 3. He could not agree to the French proposal as he had already accepted the amendment proposed by the Australian representative.

MR. AMADO (Panama) said that should the word "Declaration" be changed to "Bill or Convention" in paragraph 3 of the Belgian proposal, he would be unable to vote in favour of paragraph 3.

THE CHAIRMAN requested a vote by roll call on the Australian amendment to change the word "(Declaration)" in line 1 of paragraph 3 of the Belgian proposal to "(Bill or Convention)". The amendment was rejected by 9 votes to 5 with 1 abstention.

She then asked for a vote on the French amendment to retain the original wording of paragraph 3 of the Belgian proposal. The amendment was passed by 3 votes with 12 abstentions.

She then asked for a vote on paragraph 3 of the Belgian proposal:

"3. The first Working Party (Declaration) would begin its work immediately upon its establishment. The second and third Working Parties would begin work as soon as the Secretariat services were in a position to assist them, and at latest on Monday, 8 December."

The proposal was accepted by 8 votes, with 7 abstentions.

A vote was then taken on paragraph 4 of the Belgian proposal:

"4. These Working Parties would present reports to the Plenary Commission as soon as possible; the Commission would, in the course of the present session, take such decisions in regard to their proposals as it deemed advisable."

[14]

The proposal was accepted by 10 votes to 1, with 4 abstentions.

THE CHAIRMAN then requested a vote on the Belgian proposal as a whole, and it was accepted by 9 votes to 5, with 1 abstention.

MR. CASSIN (France) said he was prepared to withdraw his resolution, and proposed the addition of a heading to the Belgian proposal just accepted: "The Commission, desirous of fulfilling its mission, resolves to proceed to:"

THE CHAIRMAN said that, as no objections were raised, the Commission accepted the text of the representative of France as a heading to the Belgian resolution. She stated that the United States amendment to the United Kingdom proposal would be voted upon next.

COL. HODGSON (Australia), on a point of order, asked whether the United Kingdom proposal fell by virtue of the Belgian proposal just accepted.

THE CHAIRMAN thereupon asked the United Kingdom representative whether he was willing to withdraw his proposal, in view of the passing of the Belgian proposal.

LORD DUKESTON (United Kingdom) felt that paragraph 1 of his proposal raised the issue of whether the document to be prepared would be called a "Bill" or a "Convention". In his opinion paragraph 2 was also important. He withdrew paragraphs 3 and 4, and asked that paragraphs 1 and 2 should be voted upon.

THE CHAIRMAN requested a vote on the United States amendment to the first paragraph of the United Kingdom proposal: "The Commission considers that it is necessary to prepare two documents, of which one will be a Declaration and the other a Convention." The amendment was rejected by 8 votes to 4, with 4 abstentions.

A vote was then taken on paragraph 1 of the United Kingdom proposal: "The Commission considers that it is necessary to prepare two documents, a Bill of Human Rights in the form of a [15] Convention, and a Declaration of Human Rights." The vote resulted in 6 for the proposal, 6 against it and 3 abstentions, and the Chairman stated that, according to Rule 39 of the Rules of Procedure, the proposal was rejected.

LORD DUKESTON (United Kingdom) agreed that the second paragraph of his proposal fell, in virtue of the rejection of the first paragraph.

COL. HODGSON (Australia) asked if it could be assumed that the Working Group on Implementation would have for the basis of its study Annex H of the Report of the Drafting Committee.

THE CHAIRMAN considered that that was a point which the Working Group itself would have to decide.

The meeting rose at 6:25 p.m.

E/CN.4/50

4 December 1947

Resolutions adopted

1) That the Commission proceed without delay to consider the draft Declaration on Human Rights contained in Annex F and the draft Articles for inclusion in a Convention contained in Annex G of the report submitted by the Drafting Committee.

2) In order to fulfil its mission, the Commission decides:

- 1) the immediate setting up of three working parties, to deal respectively with the problem of the Declaration, the Convention or Conventions, and Implementation;
- 2) the membership of these working parties would be determined by the Chairman;
- 3) the first working party (Declaration) would begin its work immediately upon its establishment. The second and third working parties would begin work as soon as the Secretariat services were in a position to assist them, and at latest on Monday, 8 December;
- 4) these working parties would present reports to the plenary Commission as soon as possible; the Commission would, in the course of the present session, take such decisions in regard to their proposals as it deems advisable.

E/CN.4/51

5 December 1947

List of Communications Received from Non-Governmental Organizations in Categories (b) or (c) Eligible for Consultation

...

World Jewish Congress

In a 7-page memorandum, dated November 1947, it is urged that first of all that at the present session of the Commission priority should be given to the problem of safeguarding human rights and fundamental freedoms, and of equality in law and in fact. A proper procedure for safeguarding human rights and the principle of equality as the basis of such rights, could be agreed to even before either the Declaration or Convention were completed.

...

[2]

...

A concluding section of the memorandum contains a number of specific amendments to various Articles in either the Draft Declaration or Draft Convention, which may be briefly summarized as follows. Any Bill of Rights should provide that every State is under obligation to respect the human rights of each of its subjects and has the right in return to the loyalty of every subject. In connection of freedom of

movement (See Article 9, Secretariat Draft), it is suggested that only the most specific and explicit reasons connected with national security should be the permitted basis of any restrictive measures. The provisions of Article 9 of the Draft Convention should be of a nature to protect the honour and security not only of individuals but also of racial and religious groups. As regards rights of asylum, it is argued that this ancient right – often denied during recent years with tragic consequences to hundreds of thousands of Jews – should be formally re-established under the auspices of the United Nations. Similarly, stateless persons should enjoy all human rights and freedoms, under the protection of some agency of the United Nations.

**World Jewish Congress and the Coordinating Board
of Jewish Organizations for Consultation with the Economic and Social
Council of the United Nations**

These organizations jointly propose that wording adopted from the Woodrow Wilson Draft should provide the language for Article 20(2). Alternative text – of the Draft Declaration, as follows: “No law or regulation shall be made which prohibits or interferes with the free exercise of religion or any form of religious worship and observance, and no discrimination shall be made, either in law or in fact, against any person who practices any particular creed, religion or belief whose practices are not inconsistent with public order or public morals.”

[3]

...

Commission of the Churches on International Affairs

The following are the chief desiderata in a statement submitted to the Commission on Human Rights at its present Session. The Commission is urged to complete drafts both of a Declaration and a Convention; furthermore, to include in both documents adequate safeguards for freedom of religious belief and of religious expression, whether in relation to individuals or to corporate bodies.

[4]

The importance is stressed, in the event that the Articles are drafted in brief form, of using such general and inclusive terms that all the rights and freedoms attaching the exercise of religion will be embraced. If, on the contrary, the articles take a more detailed form, then it is urged that freedom of religion be defined in such a manner that no rights or freedoms essential to religious belief and practice, are excluded, whether by specific reference or by implication.

Consultative Council of Jewish Organizations

The Consultative Council of Jewish Organizations which is composed of the Alliance Israelite Universelle, the American-Jewish Committee and the Anglo-Jewish Association has submitted a memorandum with proposals for articles to be considered in a Convention.

1. It stresses at the outset the importance of founding an International Bill of Rights in the form of a Convention, with enforcement provisions. A declaration of principles without specific safeguards would not be adequate.

...

E/CN.4/36/Add.2

5 December 1947

Parallel Passages in Human Rights Drafting Committee Text and United States Proposal (E/CN.4/36)

Section I. Drafting Committee Text compared with United States Section II. United States Short Form compared with Drafting Committee Text

Legend:

DC – Human Rights Drafting Committee Text (Arabic numerals).

US – United States Proposal (Roman numerals).

[2]

Section I

Human Rights Drafting Committee Text compared with *United States Proposal*

DC 1. All men are brothers. Being endowed with reason and conscience, they are members of one family. They are free, and possess equal dignity and rights.	US Preamble, first clause. Whereas, by the Charter of the UN, all members affirm their faith in the dignity and worth of the human person. . .
--	--

US X. Everyone, everywhere in the world, is entitled to the human rights and fundamental freedoms set forth in this Declaration. . .

DC 2, 3, 4. First alternative –

US X, second clause.

Article 2. The object of society is to afford each of its members equal opportunity for the full development of his spirit, mind and body.

The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.

Article 3. As human beings cannot live and support themselves without the help and support of society, each one owes to society fundamental duties which are. . . Article 4. In the exercise of his rights, everyone is limited by the rights of others.

Second alternative (one Article only) – Article 2. These rights are limited only by the equal rights of others. Man also owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom.

[3]

HRDC Text

DC 5. All are equal before the law and entitled to equal protection of the law. Public authorities and judges, as well as individuals are subject to the rule of the law.

DC 6. Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction as to race, sex, language, or religion.

DC 7. Everyone has the right to life, to personal liberty and to personal security.

DC 8. No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Everyone placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject.

US Short Form

US I. Everyone is entitled to life, liberty and equal protection under law.

US VII. . . . Everyone, regardless of office or status, is subject to the rule of law.

US X. Everyone everywhere in the world, is entitled to the human rights and fundamental freedoms set forth in this Declaration without distinction as to race, sex, language or religion. . .

US I. Everyone is entitled to life, liberty, and equal protection under law.

US III. No one shall be subjected to unreasonable interference with his privacy.

US VI. No one shall be subjected to arbitrary arrest or detention. . .

US VI. No one shall be subjected to arbitrary arrest or detention. Anyone who is arrested has the right to be promptly informed of the charges against him, and to trial within a reasonable time or to be released.

[4]

*HRDC Text**US Short Form*

DC 9. No one shall be held guilty of any offence until legally convicted. No one shall be convicted or punished for any offence except by judgment of an independent and impartial court of law, rendered in conformity with law after a fair and public trial at which he has had an opportunity for a full hearing and has been given all guarantees necessary for his defence.

US VII. Everyone, in the determination of his rights and obligations, is entitled to a fair hearing before an independent and impartial tribunal and to the aid of counsel. . .

DC 10. No one can be convicted of crime unless he has violated some law in effect at the time of the act charged as an offence nor be subjected to a penalty greater than that applicable at the time of the offence. No one, even if convicted of a crime, can be subjected to torture.

US VII. . . . No one shall be convicted or punished for crime except after public trial pursuant to law in effect at the time of the commission of the act charged. . .

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

DC 11. Slavery, which is inconsistent with the dignity of man, is prohibited in all its forms.

US V. No one shall be held in slavery or involuntary servitude. No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.

DC 12. The privacy of the home and of correspondence and respect for reputation shall be protected by law.

US III. No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence, or reputation. . .

[5]

*HRDC Text**US Short Form*

DC 13. There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by any general law adopted in the interest of national welfare and security. Individuals may freely emigrate or renounce their nationality.

US IV. There shall be liberty to move freely from place to place within the State, to emigrate. . .

US X. The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare, and security of all.

DC 14. Everyone has the right to escape persecution on grounds of political or other

US IV. There shall be liberty. . . to seek asylum from persecution.

beliefs or on grounds of racial prejudice by taking refuge on the territory of any State willing to grant him asylum.

DC 15. Everyone has the right to a status in law and to the enjoyment of fundamental civil rights.

US I. Everyone is entitled to . . . equal protection under law.

US X. Everyone, everywhere in the world, is entitled to the human rights and fundamental freedoms set forth in this Declaration. . .

Everyone shall have access to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law. He shall have the right to consult with and to be represented by counsel.

US VII. Everyone, in the determination of his rights and obligations, is entitled to a fair hearing before an independent and impartial tribunal and to the aid of counsel. . .

[6]

HRDC Text

US Short Form

DC 16. There shall be equal opportunity for all to engage in all vocations and professions not constituting public employment.

US IX. Everyone has the right to a decent living; to work and advance his wellbeing; . . .

DC 17. Everyone has a right to own personal property. No one shall be deprived of his property except for public welfare and with just compensation. The State may determine those things, rights and enterprises that are susceptible of private appropriation and regulate the acquisition and use of such property.

US III. . . No one shall be arbitrarily deprived of his property.

DC 18. Everyone has the right to a nationality.

US VIII. Everyone has the right to a nationality. . .

DC 19. No alien legally admitted to the territory of a State may be expelled therefrom without having a fair hearing.

US VII. Everyone, in the determination of his rights and obligations, is entitled to a fair hearing. . .

[7]

*HRDC Text**US Short Form*

DC 20. Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right.

The practice of a private or public worship, religious observances, and manifestations of differing convictions, can be subject only to such limitations as are necessary to protect public order, morals and the rights and freedoms of others.

(UK alternative text, paragraph 3, emphasizes freedom of religious teaching)

US II. Everyone has the right. . . to freedom of religion, conscience, and belief. . .

US X. . . .The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.

US II. Everyone has the right to freedom of information. . .

DC 21. Everyone is free to hold or impart his opinion, or to receive and seek information and the opinion of others from sources wherever situated.

Personne ne peut être inquiété en raison de ses opinions.

US II. Everyone has the right to freedom of information, speech, and expression; to freedom of. . . belief;. . .

DC 22. There shall be freedom of expression either by word, in writing, in the press, in books or by visual, auditive or other means. There shall be equal access to all channels of communication.

US II. Everyone has the right to freedom of information, speech, and expression;. . .

DC 23. There shall be freedom of peaceful assembly, and of association for political, religious, cultural, scientific, professional and other purposes.

US II. Everyone has the right. . . to freedom of assembly and association.

[8]

*HRDC Text**US Short Form*

DC 24. No state shall deny to any individual the right, either individually or in association with others, to petition or to communicate with the Government of his state or of his residence or the United Nations.

US II. Everyone has the right. . . to freedom to petition his Government and the United Nations.

DC 25. When a government, group or individual seriously or systematically

US II. (above)
US VIII. (below)

tramples the fundamental human rights and freedoms, individuals and peoples have the right to resist oppression and tyranny.

DC 26. Everyone has the right to take an effective part in his Government directly or through his representatives.

US VIII. . . . Everyone has a right to take an effective part in his Government directly or through his representatives.

DC 27. The State can derive its just authority only from the will of the people and has a duty to conform to the wishes of the people. These wishes shall be manifested particularly by democratic elections, which shall be periodic, free, and by secret ballot.

US VIII. . . . and to participate in elections, which shall be periodic, free, and by secret ballot.

DC 28. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examinations for public employment shall not be a matter of privilege or favour.

US VIII. . . . Everyone has a right to take an effective part in his Government . . .
US IX. Everyone has the right . . . to work and advance his wellbeing . . . There shall be equal opportunity for all to participate in the economic and cultural life of the community.

[9]

HRDC Text

US Short Form

DC 29. Everyone has the right to perform socially useful work.

US IX. Everyone has the right to a decent living, to work and advance his wellbeing;
...

DC 30. Human labour is not a merchandise. It shall be performed in good conditions and shall secure a decent standard of living to the worker and his family.

US IX. Everyone has the right to a decent living, to work and advance his wellbeing;
...

DC 31. Everyone has the right to education. Primary education shall be free and compulsory. There shall be equal access for all to such facilities for technical, cultural and higher education as can be provided by the State on the basis of merit and without distinction as to race, sex, language, religion,

US IX. Everyone has the right . . . to . . . education . . . There shall be equal opportunity for all to participate in the cultural life of the Community.

social standing, political affiliation or financial means.

DC 32. Everyone has the right to a fair share of rest and leisure.

US IX. Everyone has the right to a decent living; . . .

DC 33. Everyone, without distinction as to economic and social conditions, has a right to the highest attainable standard of health. The responsibility of the State and community for the health and safety of its people can be fulfilled only by the provision of adequate health and social measures.

US IX. Everyone has the right. . . to health. . .

[10]

HRDC Text

US Short Form

DC 34. Everyone has the right to social security. To the utmost of its possibilities, the State shall undertake measures for the promotion of full employment and for the security of the individual against unemployment, disability, old age, and all other loss of livelihood for reasons beyond his control. Mothers and children have the right to special regard, care and resources.

US IX. Everyone has the right. . . to social security. . .

DC 35. Everyone has the right to participate in the cultural life of the community, to enjoy the arts, and to share in the benefits that result from scientific discoveries.

US IX. . . . There shall be equal opportunity for all to participate in the economic and cultural life of the community.

DC 36. In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right as far as compatible with public order to establish and maintain their schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State.

US II. Everyone has the right to freedom of information, speech and expression; to freedom of religion, conscience and belief; to freedom of assembly and association; . . .

US IX. Everyone has the right to education. . . There shall be equal opportunity for all to participate in the cultural life of the community. . .

US X. . . . without distinction as to race, sex, language, or religion.

E/CN.4/Sub.2/38
5 December 1947

**Report Submitted to the Commission on Human Rights by the
 Sub-Commission on the Prevention of Discrimination and the
 Protection of Minorities**

(Draft)

...
 [2]
 ...

I.

Draft Declaration of Human Rights

The Sub-Commission had before it the draft International Declaration on Human Rights drawn up by the Drafting Committee (E/CN.4/21, Annex F.) It noted that certain articles in the draft were designed to prevent discrimination and protect minorities. Consequently, although the Draft Declaration had not been officially communicated to it, the Sub-Commission considered that it should take that important document into account. It felt that the best way of obtaining concrete results of immediate value was to start by dealing with the subjects coming under its terms of reference within the framework of those articles of the Draft Declaration which had been indicated as relating to those terms of reference.

The Sub-Commission therefore proceeded to study the following articles of the Draft Declaration: article 6, article 13, article 15, article 28, and article 36. For the most part this study resulted in amendments being proposed.

1. Article 6

Text proposed by the Sub-Commission:

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

(Adopted by 9 votes to 1, with 1 abstention).

^[1] The Drafting Committee’s text was as follows:

Every one is entitled to the rights and freedoms set forth in this Declaration without distinction as to race, sex, language, or religion.

[3]

The Sub-Commission, in adopting the text, thought there was no need for a special mention of “colour”, as that was included in “race”.

It also considered that in completing by the words “political or other opinion, property status, or national or social origin”, the list given in paragraph 3 of Article 2 of the Charter (“without distinction as to race, sex, language, or religion”), it had not added to that list, but had merely interpreted and clarified it by means of examples. The Sub-Commission’s text (“without distinction of any kind such as race. . .etc.”) is, moreover, intended to show that its list is not exhaustive.

It will be seen that the Sub-Commission has referred in the article to “*all* the rights. . .etc.” It intended to show in this way that it was not necessary to develop the idea further in Article 6, as the substance of the rights and freedoms was established in the other articles of the Declaration.

Finally, the Sub-Commission wished to make it clear that the words “national origin” should be interpreted by taking the idea of “nationality” not in its legal sense (subject of a State), but in its sociological sense (national characteristics).

Remarks by Mr. Nisot (Belgium):

“I abstained from voting on article 6, since, in my view, it should have reproduced only the enumeration found in the Charter: ‘without distinction as to *race, sex, language or religion*’, instead of increasing this enumeration. The terms of the Charter, beyond all possible dispute, are binding upon all the Members of the United Nations. It would, therefore, have been wise strictly to adhere to them owing to the organic nature of the text in question (the Declaration).”

Remarks by Mr. Borisov (Union of Soviet Socialist Republics):

“As drafted by the Sub-Commission Article 6 is not satisfactory. In particular, there is no mention of prevention of racial discrimination and no direct reference to enjoyment of equal rights for all in the fields of economic, cultural and social-political life. Even part of those omissions would prevent the rights of everyone ‘without distinction of race, sex, language or religion’ from being secured by the Article.”

Mr. McNamara and Dr. Wu submitted a text amending the proposal of Mr. Borisov. Its wording was as follows:

“Any advocacy of national, racial and religious hostility and any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion shall be prohibited by the law of the State.”

This text was not adopted, there being 5 votes for and 5 against, with 1 abstention.

On the other hand, the Sub-Commission adopted, by 10 votes with 1 abstention, the following recommendation:

“The Sub-Commission recommends to the Commission on Human Rights the inclusion in the proposed Convention or in the Declaration of Rights, in the appropriate places, of clauses condemning incitement to violence against religious groups, nations, races, and minorities.”

[4]

2. Article 13

Text proposed by the Sub-Commission:

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

Individuals shall be free to leave their own country and to change their nationality to that of any country willing to accept them.”²

(Adopted by 8 votes to 2, with 1 abstention.)

Discussion centred on the right to circulate outside the country and to emigrate and to change nationality. In the text proposed by the Sub-Commission, the right to emigrate and change nationality is not made dependent upon a condition.

Remarks by Mr. Borisov (Union of Soviet Socialist Republics):

“Mr. Borisov is in favour of deleting the second paragraph of Article 13.”

Remarks by Mr. McNamara (Australia):

“Mr. McNamara proposes the following text for consideration by the Commission on Human Rights, and by any Drafting Committee:

‘Further, any general law referred to herein shall not be inconsistent with Article 6 of the International Declaration on Human Rights, as amended by this Sub-Commission.’”

Remarks by Mr. Nisot (Belgium):

“I was unable to agree to Article 13, because of the absolute bearing of its second sentence, which is not subject to the reservation (concerning laws in conformity with the Charter) by which the first sentence is governed. In the absence of such a reservation, the possibility for individuals to leave their country or relinquish their nationality is made dependent, in principle, on their sole will, without the State being able, even for reasons of general interest or national security, to limit this possibility, in particular by making it contingent on authorization. Such a radical provision cannot, in my view, but diminish the probabilities of the Declaration being, on this point, accepted or observed by Governments.”

[2] Text established by the Drafting Committee:

“There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by any general law adopted in the interest of national welfare and security. Individuals may freely emigrate or renounce their nationality.”

[5]

3. Article 15

Article 15 of the Drafting Committee's text³ gave rise to discussion.

Finally, by 7 votes to 2 (with 2 abstentions) the Sub-Commission decided to take no decision on this Article at the present stage, since the Commission on the Status of Women, which was to meet in January next, was the proper body to make an exhaustive study of the Article, particularly from the point of view of marriage, and the Sub-Commission should await its findings.

Remarks by Mr. McNamara (Australia):

Mr. McNamara submitted the following text for consideration by the Human Rights Commission or by a Drafting Committee;

“The following words to be added after ‘everyone has the right’:

‘On the basis of Article 6 as amended by this Sub-Commission’”

Remarks by Mr. Masani (India) and Mr. Daniels (United States)

“In view of the decision of the Sub-Commission that this Article was not yet open to discussion at this stage, in the absence of any recommendations from the Commission on the Status of Women, we would like to place on record our view that this Article should guarantee the right to everyone to consult with and be represented by counsel *of his own choice.*”

Remarks by Miss Monroe (United Kingdom)

“Since the Sub-Commission decided that there should be no discussion on the merits of Article 15, Miss Monroe wished it to be recorded that the right to be represented by counsel does not exist in some native courts in the British Colonial Empire. Representation by counsel has proved to be an alien importation into the judicial process of many backward people, and since it is in the British practice to allow Native Courts to develop in the manner best suited to the community which they serve, some courts still adhere to their customary procedure. Since the right to be represented by counsel is recognized in higher courts, including those which hear appeals from the Native Courts in question, the practice is not discriminatory.”

Remarks by Mr. Borisov (USSR)

“He said that the Drafting Committee of the Human Rights Commission had requested the Sub-Commission to take a decision not on Article 15 as a whole but only on the question of marriage.

As regards the question of marriage, this should, he thought, be protected and regulated by law on the basis of equality between men and women, without discrimination of race, religion or origin.”

[³] Everyone has the right to a status in law and to the enjoyment of fundamental civil rights.

Everyone shall have access to independent and impartial tribunals for the determination of his right, liabilities and obligations under the law. He shall have the right to consult with and to be represented by counsel.

[6]

4. Article 28

Text adopted by the Sub-Commission

“Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examination for public employment shall not be a matter of privilege or favour.”⁴

(Adopted by 9 votes with 2 abstentions)

This article was adopted in the form in which it had been drawn up by the Drafting Committee, after a discussion in the course of which the value of examinations as an impartial method of selection was questioned by certain members of the Sub-Commission.

Remarks by Mr. McNamara (Australia)

“In the second sentence of Article 28, the words ‘and the subject matter of such examinations’ should be inserted after the words ‘public employment’.”

Remarks by Mr. Borisov (USSR)

“He observed that the system of examinations in various forms facilitated discrimination and non-admission of the poorer classes to public office or employment. The examination system had not proved satisfactory, as was shown by the second paragraph of Article 28 itself, according to which examinations were not open to all and involved privileges and favours for certain persons. He thought that the second paragraph of Article 28, which restricted the rights mentioned in the first paragraph of that article, should be omitted.”

5. Article 36

Text proposed by the Sub-Commission

“In States inhabited by well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment, persons belonging to such groups shall have the right as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose.”⁵

(Adopted by 6 votes to 4, with 2 abstentions.)

^[4] Text drawn up by the Drafting Committee.

Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examinations for public employment shall not be a matter of privilege or favour.

^[5] The following was the text prepared by the Drafting Committee.

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

[7]

The text differs from the one prepared by the Drafting Committee in that it further defines what is meant in the Article by a minority group.

1. It no longer requires that a “substantial number” of individuals should be involved;
2. It requires that “well defined groups” should be involved;
3. It requires that such groups should be “clearly distinguished from the rest of the population” (objective criterion);
4. It requires that such groups should “*want* to be accorded differential treatment” (subjective criterion).⁶

In addition, the new text has the following special feature. Under its terms the determination of the persons who are to enjoy the rights enumerated in the Article (which henceforth include the right to use their own “script”) is based on the definition of the groups to which they belong.

Under the terms of the text, protection is granted to “persons” and not reserved for “citizens”. There is, therefore, no need to make a distinction as to whether the individuals concerned are or are not nationals of the country in which they are established.

Remarks by Mr. Nisot (Belgium):

“This Article has given rise to a long debate, bearing, in particular, on the question whether its benefit should be limited to nationals, or, on the contrary, should be extended to all individuals, nationals or aliens, members of the groups concerned. The latter solution prevailed: the word ‘persons’ was inserted in the text in preference to the word ‘citizens’. This is why I was unable to agree to Article 36. It appeared to me indeed excessive to grant the differential treatment in question to aliens. These, moreover, may be established on the territory only temporarily (tourists, migrant workers . . . etc.). It is hardly necessary to recall that the treaties and declarations on minorities which came into being between the two wars apply, in this connection, to nationals alone. It will be for the Commission on Human Rights to study the Draft Declaration from the viewpoint of its compatibility with paragraph 7 of Article 2 of the Charter, which forbids organs of the United Nations to intervene in matters essentially within the domestic jurisdiction of the member States. In my view, such a study will be particularly indicated with respect to Article 36 as adopted by the Sub-Commission.”

^[6] Mr. Roy had submitted an amendment proposing the deletion of the final words of the Article: “if they so choose”. This amendment was not adopted, there being 5 votes in favour, 5 against and 2 abstentions.

[8]

Remarks by Mr. McNamara (Australia)

Mr. McNamara had proposed to modify as follows the text of the Drafting Committee.

1. Delete the words “a substantial number of”;
2. Delete words, “as far as compatible with public order”, and substitute for them the words “on the basis of loyalty to the State of which they are resident members”;
3. Add the words, “where they have not a practicable facility in the official language” between the words “and” and “before”, in the last line but one.

...

E/CN.4/SR.30

5 December 1947

Summary Record of the Thirtieth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Friday,
5 December 1947, at 10 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Col. W. R. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Dr. Wu (China); Mr. Loutfi (Egypt); Professor Cassin (France); Mrs. H. Mehta (India); Mr. Pourevaly (Iran); Dr. C. Malik (Lebanon); Mr. M. Amado (Panama); General C. Romulo (Philippine Republic); Lord Dukeston (United Kingdom); Mr. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Dr. V. Ribnikar (Yugoslavia). Representatives of the Commission on the Status of Women: Mrs. Begtrup; Mrs. Uralova. Secretariat: Professor J. P. Humphrey; Mr. E. Lawson. Specialized Agencies: Mr. J. de Givry (ILO). [2] Non-Governmental Organizations: Category A: Miss T. Sender (American Federation of Labor); Mr. Robinet de Cléry (Interparliamentary Union); Mr. Serrarens (International Federation of Christian Trade Unions). Non-Governmental Organizations: Category B: Dr. Bienenfeld (World Jewish Congress); Mr. Duchosal (International Committee of the Red Cross); Miss van Eeghen (International Council of Women); Mr. F. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues); Mr. M. Winn (Consultative Council of Jewish Organizations).

THE CHAIRMAN stated that, since the Commission had formally decided in favour of the setting up of three Working Groups, those Groups would start their work simultaneously at the end of the present plenary meeting. The establishment of three Working Groups meeting simultaneously raised certain technical difficulties for the Secretariat, which it had endeavoured to overcome by forming linguistically homogeneous groups.

The composition of the Working Groups would be as follows:

1. Group on the Declaration: United States of America, Union of Soviet Socialist Republics, Byelorussian SSR, Philippines, Panama and China.
2. Group on the Convention: United Kingdom, Yugoslavia, India, France, Chile, Lebanon.

[3]

3. Group on Implementation: Australia, Belgium, Iran, Ukrainian SSR, Egypt and Uruguay.

The Commission needed to set up a Sub-Committee to deal with the Human Rights Yearbook, the examination of the Report of the War Crimes Commission and the document on the Evolution of Human Rights. That Sub-Committee would consist of the representatives of Belgium, Egypt and Yugoslavia.

PROFESSOR CASSIN (France) asked, in view of the part he had played over a long period in the work connected with the elaboration of an International Declaration of Rights, to be associated with the work of the Group on the Declaration, rather than with that of the Group on the Convention.

THE CHAIRMAN agreed to that request, and proposed that the representative of China should take Professor Cassin's place in the Group on the Convention.

DR. WU (China) agreed to that proposal.

COLONEL HODGSON (Australia) asked whether it would not be possible for a Delegation to take part in the work of two Groups at the same time.

THE CHAIRMAN did not think that was possible, as the Groups would be working simultaneously.

COLONEL HODGSON (Australia) suggested that the deputies or alternates of members might take their places.

THE CHAIRMAN stated that they would only be able to attend the meetings as observers without the right to vote; Article 11 of the Rules of procedure stipulated in fact that an alternate was only granted the right to vote when replacing an absent member: that was not the case in the present instance, and it would be more appropriate to call such observers "representatives", rather than alternates.

[4]

LORD DUKESTON (United Kingdom) stated that if the Working Groups overlapped they would hold each other up. It would be preferable if they confined themselves to their own work, which should subsequently be discussed in plenary session.

THE CHAIRMAN pointed out that it was merely a question of the Advisers of regular members of the Commission attending the meetings of the other Groups as representatives, with the right to take part in the discussion on request.

MR. LOUTFI (Egypt) stated that he would like to take part in the work of the Group on the Convention. Mrs. Mehta (India) would be willing to take his place in the Group on Implementation.

THE CHAIRMAN agreed to that change.

MR. BOGOMOLOV (USSR) wished it to be understood that the work of the Groups was no more than a preliminary stage, the final stage being the discussion in the plenary Commission. Members would therefore have the right to reserve their opinions, even on points concerning the work of their own Groups. Furthermore, he could see no advantage in the proposal of the Australian representative, since each Member would be able to state his criticisms in plenary session.

THE CHAIRMAN stated that the Australian proposal was prompted by a desire to save the Commission's time. Through the intermediary of the observers, members would be able to keep themselves informed of the work of the other Groups as it progressed, thereby avoiding unnecessary repetition during the discussions in plenary session.

COLONEL HODGSON (Australia) asked whether the representatives of the Specialized Agencies and Non-Governmental Organizations intended to speak before the close of the present plenary meeting.

[5]

MR. BOGOMOLOV (USSR) was glad the Australian representative had raised that question.

THE CHAIRMAN, before inviting the representatives of the Specialized Agencies or the observers to submit their observations, wished to point out that it was for each Working Group officially to invite one of the representatives of the Commission on the Status of Women to attend their meetings whenever a question within their sphere of interest was to be discussed.

MISS TONI SENDER (Representative of the American Federation of Labor) stated that it was customary for the representatives of the Non-Governmental Organizations to participate in Sub-Committees with the same rights as they enjoyed when participating in plenary Commissions. Those rights included permission to submit written statements.

MR. DE GIVRY (Representative of the International Labour Organization) stated that, with regard to questions such as trade union rights and implementation, the International Labour Organization would be glad to have its observations submitted orally by its delegates participating in the work of the various Groups.

DR. BIENENFELD (World Jewish Congress) expressed his gratitude to the Commission for the part it was allowing him to take in its work.

MR. WINN (Representative of the Consultative Council of Jewish Organizations) stated that the Organization he represented had already submitted a memorandum

on the subject of the draft Declaration and Convention, and that he would submit his observations on the work undertaken in the Groups.

MR. ROBINET DE CLÉRY (Inter-Parliamentary Union) stated that Mr. Boissier and himself had already submitted a memorandum [6] on the activities of the Inter-Parliamentary Union in the field of Human Rights, and reserved the right to take part in the meetings of the Working Groups.

MR. SERRARENS (International Federation of Christian Trades Unions) stated that the Federation had already submitted a memorandum to the Commission and reserved the right to submit a new note relating to questions which concerned workers.

MR. NOLDE (Commission of the Churches on International Affairs) wished to express his gratitude to the Commission on Human Rights.

MISS DE ROMER (International Union of Catholic Women's Leagues) wished to recall that she had already proposed various amendments at the Commission's previous session on behalf of her organization, and reserved the right to submit them again in the various Groups.

THE CHAIRMAN thanked the representatives of the Specialized Agencies and Non-Governmental Organizations for their statements, adding that they would enjoy the same rights in the Working Groups as in the plenary Commission.

The meeting rose at 11.30 a.m.

E/CN.4/AC.2/SR.1

5 December 1947

Original Text: French

Summary Record of the First Meeting [of the Working Group on the Declaration of Human Rights]

Held at the Palais des Nations, Geneva, on Friday 3³²
December 1947, at 11.30 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Observer: Mr. Heppel (United Kingdom). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Secretariat: Miss Kitchen. Specialized Agencies: Mr. De Givry (ILO). Non-Governmental Organizations: Category A: Mr. Robinet de Clery (Inter-Parliamentary Union); Miss T. Sender (American Federation of Labor); Mr. P. G. S. Serrarens (International Federation of Christian Trade Unions); Category B:

³² The original is in error. The meeting was held on 5 December 1947.

Dr. Bienenfeld (World Jewish Congress); Dr. Duchosal (International Committee of the Red Cross); Miss Van Eeghen (International Council of Women); Mr. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues); Mr. Winn (Consultative Council of Jewish Organizations).

[2]

1. Elections of Officers

The Working Group proceeded to elect its Chairman.

Decision: Mrs. Franklin D. Roosevelt was elected Chairman.

The Working Group then proceeded to elect its Rapporteur.

Decision: Professor Cassin was elected Rapporteur.

THE CHAIRMAN observed that the Working Group might, if it wished, proceed to examine the proposal for a declaration submitted by the United States Delegation (Document E/CN.4/36). This Proposal was inspired by the desire to reduce to essentials the draft Declaration recommended by the Drafting Committee (Annex F to document E/CN.4/21). It therefore introduced no original element. Before proceeding to any study the Working Group should decide upon the length of the Declaration it intended to draw up. She herself was in favour of a short Declaration; brevity would facilitate its dissemination throughout the world.

PROF. CASSIN (France) thought that though a short draft was desirable the Declaration submitted by the United States was too brief. It would be well for the Declaration to begin with some articles of a general nature.

MR. AMADO (Panama) remarked that it was important that a clause be included in each article mentioning the duty of the State to implement the provisions contained in it. This suggestion did not involve any encroachment on the province of the Working Group on Implementation, but was merely designed to emphasize in the Declaration the State's duty to protect the rights defined therein.

[3]

GEN. ROMULO (Philippines) proposed that what Mr. Amado suggested should form part of a Preamble.

THE CHAIRMAN observed that it would be better for the Working Group not to discuss a Preamble at the present Session but to confine itself to defining the principles to be embodied in it.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought that the Working Group should take the draft Declaration given in Annex F as a basis for its work and study it article by article. Other documents, including the Proposal for a Declaration submitted by the United States, should be regarded as supplementary documents.

He hoped the Working Group would take a definite stand on this matter of basic documents.

THE CHAIRMAN pointed out that the choice of a basic document depended on the length that the Working Group intended the Declaration to have. If the Working Group intended to draw up a long Declaration it would be best to use the report of the Drafting Committee, but if it preferred a short Declaration it would perhaps be as well to take the document submitted by the United States as a basis.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) observed that it was not a question of drawing up a short or a long Declaration but a clear, straightforward and complete one, such as would give real practical help in protecting the democratic rights of individuals. The duty of Governments to individuals could not be defined in the abstract. It would be better for the Working Group to confine itself to concrete study of the proposed rights.

MR. HEPPEL (United Kingdom) suggested that the adoption of a Preamble would make it easier to draw up the Declaration. The Declaration should be drawn up in a very different form from the [4] Convention. Whereas the Convention should be drafted in legal form, the Declaration was a statement of general principles which it would be best to make brief.

PROF. CASSIN (France) stated that in his opinion the essential differences between the Declaration and the Convention lay in their general character. The Declaration was a synthesis, a general view, whereas the Convention defined something more precise. He thought it better not to mention the State's duty to protect rights in each article. A special article to cover that would be sufficient. He emphasized however that the obligations of Governments could not be the same with regard to all rights, for instance with regard to the right to life and the right to a nationality, or the right to belong to trades unions and the right to health and hygienic housing conditions. Articles would therefore have to be worded differently. No right, moreover, except the right to freedom of thought, was unconditional. Every right had limitations imposed by the exigencies of law and order. These restrictions should also be defined in a special article rather than in connection with each right. The same applied to the principle of non-discrimination. The various articles in the Declaration could therefore be shortened considerably by embodying in a special article the obligations of the State, the limitation imposed by law and order or morality and non-discrimination.

MR. STEPANENKO (Byelorussian SSR) remarked that it did not matter whether the Declaration were long or short provided it covered all the rights. These should not be sacrificed to considerations of brevity. He supported the view expressed by both the Representative of the Union of Soviet Socialist Republics and the Representative of France that the Declaration should be drawn up before the preamble.

[5]

THE CHAIRMAN summed up the discussion and stated: (1) that the Committee noted the suggestion made by the Representative of Panama, with a view to including it in the preamble; (2) that certain articles in the present draft Declaration, such as the right to a nationality, could not be implemented by Governments. For that reason it would, in the opinion of the United States Delegation, be preferable to deal with them in later Conventions and clearly to distinguish the Declaration, which was a statement of principles without legal force, from Conventions, which constituted the legal enforcement of those principles.

Lastly she stated that in accordance with the proposal of the Representative of the Union of Soviet Socialist Republics, which had met with the Working Group's approval, the Working Group would take the Drafting Committee's report as the basic document and proceed to examine it at the next meeting. If the Representative of Panama did not agree to the including of the obligations of the State in the preamble he could express his views on the subject in the course of that discussion.

MR. ROMULO (Philippines) declared that he was against including the obligations of the State in each article.

The meeting rose at 1 p.m.

E/CN.4/AC.2/SR.2

5 December 1947

Original Text: French

Summary Record of the Second Meeting [of the Working Group on the Declaration of Human Rights]

Held at the Palais des Nations, Geneva, on Friday
5 December 1947, at 3 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Rapporteur: Mr. Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Secretariat: Miss Kitchen. Specialized Agencies: Mr. De Givry (ILO); Mr. Havet (UNESCO). Non-Governmental Organizations: Category A: Mr. Robinet de Clery (Inter-Parliamentary Union); Mr. Vanistendael (International Federation of Christian Trade Unions); Category B: Dr. Duchosal (International Red Cross Committee); [2] Miss Van Eeghen (International Council of Women); Mr. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues).

MR. AMADO (Panama) wished to emphasize the great importance of the Declaration. The ratification of a Convention was never certain. The only document

possessing an immediate value would therefore be the Declaration. He was glad that members of the Working Group agreed to insert somewhere in the Declaration the duty of the State to guarantee human rights. He thought, however, that that provision might appear in each article. In the Declaration of Philadelphia, drawn up by twenty-four jurists under the auspices of the American Law Institute, each of the eighteen articles of that Declaration of Human Rights ended with a clause, different in each case, indicating the duty of the State to guarantee the right in question. As a citizen of a small country, he wished to state that it was the responsibility of the great Powers to draft a Declaration which was not merely idealistic but would effectively guarantee the rights it proclaimed.

MRS. BEGTRUP (Chairman of the Commission on the Status of Women) said that the drafting of a Declaration on Human Rights was of fundamental importance for women, who in certain countries were not even granted the rights which the most primitive constitutions granted to men. In the spirit of the proposed Declaration, all rights applied equally to women and men, but as sex equality was a right which had been acquired but recently, it would be necessary to emphasize it explicitly in certain Articles, and, even, to make particular mention of certain [3] rights guaranteed specially to women. She proposed that the following declaration be inserted in the Preamble: "When a word indicating the masculine sex is used in connection with a provision contained in the following Bill of Human Rights, the provision in question is to be considered as applying without discrimination to women."

THE CHAIRMAN suggested that the Group should proceed to examine the draft Declaration, beginning with the basic Articles, i.e. with Article 7. Articles 1 to 6 could be included in the Preamble and could be examined at the same time as the Report of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought it preferable to follow the order in the Drafting Committee's Report and to start with article 1.

The group supported the view of the representative of the USSR.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked what procedure the Group intended to adopt for studying the draft Declaration: would each article be voted on separately, or would a vote be taken on the document as a whole after all the Articles had been discussed? The Soviet Delegation, for its part, regarded this document as a whole. Should the Group decide to vote on each Article separately, his Delegation would abstain from voting, but it formally reserved the right to vote on the Declaration as a whole.

THE CHAIRMAN stated that she was in favour of a vote being taken on each Article, but that did not prevent a final vote being taken on the document as a whole.
[4]

MR. CASSIN (France) declared that the two procedures were not incompatible, and proposed that a vote be taken provisionally on the substance of each Article, and that a final vote be taken later on the form and substance at a second reading of the document as a whole.

THE CHAIRMAN put the French representative's proposal to the vote.

Decision: The Working Group adopted the above proposal by 4 votes to 2.

THE CHAIRMAN then put to the vote the Panamanian representative's proposal for the insertion in each Article, or after each group of Articles, [sic] a clause mentioning or specifying the responsibility of the State in connection with the rights proclaimed in the Article.

Decision: The Working Group rejected the proposal submitted by Mr. Amado (Panama) by 2 votes to 1, with 3 abstentions.

Examination of Article 1

GENERAL ROMULO (Philippines) said there was no logical connection between the two parts of the sentence "Being endowed with reason and conscience, they are members of one family". He proposed the following draft "All men are brothers. Being endowed with reason and conscience, they are free and possess equal dignity and rights."

MRS. BEGTRUP (Chairman of the Commission on the Status of Women) pointed out that it would be preferable to substitute the term "human beings" for the term "men".

THE CHAIRMAN said that was rather a question of translation affecting the French text.

MR. AMADO (Panama) was opposed to the affirmation that "All men are brothers", which was a religious or philosophic concept and did not express in a sufficiently original manner the fundamental principles underlying this Declaration. [5]

MR. CASSIN (France) said that the authors of that Article had wished to indicate the unity of the human race regardless of frontiers, as opposed to theories like those of Hitler. He recalled, moreover, that the original French proposal started with the term "All human beings". He recognized that there was no logical connection between the two parts of the sentence "Being endowed with reason and conscience, they are members of one family". He himself would prefer to have the first part of the sentence deleted.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that Article 1 contained abstract philosophical or religious notions but nothing concrete. It could

not be compared with the principle of “Liberty, Equality, Fraternity” proclaimed in the Declaration of Rights of 1789. Even the latter had lent itself to varied interpretations. The Group should draw up principles in a concrete form.

MRS. URALOVA (Rapporteur of the Commission on the Status of Women) said the terms in which the Article was drafted were too high-flown to be easily understandable by all. Moreover its definitions were very general and even covered fascists. Finally, the equality of the sexes should be more clearly stated.

GENERAL ROMULO (Philippines) said that the proposal he had submitted only omitted the six words “they are members of one family”. In an Article of that kind they should not try to be original, nor be afraid of abstractions, since the concept of human rights was itself abstract.

MR. AMADO (Panama) said that if, as Professor Cassin had suggested, that Article was anti-hitlerian, it seemed to him superfluous.

THE CHAIRMAN thought that the Group, when drafting the present Article, should not have in mind the elimination of fascists, as they were to be regarded as criminals and as such, did not come within the present definition. She proposed to take a vote on the Philippine representative’s proposal.

[6]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought a distinction should be drawn between various degrees of abstraction. The first sentence, “All men are brothers”, expressed a more abstract idea than the affirmation, “they possess equal dignity and rights”. In his view it would be less abstract to speak of a duty of brotherhood.

MR. CASSIN (France) suggested that, to meet the wish of certain representatives and to avoid abstractions, it would be possible to say that men should refrain from inciting hatred. That would define a practical duty. The present draft of Article 1 was certainly imperfect, but he thought it essential, before defining concrete rights such as the right to life, etc. to define, in a form to be considered, values which were higher than life itself.

THE CHAIRMAN proposed that the Group should invite the representative of France to draft, in consultation with the representative of the Philippines, a new Article 1, and should pass on to Article 2.

GENERAL ROMULO (Philippines) agreed with that proposal and suggested that for the future meetings members should prepare in advance the alternatives they would like to have substituted for the Articles under examination, in order that the Group might discuss concrete proposals and not generalities.

MR. AMADO (Panama) suggested that a list of fundamental rights be drawn up, and that the Articles of the draft Declaration relating to each of those rights be then examined.

THE CHAIRMAN said that had been her intention when she suggested that the Group should take as its basic document the draft put forward by the United States. However, at the suggestion of the Soviet representative, the Group had decided straight away to take as its working document the draft prepared by the Drafting Committee. To clarify the position, however, a vote could be taken on the matter.

[7]

GENERAL ROMULO (Philippines) said they could not go back on the decision which had been taken.

MR. AMADO (Panama) supported that point of view.

THE CHAIRMAN said, that being so, the Group would proceed to discuss Article 2; she invited the French representative, in consultation with the Philippine representative, to submit a new text of Article 1.

Examination of Article 2

MR. AMADO (Panama) pointed out it was impossible to adopt Article 2 without knowing the contents of Article 1, to which it was related.

THE CHAIRMAN agreed that Article 2 referred to the rights formulated in Article 1, but it could be assumed that in any case the word “rights” would appear somewhere in Article 1. That being the case, they should decide whether they preferred one or other of the two alternatives proposed by the Drafting Committee. The United States Delegation proposed a third version, which was given at the end of Article 10 in its draft Declaration (Document E/CN.4/36). This read as follows: “The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.”

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that the second part of the United States proposal contained too general a description of the rights it proclaimed.

GENERAL ROMULO (Philippines) emphasized that the Declaration should define the duties of the individual towards the State as well as the duties of the State towards the individual. The second alternative proposed by the drafting Committee seemed to him preferable, if the beginning of the second sentence were slightly amended to read: “The individual owes duties . . .”

[8]

MR. AMADO (Panama) proposed the following draft: “In the exercise of his rights, everyone is limited by the rights of others and by the just requirements of the democratic State.”

GENERAL ROMULO (Philippines) agreed with the draft suggested by the representative of Panama and proposed that it be substituted for the first sentence of the Drafting Committee’s second alternative.

MR. CASSIN (France) pointed out that the first alternative proposed by the Drafting Committee was intended to introduce the idea of the object of society and the correlative idea of the solidarity of individuals within society. He thought, however, that the second alternative as amended by the representative of the Philippines and the representative of Panama was worthy of careful consideration.

THE CHAIRMAN put to the vote the proposal submitted by the representative of the Philippines, reading as follows:

Article 2

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

Decision: The Committee adopted Article 2 in the above form by 3 votes in favour, with 3 abstentions.

Examination of Article 5

THE CHAIRMAN pointed out that Article 5 of the Drafting Committee's Report thus became Article 3. The United States Delegation proposed the following draft: "All are equal before the law and entitled to equal protection by the law. Everyone is subject to the law whatever his status." The amendment to the first sentence was purely formal. The second sentence omitted the [9] specific terms "public authorities" and "judges". That proposal was embodied in Article 1 and 7 of the draft submitted by the United States.

GENERAL ROMULO (Philippines) agreed with the Chairman's proposal, but wished to substitute the terms "regardless of office or status", which appeared in Article 7 of the United States draft, for the terms "whatever his status".

MR. CASSIN (France) expressed his readiness to accept the first sentence of the Article proposed by the United States Delegation, but pointed out that the second sentence of the Drafting Committee's Article 5 contained two ideas: first, everyone was subject to the law, second, the law was above public authorities and judges. This second idea was what was known in English as the "Rule of Law".

The new Article 3, in the form proposed did not imply this second idea.

MR. AMADO (Panama) said he could not vote for that Article. It was the most important Article in the Declaration. It should include explicit provision for preventing arbitrary discrimination and abuses in the application of laws.

THE CHAIRMAN proposed that a vote be taken on the first sentence of the new Article 3, subject to certain changes of form but not of substance. The first sentence read: "All are equal before the law and entitled to equal protection of the law."

Decision: The first sentence of Article 3 was adopted by 3 votes in favour, with 3 abstentions, subject to changes of form but not of substance.

THE CHAIRMAN put to the vote the second sentence of Article 3 proposed by the United States Delegation as amended by the [10] representative of the Philippines, which read as follows: “everyone is subject to the law regardless of office or status”.

Decision: The second sentence of Article 3 was adopted by 3 votes to 1, with 2 abstentions, subject to changes of form but not of substance.

MR. CASSIN (France) said that the idea of the “Rule of Law” was not fully covered by Article 3 in the form just adopted. He reserved the right to produce the next day a new draft incorporating that idea which might be added to the new Article 3.

MR. AMADO (Panama) declared that he would likewise submit a proposal with regard to Article 3.

The meeting rose at 6:15 p.m.

E/CN.4/Sub.2/SR.17

6 December 1947

Original Text: French

Summary Record of Seventeenth Meeting [of the First Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities]

Held at the Palais des Nations, Geneva, on Saturday,
6 December 1947 at 9.40 a.m.

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia); Dr. C. H. Wu (China); Mr. J. Daniels (United States of America); Mr. Samuel Spanien (France); Mr. M. R. Masani (India); Mr. Rezazada Shafaq (Iran); Miss Elizabeth Monroe (United Kingdom); Mr. A. P. Borisov (Union of Soviet Socialist Republics). Secretariat: Mr. Emile Giraud; Mr. A. H. Hekimi.

...

[3]

...

Draft Declaration on Human Rights

THE CHAIRMAN wished it to be mentioned on page 2 that it was the Drafting Committee of the Commission on Human Rights that had decided on the Articles to be submitted [4] to the Sub-Commission. He proposed to insert after the words

“Certain Articles in the Draft” the words “which had been brought to its notice by the Drafting Committee”. Otherwise it might seem as if it was the Sub-Commission that had chosen the Articles in an arbitrary manner.

MR. NISOT (Rapporteur) accepted the proposal.

Decision: The proposal was adopted.

MR. SPANIEN (France) thought it would be sufficient to say “the Drafting Committee, which considered that it should draw the Sub-Commission’s attention to certain Articles”.

MR. MCNAMARA (Australia) stated that the second phrase created a false impression, seeing that all the Articles in the Draft were designed to protect minorities and prevent discrimination.

MR. NISOT (Rapporteur) pointed out that the text fully met Mr. McNamara’s point, since it would be stated that the Articles in question had been brought to the notice of the Sub-Commission.

MR. A. P. BORISOV (Union of Soviet Socialist Republics) proposed for the sake of greater clarity the words “of the Articles of the Declaration mentioned below”.

MR. NISOT (Rapporteur) stated that if the Sub-Commission were to embark on a grammatical analysis of each sentence, its work would never end. When mention was made of the Declaration, that actually meant the Articles which had been submitted to the Sub-Commission. He recalled that the Commission on Human Rights expected to have the Sub-Commission’s Report by the morning of Monday, 7 December, at the latest.

THE CHAIRMAN put to the vote the text proposed by Mr. Borisov and that of Mr. Nisot.

[5]

Decision: The text proposed by Mr. Nisot was adopted by 7 votes to 2, with 3 abstentions.

Article 6

On Mr. McNamara’s proposal, and with Mr. Nisot’s consent, the Sub-Commission decided to modify the text as follows:

Page 3, line 4, to replace “completing” by “extending”.

In the second paragraph of the English text, to replace “list” by “enumeration”. The French text is to remain unaltered.

To replace the words “paragraph 3 of Article 2 of the Charter” by “in Article 6 as drawn up by the Drafting Committee”.

To replace (page 3) the words “but had merely interpreted and clarified it” by “but had interpreted and clarified it”.

MR. MCNAMARA (Australia) considered that the paragraph immediately preceding Mr. Nisot's observation should be redrafted.

MR. NISOT (Rapporteur) asked for suggestions or formal proposals.

MR. MENESES (Ecuador), who had been unable to attend the first meetings of the Sub-Commission, asked for an observation to be inserted in the Report under his own name.

MR. DANIELS (United States of America), on a point of order, supported this proposal, on condition that no additional remarks by members who had attended all the meetings of the Commission should be allowed.

Decision: The proposal was adopted.

With the consent of MR. NISOT (Rapporteur) the Sub-Commission agreed to add Mr. Meneses' remarks to the other observations contained in the Report.

[6]

MR. SPANIEN (France) drew attention to the fact that if the word "nationality" in the fourth paragraph on page 3 were allowed to remain, it might cause confusion. He suggested that the paragraph be drafted as follows: "Finally, the Sub-Commission wished to make it clear that the words 'national origin' should be interpreted by taking this conception, not in the sense of citizen of a State, but in the sense of national characteristics."

Decision: This change was adopted.

MISS MONROE (United Kingdom) suggested that the word "included" on the second line of page 3 of the English text, be replaced by "embodied".

Decision: This change was adopted.

MR. A. P. BORISOV (Union of Soviet Socialist Republics) asked that the text be discussed paragraph by paragraph in logical order. He proposed the following changes in the fourth paragraph on page 3:

To put a full stop after the word "nationality" and to replace the remainder of the text by the following sentence: "The Sub-Commission recommends to the Commission on Human Rights that this concept be defined more precisely."

THE CHAIRMAN, following an observation by Mr. Nisot, stated that the text, as amended by Mr. Spanien, had been adopted. He informed members that the remarks included in the Report were personal observations which ought not to be discussed.

MR. SPANIEN (France) pointed out that during the discussion he had announced his intention of making certain reservations. If the Sub-Commission decided it was too late to submit observations, he would bow to its decision; if not, he would submit the text to the Rapporteur.

[7]

THE CHAIRMAN recalled that Mr. Spanien had in fact expressed this wish. His remarks could therefore be inserted in the Report.

MR. A. P. BORISOV (Union of Soviet Socialist Republics) stated that the observations he had made during the discussion were mentioned in the Summary Record of meetings. It was therefore superfluous to repeat them in the Report.

On the proposal of Miss Monroe it was decided that in the text of the Recommendation adopted by the Sub-Commission the words: "races and minorities" should be replaced by "races or minorities".

On the proposal of Mr. Borisov it was decided to reverse the order of the words: "Convention" and "Declaration" in the text of the Recommendation, and to insert in the first line of paragraph 7 on page 2, after the word "amending" the words "the second paragraph of a proposal".

Article 13

On the proposal of MR. McNAMARA (Australia) the Sub-Commission adopted the following changes: on page 4, line 12, after the word "circulate", the words "more freely" should be added.

On page 4, line 20, the words "the following text" should be replaced by "the following addition to the first paragraph".

MR. MENESES (Ecuador) asked for the following remarks to be inserted under Article 13:

"In my opinion paragraph 2 of Article 13 should also embody the following concepts:
No State may refuse to grant its nationality to persons born upon its soil.

[8]

No person may be deprived of the nationality of his birth, unless by his own free choice he acquires another nationality.

Every person is obliged to renounce the nationality of his birth or adoption upon acquiring a new nationality."

Article 15

The Sub-Commission adopted the Report on Article 15 without any observations.

Article 28

Following a proposal by MR. McNAMARA (Australia), the Sub-Commission agreed that in the English text the word "examination" should be put in the plural. The French text to remain unchanged.

The words "in the third line of the text" to be added to the remarks.

Article 36

MR. BORISOV (Union of Soviet Socialist Republics) noted that the Summary Records contained all the necessary information on the changes in the original texts. The interpretations given by the Rapporteur did not reflect all the opinions that had been expressed. He proposed that all comments by the Rapporteur after Article 36 be omitted.

MR. NISOT (Rapporteur) expressed his willingness to omit all the comments.

MISS MONROE (United Kingdom) thought the text was clear enough to show the Commission what the Sub-Commission had done. It would be sufficient simply to point out how the text had been amended by such and such a member.

MR. A. P. BORISOV (Union of Soviet Socialist Republics) thought the discussion that took place during the examination of this Article was reported in the Summary [9] Records of the meetings and should, therefore, not be given again in the Report.

MR. NISOT (Belgium) saw no objection to leaving in the Report the amendments made by members, as Miss Monroe had suggested.

DR. WU (China) agreed with Mr. Borisov. The addition of all the amendments would make the Report unnecessarily long. The text would become too academic. Merely by comparing it with the original text the Commission could easily see what changes had been made.

MR. MASANI (India) shared the view expressed by Mr. Borisov and Dr. Wu.

MISS MONROE (United Kingdom) withdrew her amendment.

MR. NISOT (Belgium) agreed to omit any remarks that were not essential.

MR. MCNAMARA (Australia) asked for the word "had" to be deleted from the English text of his remark.

Decision: This change was adopted.

The Sub-Commission adopted the first part of Mr. Nisot's Report.

E/CN.4/AC.2/SR.3

6 December 1947

Original Text: French

***Summary Record of the Third Meeting [of the Working Group on
the Declaration of Human Rights]***

Held at the Palais des Nations, Geneva, on Saturday,
6 December 1947, at 10 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado

(Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Observer: Mr. Heppel (United Kingdom). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Secretariat: Miss Kitchen. Specialized Agencies: Mr. Bessling (ILO); Dr. Havet (UNESCO). Non-Governmental Organizations: Category A: Mr. Robinet de Clery (Inter-Parliamentary Union); Mr. Vanistendael (International Federation of Christian Trade Unions); Category B: Mr. Easterman (World Jewish Congress).

[2]

MR. CASSIN (France) stated that he had given up the idea of submitting a new draft embodying the idea of “rule of law” in Article 3. As regards Article 1, he has been unable to consult the Representative of the Philippines and would submit a new draft of that Article at the second reading.

MR. AMADO (Panama) submitted the following amendment to Article 2.

“Everyone has the right to protection against arbitrary discrimination in the provisions and application of the law because of race, religion, sex or any other reason.”

MR. STEPANENKO (Byelorussian SSR) pointed out that this text would replace the whole of the Article 3 already adopted and in substance would overlap with the provisions of Article 6 concerning which the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities was to make a recommendation. He suggested therefore that the Commission defer its decision on this proposal until the Sub-Commission’s Report had been submitted. The text proposed by the Representative of Panama could then be incorporated in Article 6 which would no doubt also contain other provisions. Article 6 could then be incorporated in Article 3, if the Working Group so desired.

GENERAL ROMULO (Philippines) moved a point of order. The Commission had adopted Article 3 subject to changes in form but not in substance. But this text represented a change in substance. Furthermore, before envisaging the fusion of Article 6 with Article 3, he thought it necessary to know what the Drafting Committee’s intention had been with regard to these Articles.

MR. CASSIN (France) stated that the original Article 6 of the Drafting Committee’s Report contained two ideas, the idea of [3] equality and the idea of the prevention of arbitrary discrimination. In its present form Article 3 had only retained the idea of equality. The amendment submitted by the Representative of Panama was therefore appropriate. He proposed that it should be retained, as far as substance was concerned, as being appropriate in the present Article, and that the Working Group should wait until it had seen the recommendations of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities before deciding on its final form.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that account should be taken of the Sub-Commission's recommendations in the case of Article 6 which dealt with discrimination in general. But Article 3 dealt with courts of law and there were cases where discrimination occurred in courts of law. It was therefore important that the principle of non-discrimination should be emphasized in that Article.

THE CHAIRMAN pointed out that it was not possible to go back on the decision taken by the Working Group. Therefore, they could not proceed to change the substance of Article 3. This did not exclude the possibility of including the proposal of the Representative of Panama in Article 6 and if necessary, of incorporating Article 6 in Article 3 when the Report of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities came up for consideration.

GENERAL ROMULO (Philippines) supported the proposal submitted by the Representative of Panama and stated he would vote in favour of it, if it were incorporated in Article 6, subject to the following slight modification:

“Every one has the right to protection against arbitrary discrimination in the provisions of the law and their application because of race . . .”

[4]

MR. AMADO (Panama) accepted this modification.

THE CHAIRMAN stated that Article 3 would therefore be left as it stood, subject to drafting changes. The Working Group would refer to the plenary meeting on 8 December the examination of Article 4, i.e. the original Article 6 of the Drafting Committee's Report and consideration of the amendment submitted by the Representative of Panama together with the possibility of incorporating the text adopted in Article 3.

GENERAL ROMULO (Philippines) drew the Working Group's attention to the danger which might result from a wrong interpretation of the second sentence of Article 3 in the absence of an exact definition of the nature of the law envisaged. He therefore proposed the insertion between Article 3 and Article 5 of an Article worded as follows:

“All laws, decrees and ordinances and all judicial and administrative acts in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter.”

The wording of this Article had been suggested to him after perusal of the memorandum submitted by the World Jewish Congress. Moreover, that undertaking on the part of Governments did not differ in substance from the one they had already given as Members of the United Nations under the terms of Article 2, paragraph 2 of the Charter. He strongly urged the Working Group to take note of the proposal he had just submitted when the time came to examine Article 6.

MR. CASSIN (France) pointed out that three different ideas had been put forward during the present discussion. First, the conformity of national laws with the principles of the Charter. Secondly, the idea of equality before the law. The amendment submitted by the Representative of Panama, if it were incorporated [5] in Article 3, would involve certain changes in the text adopted, as it would be necessary to bring the two texts into line, since one mentioned status and activities and the other sex, race and religion. Thirdly, the idea of the “rule of law”. It was impossible to introduce all these ideas into Article 3. The proposal submitted by the Philippines, in particular, was not bound up with Article 3 or Article 6, but was concerned with good laws and could be inserted elsewhere.

MR. AMADO (Panama) supported the proposal submitted by the Representative of the Philippines and agreed with the Representative of France that it was a question of position. He sought an understanding that his proposal would be examined in relation to Article 3 and jointly with Article 6.

Examination of Article 7

MR. CASSIN (France) stated that it had been the Drafting Committee’s intention to confine themselves to the ideas of liberty and personal security whereas the alternative texts submitted by Chile and Lebanon (E/CN.4/21 (Annex F)) appeared to expand considerably the idea expressed in this Article. He himself was in favour of the Drafting Committee’s proposal and he knew the Working Group on the Convention also took the same view.

THE CHAIRMAN proposed the retention of the text submitted by the Drafting Committee, substituting in the English text the words “security of the person” for the words “personal security”.

MR. AMADO (Panama) wished, on behalf of his Government, to make a statement concerning the whole of the provisions of the Declaration. The recognition and guarantee by Governments of human rights were one of the characteristics of the twentieth century. The most far-reaching work accomplished in this field had been carried out under the auspices of the American Law Institute by a group of 24 jurists under the direction of Dr. William [6] Draper Lewis.³³ These jurists had agreed to define in 18 Articles the minimum rights which each State should guarantee to the individual whether he was a citizen or resident of that State or not. This Declaration of fundamental human rights, known as the “Declaration of Philadelphia” was clear, precise and brief. At the San Francisco Conference Panama had submitted this Declaration for adoption by the United Nations. The First Committee, which was responsible for examining that proposal, recommended in a Resolution that the

³³ William Draper Lewis (1867–1949) was the founding director of the American Law Institute.

General Assembly should examine the text proposed and give it an effective form. (See Report of the Rapporteur of the First Committee dated 1 June 1945, Document 944, I-I, 34). In 1946, Panama had again proposed the adoption of the "Declaration of Philadelphia" but that proposal had been referred to the Commission on Human Rights. It was to be feared that, owing to lack of time, the text finally adopted by the Commission would be inferior to that contained in the Philadelphia Declaration. Without underestimating the value of the work performed by the Drafting Committee, he wished to submit on behalf of his Government the following proposal on which a vote might be taken:

"That in any redrafting by the Commission at this session of a declaration or convention, the International Declaration of Fundamental Rights and Freedoms of Man which was presented to the Commission pursuant to the resolution of the General Assembly, 1st Session, Second Part, should be given special consideration."

THE CHAIRMAN pointed out that the Declaration of Philadelphia had been used by the Secretariat in drawing up its first draft Declaration. She supported the proposal submitted by the Representative of Panama and suggested that the Declaration [7] proposed by the Delegation of Panama, which appeared in Document A/148, be considered jointly with the Drafting Committee's text. She put this proposal to the vote.

GENERAL ROMULO (Philippines) pointed out that his Delegation had already supported the proposal of Panama in the First Committee of the San Francisco Assembly and would support it again.

Decision: The proposal submitted by the Representative of Panama was unanimously adopted.

MR. VANISTENDAEL (International Federation of Christian Trades Unions) wished to submit an observation concerning Article 7. In the text proposed by the Drafting Committee, the right to life was affirmed without any specification of the biological moment when human life began. The majority of laws included measures protecting life born or conceived. This idea, which was expressed in the supplementary text proposed by the Lebanon should, he thought, be taken up. Secondly it should be stated that everyone had the right to life, regardless of physical or mental condition. Finally, it was important that it should be stated that individuals should be able to live their lives in conditions worthy of the human race. Such a statement would contribute to the spiritual liberation of the working class by raising it to a spiritual level equal to that of the other members of human society. He therefore proposed the following text:

"Every one has the right to life, to personal liberty and to personal security.

The individual acquires these rights, regardless of his physical or mental condition, from the first moment of his physical development. This includes the right to

conditions of life enabling him to live a dignified life and to develop his personality adequately.”

[8]

MRS. BEGTRUP (Representative of the Commission on the Status of Women) pointed out that the Commission on the Status of Women had not yet had an opportunity of meeting to examine the Draft Declaration of the Drafting Committee and reserved the right to revert to this matter at a later session. Mr. Vanistendael’s proposal could not be reconciled with the provisions of certain advanced legislation which in certain cases provided for the right of abortion.

THE CHAIRMAN considered that the text submitted by the Drafting Committee covered all the aspects mentioned and proposed that a vote be taken on Article 7 which read as follows: “Every one has the right to life, to personal liberty and to personal security.”

Decision: The Commission adopted Article 7 by 4 votes with 2 abstentions.

MR. CASSIN (France) pointed out that more detailed provisions on this subject could be included in a Convention and that all matters relating to the development of human life in society should be dealt with elsewhere. If such were not the case, he would not be opposed, at second reading, to mentioning in this Article the right to conditions of life enabling the individual to live a dignified life and develop his personality adequately.

Examination of Article 8

THE CHAIRMAN pointed out that there was an alternative form of the Article in Article 8 of the Declaration submitted by Panama and in Article 6 of the Declaration proposed by the United States.

GENERAL ROMULO (Philippines) stated that his Delegation supported the United States draft because it aimed at preventing arbitrary detention, the idea of which was not included in the text submitted by Panama.

[9]

MR. CASSIN (France) pointed out that the article contained in the United States draft had the advantage of mentioning the necessity for trial within a reasonable time. The article proposed by the Drafting Committee however contained another idea, that of verification of the conditions of detention, inspired by the Soviet Constitution. He proposed therefore that the article be retained but supplemented in one particular by the American draft. The article would then read: “No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Everyone placed under arrest or detention shall have the

right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to be released.”

MR. EASTERMAN (World Jewish Congress) drew the Group’s attention to the danger of using the word “law” in the first sentence of the article. Strictly speaking, the actions of the Nazis were legal. The amendment submitted by the Representative of the Philippines if adopted could avert this danger, but it would perhaps be better to substitute for the word “law” in the article the words “laws in conformity with the principles of the United Nations”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) observed that the meaning to be attached to the word “law” appearing in texts of the Declaration was the laws of the State or of democratic society the first duty of which was to develop and consolidate democracy.

THE CHAIRMAN supported the Representative of the Union of Soviet Socialist Republics and stated that the question would be gone into more fully when the Group came to examine the [10] amendment submitted by the Representative of the Philippines. She put to the vote Article 8 as submitted by the Representative of France.

Decision: Article 8 was adopted by 4 votes in favour with 2 abstentions.

Examination of Article 9

THE CHAIRMAN pointed out that this article corresponded with Article 7 of the Declaration submitted by Panama. In order to facilitate the Group’s work the United States Delegation had prepared a synoptic table of the United States proposal and the Drafting Committee’s text. The article proposed by the United States (Article 7 of its Declaration) was given in this document (E/CN.4/36/Add.2) at the top of p. 4.

MR. AMADO (Panama) supported the text included in the Declaration submitted by Panama and pointed out that the most important words in that article were: “by fair public trial by a competent tribunal”. The standards by which it was determined whether or not the trial were public and fair were those found in all Constitutions of civilized States.

MR. CASSIN (France) observed that the Drafting Committee’s text only had in view criminal proceedings whereas the article submitted by the United States dealt with the rights belonging to an individual accused of crime and the right to justice in general. The two ideas were separate. The Working Group must choose which it preferred.

THE CHAIRMAN thought that this article should cover both civil and criminal proceedings.

MR. STEPANENKO (Byelorussian SSR) said that the article ought to contain provisions concerning the right of the accused to use his own language in court.

[11]

MR. CASSIN (France) pointed out that this right was provided for in Article 36. Moreover Article 9 mentioned that the accused should be given “all necessary guarantees”, which included the use of his own language. These guarantees could be specified in a Convention on the subject.

GENERAL ROMULO (Philippines) supported the proposal of the Representative of Byelorussia. He was in favour of the article proposed by the United States, with the addition after “fair hearing” of the words “in fair public trial and in his own language”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said it was dangerous to harness the work of this Group to that of the Group working on the Convention. What would happen if the General Assembly adopted the Declaration only? It was important for this Group to accomplish its task without reference to the work of the other groups.

MR. STEPANENKO (Byelorussian SSR) pointed out that Article 36 dealt with language in relation to national minority groups, not to non-self-governing countries that should be covered by the article now under discussion.

MR. CASSIN (France) thought that if the Group wished to deal in this article with the right to justice it might perhaps be as well to take the article proposed by the United States as a starting point. If, on the other hand the Group intended to deal with criminal proceedings the Article proposed by the Drafting Committee seemed to him preferable.

Perhaps in order to avoid repetition it would be best in this article to deal with the right to justice.

GENERAL ROMULO (Philippines) wished to emphasize that the proposal of the Representative of Byelorussia dealt not only with the national minorities, but with persons belonging to trust territories and non-self-governing regions as well as with [12] foreigners. He himself preferred the following text in place of the amendment that had been proposed: “in fair public trial and in a language he understands”. His Delegation thought that this Article should deal with the right to justice and that the proposal submitted by the United States should be adopted in its amended form.

THE CHAIRMAN stated that the drafting of this article could be left until the next meeting. She put to the vote the question whether the Group wished to restrict this Article to criminal proceedings or to extend it to all proceedings whether civil or criminal.

Decision: The Group decided by 4 votes in favour and 2 abstentions that the article in question should deal with the right to justice in general.

MR. CASSIN (France) stated that in light of this decision he would be able to draw up an Article on the right to justice in general and in the case of criminal trials in particular, the right to the necessary guarantees, including the use of the individual's own language. A distinction must be made between civil proceedings, in which the accused was entitled to counsel for the defence and criminal proceedings in which the accused appeared in person and the question of language was fundamental to enable him to grasp the proceedings.

The meeting rose at 1 p.m.

E/CN.4/Sub.2/SR.18
6 December 1947³⁴

Summary Record of Eighteenth Meeting
[of the First Session of the Sub-Commission on Prevention
of Discrimination and Protection of Minorities]

held at the Palais des Nations, Geneva, on Saturday,
5 December 1947 at 2.00 p.m.³⁵

Present: Chairman: Mr. E. E. Ekstrand (Sweden). Vice-Chairman: Mr. Hérard Roy (Haiti). Rapporteur: Mr. Joseph Nisot (Belgium). Members: Mr. W. M. J. McNamara (Australia); Dr. C. H. Wu (China); Mr. Arthur Meneses (Ecuador); Mr. Samuel Spanien (France); Mr. M. R. Masani (India); Mr. Rezazada Shafaq (Iran); Miss Elizabeth Monroe (United Kingdom); Mr. A. P. Borisov (Union of Soviet Socialist Republics); Mr. J. Daniels (United States of America). Secretariat: Mr. Emile Giraud; Mr. A. H. Hekimi.

1. Consideration of Draft Report (Document E/CN.4/Sub.2/38
(Continuation of Discussion))

MR. BORISOV (Union of Soviet Socialist Republics) pointed out an error on page 6, Article 28; the result of the vote had been 9 in favour, 1 against, with 1 abstention. THE RAPPOREUR undertook to make the necessary corrections.

...

³⁴ This is the date of the meeting. The document was issued on 7 December 1947.

³⁵ The Summary Record mistakenly identifies the date as 5 December. The first Saturday in December 1947 was 6 December.

E/CN.4/52

6 December 1947

**Sub-Commission on the Prevention of Discrimination and the
Protection of Minorities****First Session (24 November – 6 December 1947)**Report Submitted to the Commission on Human Rights
by the Rapporteur: Mr. Joseph Nisot (Belgium)

...

[4]

Section I**Draft Declaration of Human Rights**

The Sub-Commission had before it the draft International Declaration on Human Rights drawn up by the Drafting Committee (E/CN.421, Annex F.) It noted that certain articles in the draft were designed to prevent discrimination and protect minorities. Consequently, although the Draft Declaration had not been officially communicated to it, the Sub-Commission considered that it should take that important document into account. It felt that the best way of obtaining concrete results of immediate value was to start by dealing with the subjects coming under its terms of reference within the framework of those articles of the Draft Declaration which had been brought to its notice by the Drafting Committee as relating to those terms of reference.

The Sub-Commission therefore proceeded to study the following articles of the Draft Declaration: article 6, article 13, article 15, article 28, and article 36. For the most part this study resulted in amendments being proposed.

Article 6***Text proposed by the Sub-Commission***

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

(Adopted by 9 votes to 1, with 1 abstention).

The Sub-Commission, in adopting the text, thought there was no need for a special mention of “colour”, as that was embodied in the word “race”.

It also considered that in extending by the words “political or other opinion, property status, or national or social origin”, the enumeration given in Article 6 as

drawn up by the Drafting Committee (“without distinction as to race, sex, language, or religion”), it had not added to that enumeration but had interpreted and clarified it by means of examples. The Sub-Commission’s text (“without distinction of any kind such as race. . .etc.”) is, moreover, intended to show that its enumeration is not exhaustive.

[1] The Drafting Committee’s text was as follows: Every one is entitled to the rights and freedoms set forth in this Declaration without distinction as to race, sex, language, or religion.

[5]

It will be seen that the Sub-Commission has referred in the article to “*all* the rights. . .etc.” It intended to show in this way that it was not necessary to develop the idea further in Article 6, as the substance of the rights and freedoms was established in the other articles of the Declaration.

Finally, the Sub-Commission wished to make it clear that the words “national origin” should be interpreted by taking this conception, not in the sense of citizen of a State, but in the sense of national characteristics.

Remarks by Mr. Nisot (Belgium):

“I abstained from voting on article 6, since, in my view, it should have reproduced only the enumeration found in the Charter: ‘without distinction as to *race, sex, language or religion*’, instead of increasing this enumeration. The terms of the Charter, beyond all possible dispute, are binding upon all the Members of the United Nations. It would, therefore, have been wise strictly to adhere to them owing to the organic nature of the text in question (the Declaration).”

*Remarks by Mr. Meneses Pallares (Ecuador)*³⁶

The enumeration is indeed exemplary and not exhaustive, but in order to preserve intact the organic unity and correlation of the Charter and its subsidiary instruments I should prefer the following text:

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

Remarks by Mr. Spanien (France):

The French expert is compelled for the following reasons to abstain from voting on the second part of the amendment to Article 6 which was proposed by the Soviet expert under the heading: “Mr. Borisov’s opinion”.

³⁶ The remarks by Mr. Meneses Pallares were misplaced in the original report. In accordance with E/CN.4/52/Corr.1 of 23 March 1948: “The above comment appearing on page 13 of the Report should be inserted on page 5, after the paragraph containing the ‘Remarks by Mr. Nisot (Belgium)’. This comment by Mr. Meneses Pallares refers to *Article 6 of the Draft Declaration on Human Rights* and not to the *Machinery for the prevention of discrimination and protection of minorities*.”

The place proposed for this amendment within Article 6 of the Draft Declaration; its introduction in a passage dealing with principles and not, as would have been logical, in a passage concerned with implementation; the vagueness of its provisions, at least as they appear in the French translation, in which incongruous notions are assimilated to each other; the arbitrary splitting up of the text, which results from a vote taken phrase by phrase. All this, in his view, makes it impossible for him to follow a course other than abstention.

The French expert, however, anxious to avoid any ambiguity or misunderstanding, would like to make it clear that he approves of Mr. Borisov's idea – if that is indeed the sense of his proposal – of applying penal sanctions to any infringements of the principle of non-discrimination.

Furthermore, the French expert feels he should state that when the Sub-Committee is in a position, at the present or at a later session, to enter into the discussion of this problem, he will be prepared to advocate or propose any text based on the following principles:

- I. The principle of making it compulsory for the various national constitutions and laws to include in their relevant statutes provisions for the punishment of infringements of the principles of non-discrimination and for redress of such infringements.
- II. The principle of setting up an International Tribunal of Human Rights.
- III. As regards sanctions applicable to discrimination, the principle of the pre-eminence of international over national law [6] to be enforced by means of conventions based on an appropriate limitation of national sovereignty.
- IV. The principle of the responsibility of public officials before the municipal and the international law.
- V. The principle of repudiating the principle of immunity based either on sovereign power or on obedience to high orders.

In addition, the role which the Sub-Commission might have to play, in an informal fashion, in facilitating conciliation during the period preceding any formal procedure, would deserve a special study.

Mr. McNamara and Dr. Wu submitted a text amending the second paragraph of a proposal by Mr. Borisov. Its wording was as follows:

“Any advocacy of national, racial and religious hostility and any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion shall be prohibited by the law of the State.”

This text was not adopted, there being 5 votes for and 5 against, with 1 abstention.

On the other hand, the Sub-Commission adopted, by 10 votes with 1 abstention, the following recommendation:

“The Sub-Commission recommends to the Commission on Human Rights the inclusion in the Declaration of Rights or in the proposed Convention, in the appropriate places, of clauses condemning incitement to violence against religious groups, nations, races, or minorities.”

Article 13

Text proposed by the Sub-Commission

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

“Individuals shall be free to leave their own country and to change their nationality to that of any country willing to accept them.”²

^[2] Text established by the Drafting Committee: “There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by any general law adopted in the interest of national welfare and security. Individuals may freely emigrate or renounce their nationality.”

[7]

(Adopted by 8 votes to 2, with 1 abstention.)

Discussion centred on the right to move freely³⁷ outside the country and to emigrate and to change nationality. In the text proposed by the Sub-Commission, the right to emigrate and change nationality is unconditional.

Remarks by Mr. McNamara (Australia):

“Mr. McNamara proposes the following addition to the first paragraph of the text for consideration by the Commission on Human Rights, and by any Drafting Committee:

‘Further, any general law referred to herein shall not be inconsistent with Article 6 of the International Declaration on Human Rights, as amended by this Sub-Commission.’”

Remarks by Mr. Nisot (Belgium):

“I was unable to agree to Article 13, because of the absolute bearing of its second sentence, which is not subject to the reservation (concerning laws in conformity with the Charter) by which the first sentence is governed. In the absence of such a reservation, the possibility for individuals to leave their country or relinquish their nationality is made dependent, in principle, on their sole will, without the State being able, even for reasons of general interest or national security, to limit this possibility, in particular by making it contingent on authorization. Such a radical provision cannot, in my view, but diminish the probabilities of the Declaration being, on this point, accepted or observed by Governments.”

Remarks by Mr. Meneses Pallares (Ecuador):

“In my opinion, paragraph 2 of Article 13 should also embody the following concepts:

³⁷ The Sub-Commission agreed to replace the words “to circulate” in the draft Report with “to circulate more freely” (E/CN.4/Sub.2/SR.17, p. 7) but in the final version of the Report the word “circulate” is replaced with “move freely”.

“No State may refuse to grant its nationality to persons born upon its soil;
 “No person may be deprived of the nationality of his birth, unless by his own free choice he acquires another nationality;
 “Every person is obliged to renounce the nationality of his birth or adoption upon acquiring a new nationality.”

Article 15

Article 15 of the Drafting Committee’s text³ gave rise to discussion.

Finally, by 7 votes to 2 (with 2 abstentions), the Sub-Commission decided to take no decision on this Article at the present stage, since the Commission on the Status of Women, which was to meet in January next, was the proper body to make an exhaustive study of the Article, particularly from the point of view of marriage, and the Sub-Commission should await its findings.

[3] Text established by the Drafting Committee: “Everyone has the right to a status in law and to the enjoyment of fundamental civil rights. Everyone shall have access to independent and impartial tribunals for the determination of his right, liabilities and obligations under the law. He shall have the right to consult with and to be represented by counsel.”

[8]

Remarks by Mr. Spanien (France):

Apart from the right of consultation and representation, Article 15 should cover the idea of assistance by counsel before the courts.

On the one hand, the right to be assisted by counsel constitutes the most essential guarantee for the defendant. On the other hand, in a penal procedure, under which the accused is liable to detention, representation by counsel is not permitted under the laws of some countries.

Remarks by Mr. McNamara (Australia):

Mr. McNamara submitted the following text for consideration by the Human Rights Commission or by a Drafting Committee;

“The following words to be added after ‘everyone has the right’:
 ‘On the basis of Article 6 as amended by this Sub-Commission’”.

Remarks by Mr. Masani (India) and Mr. Daniels (United States)

“In view of the decision of the Sub-Commission that this Article was not yet open to discussion at this stage, in the absence of any recommendations from the Commission on the Status of Women, we would like to place on record our view that this Article should guarantee the right to everyone to consult with and be represented by counsel *of his own choice*.”

Remarks by Miss Monroe (United Kingdom)

“Since the Sub-Commission decided that there should be no discussion on the merits of Article 15, Miss Monroe wished it to be recorded that the right to be represented by counsel does not exist in some native courts in the British Colonial Empire. Representation by counsel has proved to be an alien importation into the judicial process of many backward people, and since it is in the British practice to allow Native Courts to develop in the manner best suited to the community which they serve, some courts still adhere to their customary procedure. Since the right to be represented by counsel is recognized in higher courts, including those which hear appeals from the Native Courts in question, the practice is not discriminatory.”

[9]

*Article 28**Text adopted by the Sub-Commission*

“Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examination for public employment shall not be a matter of privilege or favour.”⁴

(Adopted by 9 votes with 2 abstentions)

This article was adopted in the form in which it had been drawn up by the Drafting Committee, after a discussion in the course of which the value of examinations as an impartial method of selection was questioned by certain members of the Sub-Commission.

Remarks by Mr. McNamara (Australia):

“In the second sentence of Article 28, the words ‘and the subject matter of such examinations’ should be inserted after the words ‘public employment’.”

Remarks by Mr. Meneses (Ecuador):

“In the second sentence of article 28, the words ‘when required by the State’ should be inserted after the words ‘public employment’.”

*Article 36**Text proposed by the Sub-Commission*

“In States inhabited by well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment, persons belonging to such groups shall have the right as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose.”⁵

(Adopted by 6 votes to 4, with 2 abstentions.)

[4] Text drawn up by the Drafting Committee. "Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examinations for public employment shall not be a matter of privilege or favour."

[5] The following was the text prepared by the Drafting Committee. "In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right as far as compatible with public order to establish and maintain their schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State."

[10]

Remarks by Mr. Nisot (Belgium):

"This Article has given rise to a long debate, bearing, in particular, on the question whether its benefit should be limited to nationals, or, on the contrary, should be extended to all individuals, nationals or aliens, members of the groups concerned. The latter solution prevailed: the word 'persons' was inserted in the text in preference to the word 'citizens'. This is why I was unable to agree to Article 36. It appeared to me indeed excessive to grant the differential treatment in question to aliens. These, moreover, may be established on the territory only temporarily (tourists, migrant workers. . . etc.). It is hardly necessary to recall that the treaties and declarations on minorities which came into being between the two wars apply, in this connection, to nationals alone. It will be for the Commission on Human Rights to study the Draft Declaration from the viewpoint of its compatibility with paragraph 7 of Article 2 of the Charter, which forbids organs of the United Nations to intervene in matters essentially within the domestic jurisdiction of the member States. In my view, such a study will be particularly indicated with respect to Article 36 as adopted by the Sub-Commission."

Remarks by Miss Monroe (United Kingdom) and Mr. Spanien (France):

Mr. Spanien and Miss Monroe submitted the reservation that it would be necessary to make the word "persons", in the article as drafted, subject to a definition which excludes aliens from the privileges accorded to minority groups within the framework of national unity.

Remarks by Mr. McNamara (Australia):

Mr. McNamara proposes to modify as follows the text of the Drafting Committee.

1. Delete the words "a substantial number of";
2. Delete words, "as far as compatible with public order", and substitute for them the words "on the basis of loyalty to the State of which they are resident members";
3. Add the words, "where they have not a practicable facility in the official language" between the words "and" and "before", in the last line but one.

...

E/CN.4/AC.2/SR.4

8 December 1947

Original Text: French

Summary Record of the Fourth Meeting [of the Working Group on the Declaration of Human Rights]

Held at the Palais des Nations, Geneva, on Monday,
8 December 1947³⁸

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Rapporteur: Mr. Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); Mr. Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Secretariat: Miss Kitchen. Specialized Agencies: Mr. De Givry (ILO). Non-Governmental Organizations: Category A: Mr. Robinet de Clery (Inter-Parliamentary Union); Mr. Vanistendael (International Federation of Christian Trade Unions); Category B: Dr. Jeanne Eder (International Council of Women); Mr. F. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues); Mr. M. Winn (Consultative Council of Jewish Organizations).

[2]

Examination of Article 11

THE CHAIRMAN said that no corresponding Article existed in the Declaration proposed by the Representative of Panama. The corresponding Article in the Declaration proposed by the United States was Article 5 (E/CN.4/36).

MRS. BEGTRUP (Chairman of the Commission on the Status of Women) asked whether by prohibiting slavery "in all its forms" Article 11 was intended to cover the traffic in women. Would it not be preferable to mention this matter?

MR. AMADO (Panama) suggested the inclusion of this Article in the provisions of a Convention.

MR. CASSIN (France) considered it impossible that a Declaration should make no mention of the prohibition of slavery. The text proposed by the Drafting Committee had in view human dignity, and in this general form it seemed to him to cover the prohibition of involuntary prostitution. He suggested the adoption of this text, possibly with the addition of the second paragraph of Article 5 of the Declaration proposed by the United States.

MR. ROMULO (Philippines) thought the second paragraph of the Article proposed by the United States could more appropriately be inserted in Article 10. He also

³⁸ The time of the meeting does not appear in the original.

proposed that in the English text of Article 11, the words “slavery which is” be replaced by “slavery being”. His delegation preferred the text proposed by the Drafting Committee.

MR. STEPANENKO (Byelorussian SSR) said that the text of Article 11 was inadequate. It should be stated that slavery was prohibited by law and that this prohibition was an obligation incumbent upon all States. In point of fact, slavery existed not only in colonial territories but also in certain democratic States, as had been emphasized in the Report on civic rights in the United States drawn up on President Truman’s request. He therefore [3] proposed the addition of the words “by law”.

THE CHAIRMAN stated that with regard to the United States, even if certain civic rights had not yet been granted to all, nevertheless slavery was non-existent.

MRS. URALOVA (Rapporteur of the Commission on the Status of Women) emphasized that slavery was the most humiliating condition, especially for women, and that the prohibition of traffic in women ought to be explicitly mentioned in Article 11. She supported the observation made by the representative of the Byelorussian SSR on the excessive looseness in the drafting of this Article.

MR. CASSIN (France) stated that, for his part, he would have liked to see Article 11 supplemented by provisions regarding the prohibition of forced labour. But in the Drafting Committee it had been suggested that it would be better to enumerate the different forms of slavery in a Convention, and that, moreover, the prohibition of slavery was such an essential assertion that to specify its forms in a text, be it a law or a decree, could only serve to weaken it. The abolition of slavery had formed the subject of treaties between various countries, of international conventions, and of intervention by the Trusteeship Council; to insert the words “by law” would be to narrow the scope of this Article for slavery must likewise be combated by means of international conventions, by the Trusteeship Council and by economic methods.

THE CHAIRMAN reminded the Group that the final drafting of the Articles need not be undertaken. It seemed to her that the text proposed by the Drafting Committee, slightly modified by the representative of the Philippines, might be adopted, a statement being inserted in the Summary Record to the effect that in adopting this Article the Group had agreed that it should cover traffic in women, involuntary servitude and forced labour. As the [4] Summary Records were public documents it would be possible for Governments and for the Drafting Committee at its next meeting to take cognizance of this observation and to decide whether it would be appropriate to extend and clarify this Article either in the Declaration or in a Convention.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that he disagreed entirely with the opinion expressed by the representative of France, that the addition of the words “by law” would weaken the text. The laws of the metropolitan country

could quite well prohibit slavery in colonial territories. Legal provisions should not be confined to prohibiting slavery, but should also cover all disguised forms of slavery, such as alleged agreements concluded by certain planters with illiterate natives to serve as a cloak for what was in reality forced labour. All these forms of slavery would disappear if they were explicitly prohibited by laws and decrees. Moreover, this Working Group should not concern itself with what might be included in a convention, but should embody all the provisions it deemed necessary straight away in the Declaration.

THE CHAIRMAN emphasized that even if it were accepted by the General Assembly, a Declaration would not be legally binding on States, and even if the provisions proposed by the representative of the Union of Soviet Socialist Republics were included, slavery might therefore continue to exist.

MR. CASSIN (France) said he was opposed to all forms of slavery, and speaking on behalf of his country, which had been a party to numerous conventions for the abolition of slavery, he saw no objection to the insertion of the words "by law", which already appeared in many other Articles of the Declaration. He would therefore vote for the Soviet amendment.

THE CHAIRMAN put to the vote the following amendment proposed [5] by the representative of the Byelorussian SSR: "Slavery in all its forms, being inconsistent with the dignity of man, shall be prohibited by law."

Decision: The Drafting Committee adopted Article 11 as amended by the representative of the Byelorussian SSR by 5 votes to nil with 12 abstentions.

MR. ROMULO (Philippines) asked for the following note to be inserted after the Article:

"Governments of administering and metropolitan Powers shall have special responsibility for abolishing slavery in the trust and non-self-governing territories for which they are responsible."

THE CHAIRMAN stated that this note would be equivalent to a direct recommendation to Governments, and that it seemed to her preferable merely to reproduce it in the Summary Record of the meeting. It would be for the Governments to decide whether or not to take this note into account. The United States delegation would therefore vote against the addition to Article 11 of the note proposed by the representative of the Philippines.

MR. CASSIN (France) considered that the text proposed by the representative of the Philippines should be included in the analysis of the vote appearing in the minutes, but not in the form of a note implying discrimination. There were also States that had no responsibility for trust territories, where slavery was nevertheless rife.

It was therefore necessary to be impartial and to mention forced labour, whether in self-governing countries or in non-self-governing territories.

MR. AMADO (Panama) proposed that the last part of the text submitted by the representative of the Philippines be amended to [6] read “. . .and non-self-governing territories under their jurisdiction”.

MR. ROMULO (Philippines) accepted the proposal made by the representative of Panama and Mr. Cassin’s suggestion.

Decision: Article 11 was adopted on the understanding that it covered traffic in women, servitude and forced labour and that the Governments of administering and metropolitan Powers should be specially responsible for abolishing slavery in trust and non-self-governing territories under their jurisdiction.

Examination of Article 9

MR. CASSIN (France) explained that he had drafted a new Article 9 dealing with the right to justice in general, and a new Article 10 relating to criminal law.

Article 9 read as follows: “Everyone shall have the right to justice. He shall have access to independent and impartial tribunals for the determination of his rights and obligations. He is entitled to aid of counsel, and, when his personal appearance is necessary, to understand the procedure and to use a language which he can speak.”

He emphasized that he had borne in mind the observations made by the representatives of the Philippines, Panama and Byelorussia, in regard to personal appearance and language.

THE CHAIRMAN stated that the United States Delegation accepted this text.

MR. ROMULO (Philippines) thought the Article might be made more precise by deleting the first sentence; it would then read: “Everyone shall have access. . .” He proposed that the words “He is” at the beginning of the second sentence be changed to “He shall be”.

[7]

MR. CASSIN (France) stated that the first sentence of this Article was a general statement, designed to impress public opinion.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) preferred the wording “when he appears personally” to “when his personal appearance is necessary”.

MR. CASSIN (France) accepted this proposal.

THE CHAIRMAN called for a vote on the text, as amended by the representative of the Philippines and by the representative of the Soviet Union, which now read as follows: “Everyone shall have access to independent and impartial tribunals for the determination of his rights and obligations. He shall be entitled to aid of counsel, and, when he appears personally, to understand the procedure and to use a language which he can speak.”

Decision: This text was adopted by three votes to nil, with three abstentions.

Examination of Article 10

MR. CASSIN (France) explained that this text combined parts of the original wording of Articles 9 and 10. The new text of Article 10 was as follows:

“No one shall be held guilty until proved innocent and convicted.

No one shall be convicted or punished for crime or any other offence except after public trial at which he has been given all guarantees necessary for his defence and which shall be pursuant to law in effect at the time of the commission of the act charged.”

This Article embodied three principles:

- (1) No one is guilty as long as the offence has not been proved.
- (2) All trials must be fair and must provide the necessary guarantees.
- (3) Criminal laws may not be retroactive.

THE CHAIRMAN proposed that the wording of the first sentence of the English text be improved so as to read: “Any person is presumed innocent until proved guilty”. She also proposed that the words “or any other offence” be deleted, since a certain number of mild offences were dealt with by the administrative authorities and did not require a public trial.

MR. AMADO (Panama) proposed that the word “fair” be inserted before the words “public trial”, since a trial, although held in public, might still be subject to illegal pressure. He also proposed that the words “conducted by a competent court” be added after the words “fair public trial”.

MR. CASSIN (France) agreed to the inclusion of the word “fair”. With regard to the proposal that the competence of the court should be mentioned, he felt that the words “pursuant to law in effect” already embodied this idea, since laws dealt with the substance of the case no less than with the penalty to be applied and the competence of the courts. This might be explained in the analysis of the vote contained in the Summary Record. With regard to minor offences where the proceedings were not held in public, a note should also be inserted in the Summary Record to the effect that the proposed text referred only to general cases and that these general provisions did not apply to cases of immorality heard *in camera* or to the reading of secret documents, the disclosure of which would be harmful to public security, provided always that the verdict was pronounced in public.

THE CHAIRMAN called for a vote on the amended text, reading as follows: “Any person is presumed innocent until proved guilty. No one shall be convicted or punished for a crime or any other offence except after fair public trial at which he has been given all guarantees necessary for his defence and which shall be pursuant to law in effect at the time of the commission of the act [9] charged.”

Decision: The Group adopted the Article by four votes to nil, with two abstentions, it being understood that the passage concerning guarantees necessary for defence and that concerning the application of the law in effect at the time the act was committed implied the existence of competent courts, and that the text laid down a general principle which was not applicable to administrative offences and did not prevent the Court from hearing cases involving secret documents in camera provided the verdict was pronounced in public.

The meeting rose at 12 noon.

E/CN.4/AC.2/SR.5

8 December 1947

Original Text: French

Summary Record of the Fifth Meeting [of the Working Group on the Declaration of Human Rights]

Held at the Palais des Nations, Geneva, at 3 p.m.
on Monday, 8 December 1947.

Present: Chairman: Mrs. F. D. Roosevelt (United States of America). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Secretariat: Miss Kitchen. Observer: Mr. Heppel (United Kingdom). Specialized Agencies: Mr. Havet (UNESCO); Dr. Weiss (IRO). Non-Governmental Organizations: Category B: Mr. Easterman (World Jewish Congress); Mr. Winn (Consultative Council of Jewish Organizations); Miss Romer (International Union of Catholic Women's Leagues); Miss van Eeghen (International Council of Women).

[2]

Article 12 (Document E/CN.4/21, Annex F, E/CN.4.36/Add.2, A/148)

THE CHAIRMAN said that the United States Delegation was prepared to accept the Panama wording of this Article (Article 6, A/148), but would prefer a more positive beginning such as "everyone has the right".

PROFESSOR CASSIN (France) stated that the text of the Drafting Committee had been the result of a compromise, and was based on the text of several national constitutions. In his opinion, the US text (E/CN.4/36/Add.2), with possibly some modification, would be suitable. In reply to a question by the representative of the USSR as to the phrase "respect for reputation", he said that this meant the right of

the individual to be protected from slander against his reputation. He considered the alternative text (Chile and France) given in the Drafting Committee's recommendation (E/CN.4/21) rather limited and proposed the following amendment based on the US text: "Everyone has the right to protection under law of the right to privacy, family, home, correspondence and reputation."

MR. AMADO (Panama) referred to Article 6 of the Panama Draft (A/148) and thought that inviolability of the person should be afforded the same guarantees as that of his domicile.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) remarked that the obligation to protect the private life of the individual [illegible in the original] law. Qualifications should be inserted to this effect.

PROFESSOR CASSIN (France) wished to reassure the representative of Panama on the question of protection of the person which had already been covered by the article on slavery. In Article 12 it was the liberty of the home which [3] was affirmed, not that of the individual. Replying to the representative of the USSR, he pointed out that protection by law implies conformity to that law. He agreed that there were some grounds for criticism of the present text, and suggested as a further modification the following wording: "Everyone is entitled to protection under law from unreasonable interference with his reputation, privacy and family."

MR. AMADO (Panama) said the Drafting Committee and Panama texts were linked, although different. He thought that the protection of "activities" should be included in the Article.

PROFESSOR CASSIN (France) said that the substance of the Panama text was included in the Declaration as a whole. Article 12 concerned the home and the family. The protection of activities was dealt with later, and he did not think it should be included in this Article.

Decision: After some discussion concerning the English rendering of the French proposal, the following text was adopted by 3 votes to none with three abstentions.

"Article 12. Everyone shall be entitled to protection under law from unreasonable interference with his reputation, his privacy and family. His home and correspondence shall be inviolable."

Article 10. Sentence 2

THE CHAIRMAN reminded the meeting that in adopting Article 10, only the first sentence had been considered.

PROFESSOR CASSIN (France) referred to statements made at a previous meeting by the representative of the Commission on the Status of Women who had spoken of including the Article on torture references to other degrading practices. [4] This

could best be provided for by the US text (E/CN.4/36/Add.2) which included the word “indignity”.

GENERAL ROMULO (Philippines) supported this, but requested the inclusion of the words “unusual punishment or indignity”.

THE CHAIRMAN pointed out that the word “unusual” might not cover all cases. In some countries inhuman practices might not be unusual.

The US text was adopted by 5 to none and 1 abstention, reading as follows: “No one shall be subjected to torture or to cruel or inhuman punishment or indignity.”

Article 14

THE CHAIRMAN pointed out that the US short text (E/CN.4/36/Add.2) considerably curtailed the wording without altering the substance of the Article.

DR. WEISS (IRO) requested the Committee to consider the views submitted by the International Refugee Organization (E/CN.4/41). The right of asylum was of vital importance to his organization and, in his opinion, the rights granted under Article 14 were very imperfect. He hoped that the Committee would reconsider the wording with a view to sponsoring more positive action.

MR. EASTERMAN (World Jewish Congress) supported the statement of the representative of the IRO. He contended that Article 14 accorded a right of escape with no corollary of a right of access to the country of reception. Many refugees from Germany had been denied this right which had resulted in the death of thousands. Moreover, Article 14 failed to implement Article 7, since persons who were denied the right of asylum frequently died and thus were denied the right to life.

[5]

MLLE ROMAN (International Union of Women’s Catholic Organizations) strongly supported the views expressed by the two previous speakers.

THE CHAIRMAN thought it would be dangerous to raise any false hopes in the Declaration and doubted whether it was within the province of the United Nations to tell Member States that they must grant asylum. She cited the US immigration laws as a concrete instance of these difficulties. It would perhaps be feasible to place a statement in the record expressing the hope that States would take steps to receive persons seeking asylum from persecution.

PROFESSOR CASSIN (France) remarked that right of asylum was a good illustration of the difference between a Declaration and a Convention. It was appropriate that the subject be expounded in a Declaration in order that the necessary steps for implementation could be secured in a Convention which would be binding on all nations where a right was not granted under the Constitution. He proposed the wording: “Everyone shall have the right to escape persecution by seeking asylum in another country.”

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that, if an article concerning the right of asylum were included, great care should be taken to define the type of individual entitled to that right. It should only be accorded to persons persecuted on racial or religious grounds. Many supporters of the Hitler regime had posed as refugees in order to escape from their own countries and intrigue against them.

THE CHAIRMAN said that criminals had no right of asylum. She added that their object was to prepare a document which would be of value over a period of time and in which it would [6] be unwise to attempt too definitive a text.

GENERAL ROMULO (Philippines) felt that this Article should be more positive as suggested by the representative of the IRO and the World Jewish Congress. It was not so much a question of raising false hopes as of establishing a principle to be followed by all. He supported the final paragraph of the IRO proposals (Document E/CN.4/41) which he thought worthy of consideration as a substitute for Article 14 of the text before the Committee.

PROFESSOR CASSIN (France) said that the question had two aspects. First, the Article should bring out more clearly that a principle of law was involved. This could possibly be done by the substitution in the US short text of the words "to find" for "to seek". Secondly, as regards the point raised by the representative of the USSR, Article 14 could not be invoked in favour of criminals or of persons subject to extradition proceedings and a note to this effect might be included. There was a political aspect and in this connection the text of the IRO document might be considered. He did not, however, like the word "opinion" in the final paragraph of this text. Persons should only be excluded as a result of acts and not be reason of their opinions.

MR. AMADO (Panama) referred to the experience of his government in many cases where refugees had been charged with the commission of a criminal offence, in order that they should be prevented from obtaining asylum. He thought that particular care should be taken in drafting the text to guard against this.

THE CHAIRMAN suggested that comments should be inserted as a footnote to this Article with a reservation in respect of [7] criminals together with an addition that the right of asylum did not exist in any real measure at this time, and expressing the hope that it would be more literally granted in the future.

MR. EASTERMAN (World Jewish Congress) appreciated the proposal that a comment should be made as a footnote to the text but considered the words "right to find an asylum" inadequate since these imposed an obligation on the individual. He was concerned with the fate of potential victims of persecution on whose behalf he pleaded the elemental human right to be freed from danger. He was aware of the judicial difficulties of this question. He did not suggest any alteration of laws nor a right to permanent residence, but only for temporary asylum. He requested the Committee to re-examine the question in the light of these contentions.

GENERAL ROMULO (Philippines) thought that the text as it stood put the onus of finding asylum on the refugee and suggested a more positive declaration to the effect that “all refugees from religious, racial and political persecution shall have the right to seek and be granted asylum, provided however that the right of asylum shall not be granted to political refugees whose acts or opinions are inconsistent with the aims and objects of the United Nations”.

PROFESSOR CASSIN (France) thought it unwise to attempt to qualify the word “persecution”. In his view the comment should stress the necessity for a Convention and point out the difficulties imposed on bona fide persons seeking asylum.

Decision. The following wording was then put to the vote; adopted by 4 to none, with 2 abstentions.

[8]

“Article 14

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

Article 15

THE CHAIRMAN drew attention to the suggestion in the Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/52) page 7, to refer Article 15 to the Commission on the Status of Women. As regards the text of the Article, the US delegation was prepared to accept the Drafting Committee’s version, but preferred the US short text (E/CN.4/36/Add.2).

MRS. BEGTRUP (Commission on the Status of Women) expressed surprise at the recommendation of the Sub-Commission in view of the conclusions recorded in the last Report of the Commission on the Status of Women (E/281/Rev.1) advocating full equality of civil rights. She agreed that these conclusions were too detailed for incorporation in the Declaration, but suggested that they could be included in a general statement to read “everyone has full equality of civil rights, irrespective of marriage, race, language or religion”.

GENERAL ROMULO (Philippines) thought the question would be covered when Article 6 came up for consideration.

THE CHAIRMAN suggested that women were included under the wording “everyone” in this Article.

PROFESSOR CASSIN (France) supported the Chairman and stressed the fact that Article 15 not only envisaged equality of sex but had two other points of significance. Firstly, it was the counterpart of the Article on the abolishment of slavery, [9]

the conception of which it entirely eliminated. Secondly, it was an expression of the fundamental civil rights of man. The many different aspects of this important question had been brought out by the proposals contained in the Report of the Sub-Commission on Minorities (Document E/CN.4/52). In his opinion, it was impossible to achieve complete equality of civil rights at this juncture, but every State should be bound to concede those rights without which no human being should be forced to live, that is to say the fundamental civil rights. This was the sense of Article 15.

MISS LOMAN (International Union of Women's Catholic Organizations) said that, after hearing the views of the representatives of France and the Philippines, she was in agreement that the subject was generally covered by the Article in question, but thought that there should be some protection in the Declaration for the unity of the family.

MISS VAN EEGHEN (International Council of Women) claimed that women should have equal civil rights whether married or unmarried and stated that many countries gave women equality of civil rights which they lost on contracting marriage. She asked that the Declaration should affirm the right of women to enjoy the same status whether married or unmarried.

MRS BEGRUP (Commission on Status of Women) maintained that this intention was clearly in the minds of the Drafting Committee (as witness the note on Article 15) and also of the persons responsible for the Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Document E/CN.4/52). She was not asking for any special concessions for women for equality of rights.

[10]

THE CHAIRMAN pointed out that Article 5, which had already been adopted referred to "all as being equal before the law". She proposed the following text:

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

Decision: The above text was adopted by 3 to 1 with 2 abstentions. This text was adopted.

PROFESSOR CASSIN (France) thought it advisable to insert after Article 15 a further clause or separate Article on the contracting of marriage which should not be permitted without the free consent of both parties or to those whose age was not compatible with free consent.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that it would be preferable to have a separate Article on Marriage. In his country, marriage and the family were placed under the protection of the law which governed impartially the

rights of both sexes. The mother and child were afforded a special safeguard. He thought that an Article should be drafted on the lines that men and women should have the same right of choosing a marriage partner, followed by a clause affording the protection of the State to the marriage, family and children.

THE CHAIRMAN ruled that further discussion of this matter should be postponed until all proposals were submitted in writing.

Article 16

THE CHAIRMAN proposed that consideration of this Article should be deferred until the economic and social rights were discussed. They began with Article 29. This proposal was supported by the representative of the Philippines.

PROFESSOR CASSIN pointed out that there was a logical order to the Chapters with which the Drafting Committee's [11] text was originally headed, but he had no objection to alternation of the sequence for the purposes of discussion.

Article 18

In reply to a question by the representative of the USSR as to what was meant precisely by the sentence "everyone has a right to a nationality", PROFESSOR CASSIN (France) said that nationality and the right of asylum were closely linked. As a result of the war there were thousands of stateless persons all over the world constituting a grave social issue, both from the point of view of the country harbouring them and of the people concerned. Whilst the United Nations had no power to grant nationality, a duty remained to call the attention of Member nations to a situation which would become increasingly serious. For these reasons, the principle enunciated by the Article should be the subject of a Convention.

DR. WEISS (IRO) expressed himself in agreement with the representative of France, and made reference to the IRO document E/CN.4/41. He said that such a Declaration, however, could amount to little more than a pious hope and that there would be stateless people for many years to come. Refugees did not enjoy the normal rights of persons possessing a nationality and his organization was in favour of the creation of a permanent special agency to exercise a more effective protection over these people. He requested that Article 16 should contain some proposal to this effect. The IRO itself was a non-permanent institution dealing with a limited class of persons only.

MR. WINN (Consultative Council of Jewish Organizations) asked whether the Committee could not insert an addendum to [12] this article in the following form:

“the United Nations recognize statelessness as a denial of Human Rights and contrary to the interests of the international community”.

MRS. BEGTRUP (Commission on the Status of Women) expressed a special interest in this subject, since many women forfeited their nationality on marriage. The question had been under consideration for many years, but there had been serious obstacles to its solution. She expressed the view that this issue should be made the subject of a Convention.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) felt that the right expressed under this Article would be void unless the obligation to grant nationality was clearly defined. He asked on whom the obligation was to be imposed, since the principle seemed an infringement of the sovereign rights of States. There were instances of stateless persons who had violated their national laws. He took the view that it was not within the scope of the Committee to deal with such a complex problem.

PROFESSOR CASSIN (France) agreed that it was impossible in the Declaration to touch on all the aspects of this question, but that it was essential to stress the importance of a matter which might exercise a great influence on the future well-being of the community of nations.

Decision: The text as proposed by the Drafting Committee (Document E/CN.4/21, Annex F) was adopted by 4 votes to 1 with 1 abstention.

GENERAL ROMULO (Philippines) suggested that the following paragraph from the statement of the Preparatory Commission of the International Refugee Organization (Document E/CN.4/41, page 3) might be adopted as a comment to Article 18.

[13]

“All persons who do not enjoy the protection of any State shall be placed under the protection of an International Organization established by the United Nations.”

THE CHAIRMAN said that this would involve putting on record a recommendation for the creation of a new specialized agency and she thought it would be preferable to make a more general comment.

PROFESSOR CASSIN (France) suggested that such a comment could be worded:

“The United Nations should assume certain responsibilities for those who have not a nationality and a Convention might be drawn up to this effect.”

Decision: The above comment was adopted without objection.

The meeting rose at 7 p.m.

E/CN.4/AC.2/SR.6**9 December 1947****Original Text: French**

***Summary Record of the Sixth Meeting [of the Working
Group on the Declaration of Human Rights]***

Held at the Palais des Nations, Geneva, Tuesday,
9 December 1947, at 10 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Observer: Mr. Heppel (United Kingdom). Secretariat: Miss Kitchen. Specialized Agencies: Mr. Bessling (ILO); Dr. Weiss (IRO). Non-Governmental Organizations: Category A: Mr. Robinet de Clery (Inter-Parliamentary Union); Mr. Vanistendael (International Federation of Christian Trades Unions); Category B: Dr. Jeanne Eder (International Council of Women); Mr. F. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues); Mr. Winn (Consultative Council of Jewish Organizations).

[2]

Examination of Article 15 (E/CN.4/21, Annex F)

THE CHAIRMAN said that the Committee had two proposals before it relating to the question of marriage.

MR. STEPANENKO (Byelorussian SSR) proposed that the question of marriage and the family be dealt with in a special article, and that this article be worded as follows:

“Marriage and the family shall be protected by the State and regulated by law, on the basis of equal rights for men and women, without distinction as to race, religion or origin. Mothers and children are entitled to special protection and assistance by the State.”

THE CHAIRMAN proposed the following article for insertion after Article 15:

“Women and men shall have the same freedom to marry and to choice of marriage partner, and the same access to remedies for breach of marriage.”

She pointed out that the Byelorussian proposal did not take into account the religious aspect of marriage. The United States proposal, without expressly mentioning the Church's right in the matter did not place the emphasis on exclusive control by the State, thus recognizing the rights both of the State and of the Church.

On the other hand, the United States proposal did not mention the right of mothers and children to special protection; that seemed to her to be a matter of social security (Article 34).

MRS. BEGTRUP (Chairman of the Commission on the Status of Women) said she would prefer to see mothers' rights and the protection of children mentioned in two separate paragraphs. It would be preferable to include the text in the provisions relating to social security, but if the Byelorussian representative's proposal was accepted, she would prefer the terms "mothers [3] rights" and "protection of children" to the terms "protection of mothers and children".

MISS DE ROMER (International Union of Catholic Women's Leagues) proposed the Group should adopt a text affirming equality as regards marriage without specifying whether it was a case of contracting marriage or dissolving it. She supported the proposal to insert a provision for the protection of the family.

MRS. URALOVA (Rapporteur of the Commission on the Status of Women) said that the status of married women, particularly married women who worked and who did not enjoy the protection of the State, was often inferior to that of married men.

The article proposed by the representative of Byelorussia was therefore very necessary. The Commission on the Status of Women had submitted recommendations on the subject to the effect that a married woman should receive her pay during the sick leave preceding and following confinement. She therefore supported the proposal of the representative of Byelorussia.

THE CHAIRMAN said that mothers' rights and the protection of children should be dealt with in a special article or be mentioned in Article 34 as they came under the head of social security.

MR. VANISTENDAEL (International Federation of Christian Trades Unions) asked the Group out of respect for human opinions and for Christian principles in particular to establish a text providing for equality of men and women with regard to marriage without any qualification. He warmly supported the observations of the representative of the Catholic Women's Leagues.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that in marriage in the twentieth century the free will of the [4] two parties was no longer the essential question. The question of marriage should be examined from the angle of the protection which the State must give the home, and the main emphasis should be placed on the protection of children. The question of civil or religious marriage was of secondary importance and in no way affected the text of the Byelorussian proposal. The protection of the married couple and of the home was a duty of the State, whatever their religious views. He considered, further, that the protection of mothers and children was more closely connected with the provisions dealing with marriage than with those dealing with social security, and should be included in the Article under discussion.

MR. CASSIN (France) considered it essential to affirm the principle of the free consent of the two parties, which was not universally recognized, and he ventured to suggest the following draft for the first paragraph: "Marriage requires the free consent of each of the parties; children cannot marry." The second paragraph would contain the first sentence of the Byelorussian representative's proposal: "Marriage and the family shall be protected by the State" to which he suggested adding "and by society", it being understood that all kinds of societies were meant, including churches. The third paragraph would contain the remainder of the Byelorussian proposal: "they shall be regulated by law, on the basis of equal rights for men and women, without distinction as to race, religion or origin." In order to preserve some kind of uniformity, the protection of mothers and children might be dealt with in another Article, relating to provisions of an economic and social character. In any case, the idea was covered by the mention of protection of the family by the State.

[5]

The Article would therefore include three points:

- (1) The fundamental right to marriage based on free consent;
- (2) The institution of marriage protected by the State and by society;
- (3) The regulation of marriage by the law on the basis of equality.

MR. ROMULO (Philippines) proposed the following draft, which seemed to him a compromise between the United States proposal, the Byelorussian proposal and the French proposal:

"Women and men shall have the same freedom to contract marriage in accordance with law, and to the same remedies for breach of marriage.

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

"Mothers and children are entitled to special protection and assistance by the State."

The last paragraph might be inserted in another part of the Declaration.

MR. AMADO (Panama) said he could not accept any of these proposals. Marriage had many religious and moral aspects as well as political ones. Some States were bound by laws based on Concordats with the Church and had, in respect of religious marriage and of divorce, obligations which would not permit them to accept the proposed texts. The Delegation of Panama proposed the following text: "Equal freedom to marry is the right of men and women."

THE CHAIRMAN said the United States Delegation was prepared to limit its proposal to the following terms: "Men and women shall have the same freedom to marry and to choice of marriage [6] partner." It was also willing to accept the proposal submitted by the representative of the Philippines.

The Group therefore had before it the following proposals:

- (1) The shortened proposal submitted by the United States representative which might be substituted for the proposal submitted by the representative of Panama.
- (2) The proposal submitted by the representative of Byelorussia.
- (3) The proposal submitted by the representative of France.
- (4) The proposal submitted by the representative of the Philippines.

She proposed that a vote be taken on the proposal submitted by the representative of the Philippines, it being understood that the provisions relating to mothers and children were accepted in principle by the Group, but that the place where they were to be inserted could be decided later. The Group therefore had only to vote on the first two paragraphs of the Philippine representative's proposal.

MR. ROMULO (Philippines) proposed, in order to satisfy the representative of Panama, to change the first sentence of his proposal as follows: "Women and men shall have the same freedom to contract marriage in accordance with the law."

MR. AMADO (Panama) said he was prepared to accept the first sentence in that form, but that he could not vote for the second sentence.

THE CHAIRMAN called for a vote on the first sentence of the Philippine representative's proposal, namely: "Men and women shall have the same freedom to contract marriage in accordance with the law."

[7]

Decision: the above text was adopted by 4 votes to nil, with 2 abstentions.

THE CHAIRMAN called for a vote on the second sentence of the Philippine representative's proposal, namely: "Marriage and the family shall be protected by the State and society."

Decision: the above text was adopted by 3 votes to 1, with 2 abstentions.

THE CHAIRMAN reminded the Committee that the text adopted would not be added to Article 15 but would form a separate article which would follow Article 15. The protection of mothers and children would be discussed in connection with Article 34 and could not form the subject of a separate article.

MR. HEPPEL (United Kingdom) said the text adopted by the Group might be completed by a provision to the effect that married people should have the right to reside together in any country from which they could not be lawfully expelled.

THE CHAIRMAN said that this provision should appear in the Comments on the Article rather than in the actual text. In any case, she thought it was covered by Article 13, the discussion of which had been postponed.

MR. ROMULO (Philippines) said that his Delegation was in favour of the text proposed by the United Kingdom representative being included in the Comments.

THE CHAIRMAN called for a vote on the proposal that this text be included in the Comment on the Group's decision.

Decision: The Group decided by 4 votes in favour, with 2 abstentions, to mention as a comment on its decision that married persons should have the right to reside together in any country from which they could not be lawfully expelled.

[8]

Examination of Article 19

THE CHAIRMAN said the United States Delegation was in favour of omitting this Article, which appeared to be covered by previous provisions.

MR. HEPPEL (United Kingdom) suggested that the end of the Article proposed by the Drafting Committee be amended as follows: "... may be arbitrarily expelled therefrom". That formula seemed to conform more closely to international usage.

MR. WEISS (International Refugee Organization) pointed out that this Article was a corollary of the right of asylum which had been adopted by the Group. The International Refugee Organization had proposed, on page 4 of the Report it had submitted (document E/CN.4/41), a draft Article on this subject. The Group might also take into consideration Article 33 of the original draft submitted by the Secretariat (Annex A, E/CN.4/21).

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said there was no occasion to deal with special rights of particular individuals in a Declaration of a general character, especially as such questions were usually settled by bilateral agreements between States parties to conventions.

MR. CASSIN (France) thought it was better to keep to the text submitted by the Committee, as that text was more precise than the British proposal. Experience had shown that some such measure was necessary. It appeared to him difficult, however, in a Declaration, to go beyond a simple affirmation of the right of asylum. He asked the Group to keep that text as a possible basis for a Convention.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) emphasized that the task of the Human Rights Commission was to protect human rights for the largest possible groups in largest [9] possible areas and that the Declaration should not deal with the obligation of certain States towards isolated individuals who did not belong to a State nor even to national minorities. For this general reason, therefore, he thought the Article was superfluous.

THE CHAIRMAN called for a vote on whether the Article should be omitted.

Decision: The Group decided to omit this Article by 3 votes to 2, with 1 abstention.

Examination of Article 20

THE CHAIRMAN explained that this Article corresponded to Article 1 of the Declaration submitted by the Delegation of Panama, and to Article 2 of the Declaration submitted by the United States Delegation. The text proposed by the Drafting Committee also embodied an alternative proposed by the United Kingdom.

MR. CASSIN (France) said that since the Article had been drafted, various churches had submitted an amendment aimed at included under religious freedom the right to philosophic and religious teaching. The Article might be considerably lightened by omitting the list of limitations necessary to protect public order and morals, which would be incorporated in a special article.

MR. NOLDE (Commission of the Churches on International Affairs) said that religious freedom had five aspects:

1. Freedom of worship;
2. Freedom of observance;
3. Freedom of teaching;
4. Freedom of association;
5. Freedom of practice.

[10]

He asked the Group, even if it preferred a short text, not to leave out any of these five points, nor a reference to their application.

MISS DE ROMER (International Union of Catholic Women's Leagues) said that with regard to religious teaching, she was in favour of the alternative proposed by the United Kingdom, subject to certain amendments as to the right of minors as well as of persons of full age to change their religion.

THE CHAIRMAN said she was in favour of any amendment which aimed at including in this Article the right to religious teaching, but the text proposed by the United Kingdom seemed to her too long.

MR. AMADO (Panama) proposed that the text submitted by his Delegation (A/148) be adopted, with the following amendment: "Freedom of belief and of worship and of religious teaching is the right of everyone." That right was implicitly linked with other rights, such as that of forming associations of a religious character and of free communication among religious authorities, and between religious authorities and the faithful.

MR. HEPPEL (United Kingdom) said that his Delegation's proposal had been drafted with a view to a Convention, and he saw no objection to shortening it. He thought it dangerous to leave out the limitations as long as there was no general Article embodying them.

MR. CASSIN (France) proposed that the first paragraph of the Article submitted by the Drafting Committee be kept, and that the second paragraph be amended by omitting the restrictions necessary to protect public order, morals and the rights and freedoms of others, and by adding a reference to religious teaching.

[11]

THE CHAIRMAN proposed the following text, to replace the second paragraph of Article 20:

“Every person has the right freely to manifest his beliefs in religious worship, public or private, in observance and in teaching, association and practice.”

MR. ROMULO (Philippines) supported the Chairman’s proposal.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that in countries where the Church was separate from the State, religious teaching was a private matter. Moreover, such an Article should grant freedom of conscience, not only for the practice of religion, but also for anti-religious propaganda. That was what was meant by freedom of conscience in a democratic State.

THE CHAIRMAN said it had been understood in the Drafting Committee that the first paragraph of Article 20 covered full freedom of conscience for believers and for atheists. Account might, however, be taken of the observations made by the Soviet representative by leaving out all mention of religion in the second paragraph.

MR. ROMULO (Philippines) agreed with that proposal.

MR. CASSIN (France) thought it dangerous to leave out the words “religious” and “religion” in the second paragraph for fear of raising there the problem of freedom of teaching in general, which was dealt with elsewhere.

In his opinion, it would have been preferable to keep the second paragraph of Article 20, adding to it a reference to religious and philosophic teaching, as that paragraph expressed the right of manifesting convictions, whether religious or anti-religious. However, if the text proposed by the Chairman were adopted, he would prefer to include in it the terms “philosophic” and “religious”. The paragraph would then read:

[12]

“Every person has the right freely to manifest his beliefs in religious worship, public or private, in observance and in philosophic and religious teaching, association and practice.”

MR. ROMULO (Philippines) said he could not accept that amendment.

THE CHAIRMAN proposed that a vote be taken on the proposal submitted by the French representative and that each part be voted on separately. She called for a vote on the first paragraph, which was identical with the first paragraph of Article 20 as submitted by the Drafting Committee.

Decided: The Committee adopted the first paragraph by 3 votes to 1, with 2 abstentions.

THE CHAIRMAN put the second paragraph to the vote.

Decided: The Committee rejected this paragraph by 2 votes to 2, with 2 abstentions.

THE CHAIRMAN put to the vote the second paragraph of the proposal submitted by the Philippine representative, which read:

“Every person has the right freely to manifest his beliefs in worship, public or private, in observance and in teaching, association and practice.”

Decided: The Committee rejected the said paragraph by 2 votes to 2, with 2 abstentions.

THE CHAIRMAN put to the vote the proposal submitted by the representative of Panama. That proposal read:

“Freedom of belief, of worship and of religious teaching is the right of everyone.”

Decided: The Committee adopted the above proposal by 2 votes to 1, with 3 abstentions.

THE CHAIRMAN explained that the text of this Article [13] would have to be redrafted in order to avoid the repetition in the second paragraph of ideas expressed in the first.

The Comment on this decision would mention the fact that the Article covered freedom of worship, of religious observance, and of association.

The meeting rose at 1:15 p.m.

E/CN.4/AC.2/SR.7

9 December 1947

Summary Record of the Seventh Meeting [of the Working Group on the Declaration of Human Rights]

Held at the Palais des Nations, Geneva, at 3 p.m.
on Tuesday, 9 December, 1947

Present: Chairman: Mrs. F.D. Roosevelt (United States of America). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Observer: Mr. Heppel (United Kingdom). Secretariat: Miss Kitchen.

Specialized Agencies: Mr. Havet (UNESCO); Mr. Barblé (IRO); Mr. Bessling (ILO). Non-Governmental Organizations: Category A: Mr. Vanistendael (International Federation of Christian Trades Unions); Category B: Mr. Breumfeld (World Jewish Congress); Mr. Brotman (Consultative Council of Jewish Organizations); [2] Mr. Nolde (Commission of the Churches on International Affairs); Mlle Romer (International Union of Catholic Women's Leagues); Miss Eder (International Council of Women).

Consideration of the Report of the Drafting Committee

Document E/CN.4/21, Annex F

Articles 21 and 22

THE CHAIRMAN expressed the view that, since the question of freedom of information would be fully debated at the Freedom of Information Conference to be held in March, 1948, it would be preferable to defer consideration of these two Articles until after that. It was clear that the recommendations of the Conference would furnish the basis for future consideration. She suggested that these two Articles be omitted and an explanatory footnote added in the Report.

This proposal was adopted without objection.

Article 23

THE CHAIRMAN called attention to the three different texts on this Article (Drafting Committee, Panama (A/148) & US (E/CN.4/36)). Her own opinion was that the United States' short text was more inclusive and more concise.

MR. AMADO (Panama) emphasized the importance of drawing a distinction between political associations which complied with democratic customs, and assemblies convened for the purpose of upsetting existing institutions or for other discreditable objects. He considered that an amendment should be included to exclude the latter.

MR. CASSIN (France) supported this suggestion. It would be advisable to link the nature of the associations with the aims of [3] the United Nations. He proposed a modification of the text with reference to associations which were not contrary to the principles of the United Nations.

The Article should also express the idea of international associations in order to give official status to recognized institutions of this type.

MR. STEPANENKO (Byelorussian SSR) contended that the Article contained nothing regarding legal guarantees of the right of association, nor did it indicate the democratic character that such assemblies should bear. They should only be permitted if existing for truly democratic purposes. The Article did not refer to Trades Union Associations whose rights were limited in many states, although these

associations existed for the benefit of millions. He wished to draw particular attention to this matter.

THE CHAIRMAN pointed out the difficulty of affording the right of assembly, without previous knowledge of what was intended. She thought the qualifying phrase "right of peaceful assembly" should be used.

A discussion ensued as to the advisability of describing the forms of association, such as economic, religious, social, cultural, political.

It was decided that no attempt at an enumeration could be exhaustive.

GENERAL ROMULO (Philippines) proposed the following wording: "Everyone has the right to freedom of peaceful assembly, and association for purposes not inconsistent with this Declaration."

MR. CASSIN (France) suggested that the question of Trade Union rights would be discussed in the consideration of social rights.

[4]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that the clearest distinction should be made between democratic and undemocratic associations. The Declaration should afford the fullest protection to democratic organizations like the World Federation of Democratic Women. It should in no way protect any organization which was contrary to democratic principles. He emphasized that Trade Union rights should be specifically mentioned in Article 23.

THE CHAIRMAN thought that "association for purposes not inconsistent with the principles of the UN" would cover the point concerning democratic organizations.

MISS EDER (International Council of Women) considered it important and desirable that the words "national and international associations" should be used. Freedom of association could exist within a country and yet not internationally.

MR. VANISTENDAEL (International Federation of Christian Trades Unions) pointed out that the question of trade union rights had recently been referred by the Economic and Social Council to the International Labour Organization which had not yet concluded its study of the subject. He thought the ILO report should be examined before the trade union rights were fully implemented in a Convention.

MR. AMADO (Panama) proposed the following wording:

"Freedom to assemble peaceably with others and to form associations, either national or international, of a political, economic, religious, social, cultural or any other character, for purposes not inconsistent with these Articles, is the right of everyone."

GENERAL ROMULO (Philippines) accepted the addition of the words "national and international" to his proposal.

[5]

MR. HEPPEL (United Kingdom) submitted that the addition of the word “local” as well as “national and international” might be advisable, since its meaning was not fully covered by the word “national”.

MR. CASSIN (France) thought that the text could be drafted on the basis of the Philippine proposal with the addition of the following: “for purposes of a political, cultural, economic, religious, social, trade union or any other character”. He considered that the adoption of the suggestion of the Soviet Union representative to restrict the mention to those associations which were engaged in the fight for democracy would exclude neutral but equally deserving institutions.

The following text was adopted by 4 votes to none with 2 abstentions:

“Article 23.

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

MR. AMADO (Panama) said that he had wished to point out before the vote was taken that certain national constitutions forbade associations of an international character and consequently the Committee had voted for something which might not be acceptable to a number of Governments.

THE CHAIRMAN then requested approval of a suggestion from the representative of the Philippines to include the following as a footnote to Article 23:

“That no individual or association that aims to destroy the fundamental rights and freedoms set forth in this Declaration can claim protection under this Article.”

This was adopted without a vote.

[6]

Replying to the representative of Panama, the Chairman said that a comment could also be included to the effect that the Article was not intended to include international political associations forbidden by law.

Article 24

THE CHAIRMAN said that the United States Delegation was prepared to accept the Drafting Committee’s version, provided the Article began with the wording: “No one shall be denied the right.”

MR. CASSIN (France) was also agreeable to this text and suggested that the words “public authorities” should be substituted for “government”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked why the individual was given a right of petition to the United Nations and in what capacity the latter

could act. The United Nations had never been given the task of looking after the interests of the individual.

MR. HEPPEL (United Kingdom) said that his delegation wished to raise a somewhat similar query but on the grounds of the wisdom of encouraging petitions of this nature until the machinery at the disposal of the United Nations for dealing with such cases had been clearly defined.

GEN. ROMULO (Philippines) considered this to be a fundamentally important provision, particularly in connection with minorities, non self-governing peoples and peoples under trusteeship. The regulations of the Trusteeship Council expressly permitted such right of appeal, which provided the sole means of redress in the case of individuals from Trust territories.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) emphasized that this Article did not deal with the rights of minorities, but of individuals. Rights of minorities, and peoples of non self-governing and Trust territories would be protected under different provisions.

[7]

MR. CASSIN (France) wished to retain this Article. He thought the right of petition to the United Nations should be a right possessed by everyone, irrespective of whether they formed part of a minority or whether they lived in an autonomous state or in a non self-governing or Trust territory. He favoured a procedure by which such petitions could be made through recognized bodies which would tend to eliminate appeals of a frivolous character.

MR. HEPPEL (United Kingdom) wished it to be made clear that his delegation strongly supported the principle of the right of petition, which should be equally applicable in any part of the world. He was only concerned with the advisability of giving an impression that the United Nations was ready to redress grievances.

The following article was adopted by 4 votes to none with 2 abstentions:

“Article 24.

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

Article 25

THE CHAIRMAN drew the attention of the meeting to the comment on this Article in the Drafting Committee’s text and suggested that it should be considered for inclusion in the preamble.

It was agreed without a vote to consider this Article either in the preamble or at the end of the Declaration.

Articles 26 and 27

THE CHAIRMAN proposed that Articles 26 and 27 should be read together and if possible combined.

GEN. ROMULO (Philippines) proposed the following wording:

“Everyone has the right to take an effective part in his Government directly or indirectly through elections which should be periodic, free and by secret ballot.”

[8]

MR. CASSIN (France) said that he would prefer the expression “every citizen” to “everyone” as it was not everyone who was qualified to participate in government. He also considered that whatever text was adopted should not eliminate the phrase “will of the people” which was the source of all power.

THE CHAIRMAN preferred the retention of the word “everyone” as including the inhabitants of non self-governing territories who are not citizens but to whom the Declaration would afford some rights of participation in Government.

MR. HEPPEL (United Kingdom) said that he disliked the word “citizen” if it excluded persons in non self-governing territories. His delegation felt that the Secret Ballot was a form of democratic procedure which was neither understood nor accepted by some of the British African dependencies. Their forms of Native Government were based on old-established customs with which it was the policy of his Government to interfere as little as possible. The principle of developing democratic institutions was fully recognized. As an illustration of the difficulties, he quoted from a report to the Trusteeship Council from the Commission on Samoa, stressing the dangers of the arbitrary imposition of western democratic procedure. His delegation was reluctant to accept the words “secret ballot” in this Article.

THE CHAIRMAN felt it would be impossible to eliminate these words from the Article but said that the observations of the United Kingdom delegation could be inserted as a comment, possibly in the form of the extract from the report of the Trusteeship Council.

MR. AMADO (Panama) observed that there were three elements in the Articles under discussion. Firstly, the right to take part in the government of the state. Secondly, the duty of the State to conform to the will of the people. And thirdly, a form of procedure for expressing that will. Since all these essentials were conveyed by the Panama text (A/148), he advocated its adoption.

[9]

MR. STEPANENKO (Byelorussian SSR) considered that the right of the individual to take part in the government of his State was imperfectly expressed in the drafts. He submitted a fresh draft which he said was more concrete and precise, reading as follows:

“All citizens of any state regardless of race, sex, language, religion, fortune, education, national or social origin, have the right to elect and be elected in all organs of their government by universal, free and general elections.

“Everyone has the right to participate in the organs of the government of the state of which he is a citizen.”

MRS. BEGTRUP (Commission on Status of Women) said that in practice there were still in many countries qualifications of class, income and sex regulating suffrage. She would like to see the word “equal” before “election”.

MISS EDER (International Council of Women) supported this view and emphasized equality of suffrage.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) supported the draft proposed by the representative of Byelorussia which, in his opinion, was complete and explicit. He said that the obligations imposed on nations responsible for non self-governing and trusteeship territories by the Charter Articles 73(b) and 76(b), which he quoted, were well-known, but discrimination still existed in matters of race, class, sex and wealth, as it did in metropolitan countries. Consequently, the Article should contain a clear definition of the unqualified right of the citizen to elect and to be elected and should emphasize the obligation on colonial powers to encourage self-government until independence were reached.

MRS. URALOVA (Commission on the Status of Women) said that the draft Articles did not clearly define the rights of women, who were still struggling for equality in the political and economic field. [10] She hoped that this equality would be fully recognized by the Declaration, since without it no real spirit of democracy could exist. Her Government³⁹ had given practical effect to these principles more than anywhere else in the world. She quoted instances where women were still partly or wholly excluded from the political, economic and social life. In reactionary countries there was a strong tendency to campaign against the participation of women in public life, and she asked that such propaganda should be condemned. She reminded the meeting that women everywhere were looking to this Declaration as the recognition of their aspirations and supported the Byelorussian draft as the most effective expression of these sentiments.

MISS ROMER (International Union of Women’s Catholic Organizations) stressed the solidarity of women on the matter of equality of political rights and suggested that a comment should emphasize that the word “everyone” in the Article contained no discrimination against women.

There was discussion on the wording of the Article between the Representatives of France, the Philippines and Panama, together with the Chairman. It was agreed to

³⁹ Byelorussian Soviet Socialist Republic.

replace “The State has a duty” by “The State shall” and to add the word “fair” to the adjectives qualifying “elections”.

On the request of the Representative of the Byelorussian SSR, his proposal was put to the vote but was rejected by 3 votes to 1 with 2 abstentions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) explained that, while he supported this proposal, he would abstain from voting on it in conformity with the declaration he had made at the first meeting of the Committee.

[11]

The following draft was then put to the vote and adopted by 4 votes to 1 with 1 abstention:

“Articles 26 and 27. Everyone without discrimination has the right to take an effective part in the Government of his country. The State shall conform to the will of the people as manifested in elections which shall be free, fair, periodic and by secret ballot.”

Article 28

THE CHAIRMAN said that this Article had been the subject of observations by the Sub-Commission on Minorities and she suggested that consideration should therefore be deferred.

Articles 29 and 30

THE CHAIRMAN accepted the suggestion made by the Soviet Union Representative that Articles 29 and 30 should be studied together. This was adopted without objection.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that when establishing the right to work, it was also necessary to recognize the obligations of the State and particularly its duty to take steps to prevent unemployment. He thought this should be stated in the Article.

MR. STEPANENKO (Byelorussia) proposed the following wording:

“Everyone has the obligation and the right to work, i.e. the right to obtain a salary commensurate with his ability. The State has an obligation to take all necessary measures to eliminate unemployment.”

MR. CASSIN (France) was in favour of the Panamanian Article 12 (A/148), but wished to retain the phrase “Human labour is not a merchandise” in accordance with various ILO conventions.⁴⁰

MR. VANISTENDAEL (International Federation of Christian Trade Unions) pointed out that it was a part only of the duty of the state to guarantee employment;

⁴⁰ This is an unfortunate translation of the word “commodity”. The 1944 Philadelphia Declaration of the International Labour Organization declares “labour is not a commodity” as one of the “fundamental principles” on which the Organization is based. In French, the Declaration says “le travail n’est pas une marchandise”.

it had the primary duty of [12] harmonizing the economic life of the nation to permit full employment. He suggested that the text should be so drawn up as to avoid any implication of compulsory labour.

THE CHAIRMAN then called for a vote on the first sentence of the Article: "Everyone has the right to work", which was adopted by 5 votes to none with 1 abstention.

MR. CASSIN (France) suggested that the second paragraph of Article 12 of the Panamanian Draft (A/148) should form the second paragraph of the Article: "The state has a duty to take such measures as may be necessary to ensure that all its residents have an opportunity for useful work."

THE CHAIRMAN pointed out that all States might not be able to guarantee useful work for all and suggested that the Article should read: "The State has a duty to make every effort to ensure. . ."

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that he was satisfied with the conception that the State was under an obligation to provide employment. That was recognized and complied with in the USSR, but there were other states which had been unable to discharge this duty. He considered that a clause should be incorporated underlining the responsibility of the State for taking every possible measure to prevent unemployment.

MR. CASSIN (France) pointed out that the duty of the State to give the right to work was governed by its potential for implementing this function, and he suggested a wording on the following lines:

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

MR. STEPANENKO (Byelorussian SSR) said that unemployment was a distressing situation with such repercussions on family life that the onus to prevent it should be placed on the State.

[13]

MRS. URALOVA (Commission on Status of Women) stated that the right to work and to pay was of particular importance to women engaged in public employment where men were still receiving far higher rates than women. Frequently public appointments were kept open until a man was accepted. Not only equal rights of employment, but equal conditions in employment were required. The 1937 report of the Commission on the Status of Women had emphasized the aspect of equality in the right to work, to pay and to leisure, and she considered that the wording of this report could well be adopted in the Declaration.⁴¹

⁴¹ *Status of Women. Report Submitted by the First Committee to the Assembly. Official No. A.54.1937.V.* Geneva: League of Nations, 1937.

MR. CASSIN (France) said the proposition fell under two headings: the right to work and the obligation of the State in this matter, and the conditions of work.

Paragraph 2 of Article 29 was adopted by 4 votes to none with 2 abstentions, reading:

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

GENERAL ROMULO (Philippines) proposed the following Article to replace Article 30 of the Drafting Committee’s text:

“Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions, and to join trade unions for the protection of his interests.

The State shall take necessary measures within its power to ensure full employment. Women shall have the right to work under the same conditions as men and to receive equal pay for equal work.”

MR. CASSIN (France) pointed out that the Philippine amendment did not include the family. He proposed it should read: “. . .in securing a decent standard of living for himself and his family”.

[14]

THE CHAIRMAN said that she wished to point out the significance of the demand in relation to the pre-natal period, maternity and other aspects, that women should be given the right to work under the same conditions as men. She suggested the representatives of the women’s organizations might wish for further reflection on those problems before committing themselves on this Article.

MRS. BEGTRUP (Commission on the Status of Women) stated that she was prepared to accept the proposed text since adequate protection for the rights of motherhood appeared to be secured under Article 34.

MISS ROMER (International Union of Women’s Catholic Organizations) thought that a reservation should be inserted that nothing expressed in this clause should contravene the existing conventions for the protection of women.

The following text was adopted for Article 30 by 5 votes to 0 with 1 abstention. The reservation was made that a comment to this Article regarding protection of women would be considered later:

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

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

The meeting rose at 7:30 p.m.

E/CN.4/AC.2/SR.8

10 December 1947

Summary Record of the Eighth Meeting [of the Working Group on the Declaration of Human Rights]

Held at the Palais des Nations, Geneva, on Wednesday,
10 December 1947 at 10 a.m.

Present: Chairman: Mrs. F. D. Roosevelt (United States of America). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Observer: Mr. Heppel (United Kingdom). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Secretariat: Miss Kitchen. Specialized Agencies: Mr. Havet (UNESCO); Mr. Barblé (IRO); Mr. de Givry (ILO). Non-Governmental Organizations: Category A: Mr. Vanistendael (International Federation of Christian Trades Unions); Category B: Mr. Easterman (World Jewish Congress); Mr. Brotman (Consultative Board of Jewish Organizations); [2] Mr. Winn (Consultative Council of Jewish Organizations); Mr. Nolde (Commission of the Churches on International Affairs); Mlle Romer (International Union of Catholic Women's Leagues); Miss Eder (International Council of Women).

**Consideration of the Report of the Drafting Committee
(Document E/CN.4/21, Annex F)**

Article 17

THE CHAIRMAN remarked on the difficulty of expressing the right to personal property in positive terms. After prolonged study, the only form which had proved generally acceptable for the United States was the brief sentence "no one shall be arbitrarily deprived of his property". The equivalent Panama article 10 (A/148) seemed too complicated and she hoped that the United States text would be accepted.

MR. AMADO (Panama) said there were two ideas involved. The recognition firstly, of the right to own property and, secondly of the right to protection against deprivation of property without compensation, both of which should be expressed.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) felt that the varying economic systems in different countries should be borne in mind. He instanced the social structure of the Union of Soviet Socialist Republics where ownership of property was largely on a cooperative basis. It was impossible to think exclusively in terms of purely personal property for the purposes of this Article.

MR. AMADO (Panama) remarked that the same view had been expressed before the American Institute of Law by a Soviet [3] Representative which had been met by the formula "everyone has the right to own property under general law".

MR. BOGOMOLOV (Union of Soviet Socialist Republics) agreed that it would be preferable to find some abstract formula which made allowance for different social systems.

MR. CASSIN (France) suggested the following text as combining the Drafting Committee's text with the views of the Representative for Panama.

"Everyone has the right to own property in conformity with the general regime of the State in which such property is located", with the addition of the United States short text. In reply to the Representative of the Philippines, he defined "general regime" in the sense of the right of ownership given by law "within the economic structure of the country".

THE CHAIRMAN said that the French proposal, substituting the word "law" for "general regime", seemed to meet the views of the meeting and the following text was adopted by 4 votes to 0 with 2 abstentions.

"Article 17. Everyone has the right to own property in conformity with the laws of the State in which such property is located.

No one shall be arbitrarily deprived of his property."

Article 31

THE CHAIRMAN said that the United States Delegation was prepared to accept the Drafting Committee's text, with the substitution of the words "fundamental" for "primary". She would also like to see a reservation made as a commentary safeguarding the right of private education.

MR. EASTERMAN (World Jewish Congress) said that his Organization felt very strongly on this subject. Article 31 as drafted provided a technical framework of education but contained [4] nothing about the spirit governing education which was an essential element. Neglect of this principle in Germany had been the main cause of two catastrophic wars. He proposed the following wording:

"This education shall be directed to the full development of the human personality to strengthening respect for human rights and fundamental freedoms, and shall combat the spirit of intolerance and hatred against other nations or racial or religious groups everywhere."

MISS ROMER (International Union of Women's Catholic Organizations) raised the question of religious education which the Chairman felt was provided for under Article 20.

MR. AMADO (Panama) said that he agreed with the two last speakers and would be willing to sponsor their suggestions as proposals by his delegation.

GENERAL ROMULO (Philippines) also agreed, but suggested that the reference to religious teaching should be in the form of a Comment.

MR. CASSIN (France) thought that both the spiritual and religious aspects should be treated in more positive form. He thought the text presented by the World Jewish Congress was too long, and should be elaborated in a comment.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered the question of education to be of paramount importance. The Article should define more clearly the part played by the State in all grades of education, including the professional education of adults. In many countries, including his own, the church was separated from the State, whose responsibilities were therefore limited to education of a non-religious and non-sectarian character. This duty should, however, be clearly defined by the Article, so that education would be conducted on democratic lines and directed in a spirit of struggle against fascism and the horrors of war.

[5]

MR. AMADO (Panama) said that, whilst he respects the individual systems of government of different States, it was necessary to try and reconcile their views. There were two distinct points under discussion; religion and the struggle against intolerance. Article 20 correctly provided for the right to religious teaching, but Article 31 considered education in a concrete form. For most countries education without a religious background amounted merely to a form of training. The same was true of education which did not combat intolerance. These points should be incorporated in the main text of the Article and not inserted in the Commentary.

MR. HAVET (UNESCO) said that his organization insisted not only on the right to education but on its pacific character and spirit of toleration. UNESCO was working on a programme of fundamental education by which was meant the equal right of all to a minimum standard of education as a means to world cooperation. He asked that reference should be made to this programme in the Commentary.

MR. CASSIN (France) proposed the following wording:

“Education should aim at the full development of the physical, spiritual and moral powers of the individual. It shall be founded on the respect for human rights and must banish racial, national, religious or other hatreds.”

He objected to the reference to “intolerance” in the text suggested by the representative of the World Jewish Congress.

MR. AMADO (Panama) thought the words “physical, spiritual and moral” should be included.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) expressed the view that Article 31 was rendered cumbersome by the inclusion of all these potentialities. In his opinion it was an elemental proposition that education must be given to the individual to enable him to fulfil his obligations to the community.

[6]

THE CHAIRMAN put to the vote the text of Article 31 drawn up by the drafting Committee, with the substitution of the word “fundamental” for “primary” at the beginning of the second sentence.

This was accepted by 4 votes to 1 with 1 abstention.

The following wording submitted by the Chairman as a Commentary to Article 31 was adopted by 4 votes to 1 with 1 abstention.

“The right of private education shall be respected and in such countries as desire it religious education shall be permitted in the schools.”

Finally, the following Article as submitted by the Representative of the World Jewish Congress and amended in discussion was put to the vote and adopted as a new Article 31(a) by 5 votes to 0 with 1 abstention.

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

Article 32

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that Article 32 was indispensable and should be so developed as to state the detailed conditions under which the employer, whether State or private enterprise, should bear the responsibility of providing leisure for employees. He added that the Trade Union organizations, in his opinion, should be empowered to supervise the protection of the employees’ right of leisure.

[7]

THE CHAIRMAN suggested that a difficulty was caused by different systems of employment in different countries. She pointed out, that in the United States of America employment by private enterprise was secured by contract and was supervised by Trade Unions, and that employment by the State was secured by law. She proposed that the text should remain as a statement of general principle, but that, if detail was required, the following words should be added to the text: “by agreement between worker and employer, or by law”.

MRS. URALOVA (Representative of the Commission on the Status of Women) emphasized the importance of the protection of the right of leisure for men and women workers. She considered that the State should have the responsibility, secured by law, of protecting the rights of employees to adequate rest, leisure, and satisfactory living conditions. She said that it was the opinion of the Commission on the Status of Women that the right of protection of health was of particular

importance for women. She pointed out that in Byelorussia the protection of the health of men and women workers was a State responsibility supervised by the Trade Unions; free medical aid and many health organizations were available for men and women workers. Such a responsibility, in her opinion, should be expressly laid down in an Article of the Declaration, as it did not yet exist in all countries.

THE CHAIRMAN pointed out that provisions concerning Health would be discussed in the following Article.

GENERAL ROMULO (Philippines) proposed the deletion of the words “a fair share”, as such a limitation had not been included in the text of previous Articles, which had been expressed in general terms. He proposed an addition of the words “Rest and [8] leisure should be ensured to everyone by laws or contracts, providing for reasonable limitations on working hours and for periodic vacations with pay.”

MR. CASSIN (France) supported the text of the Drafting Committee, because he considered that there would be different types of contracts of employment in different countries. He suggested that the details and standards of the proposed supervision of the right of leisure should be formulated in a commentary. He accepted the amendment proposed by the Representative of the Philippines and suggested adding the words “in particular” after the word “providing”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that, in his opinion, it would be inappropriate to separate statements of principle from measures of application and enforcement, as the Article might thereby be made ineffective. He proposed that the Working Group should vote as to whether such provisions of enforcement should remain in the main text of the Article.

THE CHAIRMAN pointed out that provisions of implementation of rights had, in many cases, been included in a commentary and not in the main text of the Article; she considered that it would, therefore, be unbalanced to include measures of implementation in the main text of Article 32.

MR. VANISTENDAEL (International Federation of Christian Trade Unions) supported the proposals of the Representative of the Union of Soviet Socialist Republics.

THE CHAIRMAN put to the vote the motion that the proposed text of the commentary should be included in the main text of the Article which was rejected by 2 votes to 2 with 2 abstentions.

THE CHAIRMAN put to the vote the motion that the Drafting Committee text of Article 32 be retained which was adopted by 4 votes to 0 with 2 abstentions.

[9]

THE CHAIRMAN put to the vote the motion to adopt as a commentary the text proposed by the Representative of the Philippines with the addition of the words “in particular” after “providing”.

This was adopted by 5 votes to 0 with 1 abstention.

GENERAL ROMULO (Philippines) proposed that there should be an introduction to this text as follows “It is the opinion of the Working Group that. . .” This was accepted.

Article 33

THE CHAIRMAN said that the wording of the Drafting Committee’s text of this Article was taken from the Constitution of the World Health Organization.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that the translation of the Drafting Committee’s text was rather mystical in Russian. He thought it was too general. He proposed that the right of the individual to a proper protection of his health should be expressly formulated in this Article. He considered that it was the responsibility of the State to guarantee to the individual cheap and accessible medical assistance and to take general measures for the protection of his health.

THE CHAIRMAN suggested that the text of paragraph 2 regarding “the State and community” met this requirement of the Soviet Representative. She considered that no more detailed wording was practicable, as different provisions for the protection of health were established in different countries.

MR. CASSIN (France) agreed that the text was too vague and proposed the following more concrete wording: “Everyone has the right to the protection of his health, by means of good housing, adequate food and medical care.” He thought the second sentence might go into a comment.

[10]

THE CHAIRMAN also thought that the remainder of the Drafting Committee’s text of Article 33 be included in the commentary. In her opinion, many countries would have difficulty accepting all the provisions of this Article.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that the text needed further clarification. He emphasized the importance of guaranteeing proper medical assistance to all classes, especially workers, of low financial status. That was not necessary for the more fortunate classes. He suggested that cheap medical care could be supplied by taxes levied on the more fortunate classes. He appreciated that free medical assistance was too idealistic, but he repeated that the most important object of Article 33 was the provision of adequate medical assistance to the poorer classes.

GENERAL ROMULO (Philippines) proposed the following amendment:

“Everyone without distinction as to economic or social conditions has the right to preservation of his health by means of adequate food, clothing, housing and medical care.”

MRS. URALOVA (Representative of the Commission on the Status of Women) considered that Article 33 was too abstract, because it did not state the obligation of the employer and the State. She said that, in her opinion, the duty of the State to provide accessible medical care to the poorer classes, especially workers, should be emphasized.

MR. VANISTENDAEL (International Federation of Christian Trade Unions) supported the views of the representatives of the Philippines and the Union of Soviet Socialist Republics.

THE CHAIRMAN pointed out the similarity of the texts proposed by the representatives of the Philippines and of France. She suggested that the adoption of the text proposed by the Representative of the Philippines, together with paragraph 2 of [11] the Drafting Committee's text, would adequately express the responsibility of the State, as required by the Soviet Union representative.

MR. CASSIN (France) accepted the Philippine amendment.

THE CHAIRMAN put to the vote the motion that the text of Article 33 should be composed of the proposal of the representative of the Philippines and paragraph 2 of the Drafting Committee's text.

This was adopted by 4 votes to 0 with 2 abstentions.

Article 34

THE CHAIRMAN referred to Article 15 of the draft submitted by the Delegation of Panama (A/148). As Representative of the United States of America, she said that she would accept the text of the Drafting Committee if the words "promotion of full employment" were omitted, as such a provision had been included in the amended text of Article 29. She suggested the following Amendment of the second paragraph:

"Mothers have the right to special provisions, care and welfare. Children are similarly entitled to special provisions."

MR. AMADO (Panama) accepted the first sentence, but not the second, of the text of the Drafting Committee. He said that it had been recognized by the American Law Institute that in many countries social security was a matter of private initiative, and should not, in that case, be taken over by the State. He proposed the following amendment to the Drafting Committee's text:

"The State has a duty to maintain, or to ensure that there are maintained, comprehensive arrangements for the promotion of health, for the prevention of sickness and accident, and for the provision of medical care and of compensation for loss of livelihood."

[12]

GENERAL ROMULO (Philippines) supported the Drafting Committee's text, but proposed that the text of the Panama Draft be included in the Article and amended as follows:

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

MR. STEPANENKO (Byelorussian SSR) said that Article 34 was of great importance to the working classes, who must have the right to protection when unemployed for reasons beyond their control. He considered that it was the duty of the State to take all measures in this respect for financing their support and ensuring the payment of old age and sickness pensions.

MRS. BEGTRUP (Commission on the Status of Women) said that she welcomed the separation of the provisions concerning mothers from those concerning children. She proposed that the word "Mothers" be replaced by the word "Motherhood", in order to cover the pre-natal state.

MR. CASSIN (France) considered that paragraph 1 of the Drafting Committee's text was good. He accepted the text with the following amendments; first, as suggested by the Representative of the Philippines, to express the duty of the State to sustain and ensure comprehensive measures for the protection of health; secondly, to delete the words "the promotion of full employment"; thirdly, to replace the words "security. . .against. . .old age", by the words "security against the consequences of old age".

THE CHAIRMAN put to the vote paragraph 1 of the Drafting Committee's text, as amended by the Representative of the [13] Philippines which was adopted by 3 votes to 0 with 3 abstentions.

She proposed the following amendment to paragraph 2:

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

This was adopted by 3 votes to 0 with 3 abstentions.

MR. VANISTENDAEL (International Federation of Christian Trade Unions) supported the proposals made by the Representatives of the Philippines, of Byelorussian Soviet Socialist Republics, and of the Commission on the Status of Women. He thought that the words "and family" should be added after the word "individual".

THE CHAIRMAN said that, in her opinion, "family" was covered by the words "everyone".

The meeting rose at 1:15 p.m.

E/CN.4/AC.2/SR.9
10 December 1947
Original Text: French

***Summary Record of the Ninth Meeting [of the Working Group on
the Declaration of Human Rights]***

Held at the Palais des Nations, Geneva, on Wednesday,
10th December 1947 at 3 p.m.

Present: Chairman: Mrs. F.D. Roosevelt (United States). Rapporteur: Professor Cassin (France). Members: Mr. Stepanenko (Byelorussian SSR); Mr. Amado (Panama); General Romulo (Philippines); Mr. Bogomolov (Union of Soviet Socialist Republics). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Mrs. Uralova. Observer: Mr. Heppel (United Kingdom). Secretariat: Miss Kitchen. Specialized Agencies: Mr. de Givry (ILO); Mr. Havet (UNESCO); Dr. Weiss (IRO). Non-Governmental Organizations: Category A: Mr. Robinet de Clery (Inter-Parliamentary Union); Mr. Vanistendael (International Federation of Christian Trades Unions); Category B: Mr. Easterman (World Jewish Congress); Mr. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues); Mr. M. Winn (Consultative Council of Jewish Organizations).

[2]

Discussion of the Report of the Drafting Committee (E/CN.4/21, Annex F)

Article 35

THE CHAIRMAN said she was prepared to accept the Drafting Committee's text.

MR. AMADO (Panama) proposed that the Article be omitted as its contents were covered by Articles which had already been adopted. Moreover, he recalled that in the view of some of the members of the Drafting Committee, the principle on which the Article was based should be embodied in the Preamble.

PROFESSOR CASSIN (France) considered that the Article ought to be retained, as it contained a new idea, that of participation in cultural life. He favoured the text proposed by the Drafting Committee.

GENERAL ROMULO (Philippines) said that he favoured the retention of the Article.

MR. HAVET (UNESCO) stressed the importance of this Article. It was necessary to assert that all had the same right to participate in culture, and thus to affirm the priority of cultural life over materialistic conceptions.

THE CHAIRMAN called for a vote on whether Article 35 should be retained in the Declaration.

Decision: The Working Group decided by 3 votes to 1, with 2 abstentions, to retain the Article.

MR. AMADO (Panama) proposed, with a view to defining the scope of the Article more clearly, an amendment to the effect that the words “by political propaganda or in any other manner” be inserted after the words “of the community”. To participate in the cultural life of the community meant for some people contributing to the development of certain [3] social ideas, which might include the development of certain ideas of a political character.

THE CHAIRMAN pointed out that this amendment bore no relation to Article 35. She put the amendment proposed by the representative of Panama to the vote.

Decision: The amendment was rejected by 3 votes to 1, with 2 abstentions.

The Chairman put the Article submitted by the Drafting Committee to the vote.

Decision: The Working Group adopted Article 35 by 3 votes to 1, with 2 abstentions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked what was meant by sharing in the benefits that resulted from scientific discoveries.

PROFESSOR CASSIN (France) said that Article 35 in its present form had been adopted by the Drafting Committee at the request of a considerable number of cultural organizations. It had originally been linked to the right to rest and leisure, with which it might perhaps be advisable to connect it ultimately.

THE CHAIRMAN said that as regards sharing in the benefits that resulted from scientific discoveries, the idea of the Drafting Committee had been to stress the universality of such sharing.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that this phrase appeared to imply the obligation to reveal the patents of scientific discoveries.

THE CHAIRMAN said it would be possible to insert a comment to the effect that the Article did not imply the obligation [4] to reveal the secret of scientific discoveries that had been patented.

Article 35A

PROFESSOR CASSIN (France) desired to submit to the Group an Article 35A concerning the authors of artistic, literary or scientific works. He stressed the need to recognize that such authors had a moral right to their works or their discoveries, differing from the right of copyright or literary ownership. He proposed, in this connection, the following Article:

“Authors of all artistic, literary and scientific works and inventors shall retain, in addition to the just remuneration of their labour, a moral right on their works and/or discovery, which

shall not disappear, even after such work shall have become the common property of mankind.”

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that this question was a matter for bilateral or multilateral conventions.

GENERAL ROMULO (Philippines) said it was impossible to define the concept of a moral right, and that the legal right was covered by the Articles relating to literary ownership.

THE CHAIRMAN put the proposal submitted by the representative of France to the vote.

Decision: The Working Group rejected the proposal by 2 votes to 2, with 2 abstentions.

[5]

Article 36

THE CHAIRMAN thought the ideas expressed in this Article were already embodied in various parts of the Declaration. The position of the United States in the matter had been defined on many occasions. At the Conference of Lima, in 1938, it was asserted that a system of protection of ethnic, linguistic or racial groups could not be supported in America, where minorities did not exist as such.⁴² At the Inter-American Conference of Chapultepec, in 1945, it was stated that it was not desirable that there should exist in America water-tight homogeneous groups claiming minority status by reason of their ethnic, linguistic or racial characteristics. She therefore thought that this question should be considered in relation to the conditions obtaining in each country. She drew attention to the fact that the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities had proposed a draft article on page 9 of its Report (E/CN.4/52).

GENERAL ROMULO (Philippines) proposed they should now resume the discussion of Articles 6, 13, 15, 28 and 36, which had been postponed until the Group had

⁴² The Eighth International Conference of American States was held in Lima in 1938. The Conference decided that the “system of protection of ethnical, language or religious minorities cannot have any application whatsoever in the Americas, where the conditions which characterize the groups as minorities do not exist”. It declared that “residents who according to domestic law are considered aliens, cannot claim collectively the conditions of minorities; individually, however, they will continue to enjoy the rights to which they are entitled. . . [A]ny official action, therefore, on the part of the Government of the countries of which such aliens are nationals, tending to interfere with the internal affairs of the country in order to regulate the status or activities of those aliens is incompatible with the sovereignty of such State.” Cited in Louis B. Sohn, “The Contribution of Latin American Lawyers to the Development of the United Nations Concept of Human Rights and Economic and Social Justice”, in Antônio Augusto Cançado Trindade, ed., *The Modern World of Human Rights: Essays in Honour of Thomas Buergenthal*, San José, Costa Rica: Instituto Interamericano de Derechos Humanos, 1996, pp. 33–56, at p. 39.

received the report of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

The Working Group decided to examine Article 6.

Article 6

MR. AMADO (Panama) reminded the Group that it had been decided to discuss Article 17 of the Declaration submitted by Panama (A/148) and Article 3, at the same time as Article 6.

[6]

THE CHAIRMAN said she would like to omit from the text of the article proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities the words “political or other opinion” and would prefer to keep to the wording of the Charter.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) recalled that in the course of the discussion of Article 6 in the Sub-Commission on the Prevention of Discrimination, the Soviet expert, Mr. Borisov, had submitted the following proposal: “Any advocacy of national, racial and religious hostility or of national exclusiveness or hatred and contempt, as well as any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion, constitute a crime and shall be punishable under the law of the State” (E/CN.4/Sub.2/21). That text, which had not been adopted, was of the greatest importance, for in Article 6 it was not a question of the formal equality of all before the law, but of defining what was understood by *all* and what should be the political significance of those *laws*. By the equality of all must be understood all human beings irrespective of race, national origin, sex, language and religion or of social origin or property status. The affirmation of the quality of individuals before the law should be accompanied by the establishment of equal human rights in political, social, cultural and economic life. In terms of practical reality, this meant that one could not allow advocacy of hatred or racial, national or religious contempt and that any action establishing privileges or discrimination on grounds of race, nationality or religion constituted a crime and should be [7] punished by the law of the State. Without such a prohibition, any Declaration of Human Rights would be useless. It could not be said that to forbid the advocacy of racial, national or religious hatred constituted a violation of the freedom of the press or of free speech. Between Hitlerian racial propaganda and any other propaganda designed to stir up racial, national or religious hatred and incitement to war, there was but a short step. Freedom of the press and free speech could not serve as a pretext for propagating views which poisoned public opinion.

Propaganda in favour of racial or national exclusiveness or superiority merely served as an ideological mask for imperialistic aggression. That was how the German imperialists had attempted to justify by racial considerations their plan for destruction and pillage in Europe and Asia. Both in Europe and in Asia the Fascist regimes had been defeated. That victory of the common front of the democratic forces had rendered essential the task of extending and strengthening the democracies. The rights of millions of “men in the street” were involved, and they should be given the possibility of enjoying the wealth of the entire world, for, in the words of Mr. Molotov,⁴³ Minister for Foreign Affairs of the USSR, “they have a legal right to it, especially after their great exploits and the sacrifices undergone during the war”. Articles 73 and 76 of the United Nations defined a number of obligations devolving on the Powers administering mandated or trust territories. Under Article 73, the mandatory or trustee governments were required to develop self-government by the population. Under Article 76, they were required to [8] promote their progressive development towards self-government or independence as might be appropriate to the freely expressed wishes of the peoples concerned. The declaration that acts of racial, national or religious discrimination and propaganda of racial hatred or national exclusiveness were anti-social and criminal was a natural consequence of the honest fulfilment of these tasks and of the statement that all had equal rights.

The Soviet representative therefore moved the adoption by the Working Group of Mr. Borisov’s second paragraph (E/CN.4/Sub.2/21).

PROFESSOR CASSIN (France) proposed that they should take as a basis Article 6 as submitted by the Sub-Commission on the Prevention of Discrimination which laid down a principle of international importance. He suggested that a second paragraph be added based on the proposal submitted by the representative of Panama with a view to the application of that general principle by national laws. The question of measures of implementation raised by the Soviet representative should, in his view, form the subject of much more precise texts appended to the Declaration. It was a question of procedure not of principle and he was prepared, when the time came, to put forward definite proposals in that connection.

[9]

MR. EASTERMAN (World Jewish Congress) suggested that the text submitted by the Sub-Commission on the Prevention of Discrimination be amended by the addition, at the end, of the words “and everyone shall be able to exercise them freely”. He supported the proposal submitted by the Soviet Representative and suggested that the words “legislative, administrative or judicial” be added before

⁴³ Vyacheslav Mikhailovich Molotov (1890–1986) was Soviet Foreign Minister from 1939 to 1949 and from 1953 to 1956.

the words “action” in Mr. Borisov’s proposal. Finally, he supported the proposal put forward by the representative of Panama which was designed to confirm the principles defined in this Article.

GENERAL ROMULO (Philippines) recalled that the Group had already adopted two phrases of Article 3 dealing with the equality of individuals before the law. The proposal submitted by the representative of Panama should be attached to that Article rather than to Article 6. He therefore proposed that a vote be taken on Article 3 supplemented by Article 17 of the Declaration as submitted by Panama, the latter being slightly amended so as to bring the two texts into accord.

DR. WEISS (International Refugee Organization) said that in its report to the Commission on Human Rights (E/CN.4/41), the Preparatory Commission for the International Refugee Organization had drawn attention to the need to avoid all discrimination on the grounds of nationality or lack of nationality, and to maintain equal rights, even in the absence of agreements between the various countries providing for reciprocity. It had also urged the desirability of providing under the civil and penal laws of the various countries adequate safeguards against discrimination and the advocacy of discrimination.

[10]

PROFESSOR CASSIN (France) said that Article 6, which defined a universal principle, raised a problem which was prior to that of equality before municipal law, dealt with in Article 3. The latter had only been adopted provisionally. It seemed to him at present preferable to place Article 6 first. Even if the Working Group was not of that opinion, a logical order must be adopted.

GENERAL ROMULO (Philippines) proposed that Article 6 should be placed at the end of the Declaration, in the form of a conclusion.

MR. AMADO (Panama) said that the place where his proposal was inserted was of secondary importance, but he insisted that it should be adopted as it stood, without any change.

PROFESSOR CASSIN (France) thought that the proposal submitted by the representative of Panama was intrinsically bound up with Article 6. He proposed that Article 6 and Article 3, supplemented by Article 17 of the Declaration submitted by Panama, be regarded as two paragraphs of the same Article. The first paragraph would define the principle, and the second its application.

MR. HEPPEL (United Kingdom) proposed the insertion in this Article of a provision to the effect that a person could be punished for what he had done or said, but he could not be punished for an opinion he held.

THE CHAIRMAN said this point could not be embodied in so general an Article as Article 6. She proposed to take a vote on the United States amendment, to the effect that the text submitted by the Sub-Commission on the Prevention of Discrimination be adopted down to the word “religion”, inclusive. If that amendment were rejected,

she would take a vote on the whole of the text submitted by the Sub-Commission. If the latter were not adopted she would take a vote on the Soviet [11] proposal. Finally, the Working Group would have to take a decision on the proposal of the representative of France that Article 3 combined with the proposal of the representative of Panama, be added to Article 6.

She put to the vote the amendment submitted by the United States.

Decision: The Working Group rejected the amendment by 2 votes to 1, with 3 abstentions.

THE CHAIRMAN put to the vote the complete text submitted by the Sub-Commission on the Prevention of Discrimination.

Decision: The Working Group adopted this text by 3 votes, with 3 abstentions.

THE CHAIRMAN said it did not seem necessary to consider the Soviet representative's proposal and called for a vote on the second paragraph resulting from the fusion of Article 3 adopted by the Working Group and Article 17 of the Declaration submitted by Panama, with certain minor changes suggested by the French representative. This second paragraph read:

“All are equal before the law regardless of office or status and entitled to equal protection of the law against any arbitrary distinction in violation of this Declaration.”

Decision: The Working Group adopted this second paragraph by 3 votes to 1, with 2 abstentions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) formally requested a vote on the second paragraph of Mr. Borisov's proposal, as a third paragraph of Article 6.

THE CHAIRMAN put the Soviet representative's proposal to the vote.

Decision: The Working Group rejected the proposal by 2 votes to 2, with 2 abstentions.

GENERAL ROMULO (Philippines) said he had abstained not because of any disagreement on substance, but because in no other Article of the Declaration had there appeared the idea of penalties and this idea seemed to him to be contained in the proposal of the representative of Panama.

[12]

PROFESSOR CASSIN (France) said he supported the idea expressed by the Soviet representative, but had abstained because the Declaration was not a penal text and, for the sake of method, he preferred to include measures of implementation in a separate text.

THE CHAIRMAN said that in her opinion too this provision should not appear in the text of the Declaration. She drew the Working Group's attention to the

recommendation formulated by the Sub-Commission on the Prevention of Discrimination, to the effect that the idea expressed by the Soviet representative be embodied in a Convention.

Article 13

THE CHAIRMAN said that in this connection the Working Group had before it the following note intended as a comment:

“Recognizing that the right of emigration, affirmed above, would not be effective without facilities for immigration into and transit through other countries, the Working Group recommends that these questions be treated as a matter of international importance, and that Members of the United Nations co-operate in providing such facilities.”

MR. STEPANENKO (Byelorussian SSR) said that the second paragraph of the text proposed by the Sub-Commission on the Prevention of Discrimination made it possible to cover the flight of traitors to their country and a change of their nationality. That was particularly the case as regards Byelorussia. He asked for the deletion of that paragraph.

THE CHAIRMAN stated that the second paragraph of the Drafting Committee’s text dealt with implementation and would be more appropriate in a Convention.

[13]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that freedom to emigrate implied freedom to immigrate. This provision would conflict with the provisions of the United Nations, since in accordance with Article 2, paragraph 7, the United Nations were not authorized to intervene in matters which were essentially within the domestic jurisdiction of any State.

DR. WEISS (International Refugee Organization) supported the proposed comment, which would facilitate the resettlement of individuals under the supervision of the IRO.

MR. HEPPEL (United Kingdom) emphasized the importance of the words “individuals shall have the right to leave their own country”. Any restriction of this freedom would have serious consequences.

PROFESSOR CASSIN (France) thought that freedom to emigrate and to change one’s nationality must in any case be mentioned. The second paragraph of Article 13 proposed by the Sub-Commission on Prevention of Discrimination, made this freedom an unconditional right. Despite his sympathy with this viewpoint, he felt obliged to point out that there were national laws in France which, for instance, forbade persons of military service age to change their nationality. He therefore preferred the text submitted by the Drafting Committee which applied the same

proviso to the second paragraph as to the first. He would, however, be prepared to amend the Drafting Committee's text by adding the words "to that of any country willing to accept them" after the words "change their nationality" since this provision would prevent the emergence of stateless persons.

[14]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that so far as concerned the Soviet Union, where several different peoples lived together on an equal footing from the point of view of nationality, renunciation of nationality was regarded as a problem which should not be treated lightly.

THE CHAIRMAN stated that the proposal submitted by the United States was not an amendment to the draft of the Sub-Commission on the Prevention of Discrimination but a text suggested by the Drafting Committee, for the deletion from Article 13 of the limitations covered by Article 2.

MR. HEPPEL (United Kingdom) stated that Article 13 should at least contain a reference to the limitations mentioned in Article 2. Such limitations should be applied to Article 13 for reasons of public order and also for reasons of town planning.

PROFESSOR CASSIN (France) on a point of order, asked for a separate vote on each part of the Article.

THE CHAIRMAN proposed to take a vote on the first sentence of the English text of Article 13, as submitted by the Drafting Committee.

PROFESSOR CASSIN (France) proposed the insertion of the following amendment as the beginning of this sentence:

"Subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of security or in the general interest."

THE CHAIRMAN put the amendment proposed by the representative of France to the vote.

Decision: This amendment was adopted by 3 votes to 1, with 1 abstention.

[15]

THE CHAIRMAN called for a vote on the first sentence of the English text of the Article submitted by the Drafting Committee:

"There shall be liberty of movement and free choice of residence within the borders of each State."

Decision: This sentence was adopted.

GENERAL ROMULO (Philippines) proposed the following amendment to the third sentence of the Drafting Committee's text:

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

MR. HEPPEL (United Kingdom) stated that freedom to leave the country should be subject to a provision restricting this right to persons not liable to military service in their country.

THE CHAIRMAN observed that this provision was covered by the amendment submitted by the French representative. She put the amendment submitted by the Philippines representative to the vote.

Decision: The Working Group adopted this amendment by 2 votes to 1, with 2 abstentions.

THE CHAIRMAN called for a vote on the insertion after the Article of the comment proposed to the Working Group.

Decision: The Working Group agreed to the insertion of the proposed comment after Article 13, by 3 votes to 1, with 1 abstention.

[16]

Article 28

MR. STEPANENKO (Byelorussian SSR) proposed to exclude all mention of examinations. Recruiting was not always conducted on the basis of examinations and furthermore he did not think examinations were an impartial method of selection.

PROFESSOR CASSIN (France) stated that examinations could not be made compulsory and proposed the following text in place of the second sentence.

“They may not be regarded as a matter of privilege or favour but shall be given to the most capable candidate chosen on a competitive or other basis.”

MR. STEPANENKO (Byelorussian SSR) called for a vote on his proposal for the deletion of the second sentence of the Article.

THE CHAIRMAN stated that if this deletion was accepted the Working Group would still have to take a decision on the amendment proposed by the representative of France, which referred to the whole Article.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the amendment submitted by the representative of France was merely a change of wording and had no bearing on the substance of the Article.

THE CHAIRMAN put to the vote the amendment submitted by the representative of Byelorussia.

Decision: The Working Group rejected this amendment by 2 votes to 2 with 1 abstention.

GENERAL ROMULO (Philippines) remarked, in support of the view expressed by the representative of the Soviet Union, that the amendment proposed by France did not involve any change of substance. He requested that the sentence be left as it stood in the English text.

[17]

PROFESSOR CASSIN (France) asserted that the amendment he had proposed had a bearing on the substance of the Article. The Drafting Committee's text stated that access to examinations was not a matter of privilege, whilst his amendment stated that the award of an office was not a matter of favour. He was prepared to delete all mention of examinations. His amendment would then read:

“Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Such office or employment may not be regarded as a matter of privilege or favour.”

THE CHAIRMAN stated that a different school of thought existed in the United States, where it was held that access to public employment was not a privilege but that the tenure of a public office was. She therefore proposed the following text:

“Access to public employment shall not be a matter of privilege or favour.”

PROFESSOR CASSIN (France) accepted this proposal.

THE CHAIRMAN put this text to the vote.

Decision: The Working Group adopted this text by 4 votes to none.

Article 36

GENERAL ROMULO (Philippines) proposed that the Sub-Commission's text be taken as a basis of discussion.

THE CHAIRMAN stated that the United States delegation was in a somewhat difficult position with regard to this text since, although different ethnic and linguistic groups existed in the United States, there was no minority problem.

MR. HEPPEL (United Kingdom) suggested that the words “and other authorities of the State” be deleted since they might lead [18] to confusion in administration. He mentioned the possibility of persons belonging to certain linguistic groups claiming the right to fill administrative questionnaires in their own language. A refusal of this right would not constitute a denial of justice. However, the British delegation recognized the right to use the language of a certain linguistic group before courts of justice, in the Press and at public meetings.

THE CHAIRMAN stated that her delegation had no objection to the deletion requested.

MR. STEPANENKO (Byelorussian SSR) regarded this aspect of the minorities problem as one of the main points. The expression of views would not suffice to guarantee the protection of the rights of national groups; these guarantees should be provided in a practical way by the establishment of schools and cultural institutions. He suggested that the Article should be clearly worded and should guarantee that the State would not only establish standards but would furnish these national groups with the means of enlarging their real autonomy. He was amazed that Article 36 should contain a reservation embodied in the words "as far as is compatible with public order and security"; no such reservation was included in other Articles dealing with the use of languages.

PROFESSOR CASSIN (France) stressed the importance of the text under discussion. He realized that France had always been an immigration country. In the Mediterranean territories, Mohammedan and Catholic minorities lived side by side, without friction. If the human rights defined in this Declaration were everywhere respected a simple proclamation would be sufficient, but he thought it would be necessary to define the measures of implementation. His delegation would vote for [19] the whole of Article 36, provided the word "persons" was replaced by "citizens of the country". He accepted the amendment proposed by the British delegation, since he feared that the words "other authorities of the State" might lead, for instance, to the establishment of armed units who would be allowed to use a different language. Although this situation existed in certain countries, it offered no justification for making the establishment of separate military units compulsory.

THE CHAIRMAN, noting that no objection had been made to the foregoing slight modifications, took it that the replacement of the word "persons" by "citizens of the country" was adopted.

MR. STEPANENKO (Byelorussian SSR) moved the amendment of the text of Article 36 by the following addition:

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

THE CHAIRMAN stressed all the various difficulties which might arise from a text applicable to all States. The application of the principle proposed by the representative of Byelorussia was possible under certain governmental systems, but not all. She felt it would be advisable to leave the detailed implementation of Article 36 to each State.

[20]

MR. BOGOMOLOV (Union of Soviet Socialist Republics recalled that the Charter spoke of the obligation to promote the development of the peoples of non self-governing

territories towards independence. In view of this he did not see why territorial autonomy could not be mentioned in Article 36.

PROFESSOR CASSIN (France) stated that the text proposed by the representative of Byelorussia would be altogether inappropriate in countries such as France, the United States and others. There were certain countries where different peoples, Christians, Mohammedans and Jews, had lived side by side for centuries; as in North Africa, for instance, and where such a text would be inapplicable. There were some non self-governing or trust territories where, no doubt, a problem of self-government existed, but there was no minorities problem.

THE CHAIRMAN pointed out that this problem could only be approached in the light of the conditions obtaining in different countries. She thought that the decision should rest with the different States. She also thought that it would be preferable to delete the whole of the text. She put this proposal to the vote.

Decision: This proposal was rejected by 2 votes to 1, with 2 abstentions. The text of Article 36 was therefore retained.

THE CHAIRMAN put the amendment proposed by the Byelorussian delegation to the vote.

Decision: This amendment was rejected by 3 votes to 2.

THE CHAIRMAN called for a vote on the text of Article 36, as proposed by the Sub-Commission on Minorities, in which the [21] word "persons" was replaced by the words "citizens of the country".

PROFESSOR CASSIN (France) withdrew his amendment, since he considered that the text of this Article was not yet final and should therefore be held over. He proposed that this text be added to the Report and submitted to Governments for comment.

Decision: This proposal was adopted by 4 votes to 1.

THE CHAIRMAN stated that the remarks made by the Byelorussian delegation would also be annexed to the Report.

Resumption of the discussion of Article 1

GENERAL ROMULO (Philippines) proposed a new text:

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

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that it would be an act of hypocrisy to place such a text at the beginning of a draft Declaration on Human Rights at a time when so much misunderstanding existed in the world.

PROFESSOR CASSIN (France) agreed that men did not always behave, today, as brothers, but he remarked that they should behave as such. All nations were called upon to point out to men what was their duty. In deference to the representative of the USSR he would agree to say: "All men should act like brothers" but such an article would not be appropriate in a Declaration on Human Rights.

THE CHAIRMAN proposed the following text:

"All men are born free and equal. They are endowed by nature with reason and conscience and should act like brothers."

[22]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that the Working Group had two proposals before it: the first derived from the French materialist philosophers of the 19th century; the second was of deistic origin, a proposal taken from the Gospels. He could not understand why the Declaration should contain solemn proclamations, devoid of meaning, which were less realistic than the terms of Article 1 of the Charter. He thought that the wording proposed would be harmful to the Declaration on Human Rights, which should be immediately applicable. He felt that such wording could not even be included in the preamble, since it would have a pompous and ridiculous effect. He asked for the deletion of this Article.

THE CHAIRMAN called for a vote on the text of Article 1, as proposed by the delegations of the Philippines and of France:

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

Decision: This text was adopted by 3 votes to 2.

Comment on Article 36

THE CHAIRMAN announced that the representative of the Commission on the Status of Women had asked permission to append the following text to Article 36 in the form of a comment:

"In the conditions prevailing at present in the world, legislation providing varying degrees [23] of protection for women may be necessary, in particular in regard to heavy or specifically harmful work."

GENERAL ROMULO (Philippines) seconded this request.

THE CHAIRMAN called for a vote on the proposal.

Decision: This proposal was adopted by 5 votes.

THE CHAIRMAN recalled that the Philippine delegation had also submitted a note asking that the term “laws”, as used in the text of the Declaration, be construed as “laws in accordance with the spirit of the principles proclaimed in the United Nations Charter”. She proposed that it should be left to the Rapporteur to decide whereabouts in the text this note should be inserted.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought that this question should be discussed.

THE CHAIRMAN replied that it has been discussed and that the Working Group could proceed to the vote.

PROFESSOR CASSIN (France) stated that in his view this note should appear either at the beginning or at the end of the Declaration. He thought it would be preferable to place it at the end of the document; however, the final decision would rest with the Commission.

Decision: the proposal that it be left to the Rapporteur to decide where the note proposed by the Philippine representative should be inserted, was rejected by 2 votes to 2, with one abstention.

The meeting rose at 8.20 p.m.

E/CN.4/57

10 December 1947

Report of the Working Group on the Declaration on Human Rights

Chapter I

Introduction

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

Chairman: Mrs. Franklin D. Roosevelt; Rapporteur: Prof. René Cassin (France); Members: Mr. Stepanenko (Byelorussian SSR), Mr. Amado (Panama), General Romulo (Philippines), Mr. Bogomolov (Union of Soviet Socialist Republics).

The British Delegation sent Mr. Heppel as an observer.

Representatives of the Commission on the Status of Women: Mrs. Begtrup; Mrs. Uralova, Rapporteur.

Specialized Agencies: Mr. de Givry and Mr. Bessling (International Labour Organization); Mr. Havet (UNESCO); Dr. Weiss (Preparatory Commission for the International Refugee Organization (IRO)).

[2]

Non-Governmental Organizations: Category A: Mr. Robinet de Cléry, (Interparliamentary Union); Miss T. Sender (American Federation of Labor); Mr. P. G. S. Serrarens and Mr. Vanistendael (International Federation of Christian Trade Unions). *Category B:* Dr. Bienenfeld and Mr. Easterman (World Jewish Congress); Dr. Duchosal (International Red Cross Committee); Miss van Eeghen (International Council of Women); Mr. Winn, Professor Bentwich and Mr. Paul Mantoux (Consultative Council of Jewish Organizations); Mr. Nolde (Commission of the Churches on International Affairs); Miss de Romer (Union internationale des Ligues féminines catholiques).

2. The Working Group on the Declaration elected Mrs. F. D. Roosevelt, Chairman, and Professor René Cassin, Rapporteur. Miss Kitchen acted as secretary to the Working Group. The views expressed by the members of the Working Group will be found in the report and summary records of the various meetings.

Chapter II

Terms of Reference and Working Method

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

[3]

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

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

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

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

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

This proposal was unanimously accepted.

5. On the Chairman’s proposal the Working Group decided not to discuss the preamble of the Declaration during the present session, [4] but to confine itself to defining the principles to be included therein.

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

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

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

[5]

Chapter III

Texts

Preliminary Articles:

Article I

Text suggested by the Philippines:

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

French Suggestion:

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

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

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

Article 2

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

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

“In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and [6] body in wider freedom.”

Articles 3 to 6

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

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

Text adopted.

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

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

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

*Life and liberty of the person**Article 7*

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

Text adopted.

[7]

Article 8

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

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

Article 9

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

Text adopted.

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

Article 10

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

“No one shall be subjected to torture or to cruel or inhuman punishment or indignity.”

Comment. This Article 10 combines the former Article 9 and the former Article 10 of the Drafting Committee’s text. It was understood that the question of a competent court raised by [8] the delegate of Panama is covered equally by the passage concerning guarantees necessary for defence and that concerning the necessity to apply the law in effect at the time of the commission of the act charged. It was also understood that this text covers one of the general principles which are not applicable to minor administrative offences that do not always require legal proceedings. It also does not prevent a court from holding closed sessions or reading secret documents provided that the sentence be pronounced in public.

Article 11

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

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

Article 12

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

Article 13

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

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

[9]

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

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

Article 14

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

Comment. The Drafting Committee’s draft was amended both at the request of the International Organization of Christian Trades Unions and the International Refugee Organization (IRO) which found that the expression “to seek asylum” did not sufficiently express the right of a persecuted individual, and at the request of members of the Working Group who considered it necessary explicitly to exclude

from the right of asylum ordinary criminals, who are generally subject to extradition laws, and all those whose acts are contrary to the principles and purposes of the United Nations.⁴⁴

Fundamental Civil Rights

Article 15

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

Article 15A

“Men and women shall have the same freedom to contract [10] marriage in accordance with the law.

“Marriage and the family shall be protected by the State and Society.”

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

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

Article 16

See Article 30.

Article 17

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

“No one shall be arbitrarily deprived of his property.”

Nationality

Article 18

“Everyone has the right to a nationality.”

Comment. The United Nations should assume certain responsibilities for those who at the present time do not have a nationality and they should work out one or

⁴⁴ See document E/CN.4/57/Add.1: “After the two organizations mentioned (International Federation of Christian Trades Unions and the International Refugee Organization) insert ‘the World Jewish Congress’, omitted in error.”

more Conventions in order that the principle laid down in the text may become a reality through collaboration between States.

Article 19

(text proposed by the Drafting Committee)

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

[11]

Comment. The above text was rejected by a majority.

Public freedoms

Article 20

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

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

Comment.

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

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

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

Article 21

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

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

Article 22

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

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

[12]

Article 23

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

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

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

Article 24

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

Article 25

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

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

*Articles 26 and 27****Political Rights***

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

This text which combines Articles 26 and 27 of the Drafting Committee’s proposal is based on the Draft of the Government of [13] Panama, amended according to a Byelorussian amendment and to the recommendation of the Commission on the Status of Women.

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

The French Delegation also remarked that the text adopted could not be construed as requiring Member States to enforce a specific form of ballot, in particular

the “Family Vote” which confers on adults the voting rights that would belong to minors.

Article 28

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

“Access to public employment shall not be a matter of privilege or favour.”

Comment. The Drafting Committee’s proposal, taken up by the Sub-Commission on the Protection of Minorities, has been shortened.

Social, Economic and Cultural Rights

Article 29

“Everyone has the right to work.

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

Article 30

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

[14]

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

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

Article 31

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

Article 31A

“Education will be directed to the full physical, spiritual and moral development of the human personality, to the strengthening of respect for human rights and

fundamental freedoms and to the combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere.”⁴⁵

Article 32

“Everyone has the right to rest and leisure.”

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

Article 33

“Everyone without distinction as to economic and social conditions has the right to the preservation of his health by means of adequate food, clothing, housing and medical care.

“The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.”
[15]

Article 34

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

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

Article 35

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

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

Article 35A

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

⁴⁵ Pursuant to document E/CN.4/57/Add.1, the following should be inserted regarding Article 31 and 31A:
“*Comment.* In such countries as desire it, the right of private education will be respected and religious education shall be permitted in the schools.”

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

Article 36

(Drafting Committee's text)

“In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right, as far as compatible with public order, to establish and maintain schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before [16] the courts and other authorities of the State.”

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

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

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

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

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

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

[17]

Final Provisions

Article 37

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

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

Article 38

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

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

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

E/CN.4/SR.34

12 December 1947

Summary Record of the Thirty-Fourth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Friday,
 12 December 1947, at 10 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America). Members: Prof. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Señor E. Cruz Coke (Chile); Dr. C. H. Wu (China); Mr. O. Loutfi (Egypt); Professor R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Dr. C. Malik (Lebanon); Mr. M. Amado (Panama); General C. P. Romulo (Philippine Republic); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom); Mr. J. J. C. Victorica (Uruguay – Alternate); Dr. V. Ribnikar (Yugoslavia). Representatives of the Commission on the Status of Women: Mrs. Begtrup; Mme. Uralova. Secretariat: Professor J. P. Humphrey; Mr. E. Lawson. [2] Specialized Agencies: Mr. P. de Briey and Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO); Mr. Weiss (Preparatory Commission for the International Refugee Organization). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. A. J. van Istendael and Mr. P. J. Serrarens (International Federation of Christian Trade Unions). Non-Governmental Organizations: Category B: Mr. O. F. Nolde (Commission of the Churches on International Affairs); Dr. Bienenfeld (Organization World Jewish Congress); Mr. Milton Winn (Consultative Council of Jewish Organizations); Miss de Romer (Union Internationale des Ligues Femines Catholiques. Union Catholiques Internationale de Service Social); Mrs. Eder (International Council of Women); Mr. A. G. Brotman (Co-ordinating Board of Jewish Organizations); Mr. Pilloud (International Red Cross Committee).

[3]

1. Consideration of the Reports of the Working Groups on an International Convention on Human Rights (Document E/CN.4/56) and on the Declaration of Human Rights (Document E/CN.4/57)

THE CHAIRMAN welcomed the representative of China, Dr. C. H. Wu, who had previously been represented by Dr. Nan-Ju Wu. She stated that the Report on the Convention (Document E/CN.4/56) contained the final English text, but that the French version was an unofficial translation. The wording of the two Reports on the Declaration and Convention could not be regarded as final, but since they would be sent to all Member Governments for comment, she hoped that representatives would concentrate on substance rather than wording. She suggested that the Commission should study simultaneously the corresponding clauses in the Draft Declaration and the Draft Convention.

MR. RIBNIKAR (Yugoslavia) proposed a general discussion on the drafts as a whole before commencing a study of separate Articles.

THE CHAIRMAN did not think that that procedure would be useful, but was willing to put the proposal to the vote.

MRS. MEHTA (India) thought that some general remarks should be permitted. One of the drafts omitted allusion to certain rights which should be brought to the attention of the Commission.

THE CHAIRMAN pointed out that there was nothing to prohibit general observations on Articles under discussion.

MR. WU (China) suggested that consideration should proceed Article by Article, and the right to make general observations either in the preamble or at the end should be reserved.

THE CHAIRMAN reminded representatives that it had been decided not to draft the preamble at the second session.

MR. MALIK (Lebanon) felt that everyone should be allowed to give an explanation of their general attitude to the two documents.

[4]

THE CHAIRMAN said that there would be no objection to representatives giving an explanation of their vote either on specific articles or on the document as a whole. The proposal to be put to the vote was whether the Commission should consider the corresponding Articles of the two documents simultaneously.

MR. CASSIN (France) feared that consideration of the Articles out of their numerical order would cause confusion. An understanding of the logical purpose of each Article was a necessary guide to consideration of the full text.

MR. DEHOUSSE (Belgium) thought that it would be simpler to take the Declaration Article by Article, starting with Article 1, and to consider at the same time the corresponding Articles in the Convention, whenever a common subject arose.

THE CHAIRMAN put to the vote the proposal to consider the two Documents Article by Article which was adopted by 11 votes to 4, with 2 abstentions.

The Belgian proposal was then put to the vote and adopted by 11 votes to 0, with 6 abstentions.

2. Declaration on Human Rights (Document E/CN.4/57) – Article 1

MRS. MEHTA (India) said she did not like the wording “all men” or “and should act towards one another like brothers”, she felt they might be interpreted to exclude women, and were out of date.

THE CHAIRMAN replied that the word “men” used in this sense was generally accepted to include all human beings.

Article 1 was adopted by 12 votes to 0, with 5 abstentions.

Replying to a request by the representative of Belgium for a ruling on the point raised by the representative of India, the Chairman said that the text of Article 1 had been approved without modification, but that a comment could be inserted if so desired.

LORD DUKESTON (United Kingdom) proposed that, in order to avoid further discussion on the subject, a note should be included [5] at the beginning of both Documents to the effect that the word “men”, as used therein, referred to all human beings.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that the formula was of an abstract and philosophic character. It was also contradictory. It repeated the ideas of the materialistic French philosophers of the eighteenth century and ended by proclaiming a new philosophy. He was aware that abstract formulae were sometimes useful at the beginning of a document, but as such they should appear in the preamble. He could not accept that text as final.

THE CHAIRMAN observed that, as the Article had already been voted on, the remarks of the Soviet Union representative would be taken as an explanation of his vote.

MR. DEHOUSSE (Belgium) pointed out that the eighteenth century French philosophers were not all materialists. One example was Jean Jacques Rousseau. It was unreasonable to say that those responsible for the slogan “Liberty, equality, fraternity” had not reached the idea of universal brotherhood.

MRS. MEHTA (India) said that she had no objection to the United Kingdom suggestion, but Article 1 was the only place in the Declaration where the expression “men” appeared. She wished to have this changed to “human beings” or “persons”.

A discussion followed as to the advisability of: (1) accepting the alteration suggested by the Indian representative; (2) inserting a footnote to Article 1, or (3) adopting the proposal of the United Kingdom representative.

MR. DEHOUSSE (Belgium) thought it was necessary to insert a footnote since firstly, the expression “droit de l’homme” appeared repeatedly in the French version and, secondly, if the words “human beings” were used, it would be logical to add “brothers and sisters”.

[6]

THE CHAIRMAN then put to the vote the proposal of the United Kingdom representative which was adopted by 12 votes to 1, with 3 abstentions.

Article 2

THE CHAIRMAN said that the United States Delegation preferred the text it had proposed, (E/CN.4/36) and wished it to be inserted as a footnote.

MR. VICTORICA (Uruguay) agreed with the underlying spirit of the Article. Its provisions were in harmony with liberal constitutional law in the field of Human Rights. An Inter-American Law Commission was due to meet at Bogotá in March at which consideration would be given to limitations imposed within the framework of the law and in respect of public order. The rights of individuals should be limited by the just requirements of a democratic state. He suggested the addition to the present text of the sentence “formulated by the law” after the words “democratic state”. He also submitted the following as an amended text:

“The rights of each may be limited to secure the rights of others, by the exigencies of public order, the security of the state and the normal development of collective life as expressed by law.”

LORD DUKESTON (United Kingdom) objected to the term “democratic state” in a context which introduced distinctions and which might cause difficulties. He preferred a simpler and broader text, proclaiming the rights of individuals and their obligations to society for the creation of a more liberal atmosphere. He submitted the following:

“In the exercise of their rights, everyone must recognize the rights of others and his obligation to society so that all men may develop their spirit, mind and body in wider freedom.”

[7]

MR. CASSIN (France) said that the English words “spirit, mind and body” had not been very aptly rendered in the French version. He noted the remarks of the Uruguayan representative concerning the Inter-American Law Commission, and pointed out that the ground had already been covered to some extent by the Meeting of American Jurists in Philadelphia. The Drafting Committee text represented a compromise between the liberal eighteenth century ideas and the modern point of view.

THE CHAIRMAN said it was impossible at the present session to attempt to draft a Declaration in final form. It was also unnecessary since the whole would be revised at the next session. She suggested that representatives should submit their amendments

for insertion as footnotes, which would then be circulated to Member Governments together with the formal text.

MR. WU (China) proposed amending the first sentence of Article 2 to read: "In the exercise of his rights everyone shall respect the rights of others and comply with the just requirements of the democratic State."

MR. CRUZ COKE (CHILE) supported the Chinese proposal. He emphasized the point made by the Chairman that the discussion should be kept to matters of substance rather than actual drafting.

MR. MALIK (Lebanon) objected to the idea of adding alternative texts in the form of footnotes. He thought that the Declaration should be the expression of the views of the Commission as a whole, and that representatives who had not been members of the Working Group on the Declaration should be given an opportunity to propose amendments. He pointed out that, when the Declaration was sent to Governments, they would have the opportunity to make comments and propose alternative texts.

THE CHAIRMAN said that all formal proposals on matters of substance would be put to the vote. If, thereafter, a representative still considered his own text to be better than that which was [8] adopted, he would be free to insert it in a footnote.

MR. AMADO (Panama) pointed out that the draft Declaration under discussion was not simply the expression of the views of the six members of the Working Group, but that it had been based on the Drafting Committee's Report. He agreed with the Chairman that representatives should be allowed to include their own texts in the form of footnotes.

THE CHAIRMAN put the Uruguayan proposal to the vote.

It was rejected by 9 votes to 2, with 6 abstentions.

THE CHAIRMAN put to the vote the proposal made by the United Kingdom representative.

That was rejected by 7 votes to 5, with 4 abstentions.

MR. DEHOUSSE (Belgium) asked to have the Chinese proposal voted on by division.

The Chairman put the first sentence of the Chinese proposal to the vote:

"In the exercise of his rights, everyone shall respect the rights of others and comply with the just requirements of the democratic State."

The proposal was rejected by 7 votes to 4, with 6 abstentions.

THE CHAIRMAN then put to the vote the original text of article 2, as contained in Document E/CN.4/57.

The Article was adopted by 9 votes to 2, with 5 abstentions.

THE CHAIRMAN requested that a comment be included in the Report giving the United States' text (E/CN.4/36) and saying that the United States preferred its own version to that which had been adopted.

LORD DUKESTON (United Kingdom) requested that a similar remark should be inserted with regard to the United Kingdom text.

[9]

**2. Articles 3 to 6 of the Draft Declaration (E/CN.4/57)
and Article 19 of the Draft Convention (E/CN.4/56)**

MR. LOUFI (Egypt) proposed the deletion of the words “political or other opinion, property status, or national or social origin”. Those words had been added by the Sub-Commission on Discrimination and Minorities, but he preferred the original text proposed by the Drafting Committee. He suggested that the first sentence of the Article in the Declaration be amended to correspond to the wording of Article 19 of the Convention.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) opposed that proposal. He thought that the main fault of the Declaration was a lack of precision in enumerating those entitled to the rights and in providing methods to safeguard those rights. He read the proposal made by Mr. Borisov to the Sub-Commission (document on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/21) and suggested that it should be discussed:

“All people are equal before the law and shall enjoy equal rights in the economic, cultural, social and political life, irrespective of their race, sex, language, religion, property status, national or social origin.

Any advocacy of national racial and religious hostility or of national exclusiveness or hatred and contempt, as well as any action establishing a privilege or a discrimination based on distinctions of race, nationality, or religion, constitute a crime and shall be punishable under the law of the State.”

THE CHAIRMAN asked if the Soviet Union representative was proposing an amendment to the Declaration or to the Convention.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked that it be studied as an amendment to the Declaration, as the Convention was incomplete and many of the fundamental rights were not included.

[10]

MRS. MEHTA (India) pointed out that the word “colour” had been added to the Article in the Convention. She had understood the term “race” to include colour, but if there was any doubt on the subject, she thought that the word “colour” should be inserted in the Declaration.

MR. CRUZ COKE (Chile) did not agree with the Soviet Union proposal since it put all power in the hands of the State, and, in his opinion, the State constituted the chief threat to the rights of the individual.

MR. MALIK (Lebanon) said that the representative of India had raised an important point since “race” and “colour” did not mean the same thing, neither was the conception of colour included in the term “race”.

MR. CASSIN (France) said that the Working Group on the Declaration had followed the practice of the Sub-Commission on Discrimination and Minorities and had

considered the term “race” to include colour. He drew attention to the definition of “national origin” in the Sub-Commission’s Report and said that a general reference to that Report should be made in connection with the interpretation of the terminology. He agreed with the principle of the Soviet Union proposal, but he did not think that the question of implementation should be included in the Declaration.

THE CHAIRMAN said that her Government would be opposed to the introduction of the Soviet Union proposal in the Declaration. She did not think that a law such as that proposed by the Soviet Union representative could be applied in practice, and cited the prohibition law in the United States as an example.

GENERAL ROMULO (Philippine Republic) supported the Indian proposal that the word “colour” be added to the Article in the Declaration. He agreed with the Soviet Union proposal in principle, [11] but did not think it should be included in the Declaration. He announced his intention of abstaining from voting on it.

MRS. MEHTA (India) wished to change her proposal to read “race including colour” since colour was not mentioned in the United Nations Charter.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) emphasized the importance of reinforcing the general principles by some concrete measures for implementation. He did not think there would be any difficulty in specifically prohibiting acts of discrimination. He thought that if no provision were adopted to prevent acts of discrimination, it would mean that such practices as lynching of negroes would continue. He thought that it should be specifically stated that violation of the principles of the Declaration was a crime.

The meeting rose at 1:10 p.m.

E/CN.4/SR.35

12 December 1947

Original Text: French

Summary Record of the Thirty-Fifth Meeting [of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Friday,
12 December, 1947, at 3 p.m.

Present: Chairman: Mrs. F. D. Roosevelt (United States of America); Rapporteur: Dr. C. Malik (Lebanon). Members: Colonel W. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussia); Mr. E. Cruz Coke (Chile); Dr. C. H. Wu (China); Mr. O. Loutfi (Egypt); Professor R. Cassin (France); Mrs. H. Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); General C. P. Romulo (Philippines); Lord Dukeston (United Kingdom); Mr. M. Klekovkin (Ukraine); Mr. A. E. Bogomolov (Union of Soviet Socialist Republics); Mr. J. J. C. Victorica (Uruguay); Dr. V. Ribnikar (Yugoslavia).

Representatives of the Commission on the Status of Women: Mrs. Begtrup; Mrs. Uralova. [2] Secretariat: Professor Humphrey; Mr. Lawson. Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO); Mr. Weiss (IRO). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. Robert de Cléry (Inter-Parliamentary Union); Mr. Serrarens (International Federation of Christian Trade Unions). Category B: Mr. Brotman (Consultative Council of Jewish Organizations); Mr. Pilloud (International Red Cross Committee); Mrs. J. Eder (International Council of Women); Mr. Nolde (Commission of the Churches on International Affairs); Miss de Romer (International Union of Catholic Women's Leagues); Mr. Bienenfeld (World Jewish Congress); Mr. de Félice (International Abolitionist Federation); Mr. Ennals (World Federation of United Nations Associations).

[3]

1. Examination of Articles 3 to 6 of the Declaration (E/CN.4/57)

PROFESSOR DEHOUSSE (Belgium) stated that the amendment submitted by the representative of India at the 34th meeting, to introduce the term "colour", did not seem to him scientifically accurate since, in his view, the concept of race included that of colour. He would, however, vote for this amendment. The amendment proposed by the Soviet representative (E/CN.4/Sub.2/21) was, he felt, unacceptable. There was no mention in the first paragraph of this amendment of "political opinion", as in the first paragraph of the proposed Declaration. The second paragraph of this amendment, relating to implementation, was, he considered, out of place in a Declaration which had no binding force. It also seemed inconsistent for the Soviet representative to oppose the implementation of the provisions concerning human rights when he agreed to their insertion in an Article of the Declaration. Finally, he did not feel it was possible to leave the responsibility of implementation to the States themselves. He proposed the following amendment, which would take into account the idea advanced in the second paragraph of the Soviet representative's amendment: at the end of paragraph 2 of Articles 3 to 6 of the proposed Declaration, add the words "and against any incitement to such discrimination".

LORD DUKESTON (United Kingdom) stated that the United Kingdom could not support the Soviet amendment because it did not protect the individual against discrimination on the grounds of his political opinions. In accordance with this amendment a one-party Government would not be obliged to take measures to safeguard the freedom of those professing a different political opinion from its own.

[4]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that it was logical for the terms "political or other opinion" to be omitted from the Soviet proposal. There were political opinions which tolerated not only the advocacy of racial or

national hatred, but also the actions arising therefrom. Equal rights could not be granted to those who professed such opinions.

MR. CRUZ COKE (Chile) wished to know whether this meant that the Soviet representative would approve of an individual being persecuted for his political opinions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) replied that this question bore no relation to the problem under discussion, which was whether propaganda and actions based on national or racial hatred should or should not be permitted.

DR. WU (China) suggested the following amendment to the Soviet representative's proposal: "Any advocacy of national, racial or religious hostility, designed to provoke violence, shall be forbidden under the law of the State". This amendment might be inserted in the Declaration or the Convention.

THE CHAIRMAN pointed out that the Commission had before it the Soviet amendment, proposed for insertion in the Declaration. She asked the representative of China to explain whether his amendment was intended for insertion in the Declaration or in the Convention.

DR. WU (China) stated that he would reserve his amendment for insertion in the Convention.

THE CHAIRMAN called for a vote on the amendment proposed by the Soviet representative, to substitute for Articles 3 to 6 of the Declaration the proposal submitted by Mr. Borisov to the Sub-Commission on the Prevention of [5] Discrimination and the Protection of Minorities (E/CN.4/Sub.2/21).

Decision: The Commission rejected this amendment by *ten* votes to *four*, with *three* abstentions.

THE CHAIRMAN put the Belgian representative's amendment to the vote.

GENERAL ROMULO (Philippines) proposed that this amendment be inserted after the words "arbitrary discrimination".

PROFESSOR DEHOUSSE (Belgium) accepted this proposal.

Decision: The Commission adopted this amendment by *ten* votes to *none*, with *six* abstentions.

THE CHAIRMAN stated that the Commission had before it the amendment proposed by the representative of China, to add the word "colour" after the word "race", and the amendment submitted by the representative of India to add the words "(i.e. also colour)" after the word "race".

MRS. MEHTA (India) pointed out that the amendment proposed by the representative of China implied that the concept of colour was not covered by that of race. She suggested that a vote be taken, in the first instance, on the proposal of the representative of India.

THE CHAIRMAN put to the vote the amendment proposed by the representative of India.

Decision: This amendment was adopted by *ten* votes to *none*, with *six* abstentions.

THE CHAIRMAN stated that the amendment proposed by the representative of China was consequently ruled out. Lastly the Commission had before it an amendment by the representative of Egypt to delete the words “political or other opinion” and the words “national or social origin” included in paragraph 1. She put this amendment to the vote.

[6]

Decision: The Commission rejected this amendment by *eleven* votes to *one*, with *five* abstentions.

2. *Examination of Article 19 of the Draft Convention*⁴⁶

PROFESSOR DEHOUSSE (Belgium) stated that it would be logical to re-introduce in this Article the amendment he had proposed in respect of Articles 3 to 6 of the Declaration. He therefore suggested the insertion in the second sentence of Article 19, after the words “under the law”, of the words “against any incitement to such discrimination”.

MRS. MEHTA (India) proposed for the first sentence of Article 19 the amendment she had submitted for Articles 3 to 6 of the Declaration.

DR. WU (China) proposed that the amendment he had suggested to the proposal by the Soviet representative be inserted at the end of Article 19.

PROFESSOR CASSIN (France) proposed that the whole of paragraph 2 of Article 3 of the Declaration should be substituted for the second sentence of Article 19 of the Convention. In point of fact Article 3, paragraph 2, expressed the idea of equality before the law, which was not contained in the second sentence of Article 19.

MR. LOUTFI (Egypt) supported the proposal made by the representative of France.

PROFESSOR DEHOUSSE (Belgium) stated that he withdrew his amendment in favour of that proposed by the representative of France.

COLONEL HODGSON (Australia) pointed out that there was a great difference between the wording of the corresponding articles of the Declaration and of the Convention. Article 19 involved an obligation on the part of the State, [7] whereas Article 3 laid down a principle. In order to coordinate the two texts, whilst

⁴⁶ Although this section deals with the draft Convention, it has been included because of comparisons with the text of the draft Declaration.

maintaining the binding character of Article 19 of the Convention, he proposed the following amendment to the second sentence of this Article:

“Every person, regardless of office or status, shall be entitled to equal protection under the law and shall be protected by the law against any arbitrary discrimination and against any incitement to such discrimination in violation of this Declaration.”

MR. AMADO (Panama) remarked that Article 19 used the term “Bill of Rights” instead of “Convention”. The English expression “Bill of Rights” had a sense which was not universally accepted and had, therefore, no international significance. He accordingly proposed that the words Bill of Rights be replaced by the term “Convention”.

LORD DUKESTON (United Kingdom) pointed out that all the amendments proposed referred to the restrictions placed on freedom of expression or information. It was, however, stated in paragraph 3 of the draft Resolution on Freedom of Information (page 14 of Document E/CN.4/56) that these questions were to be remitted for consideration to the Sub-Commission on Freedom of Information and of the Press and to the International Conference on Freedom of Information. He proposed therefore that this Resolution should be adhered to and that there should be no discussion of these amendments.

PROFESSOR CASSIN (France) maintained that the amendment submitted by the representative of Australia would represent an undeniable improvement to the text of Article 19 of the Convention. Moreover, he did not feel that the text of the Resolution mentioned by the United Kingdom representative, and the new text proposed for the second sentence of [8] Article 19, were absolutely identical. The latter related not only to freedom of information but also to administrative or educational questions.

PROFESSOR DEHOUSSE (Belgium) suggested that the choice of a title for the document be referred to the Drafting Committee, on the understanding that the term “Declaration” connoted an undertaking that was not binding, and “Convention” an international treaty.

GENERAL ROMULO (Philippines) supported the amendment proposed by the representative of Australia.

MR. AMADO (Panama) did not feel authorized to vote for an international instrument for which he was unable to furnish a concrete definition to his Government. He therefore asked that the question of the document’s title be put to the vote.

THE CHAIRMAN stated that she was prepared to call for a vote on the question as to whether this document should be called a “Bill of Rights” or a “Convention”. Representatives who did not share the majority opinion might state their views in a note which would be annexed to the document.

PROFESSOR DEHOUSSE (Belgium) recalled that he had proposed the substitution of the word “Covenant” for “Convention”. He asked that the vote should also cover this proposal.

MR. VICTORICA (Uruguay) stated that if it was to be effective the Declaration should form part of positive international law. He saw no clear-cut distinction, either in form or in substance, between the Declaration and the Convention. Both documents had the same legal scope; nevertheless, it would be easier to examine the Declaration first, so as to establish the general principles and then to pass on to the Convention. He therefore submitted the following motion: The Commission should continue its [9] examination of the text of the Declaration; after this has been completed it will be in possession of adequate legal criteria by which to examine the Convention.

THE CHAIRMAN explained that although it was to be hoped that the principles defined in the Declaration would be embodied in national legislation, this was not obligatory. Certain States might regard many of these principles merely as aspirations. In view of this, the Commission had split into three Working Groups in order to draw up, at the same time as the Declaration, a draft Convention which, once it had been ratified by States, would be binding. For the same reason the Commission had decided to proceed to a simultaneous study of the corresponding articles of the draft Declaration and the draft Convention.

GENERAL ROMULO (Philippines) stated that the Commission had become involved in a procedure which was inadmissible. It had decided on the parallel discussion of the articles of the Convention and the Declaration. He asked the Chairman to declare any motion contrary to this decision inadmissible. Furthermore, a number of representatives had received precise instructions from their Governments and therefore could not record their votes until the Commission had decided whether to call the instrument a "Declaration" or a "Convention". He felt that the proposal made by the Delegation of Panama to the effect that the Commission should decide between the titles "Convention" and "Bill of Rights" should be taken into consideration. He asked that the vote on this question be given priority.

LORD DUKESTON (United Kingdom) saw no objection, from a legal standpoint, to the use of the words "Bill of Rights"; the main point was the form given to the document, since it [10] would be its form and not its title which would give it the force of an international Convention involving legal obligations. Personally he preferred the term "Bill of Rights", not only on historical grounds, but also because the peoples for whom the Commission was preparing this instrument expected a Bill of Rights. He did not think the Commission could decide on a title merely on the strength of Article 19. Whatever the title adopted when a vote was taken on each article, the latter could be brought into conformity with the title at the end of the debate. In these circumstances he proposed that no decision on the title be taken until the actual contents of the document had been discussed.

THE CHAIRMAN proposed, to avoid any further discussion, that all three terms be employed and the title considered at the end of the debate.

She called for a vote on the amendment proposed by the representative of France, and further amended by the Australian Delegation, to replace the last sentence of Article 19 by the following:

“Every person, regardless of office or status, shall be entitled to equal protection under the law and shall be protected by the law against any arbitrary discrimination and against any incitement to such discrimination in violation of this Declaration.”

DR. MALIK (Lebanon) held that three or thirty titles might be employed, but the one term that could not be adopted was “Declaration”. The Commission had received its Terms of Reference from the Economic and Social Council, and these referred merely to a “Bill of Rights” and not to a Convention or Declaration.

PROFESSOR DEHOUSSE (Belgium) felt that the Commission would make no headway in its work unless it adopted the [11] Chairman’s proposal. The whole question depended in fact on what was meant by the words “Bill of Rights.” To him, the words meant “Convention” but he repeated that they could not be translated into French.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that in Russian, “Bill of Rights” meant “English law”.

PROFESSOR CASSIN (France) supported the proposal that the various terms be discussed after the articles had been considered.

THE CHAIRMAN called for a vote on the amendment to Article 19, proposed by the French Delegation, and further amended by the Australian Delegation.

Decision: This amendment was adopted by *eleven* votes to *one* with *four* abstentions.

THE CHAIRMAN called for a vote on the amendment proposed by the Chinese Delegation, to add a new paragraph to Article 19:

“Any advocacy of national, racial or religious hostility, designed to provoke violence, shall be forbidden under the law of the State”.

COLONEL HODGSON (Australia) felt that this text might throw Article 19, which dealt with discrimination, out of balance. The text of the amendment proposed by the representative of China contained a new idea which might be embodied in a separate article.

DR. WU (China) accepted this proposal.

THE CHAIRMAN proposed that consideration of this amendment be postponed until after the vote on the amendment submitted by the Delegation of India which, following the addition of the term “colour” to Article 3, called for the insertion in Article 19 of the words “(*i.e.* also colour)” after the word “race”.

Decision: This amendment was adopted by *eleven* votes to *none*, with *four* abstentions.

[12]

DR. WU (China) asked that the text of his amendment should be inserted immediately after Article 19, since it also related to one aspect of discrimination.

THE CHAIRMAN put the amendment, in the form of a new article, to the vote.

Decision: The article was adopted by *seven* votes to *two*, with *seven* abstentions.

3. Article 7 of the Declaration and Article 4 of the Convention

THE CHAIRMAN declared discussion open on Article 7 of the Declaration and Article 4 of the Convention, concurrently.

MR. SERRARENS (International Federation of Christian Trade Unions) felt that the purport of the second paragraph of Article 4 was exceptionally serious. Admittedly certain countries had laws authorising abortion, but the fact that such a law existed did not justify an act which was in itself unlawful. Furthermore, the majority of national laws forbade the practice of abortion, thus recognizing morality born of the reasoning faculty given to man by the Creator. He trusted that paragraph 2 would be deleted.

MR. CRUZ COKE (Chile) was amazed that the Working Group had adopted paragraph 2 of Article 4 of the Convention, since it sanctified an unscientific principle. The words in paragraph 2: "except in a case in which it is permitted by law" were a contradiction to the first line of paragraph 1 which read: "It shall be unlawful to deprive any person of his life". He pointed out that the Hitler regime had also adopted these practices "in good faith". The paragraph likewise provided for an exception in cases where it was necessary "to prevent the birth of a child of unsound mind". As a doctor, he declared that it could not be forecast before birth whether a child would [13] or would not be of unsound mind.

As regards the prevention, provided for in the paragraph, of the birth of a child "to parents suffering from mental disease", he pointed out that in some cases children of mentally deranged parents had become famous men or even geniuses. As regards pregnancy resulting from rape, experience had shown that the majority of women seeking abortion used rape as a pretext. In his view paragraph 2 of Article 4 was a shameful provision which should be deleted.

MRS. BEGTRUP (Chairman of the Commission on the Status of Women) stated that the question under discussion would be considered at the next session of the Commission on the Status of Women. However, she drew the attention of the Commission on Human Rights to the fact that the laws of a large number of civilized

countries allowed abortion, in cases clearly specified by the law, in order to preserve the life of the woman. She felt that the deletion, pure and simple, of paragraph 2 would prevent the ratification of the Convention by certain countries.

THE CHAIRMAN proposed that a vote should first be taken on Article 7 of the Declaration and that discussion should then be resumed of Article 4, taken paragraph by paragraph.

MR. VICTORICA (Uruguay) felt that the expression “everyone” was too narrow. He would prefer a wider term which would include all human beings. He proposed the following amendment:

“Human life is inviolable. The State shall grant protection to all persons born or those suffering from incurable diseases and those physically or mentally deficient are also entitled to it.

The right to life includes the right of obtaining from the State minimum standards for a dignified and worthy life.

The death penalty shall never be applied to political offenders. With regard to criminal offenders, it shall only be applied after sentence rendered under existing laws after a trial with the necessary guarantees for a just sentence.”

[14]

He stated that on philosophical, sociological and moral grounds many countries refused to apply the death penalty. His delegation would uphold the principle that the death penalty could never be imposed for a political offence.

MR. CRUZ COKE (CHILE) supported this proposal.

PROFESSOR DEHOUSSE (Belgium) asked for a separate vote on each part of the proposal, since the text submitted by the delegation of Uruguay contained several different ideas.

MRS. MEHTA (India) drew the Commission’s attention to the fact that if it accepted the proposed text, paragraph 2 of Article 4 should be maintained; otherwise it would conflict with the facts, since exceptions might be made for “unborn persons.”

THE CHAIRMAN called for a vote on the text proposed by the delegation of Uruguay in the place of Article 7 of the Declaration.

Decision: The first paragraph was rejected by *eleven* votes to *three*, with *four* abstentions.

The second paragraph was rejected by *ten* votes to *three*, with *four* abstentions.

The third paragraph was rejected by *nine* votes to *three*, with *five* abstentions.

She put the original text of Article 7 of the Declaration to the vote.

Decision: This text was adopted by *sixteen* votes.

...

E/CN.4/58**12 December 1947****Original Text: French****Belgian Amendment to Article 10 of the Declaration (E/CN.4/57)**

Insert the following text between paragraphs 1 and 2:

“This provision shall not, however, preclude the trial and conviction of persons who have committed acts which, at the time of their commission, were regarded as criminal by virtue of the general principles of law recognized by civilized nations.”

E/CN.4/SR.36**13 December 1947**

Summary Record of the Thirty-Sixth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva on Friday,
 13 December 1947 at 10 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Dr. C. Malik (Lebanon). Members: Col W.R. Hodgson (Australia); Prof. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Mr. E. Cruz Coke (Chile – Alternate); Dr. C. H. Wu (China – Alternate); Mr. O. Loutfi (Egypt); Prof. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); Gen. C. P. Romulo (Philippine Republic); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Mr. J. J. C. Victorica (Uruguay); Dr. V. Ribnikar (Yugoslavia). Representatives of the Commission on the Status of Women: Mrs. B. Begtrup, Chairman; Mrs. E. Uralova, Rapporteur. Secretariat: Professor J. P. Humphrey; Mr. E. Lawson. [2] Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO); Mr. Weiss (Preparatory Commission for the International Refugee Organization). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. P. V. S. Serrarens and Mr. van Istendael (International Federation of Christian Trade Unions); Mr. A. R. de Cléry (Interparliamentary Union). Non-Governmental Organizations: Category B: Mr. O. F. Nolde (Commission of the Churches on International Affairs); Mr. J. M. E. Duchosal (Comité Internationale de la Croix Rouge); Mr. A. E. Brotman (Consultative Council of Jewish Organizations); Prof. Bentwich (Consultative Board of Jewish Organizations); Dr. Bienenfeld (World Jewish Congress); Mr. Milton Winn (Consultative Council of Jewish Organizations); Miss de Romer (Union Internationale des Ligues Féminines Catholiques. Union Catholique International de Service Social); Miss van Eeghen (International Council of Women); Miss Eder (International Council of Women); Mr. C. Pilloud (International Red Cross).

[3]

1. Consideration of the Reports of the Working Groups on an International Convention on Human Rights (Document E/CN.4/56) and of the Declaration of Human Rights (Document E/CN.4/57) (contd.)

Article 8 of the Declaration and Articles 8 and 9 of the Convention

THE CHAIRMAN said that no amendments had been submitted to Article 8.

COLONEL W. R. HODGSON (Australia) suggested that:

- (1) the Reports of the Working Groups should not be passed over too lightly; the respective Rapporteurs might be called on to give a brief summary of the arguments in the case of contentious Articles; and
- (2) since all Member States of the United Nations were interested, it did not follow that rejected amendments might not be found acceptable when the final draft was presented to them; alternative texts should therefore be appended as a footnote.

DR. BIENENFELD (World Jewish Congress) said that the point he wished to raise was of great importance. Article 8 of the Declaration laid down that no-one should be deprived of his liberty except in cases prescribed by the law. It did not, however, specify the nature of the law. Under the Nazi regime thousands of people had been deprived of their liberty under laws which were perfectly valid. Law in that sense ought therefore to be in conformity with the principles of the Declaration. Otherwise a Bill of Human Rights might become a Bill against Human Rights. He suggested that the word "law" should be defined as "law conforming to the principles of the United Nations".

GENERAL ROMULO (Philippine Republic) supported this proposal. The suggestion was for a transposition of the text of Article 38 rather than an amendment. Article 38 should either be introduced before Article 8 or combined with it. His Delegation had made a similar suggestion at a meeting of the Working Group on the [4] Declaration on which no vote had been taken.

THE CHAIRMAN said that it had been decided to follow the text Article by Article, and that the present proposal was a change of procedure which could not be accepted. The Rapporteur could, at the appropriate time, be instructed to transpose Article 38.

MR. BOGOMOLOV (USSR) observed that Article 8 of the Convention proclaimed in paragraph 1 the essential right of inviolability which was written in all democratic constitutions. The remainder of the Article specified the exceptions to the general rule. Those exceptions were the subject of different legislation in each country. Those nations which wished to conclude a Convention would only accept the limitations which were imposed by their respective legislatures. He considered that the Commission should take note only of paragraph 1 of the Article, as it was

not empowered to take any decision on the second paragraph. The opinions of the majority of the Working Group on the Declaration could be recorded as a footnote.

LORD DUKESTON (United Kingdom) moved the deletion of Article 9 of the Convention on the grounds that it was merely a repetition of parts of Articles 7 and 8.

THE CHAIRMAN, after discussion, put to the vote a motion that Article 8 of the Declaration should be considered before Article 9 of the Convention which was adopted by 9 votes to 1 with 4 abstentions.

MR. MALIK (Lebanon), commenting on the statement of the representative of the World Jewish Congress, said that there was no doubt that Article 38 of the Declaration had a direct bearing on Article 8. He felt that it would be necessary to qualify the word "law" in the Declaration. Whilst he concurred with the Chairman's ruling, it was a matter of convenience to take the two Articles together. Two points of importance were raised in considering the documents as a whole. The order in which Articles [5] had been presented in the Declaration, with which he was not satisfied. The logical grouping could be improved, he thought. Secondly, many Articles were related. He suggested that a general Article, similar to that appearing at the end of the Convention, should be inserted to cover all Articles relating to each other. In that connection he drew attention to the text of a United States proposal (Document E/CN.4/59) which read:

"In construing the Articles of this Bill of Rights, the several Articles shall be regarded in their relation to each other."

THE CHAIRMAN replied that the Working Group on the Declaration had recognized that there would have to be regrouping of Articles but had preferred to leave that to the Rapporteur.

MR. C. H. WU (China), whilst agreeing with the views of the Representative of the World Jewish Congress, thought that Article 38 should remain at the end of the Declaration.

MR. CASSIN (France) supported the remarks of the representative for Lebanon. It had been understood that Article 8 should be construed in a general sense. It should therefore be interpreted through Article 38.

COLONEL W. R. HODGSON (Australia) commented on the confusion of thought which was apparent in the Declaration. Some Articles took the form of affirmations of a general character; such as Article 8 which read "no-one shall be deprived". In contrast, Article 38 required that every affirmation in the Declaration should be incorporated in the internal laws of the signatories. The document was therefore a combination of simple affirmations with a mandatory "shall" for domestic law.

In reply to a question to the Chairman, the representative of Australia said that he was commenting on both Articles 8 and 38.

THE CHAIRMAN then put Article 8 of the Declaration (Document E/CN.4/57) to the vote which was adopted by 11 votes to none with 6 abstentions.

[6]

COLONEL W. R. HODGSON (Australia), in explanation of his vote, said that he approved of the principle set out in Article 8. He had abstained from voting on account of the drafting which was in mandatory language applicable to a convention. That consideration would govern his subsequent votes.

THE CHAIRMAN said that all explanations regarding voting would be included in the records if passed to the Secretariat in writing. She would now pass to Article 8 of the Convention. The suggestions of the Soviet Union representative could be inserted as a footnote or voted upon if he wished.

MR. BOGOMOLOV (USSR) said that in the present state of the Commission's work he did not wish to insist on the point.

MR. CASSIN (France) wished to reassure those representatives who had voted in favour of Article 8 of the Declaration. In doing so they had voted for a text which was embodied in the constitutions of most nations. The case of Article 8 of the Convention was different and it would require careful scrutiny. He would suggest two amendments. Firstly, in 2(a) the substitution of the words "criminal offence" for "crime" to cover minor offences. Secondly, in paragraph 5, whilst he agreed that compensation was the ideal solution, he found that this was not provided for by the laws of many States. He suggested that the sense should be moderated by altering the word "shall" to "should" in that paragraph.

MR. E. CRUZ COKE (Chile) felt that it was necessary to protect the rights of human beings from arbitrary acts by the State. The words "criminal offence" were too wide and laid the paragraph open to the Nazi interpretation of arrest for any offence. He did not consider it wise to make too many exceptions which might render the text valueless.

COLONEL W. R. HODGSON (Australia) agreed that it was always dangerous to enumerate and asked if this text was intended to be [7] exhaustive. The language of Article 8 of the Convention was mandatory and, in order to be consistent, the wording of paragraph 3 should be changed in two places from "has the right to" to "shall".

MR. MALIK (Lebanon), in reply, said that the text of paragraph 2 of Article 8 of the Convention was certainly not intended to be exhaustive. It represented the restrictions which had occurred to members of the Working Group, and representatives were free to suggest others based on the internal laws of their countries. The greatest precision, however, was essential in drafting the Convention in order to render it acceptable to Member Governments. He accepted the amendment suggested by the Australian representative.

THE CHAIRMAN said that the United States delegation agreed to the text of the Article, with the insertion of the following footnotes:

to paragraph 2(b) – “The United States does not think that this covers adequately all cases of civil arrest.”

to paragraph 3 – “It is not clear that adequate safeguards have been given to insane persons, aliens and possibly others.”

THE CHAIRMAN then put the Australian amendment to the vote which was adopted by 11 votes to none with 4 abstentions.

MR. CASSIN (France) proposed that in paragraph 5 the word “shall” should be replaced by the word “should”.

THE CHAIRMAN put to the vote the amendment proposed by the representative of France which was rejected by 8 votes to 2 with 7 abstentions.

MR. MALIK (Lebanon) said that he had only received three written comments on the Article which had been proposed by the representative of the United States of America. He asked that all Members should submit to him their comments in writing; he said [8] that he would only include in the Report such comments as were submitted in writing and whose inclusion had been expressly requested.

THE CHAIRMAN put to the vote Article 8 of the Convention which was adopted by 11 votes to 0 with 7 abstentions.

...

Article 9 of Declaration and Article 12 of the Convention

LORD DUKESTON (United Kingdom) said that as a point of procedure, it was not possible to provide that everyone should “understand the procedure”, but only to provide that the procedure should be “explained to him in a manner which he can understand”. In his opinion, it was not necessary to specify “aid of counsel”, which was covered by the general term “fair hearing”. He added that it was not always appropriate for an individual to be represented by counsel; for example, there were many tribunals established in the United Kingdom to deal with cases of conscientious objectors, military service hardship appeals, and insurance disputes, which had been set up by a system of social service and which made decisions outside the courts.

[9]

MR. CASSIN (France) considered that the words “fair hearing” implied that an interested party could appear in person and with or without counsel. He pointed out that in some countries there was no right of personal appearance before all courts; for example, all pleas before the Court of Cassation in France were in writing only. For that reason, he preferred the words “independent and impartial hearing”.

THE CHAIRMAN pointed out that no alteration of the first sentence of Article 9 had been suggested. Referring to the second sentence, she suggested that the use of the wording of Article 12 of the Convention would clarify the text. She therefore proposed that the following words be used: "he shall be entitled to a fair hearing of his case and to the aid of a qualified representative of his own choice."

MR. DEHOUSSE (Belgium) supported the first part of the amendment proposed by the Representative of the United Kingdom. He said that he could not support the second part because experience in Belgian litigation had shown that the use of one language was adequate, although two languages were in common use.

LORD DUKESTON (United Kingdom) said that he did not object to the alteration of the first part of his amendment. Referring to the second part, he accepted the alternative proposed by the Representative of the United States of America of the words "a qualified representative of his own choice". He repeated his objection to the inclusion of the words "aid of counsel" and gave as an example the practice in England of Military Service Hardship Tribunals.

He said that, in these tribunals, young men had the right of appeal against military call-up for reasons of hardship to their families. These tribunals were composed of laymen appointed from lists of government nominees and were assisted by a legal adviser. He said that in England the whole system of social services was similar, and had been built up throughout the country on 36 years [10] experience and a basis of case law. He added that the presence of counsel before such tribunals would increase litigation costs out of proportion to the value of the consideration involved.

THE CHAIRMAN suggested that Members would be able to accept part 1 of the proposed amendment, and that a vote could be taken on the inclusion of the original text or of the United Kingdom amendment in part 2 of the Article. Voting on the Article would therefore be in three parts.

DR. WU (China) said that he accepted the wording proposed by the Chairman because the Working Group on the Convention had discussed and agreed upon such a text.

COLONEL HODGSON (Australia), referring to the first sentence of Article 9 of the Declaration, said that he was fully aware of the need to harmonize the Article with Article 12 of the Convention. For that reason, he proposed the very important and wide field of "criminal cases", for example, charges of sabotage against the State, should be included with "rights and obligations". He accordingly proposed that the words "of any criminal charge against him" should be added after the word "determination".

MR. CASSIN (France) supported the proposal made by the Representative of Australia, because he also considered that Article 9 of the Declaration was in general terms and should be made to harmonize with Article 12 of the Convention. He said that, in his opinion, the wording of the Article should not be too precise, but should

be sufficiently flexible to cover all systems. He also proposed that the words “as a general rule” be added after the words “of his case and”.

THE CHAIRMAN put to the vote the amendment proposed to the first sentence by the Representative for Australia, which was adopted by 12 votes to 0 with 5 abstentions.

[11]

THE CHAIRMAN said that two amendments had been proposed to paragraph 2. First, the addition proposed by the Representative of the United Kingdom of the words “a qualified representative of his own choice” after the words “entitled to aid of”. Secondly, the amendment proposed by the Representative of France to amend the second paragraph as follows: “he shall be entitled to a fair hearing of his case and, as a general rule, to the aid of qualified Counsel”.

THE CHAIRMAN put to the vote the amendment proposed by the Representative of the United Kingdom. This was adopted by 7 votes to 6 with 3 abstentions.

She said that the proposal of the Representative for Belgium to retain the original text would no longer be effective.

THE CHAIRMAN put to the vote the third part of Article 9 with the amendment proposed by the Representative of the United Kingdom, which was adopted by 7 votes to 6 with 4 abstentions.

THE CHAIRMAN put to the vote Article 12 of the Convention, which was adopted by 10 votes to 1 with 4 abstentions.

MR. VICTORICA (Uruguay) felt that the hearing of all criminal offences, and not only of crimes, should be in public.

MR. CASSIN (France), explaining his voting on Article 12, said that according to French Law, it would be absurd to include provisions for the appearance of counsel on all occasions.

Article 10 of Declaration and Articles 12 and 13 of the Convention

THE CHAIRMAN, referring to Article 10, pointed out that paragraph 1 corresponded to Articles 12 and 13 of the Convention, and paragraph 2, to Article 6 of the Convention. She referred to three amendments proposed for Article 10 from the Representatives of the Philippines, United Kingdom and Belgium (E/CN.4/58).

GENERAL ROMULO (Philippines) said that his proposed amendment was almost the same as that presented by the Representative of [12] Belgium. It was specially concerned with the Nuremberg War Crimes Trial and with all major War Crimes Trials, which, according to the original text of Article 10, would be illegal. It should read as follows: Add to Article 10 (in Declaration) and Article 13 (of Convention): “Nothing in this Article shall prejudice the trial and punishment of any person for

the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations”.

THE CHAIRMAN pointed out that the amendment proposed by the Representatives of the Philippines and of Belgium would be for inclusion after paragraph 1. She suggested that Members should vote first on the amendment to paragraph 1 proposed by the Representative of the United Kingdom.

LORD DUKESTON (United Kingdom) said his amendment was to delete the words “and which shall be pursuant . . . act charged”, and substitute the language of Article 13 of the Convention.

COLONEL HODGSON (Australia) said that he did not agree that the original text would be improved. He pointed out that the text of the Convention was becoming identical with that of the Declaration, and that no government would be able to distinguish between them. He said that mandatory language should be reserved for the Convention, and that he was submitting a note of a general objection to that effect.

PROFESSOR CASSIN (France) said that he agreed generally with the wording of Article 10, but that he supported the objection made by the Representative of Australia.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) referred to the question of “retroactive laws” in Article 13 of the Convention. He pointed out that in the Nazi War Crimes Trials the defence had frequently been raised that the accused had been “acting according to laws existing at the time when the crimes were committed”. He considered, therefore, that the text should be [13] exactly formulated so as to exclude such a defence.

MR. VICTORICA (Uruguay) said that he supported Article 10 and all the arguments submitted in its favour. He considered that the Article summed up all the fundamental principles for the protection of the individual prosecuted under criminal law.

THE CHAIRMAN put to the vote paragraph 1 of Article 10 as amended by the Representative of the United Kingdom, which was adopted by 7 votes to 3 with 8 abstentions.

The Chairman then referred to the proposed amendments of the Representatives of the Philippines and of Belgium to be added after paragraph 1 of Article 10.

MR. DEHOUSSE (Belgium) explained that the purpose of his amendment was to prevent the possibility of German historians, discussing the responsibility for the war, using the wording of the original text to try and prove the illegality of the War Crimes Trials, especially at Nuremberg.

THE CHAIRMAN said that the Representative of Belgium had accepted the text proposed by the Representative of the Philippines as the official English translation of his amendment.

She suggested that Members should vote on the inclusion of the amendment in Article 10 of the Declaration, and discuss later the question of its inclusion in Article 13 of the Convention.

As Representative of the United States of America, she would prefer the amendment to be included as a note, as she considered that its implication was wide and needed further study.

DR. WU (China) said that, in his opinion, the Commission was on the horns of a dilemma. On the one hand, there was the principle that no-one should be judged guilty of an act which was not a crime at the time of its commission. On the other hand, he could understand the points of view of the Representatives of Belgium and the Philippines that the Nuremburg War Crimes Trial [14] should not be declared illegal. He suggested, therefore, that the words in the Philippine amendment “at the time it was committed, was criminal” should be replaced by the words “constitutes a grave crime against humanity”.

MR. DEHOUSSE (Belgium) raised a point of order. He said that the Chairman had already suggested that an amendment should be supported in discussion by the proposer only. He suggested that the proposal by the Chairman be put into force forthwith, because he considered that it was essential to maintain the proposed programme of work, so as to hold a full discussion on the fundamental issue of implementation.

THE CHAIRMAN accepted the suggestion and said that she would rule that only one speech for and against each amendment should be allowed.

The meeting rose at 1:15 p.m.

E/CN.4/SR.37

13 December 1947

Summary Record of the Thirty-Seventh Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Saturday,
13 December, 1947, at 3 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Dr. C. Malik (Lebanon). Members: Colonel W. R. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Mr. E. Cruz Coke (Chile); Dr. C. H. Wu (China); Mr. O. Loutfi (Egypt); Prof. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); General C. P. Romulo (Philippine Republic); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom); Mr. J. J. C. Victorica (Uruguay); Dr. V. Ribnikar

(Yugoslavia). Representatives of the Commission on the Status of Women: Mrs. Begtrup, Chairman; Mrs. E. Uralova, Rapporteur. [2] Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO); Mr. Weiss (Preparatory Commission for the International Refugee Organization). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. P. V. S. Serrarens (International Federation of Christian Trade Unions); Mr. van Istendael (International Federation of Christian Trade Unions); Mr. A. R. de Cléry (Inter-Parliamentary Union). Non-Governmental Organizations: Category B: Mr. O. F. Nolde (Commission of the Churches on International Affairs); Mr. J. M. E. Duchosal (International Red Cross Committee); Mr. C. Pilloud (International Red Cross Committee); Dr. Bienenfeld and Dr. Easterman (World Jewish Congress); Mr. A. E. Brotman (Co-ordinating Board of Jewish Organizations); Professor Bentwich (Consultative Board of Jewish Organizations); Mr. Milton Winn (Consultative Council of Jewish Organizations); Miss de Romer (International Union of Catholic Women's Leagues); Miss van Eeghen and Miss Eder (International Council of Women).

[3]

**Consideration of the Reports of the Working Groups on the Declaration
(Document E/CN.4/57) and the Convention (Document E/CN.4/56)**

Declaration Article 10 and Convention Article 13

THE CHAIRMAN read the two amendments which had been proposed.

(1) The amendment proposed by the Chinese Delegation to add to both Articles: "Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which constitutes a grave crime against humanity according to the general principles of law recognized by civilized nations."

(2) The amendment proposed by the Representatives of Belgium and the Philippine Republic to insert the following text between paragraphs 1 and 2 of Article 10 of the Declaration: "This provision shall not, however, preclude the trial and conviction of persons who have committed acts which, at the time of their commission, were regarded as criminal by virtue of the general principles of law recognized by civilized nations."

DR. WU (China) thought that his amendment would cover the case of the Nuremburg trials. He felt that the amendment proposed by the Representatives of Belgium and the Philippine Republic would be open to abuse.

MR. DEHOUSSE (Belgium) said that he was opposed to Dr. Wu's amendment for two reasons. First, because it seemed to speak of war criminals with compassion, and secondly, because it restricted the offence by using the term "grave crime against humanity". That was only one of the three categories of crime which had been defined and pronounced punishable according to international law.

THE CHAIRMAN put Dr. Wu's amendment to the vote. It was rejected by 6 votes to 4 with 7 abstentions.

COLONEL HODGSON (Australia) supported the amendment submitted by the Representatives of Belgium and of the Philippine Republic. He mentioned the Special Report of the War Crimes [4] Commission in which the three categories of crime punishable under international law were clearly defined.

THE CHAIRMAN said that she would prefer the amendment to be included in the form of a footnote rather than as part of an Article since the subject was very important and demanded careful study.

DR. WU (China) opposed the amendment as he thought it would be open to abuse and should not be added simply to justify the Nuremberg trials.

THE CHAIRMAN put to the vote the amendment submitted by the Representatives of Belgium and of the Philippine Republic. It was adopted by 8 votes to 1 with 8 abstentions.

THE CHAIRMAN put to the vote the proposal that the same words be added as a second paragraph to Article 13 of the Convention. The proposal was adopted by 8 votes with 9 abstentions.

THE CHAIRMAN put to the vote the first paragraph of Article 13 of the Convention.

"No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed."

The paragraph was adopted by 11 votes with 5 abstentions.

Declaration Article 10 Paragraph 3 and Convention Article 6

THE CHAIRMAN put paragraph 3 of Article 10 of the Declaration to the vote: "No one shall be subjected to torture, or to cruel or inhuman punishment or indignity." The paragraph was adopted by 12 votes with 5 abstentions.

THE CHAIRMAN proposed substituting those words for Article 6 of the Convention. She thought it was essential to mention punishment to take care of criminal cases.

[5]

LORD DUKESTON (United Kingdom) thought that if the word "punishment" were included in the Convention it would mean that all forms of physical punishment would have to be abolished. His Government had abolished physical punishment except in the case of prison mutinies when violent prisoners attacked their guards. He thought that physical punishment was necessary in that case and he therefore opposed the Chairman's motion.

PROFESSOR CASSIN (France) supported the Chairman's motion. He said that the case mentioned by the United Kingdom Representative was covered by the words "cruel or inhuman punishment".

COLONEL HODGSON (Australia) thought that the words "cruel or inhuman" should be repeated before the word "indignity".

THE CHAIRMAN accepted Colonel Hodgson's suggestion. She put to the vote the proposal that Article 6 of the Convention should read: "No one shall be subjected to torture or to cruel or inhuman punishment or to cruel or inhuman indignity." The proposal was adopted by 8 votes to 2, with 5 abstentions.

Declaration Article 11 and Convention Article 7

THE CHAIRMAN read the amendment submitted by the United Kingdom Representative to Article 11 of the Declaration to the effect that the comment be deleted and the following text added as a second paragraph to the Article: "Compulsory labour is obnoxious to the dignity of man and should not be resorted to except in the case of war or other emergency threatening the life or wellbeing of the community or in the case of punishment of persons sentenced by a competent court in due process of law."

LORD DUKESTON (United Kingdom) said that he had submitted his amendment because he objected to the wording of the comment which he considered implied an attack on the administration of Trust and Non-Self-Governing Territories. He suggested that the comment, [6] together with the last clause of Article 7 of the Convention, be referred to the International Labour Office.

THE CHAIRMAN said that any specialized agencies or organizations would have the right to comment on any of the Articles when the Commission's Report was sent to Member-Governments.

She put Lord Dukeston's amendment to the vote. It was rejected by 7 votes to 4 with 5 abstentions.

DR. MALIK (Lebanon) asked for specific instructions with regard to the comments which were to be included in the final Report.

THE CHAIRMAN said that the comments which had been adopted by the Commission should be included in the Report and that a vote would have to be taken on the others, when the discussion of the Articles had been completed.

She read the amendment submitted by the Lebanon Representative that the following words should be added at the end of paragraph 3(a) of Article 7 of the Convention: "provided that the civilian service of conscientious objectors be compensated with adequate maintenance and pay".

DR. MALIK (Lebanon) explained that his amendment was intended to apply only to those countries which recognized conscientious objectors. He wished to ensure a

genuine respect for conscientious objectors in the countries where they were recognized so that they would not be subjected to conditions comparable to those in concentration camps.

PROFESSOR CASSIN (France) pointed out that no provisions for maintenance and pay had been made for any other category of person. He suggested that the amendment should be worded in such a way as to ensure that conscientious objectors would not be treated worse than soldiers, but he felt that any provision which gave better treatment to conscientious objectors than to soldiers would arouse opposition.

[7]

DR. MALIK (Lebanon) did not accept Professor Cassin's suggestion to change the wording of his amendment, as he did not wish to enter into any details connected with military regulations in countries where conscription was enforced.

THE CHAIRMAN put Dr. Malik's amendment to the vote. It was rejected by 6 votes to 4 with 7 abstentions.

LORD DUKESTON (United Kingdom) proposed changing the words "life and wellbeing" to "life or wellbeing" in paragraph 3(b) of Article 7 of the Convention.

The proposal was accepted without a vote.

THE CHAIRMAN put the whole of Article 7 of the Convention to the vote. The Article was adopted by 12 votes, with 5 abstentions.

Declaration Article 12

THE CHAIRMAN put the Article to the vote; it was adopted by 14 votes, with 2 abstentions.

Declaration Article 13 and Convention Article 10

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) proposed that the second paragraph of Article 13 of the Declaration be deleted, since he thought that it would encourage emigration.

COLONEL HODGSON (Australia) wished to retain the first half of the paragraph. He thought that the second half should be deleted since the right to acquire nationality could not be guaranteed.

LORD DUKESTON (United Kingdom) drew attention to the words "to change their nationality to that of any country willing to accept them" which he felt should cover Colonel Hodgson's point. He thought that the facilities for acquiring a new nationality should be made as easy as possible in view of the large number of displaced persons in the world. He therefore opposed the motion that the paragraph be deleted.

[8]

THE CHAIRMAN put to the vote the proposal that the second paragraph of Article 13 of the Declaration be deleted. The proposal was rejected by 11 votes to 4, with 3 abstentions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) objected to the method of work which had been adopted at the morning meeting. He proposed that each Representative should be allowed to express his opinion on each Article, even if he had no amendment to propose.

After some discussion the Chairman called for a vote on the ruling which had been adopted at the morning meeting that one representative should speak in favour and one against each amendment and that any member could state his opinion in writing for inclusion in the report. The Chairman's ruling was sustained by 9 votes to 5, with 3 abstentions.

MR. AMADO (Panama) asked for a vote to be taken on his earlier proposal that the Report of the Working Group on the Declaration be adopted without further discussion and that Representatives should hand in their opinions on the Declaration in writing, so that the Commission could proceed to the study of the Convention immediately.

THE CHAIRMAN put the proposal to the vote; it was rejected by 5 votes to 4, with 7 abstentions.

COLONEL HODGSON (Australia) proposed an alteration to the United Kingdom amendment to Article 13: "to acquire the nationality of any country willing to grant it", which was accepted by the United Kingdom Representative. The amendment, as altered, was accepted by 11 votes, with 7 abstentions.

THE CHAIRMAN then put to the vote Article 13 as amended; it was adopted by 12 votes to 4, with 1 abstention.

MRS. MEHTA (India) pointed out that Article 10 of the Convention contained no provision for freedom of movement within a State. She therefore proposed that paragraph 1 of Article 13 of the Declaration should be inserted at the beginning of Article 10. She asked that the vote should be taken on the substance of the proposal; [9] the wording could be modified later if necessary. The amendment was carried by 11 votes to 2, with 2 abstentions.

THE CHAIRMAN then put to the vote Article 10 of the Convention; it was adopted by 12 votes to 2, with 2 abstentions.

Declaration Article 14 and Recommendation 4 of the Convention Report (page 15)

MR. KLEKOVKIN (Ukrainian SSR) felt that Article 14 of the Declaration was not sufficiently clear and precise. In his opinion, the text might allow several

interpretations and might even be used to afford protection to anti-democratic elements. He therefore proposed the following substitute text:

“Any individuals persecuted on account of their democratic convictions, of their defence of democracy and of the interests of the workers, or on account of their fight for national freedom, of their scientific activity, or any individuals persecuted for racial and religious reasons have the right of asylum outside the territory of the country where such individuals are submitted to such persecution”.

The amendment was rejected by 6 votes to 4, with six abstentions.

LORD DUKESTON (United Kingdom) pointed out that some countries might be incapable of absorbing large numbers of refugees and, in his opinion, the State should have the right, for any reason considered right and proper, to refuse to grant asylum. He therefore proposed that the original text of the Drafting Committee should be restored: “Everyone has the right to escape persecution on grounds of political or other beliefs or on grounds of racial prejudice, by taking refuge on the territory of any State willing to grant asylum.”

[10]

MR. CASSIN (France) felt that it was a humanitarian duty for a State to grant asylum to refugees; in his opinion, it was for the Members of the Commission to give an example in that respect to the rest of the world.

The United Kingdom amendment was rejected by 11 votes to 4, with 2 abstentions.

THE CHAIRMAN put to the vote Article 14 of the Declaration; it was adopted by 11 votes to 1, with 5 abstentions.

DR. MALIK (Lebanon), with regard to Recommendation No. 4 on page 15 of the Convention Report, proposed the insertion of the words “the Commission on Human Rights resolves to” in place of the words “this Working Party recommends that the Commission on Human Rights should,” at the beginning of the Recommendation, in order to give it proper form.

Recommendation No. 4 on page 15 of the Convention Report, as amended by Dr. Malik, was adopted by 11 votes to 1, with 6 abstentions.

Declaration Article 15 and Convention Article 14

THE CHAIRMAN put to the vote Article 15 of the Declaration; it was adopted by 15 votes, with three abstentions.

LORD DUKESTON (United Kingdom) proposed that paragraph 2 of Article 14 of the Convention should be deleted on the grounds that it was impracticable and incomplete. In his opinion, several categories in addition to those enumerated ought to have been included.

DR. MALIK (Lebanon), speaking as Rapporteur of the Working Group on the Convention, pointed out that the consensus of opinion there had been against the inclusion of the 2nd paragraph of Article 14. However, in deference to the views expressed by Mr. Cassin in the Drafting Committee meetings, it [11] had been decided to retain the text in order to allow discussion in the Plenary Meeting.

MR. CASSIN (France) stated that he agreed with the observations of the United Kingdom representative and he would not therefore oppose the amendment.

The United Kingdom amendment was carried by 12 votes, with 4 abstentions.

THE CHAIRMAN then put to the vote Article 14 of the Convention as amended; it was adopted by 11 votes to 1, with 3 abstentions.

Declaration Article 15A

DR. MALIK (Lebanon) proposed the following substitute text for the second sentence of Article 15A:

“The family deriving from marriage is the natural and fundamental group unit of society. It is endowed by the Creator with inalienable rights antecedent to all positive law and as such shall be protected by the State and Society.”

He pointed out that the word “family” was mentioned for the first and only time in the Declaration. He maintained that society was not composed of individuals, but of groups, of which the family was the first and most important unit; in the family circle the fundamental human freedoms and rights were originally nurtured. It therefore deserved greater prominence, he thought, than that given to it in the original text. Regarding the second sentence of his amendment, he said that he had used the word “Creator” because he believed that the family did not create itself. That word might give rise to objections, but he would very much like to have it [12] retained. He also contended that the family was endowed with inalienable rights, rights which had not been conferred upon it by the caprice of man, and he cited the use of the phrase “endowed by nature” in Article 1 as a precedent for the wording.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) opposed Dr. Malik’s amendment; the definition of “family”, as given in it, was not acceptable to the Soviet Delegation. He pointed out that varied forms of marriage and family life existed in the world, each form corresponding to the special economic conditions of the people concerned. Different religions had different ideas regarding the position of woman in the family; some religions allowed polygamous families and some did not accord an equal status to men and women. He also reminded the Representatives that many people did not believe in God, and that the Declaration was meant for mankind as a whole, whether believers or unbelievers.

MR. DEHOUSSE (Belgium) asked for the vote on Dr. Malik's amendment to be taken in two parts, and Dr. Malik requested that it should be taken by roll call.

THE CHAIRMAN put to the vote the first sentence of Dr. Malik's amendment; it was carried by 9 votes to 5, with 4 abstentions. The second sentence was rejected by 9 votes to 6, with 3 abstentions.

THE CHAIRMAN then put to the vote Article 15A as amended; it was adopted by 15 votes.

Declaration Article 17

Article 17 was adopted by 13 votes, with 4 abstentions.

[13]

Declaration Article 18 and Resolution 2 of the Convention Report (page 15)

MR. DEHOUSSE (Belgium) proposed the following alternative text for Article 18:

“Everyone has the right to a nationality. All persons who do not enjoy the protection of any Government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals, nor to those whose acts are contrary to the principles and aims of the United Nations.”

He pointed out the tragic situation of stateless persons who had no diplomatic protection. The purpose of his amendment was to give such people the protection of the United Nations. From that protection were excluded persons who had committed criminal offences according to the common Criminal Law.

LORD DUKESTON (United Kingdom) opposed Mr. Dehousse's amendment on the grounds that it might place a heavy burden and one impossible to fulfil upon the United Nations. He also felt it was a proposal which might raise false hopes.

THE CHAIRMAN put to the vote Mr. Dehousse's amendment; it was carried by 12 votes to 6.

MR. DEHOUSSE (Belgium) proposed the following amended text for the draft Resolution 2 on page 15 of the Convention Report:

“The Commission on Human Rights recommends that early consideration be given by the United Nations to the legal status of persons who do not enjoy the protection of any Government, in particular, pending the acquisition of nationality as regards their legal and social protection and their documentation.

[14]

It is recommended that such work should be undertaken in consultation with specialized agencies at present assuming the protection of some categories of persons not enjoying the

protection of any Government and that due regard should be paid to relevant International Agreements and Conventions.”

He pointed out that the word “persons” on the third line of his amendment included not only adults but children, as he wished to see ameliorated the tragic fate of stateless children. He also drew attention to the phrase “pending the acquisition of nationality”; that would obviously take some time and he considered it would be inhuman to leave people unprotected during that period. Regarding documentation, he felt that information should be available to the stateless persons regarding the opportunities for work and the living conditions of any country willing to accept them. He did not feel that the acceptance of his amendment would place an impossible burden upon the United Nations, and in support of that contention he cited the Nansen Organization which had functioned under the League of Nations.

MR. CASSIN (France), while supporting the Belgian amendment, proposed the insertion of the words “expresses the wish first that the United Nations make recommendations to Member States with a view to concluding a Convention on Nationality; second . . .” in line 1 after the word “Rights”.

MR. DEHOUSSE (Belgium) accepted the French amendment.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said his Delegation opposed the Belgian amendment. He pointed out that no agreement had been reached between countries interested in stateless persons. He therefore considered it unwise to include in the Declaration an article dealing with the subject, and felt that the Belgian amendment should be rejected.

[15]

THE CHAIRMAN put to the vote the Belgian amendment, as altered by Mr. Cassin; it was carried by 13 votes to 2, with 3 abstentions.

...

Declaration Article 20 and Convention Article 15

THE CHAIRMAN put to the vote paragraph 1 of Article 20; it was adopted by 13 votes, with 4 abstentions.

GENERAL ROMULO (Philippine Republic) proposed the following substitute text for paragraph 2 of Article 20:

“Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in worship, observance, teaching and practice.”

He felt that the original text was redundant and that it was desirable to keep a logical pattern for Articles dealing with principles; in his opinion the first paragraph should state the general principle, and the second paragraph the practical application.

MR. AMADO (Panama) opposed the Philippine amendment. He reminded the Representatives that the Article in question was of a controversial nature, and the text agreed upon by the Working Group had been a compromise one. He also pointed out that the text had been incorporated in Article 15 of the Convention. He therefore felt it should be retained.

THE CHAIRMAN put the Philippine amendment to the vote; it was carried by 6 votes to 5, with 6 abstentions.

MR. LOUTFI (Egypt) proposed that the words “and endeavour to persuade other persons of full age and sound mind of the truth of [16] his beliefs” should be deleted from paragraph 2 of Article 15 of the Convention. He pointed out that freedom of religion was already assured by Article 11 of the Convention, and, in his opinion, the original text of Article 15 might raise difficulties in regard to ratification.

DR. WU (China) opposed the Egyptian amendment on the grounds that the freedom in question was only part of the freedom of speech. He pointed out that beliefs are not necessarily religious beliefs and therefore Article 11 of the Convention did not cover the point.

THE CHAIRMAN put to the vote the Egyptian amendment; it was carried by 4 votes to 3, with 9 abstentions.

MR. CRUZ COKE (CHILE) proposed that paragraph 3 of Article 15 should be deleted. He felt that the Commission was endeavouring to establish a standard for national laws. By adopting paragraph 3 they were opening the door to abuses which might exist in present national laws.

LORD DUKESTON (United Kingdom) opposed the Chilean amendment on the grounds that it would place religious bodies above the law. The conditions imposed by paragraph 3 were, in his opinion, absolutely necessary. He directed attention to paragraph (b) of Article 2, which stated that national laws were required to conform with the general principles prescribed by the United Nations.

THE CHAIRMAN put to the vote the Chilean amendment to Article 15 of the Convention; it was rejected by 7 votes to 4, with 6 abstentions.

A vote was then taken on Article 15 of the Convention; it was adopted by 9 votes, with 7 abstentions.

Declaration Articles 21 and 22 and Resolution 1 of the Convention Report (page 14)

THE CHAIRMAN pointed out that Articles 21 and 22 of the Declaration and Article 16 of the Convention dealt with freedom of [17] information. The Working Group had decided that no action could be taken on the Articles until the report of the Commission on Freedom of Information was received. She proposed that the draft resolution on page 14 of the Convention report should be accepted.

LORD DUKESTON (United Kingdom) moved the deletion of paragraph 5 of the resolution on the grounds that freedom of information should not be dependent on social, economic and political conditions.

DR. MALIK (Lebanon) said that paragraph 5 had been incorporated in the resolution with a view to obtaining the expert opinions of the Commission on Freedom of Information on the point.

MR. VICTORICA (Uruguay) felt that it was unwise to wait for the opinions of the Commission on the Freedom of Information. In his opinion the problem should be dealt with immediately and he emphasized the necessity for not only safeguarding freedom of information but also for safeguarding the right of access to source of information.

THE CHAIRMAN put to the vote the United Kingdom amendment to delete paragraph 5; it was rejected by 9 votes to 4, with 3 abstentions.

A vote was then taken on the draft Resolution on Freedom of Information contained in pages 14 and 15 of the Convention report; it was adopted by 11 votes, with 6 abstentions.

The meeting rose at 9 p.m.

E/CN.4/60

13 December 1947

Belgian Amendment to Article 18 of the Draft Declaration on Human Rights (document E/CN.4/57)

Article 18

“Everyone has the right to a nationality. All persons who do not enjoy the protection of any Government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations.”

Comment: It is recommended that the United Nations should give early consideration to the implementation of the principles laid down in this Article, in consultation with specialized agencies at present assuming the protection of some categories of persons not enjoying the protection of any Government, and that due regard should be paid to the relevant international agreements and conventions.

E/CN.4/62**13 December 1947****Proposal by Lebanese Delegation on the Declaration, E/CN.4/57**

The delegation of Lebanon moves the addition of the following article at the end of the Declaration:

“On construing the Articles of this Declaration, the several Articles shall be regarded in their relation to each other.”

E/CN.4/65**14 December 1947****United Kingdom Amendments to Articles 31 and 33 of the Draft Declaration on Human Rights****Article 31**

Second sentence. Read “Fundamental Education shall be free and compulsory to the greatest extent permitted by the resources of the State or Community”.

Article 33

Line 3 delete “by means of” *etc.* and substitute “through the highest standard of food, clothing, housing and medical care which the resources of the State or community permit”.

E/CN.4/66**14 December 1947****Amendment to Article 38 of the Draft Declaration on Human Rights Submitted by the Representative of India**

In Article 38 of the Draft Declaration add the following words at the end of the first paragraph:

“and shall enter into appropriate covenants or conventions in their behalf”.

E/CN.4/67

14 December 1947

Original Text: French

Amendment to Article 29 of the Draft Declaration on Human Rights, Submitted by the Representative of the Byelorussian SSR

“The State is bound to take all necessary steps against unemployment.”

E/CN.4/68

14 December 1947

Original Text: French

Proposals Submitted by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

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[11]

Part III

Draft Declaration of Rights

Texts Proposed by the Sub-Commission

(Articles 6, 13, 15, 28, 36.)

See Report of the Sub-Commission (Section I)¹

The Sub-Commission's proposals have been examined by the Working Groups.

This question is therefore settled.

[1] Doc. E/CN.452 – English text, pages 4 to 9.

E/CN.4/70

14 December 1947

Original Text: French

Proposal for an Additional Article (39) to be Added to the Declaration on Human Rights, Submitted by the Representative of France

The United Nations shall recommend all the international conventions and shall take, with the assistance of the Member States, all necessary measures to give full

effect to the provisions of the Charter and of this Declaration, in order to safeguard those rights and freedoms throughout the world.

E/CN.4/SR.39

15 December 1947

Summary Record of the Thirty-Ninth Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Monday,
 15 December, 1947 at 3 p.m.

Present: Chairman: Mrs. F. D. Roosevelt (United States of America); Rapporteur: Dr. C. Malik (Lebanon). Members: Colonel W. R. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Dr. C. H. Wu (China); Mr. O. Loutfi (Egypt); Professor R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); General C. P. Romulo (Philippine Republic); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom); Mr. J. J. C. Victorica (Uruguay); Dr. V. Ribnikar (Yugoslavia). Specialized Agencies: Mr. J. de Givry and Mr. R. Bessling (ILO); Mr. J. Havet (UNESCO). [2] Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. P. V. S. Serrarens and Mr. van Istendael (International Federation of Christian Trade Unions). Non-Governmental Organizations: Category B: Mr. J. M. E. Duchosal (Comité Internationale de la Croix Rouge); Dr. Bienenfeld and Mr. Riegner (Consultative Council of Jewish Organizations); Miss de Romer (Union Internationale des Ligues Feminines Catholiques. Union Catholique Internationale de Service Social); Miss van Eeghen (International Council of Women); Mr. A. F. Ennals (World Federation of United Nations Organizations); M. de Félice (International Abolitionist Federation).

...

[15]

...

Article 23 of Declaration and Articles 17 and 18 of the Convention

THE CHAIRMAN referred to Article 23 of the Declaration, which she said corresponded to Articles 17 and 18 of the Convention. She said that no amendments had been proposed and asked if any member wished to speak either for or against these Articles. As no member wished to speak, she proposed that these Articles be put to the vote.

MR. VICTORICA (Uruguay) agreed that the amendment, which he had proposed to replace Article 23, should be published in the Minutes. In conformity with the

Constitution of Uruguay, he said that he supported the principle that the Right of Assembly should be recognized by all States. He said that, in his opinion, no grounds should be recognized whereby States could be excused from a compulsory recognition of this right; but that the State and the local authorities had the duty to provide full opportunity for this expression of public opinion. He admitted that there were limitations, based on well-founded law, to the exercise of this right. As examples, he quoted laws concerning public order, security of the State, the development of social life, and the harmonious exercise of other rights.

THE CHAIRMAN put Article 23 of the Declaration to the vote. There were 10 in favour, 0 against, and 5 abstentions.

THE CHAIRMAN said that, as no member wished to speak for or against Article 17 of the Convention, she would put this Article to the vote. There were 11 in favour, 0 against, and 4 abstentions.

[16]

THE CHAIRMAN then asked if any member wished to speak concerning Article 18 of the Convention.

PROFESSOR CASSIN (France) said that, in his opinion, the texts of the Convention and the Declaration should be in harmony. He said that, in principle, the Convention was drafted in more detail than the Declaration, and therefore all the provisions of the Declaration should be included in the Convention.

He then proposed, as an amendment to Article 18 of the Convention, that the words “not inconsistent with the aims of the Declaration” should be added after the word “object” in line 4.

LORD DUKESTON (United Kingdom) considered that the amendment proposed by the representative of France was partly covered by the word “lawful” in line 3 of Article 18. He further considered that it was a mistake at that stage to alter the text of the Convention so as to reconcile it with the text of the Declaration. He said that he did not believe that those who had drafted the Convention wished to alter the text by the transfer to it of language from the Declaration.

THE CHAIRMAN put to the vote the amendment proposed by the representative of France. There were 3 in favour, 5 against, and 8 abstentions.

THE CHAIRMAN then put Article 18 of the Convention to the vote. There were 11 in favour, 1 against, and 4 abstentions.

Article 24 of Declaration

Referring to Article 24 of the Declaration, the Chairman said that, no amendments had been proposed and that there were no corresponding Articles in the Convention.

[17]

COLONEL HODGSON (Australia) proposed, as a point of drafting, that the words “Everyone has the right” should be used to introduce this Article, as in Articles 23 and 26. He did not think that the language of the Convention should be used.

THE CHAIRMAN put the proposed amendment by the representative of Australia to the vote. There were 11 in favour, 1 against, and 4 abstentions.

LORD DUKESTON (United Kingdom) proposed the following amendment of the text that the words “of the State of which he is a national or in which he resides or of United Nations” should replace the words “of his State, or his residence or of the United Nations”.

PROFESSOR CASSIN (France) said that, as Rapporteur of the Working Group concerned, he accepted the proposed amendment.

THE CHAIRMAN put to the vote the proposed amendment of the representative of the United Kingdom. There were 11 in favour, 0 against, and 4 abstentions.

THE CHAIRMAN then put to the vote Article 24 of the Declaration. There were 11 in favour, 0 against, and 4 abstentions.

The meeting rose at 6:15 p.m.

E/CN.4/72

15 December 1947

Proposed Resolution by the Commission on Human Rights Submitted by the United States Delegation

Resolved

That the Drafting Committee of the Commission on Human Rights is directed at its second session to prepare a shortened form of a Declaration on Human Rights which will be readily understood by all peoples.

E/CN.4/74

15 December 1947

Proposals Submitted by the Representative of Lebanon

Proposal for additional article to be inserted at the end of the Declaration:

“In construing the Articles of this Declaration, the several Articles shall be regarded in their relation to each other.”

Proposal for adding the following wording at the end of the Declaration:

“Nothing in this Declaration shall be considered to recognize the right of any person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein”.

E/CN.4/76

16 December 1947

Amendment to Article 31A of the Declaration of Human Rights Submitted by the Representative of Lebanon

The Lebanese Delegate made the following amendment to Article 31A of the Declaration in its English text:

To reorder and complete the words “Physical, spiritual and moral” by the words “physical, intellectual, moral and spiritual”.

E/CN.4/SR.40

16 December 1947

Original Text: French

Summary Record of the Fortieth Meeting [of the Commission on Human Rights]

Held at the Palais des Nations, Geneva on Tuesday,
16 December 1947, at 9 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Dr. C. Malik (Lebanon). Members: Col. W. R. Hodgson (Australia); Prof. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Dr. C. H. Wu (China); Mr. O. Loutfi (Egypt); Professor R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevally (Iran); Mr. M. Amado (Panama); General M. C. Romulo (Philippine Republic); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (Union of Soviet Socialist Republics); Lord Dukeston (United Kingdom); Mr. J. J. C. Victorica (Uruguay); Dr. V. Ribnikar (Yugoslavia). Representative of the Commission on the Status of Women: Mrs. E. Uralova. [2] Secretariat: Professor J. P. Humphrey; Mr. E. Lawson. Specialized Agencies: Miss Barblé (IRO); Mr. Weiss (IRO); Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. Robinet de Cléry (Inter-Parliamentary Union);

Mr. P. V. S. Serrarens (International Federation of Christian Trade Unions). Category B: Miss de Romer (International Union of Catholic Women's Leagues); Mrs. Duchesne (Women's International Democratic Federation); Mr. F. Nolde (Commission of the Churches on International Affairs); Mr. de Félice (International Abolitionist Federation); Mr. Riegner (World Jewish Congress); Dr. Bienenfeld (World Jewish Congress); Mrs. E. Weill; Mrs. Eder (International Council of Women).

[3]

Examination of the Reports of the Working Groups on the Declaration and the Convention (E/CN.4/57 and E/CN.4/56)

Article 25 of the Declaration

THE CHAIRMAN stated that the present Article had been left aside by the Working Group on the Declaration for inclusion in the Preamble or in a Final Article. She proposed to postpone discussion of it until the Commission had discussed the whole document.

Articles 26 and 27 of the Declaration

THE CHAIRMAN put the text of the above Articles to the vote.

Decision: The Commission adopted these Articles by 9 votes, with 4 abstentions.

Article 28 of the Declaration

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that there was no corresponding Article in the draft Convention. That omission appeared to him regrettable.

DR. MALIK (Lebanon) said that the draft Convention was not exhaustive and remained open for any additions which representatives might propose.

THE CHAIRMAN stated that the Soviet representative's observation might appear in the comment for the information of the Governments and the Drafting Committee.

COL. HODGSON (Australia) said that many laws limited the holding of public office to nationals. The text of Article 28 only mentioned citizens, who might not be nationals. He therefore proposed the addition of the words "or national" after the word "citizen". In Australia there were people who had the right of citizenship, although they were not yet nationals.

LORD DUKESTON (United Kingdom) said that in the United Kingdom the two grades, citizen and national, mentioned by the Australian representative did not

exist. There were only aliens [4] or nationals. He was against the amendment put forward by the Australian representative because of the complications it would involve in a country like the United Kingdom.

COL. HODGSON (Australia) said that his amendment aimed at making the Article conform with the provisions of the legislation of the largest possible number of countries.

THE CHAIRMAN said that the United States were in a similar position to the United Kingdom, but that she was prepared to transmit the text in the amended form proposed by the Australian representative to the Governments for their observations. A final text could not be adopted until Governments had stated their position. She put the Australian representative's amendment to the vote.

Decision: The amendment was adopted by 5 votes to 3, with 4 abstentions.

The Chairman put Article 28, with the adopted amendment, to the vote.

Decision: The Commission adopted the Article by 8 votes, with 6 abstentions.

Article 29 of the Declaration

THE CHAIRMAN said the Commission had before it an amendment to this Article submitted by the Byelorussian representative (Document E/CN.4/67).

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) said he was prepared to accept the first paragraph of Article 29, but the second paragraph did not seem to him to be such as to guarantee the application of the principle laid down in the first part. He proposed that the following amendment be substituted:

“The State is bound to take all necessary steps to prevent unemployment.”

[5]

The present text represented a slight modification of that appearing in Document E/CN.4/67; the modification did not affect the original Russian text but only the translation.

THE CHAIRMAN recalled that the second paragraph of Article 29 was the result of a compromise reached during discussion of the Article by the Working Group on the Declaration after an amendment in the same sense had been rejected because of the compulsory nature of the measures it prescribed. The amendment submitted by the Byelorussian representative tended to re-establish the compulsory nature of the State action, which had been rejected by the Working Group.

LORD DUKESTON (United Kingdom) thought that the right to social security defined in the first paragraph of Article 34 should appear in Article 29. The right to work could not be separated from the right to social security.

MR. VICTORICA (Uruguay) said that the term “its citizens” in the second paragraph of Article 29 appeared to be inaccurate. Work should be guaranteed to all human beings and not only to citizens. He proposed that the term “its citizens” be replaced by “persons”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that the amendment proposed by the Byelorussian representative seemed to him very important. The idea it embodied did not appear in the present text of Article 29. Under the Soviet economic and social system in which all industrial undertakings belonged to the State, it was normal for the latter to undertake to provide its citizens with work. The Declaration, however, was also intended for countries where private undertakings existed side by side with the State, and where the State could not accept [6] all the responsibilities connected with the work of its citizens. In such cases, it could, however, take effective action, by means of economic measures, to prevent unemployment. There was therefore a difference between the duty of providing work for citizens and that of taking steps to prevent unemployment.

PROFESSOR CASSIN (France) said that the text which had been adopted made it possible to attain both the objectives indicated by the Soviet representative, as it required the State not to provide work for its citizens, but to take all necessary steps to ensure that its citizens had an opportunity to work. The real difference between the text of the Byelorussian representative’s amendment and the text of Article 29 of the draft Declaration lay in the fact that the former defined the duty of the State as absolute and the latter defined it as relative. It was not always possible for the State to undertake such an absolute and unconditional obligation. Moreover, the State was not the sole agency responsible for preventing unemployment. The international community of nations should also help to prevent it. Otherwise, unemployment might be abolished in one State and continue to exist in a neighbouring State. He proposed that the text of Article 29 be retained in its existing form. He agreed to the amendment proposed by the representative of Uruguay. As regards the amendment put forward by the representative of the United Kingdom, he pointed out that the provisions of Articles 29 and 30 related to people who worked, whereas those of Article 34 related to those who were not able to work. There was a difference between the right to work and the right to social security.

[7]

THE CHAIRMAN informed the Commission that the representatives of the Ukraine and Byelorussia proposed the insertion of the amendment of the Byelorussian representative after the second paragraph of Article 29, instead of its substitution for that paragraph. She therefore called for a vote on the addition of that amendment to the present text of Article 29.

Decision: The Commission adopted the amendment by 7 votes to 4 with 5 abstentions.

The Chairman said that the amendment proposed by the representative of Uruguay had been modified as follows: the words “all its citizens” were to be replaced by the words “all persons ordinarily resident in its territory”. She put this amendment to the vote.

Decision: The Commission adopted this amendment by 11 votes, with 3 abstentions.

The Chairman put the United Kingdom amendment to the vote. The first paragraph of Article 29 would then read “Everyone has the right to work or to social security” and paragraphs 2 and 3 would remain in the form in which they had been adopted. The first paragraph of Article 34 would become paragraph 4 of Article 29.

LORD DUKESTON (United Kingdom) said that to prescribe the right to work whilst separating it from the right to social security would be tantamount to prescribing forced labour.

The provisions of Article 29 in fact implied the right of the State to direct skilled workers to unskilled jobs. To avoid any abuse, such transfers demanded the attention of qualified services and the existence of appropriate social security laws.

[8]

GENERAL ROMULO (Philippines) said that the order of the Articles of the Declaration followed a clearly defined plan and he was against the amendment proposed by the United Kingdom representative. The provisions of Articles 32 and 34 made it impossible to interpret Article 29 as applying to forced labour.

THE CHAIRMAN put the United Kingdom amendment to the vote.

Decision: The amendment was rejected by 5 votes to 3 with 7 abstentions.

Article 30 of the Declaration

MRS. DUCHESNE (Women’s International Democratic Federation) said she would prefer a more forceful draft, such as the following:-

“Women should work under the same conditions as men and receive equal pay for equal work”.

She pointed out that in the 5th line of the first paragraph of the French text of Article 30, the words “pour lui” should be changed to “pour elle”. She would like to see the comment made more precise. The present text might serve as a pretext for keeping women away from work they were able to perform on the grounds of so-called protection of female labour. In point of fact, women often did work which was very harmful although poorly paid. It would thus be merely theoretical to forbid them to undertake certain types of work regarded as too harmful. The Women’s International Democratic Federation was particularly anxious that the Commission should stress the following points in connection with the equality of men and women:

[9]

1. Equality in the legal as well as in the social sphere;
2. The universal grant of the vote to women;
3. Application of the equal pay for equal work rule in all industries;
4. Equal rights of the mother and the father in respect of their children;
5. Full civil status to be granted to women.

She would like the above statement to be inserted, if possible, as a note in the Minutes.

LORD DUKESTON (United Kingdom) said he could not agree to the phrase “under the same conditions as men” which appeared in the second paragraph of Article 30. If those words meant under the same conditions of employment as men, that Article nullified all the legislation for the protection of female labour, built up over half a century. All industrial legislation had to provide for different working conditions for women as compared with those applicable to men. That difference did not mean inequality of pay. It was idle to quote war-time measures as an example, as many of them had been harmful to female health and would never have been taken in time of peace. He therefore proposed that the words “under the same conditions as men” be deleted.

THE CHAIRMAN proposed to take a separate vote on each paragraph of Article 30. She put the first paragraph to the vote.

Decision: The Commission adopted this paragraph by 16 votes.

GENERAL ROMULO (Philippines) pointed out that when the present Articles were discussed in the Working Group on the Declaration, the representatives of the Commission on the Status of Women had agreed to the present text.

[10]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) observed that women worked, not only under the same conditions as men, but under more difficult conditions, because of their family responsibilities. As regards harmful work, women could either avoid it, or accept it if their physical strength allowed. In such cases the State should adopt the necessary measures to facilitate their work. He therefore supported the view of the representative of the Women’s International Democratic Federation that difficult working conditions should not serve as a pretext for exercising discrimination against women.

THE CHAIRMAN said that the representatives of the Commission on the Status of Women and the representative of the American Federation of Labor had not agreed to the present wording of Article 30, but had agreed to the comment accompanying the Article.

PROFESSOR DEHOUSSE (Belgium) recalled that many States were parties to international labour conventions which prescribed conditions for women similar to those outlined by the United Kingdom representative. Those conventions were in force. If the amendment submitted by the United Kingdom representative were not adopted, those States would find themselves in a difficult position.

Decision: The Commission rejected the United Kingdom amendment by 8 votes to 6 with 2 abstentions.

MR. VICTORICA (Uruguay) proposed as a compromise the following amendment:

“Women shall work with the same advantages as men and receive equal pay for equal work”.

THE CHAIRMAN put this amendment to the vote.

Decision: The Commission adopted the amendment submitted by the representative of Uruguay by 8 votes with 7 abstentions.
The Comment was retained without change.

[11]

Article 31 of the Declaration

THE CHAIRMAN said that in the case of the present Article the Commission had before it a United Kingdom amendment proposing the insertion at the end of the second sentence of the following words: “to the greatest extent permitted by the resources of the State or Community” (E/CN.4/65).

LORD DUKESTON (United Kingdom) said the amendment was necessary in view of existing differences in the state of economic and social progress throughout the world.

MR. VICTORICA (Uruguay) said he could accept neither the amendment proposed by the United Kingdom, nor the text submitted by the Working Group. The Constitution of Uruguay recognized the social value of primary and higher education being free. The least that could be stipulated in the present Article was that, so far as the resources of the State allowed, public education and, in particular, secondary and higher education, should be free.

Secondary education should be compulsory.

MR. KLEKOVKIN (Ukraine) said he was against the United Kingdom amendment.

THE CHAIRMAN put the amendment to the vote.

Decision: The Commission rejected the amendment by 11 votes to 5.

The Chairman put Article 31 as proposed by the Working Group to the vote.

Decision: The Commission adopted the Article by 15 votes.

Article 31A of the Declaration

THE CHAIRMAN said that the Commission had before it an amendment to the Article submitted by the representative of the Lebanon.

[12]

DR. MALIK (Lebanon) said that his proposed amendment was for the insertion of the word “intellectual” in the English text and the word “spirituel” in the French text. He indicated that his original proposal related to the English text, and suggested that the French representative be left to produce the French translation.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked for an explanation of the difference between the terms “spirituel” and “intellectual”.

DR. MALIK (Lebanon) said that the aim of education was to develop not only the spirit, but also the intellect, and that there was a great difference both in English and Arabic between the two terms.

PROFESSOR DEHOUSSE (Belgium) thought it preferable to reverse the order of the terms “physical, spiritual and moral” as the primary aim of education should be the full moral, intellectual and – finally – physical development of the personality. He was opposed to the inclusion of the term “spirituel” which was already covered by the term “moral”.

THE CHAIRMAN said that it was a question of translation; the word “spiritual” in English could include the sense of the word “intellectual”. She proposed that the settlement of the question be left to the representatives of the Lebanon and France.

DR. MALIK (Lebanon) asked for a vote on the principle of including in the English text the term “intellectual”.

THE CHAIRMAN put that proposal to the vote.

Decision: The Commission adopted the proposal by 9 votes to 3, with 4 abstentions.

THE CHAIRMAN put Article 31A to the vote.

Decision: The Commission adopted the Article by 11 votes with 4 abstentions.

[13]

MR. HAVET (UNESCO) said he wished the following comment on Articles 31 and 31A to be included in the Report:

“The United Nations Educational, Scientific and Cultural Organization expresses its approval of the principles laid down in Articles 31 and 31A of Document E/CN.4/57 (Report of the Working Group on the Declaration to the Commission on Human Rights), which correspond to those governing its own action in the two fields of *Fundamental Education (Education de Base)*, the campaign against illiteracy and ignorance, and *Education for International Understanding (Education pour la Compréhension Internationale)*. However, it wishes to draw attention to the fact that the application of the principles expressed in Article 31 entails not only the outlay of a certain sum, but also

the training of a sufficient number of qualified teachers. The ideal represented by the text of Article 31 should therefore be related to the need for international action by the United Nations and the competent Specialized Agencies directed towards assuring equal educational opportunities for all. The resources of the United Nations Educational, Scientific and Cultural Organization are at the disposal of the United Nations for any action on those lines.”

GENERAL ROMULO (Philippines) pointed out that when Article 31A had been discussed by the Working Group, it had been decided that the Article would be followed by a Comment to the effect that religious establishments would have full freedom.

THE CHAIRMAN said that the Working Group had agreed upon the following formula: “The right of private education shall be respected”.

[14]

She pointed out that this Comment, which appeared in the English text, had been omitted by error from the French text.

Article 32 of the Declaration

THE CHAIRMAN said that in the case of the present Article the Commission had before it an amendment submitted by the representative of Yugoslavia, proposing the insertion of the words “with pay” after the word “rest”.

DR. RIBNIKAR (Yugoslavia) said that the words “periodic vacations with pay” which appeared in the Comment should be included in the Article itself. The right to rest without pay meant nothing.

LORD DUKESTON (United Kingdom) emphasized that the text should explicitly mention that rest with pay was granted to employees.

THE CHAIRMAN said that the Comment had been drafted to that end. It showed that all had a right to rest and leisure, and that the workers’ contracts entitled them to vacations with pay.

MR. VICTORICA (Uruguay) proposed the following amendment: “Employees and workers have the right to periodic vacations with pay”.

PROFESSOR DEHOUSSE (Belgium) proposed that the present text of Article 32 be retained with the addition, as a second paragraph, of the text which appeared in the Comment.

MR. VICTORICA (Uruguay) agreed to that proposal.

THE CHAIRMAN put the amendment submitted by the representative of Yugoslavia to the vote.

Decision: The Commission rejected the amendment.

[15]

The Chairman put the amendment submitted by the representatives of Uruguay and Belgium to the vote.

Decision: This amendment was adopted by 11 votes, with 2 abstentions.

Article 33 of the Declaration

THE CHAIRMAN said that in the case of the present Article the Commission had before it an amendment submitted by the United Kingdom, proposing that the words “by means of adequate food . . . and medical care” be replaced by the words “through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide.”

LORD DUKESTON (United Kingdom) emphasized that it was a mistake to proclaim rights without mentioning the duties of the beneficiaries. The terminology used should not lead to misunderstanding of the part to be played by the State. The services the latter provided were governed by the resources it had available.

MR. VICTORICA (Uruguay) said he was opposed to the amendment submitted by the United Kingdom and to the text of Article 33.

He thought it would be preferable to state that everybody had a duty to look after his health, and when he had not the means to do so, it became the State’s responsibility.

THE CHAIRMAN put the United Kingdom amendment to the vote.

Decision: The Commission adopted the amendment by 8 votes to 2 with 5 abstentions.

The Chairman put to the vote the amendment submitted by the representative of Uruguay, proposing the insertion of the words “Everybody has a duty to look after his health” in paragraph 1 of Article 33.

Decision: The Commission rejected the above amendment by 8 votes to 2 with 5 abstentions.

[16]

THE CHAIRMAN put the whole of Article 33 as amended to the vote. She pointed out that the following slight drafting change, which did not affect the French text, was desirable in the English text: replace “can be . . . only” by “can only be”.

MR. VICTORICA (Uruguay) said that in the second sentence of the French text the word “citoyens” should be changed to “habitants”.

THE CHAIRMAN said that this was a matter of translation which could be left to the French representative. She put the Article to the vote.

Decision: The Commission adopted the Article by 11 votes to 1 with 4 abstentions.

Article 34 of the Declaration

THE CHAIRMAN put the Article to the vote.

Decision: The Commission adopted this Article by 14 votes, with 2 abstentions.

MR. LOUTFI (Egypt) proposed that the order of Articles 30 to 34 be changed by the insertion of Articles 33 and 34 between Articles 30 and 31.

DR. MALIK (Lebanon) supported that proposal.

Decision: The Commission adopted this proposal by 14 votes.

Article 35 of the Declaration

THE CHAIRMAN put the Article to the vote.

Decision: The Commission adopted this Article by 14 votes, with 2 abstentions.

Articles 35A, 36, 37 and 38

THE CHAIRMAN said that Article 35A had not been approved by the Working Group and should therefore be left aside. Articles 36 and 37 had not been voted on by the Working Group and therefore should also be left aside.

[17]

MR. STEPANENKO (Byelorussian SSR) drew the Commission's attention to a faulty translation of the Byelorussian amendment to Article 36. He asked the Secretariat to have a new translation of that amendment made for insertion in the Report.

THE CHAIRMAN said the Commission had before it an amendment to Article 38. As the latter had not been voted on by the Working Group, the amendment could not be considered unless a member of the Commission asked for discussion of Article 38.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that in the document sent to the Governments Articles 37 and 38 should appear not as Articles of the "Declaration" but as the comments of certain members of the Commission.

THE CHAIRMAN stated that those Articles would be attached to the "Declaration" in the form of notes.

PROFESSOR CASSIN (France) called attention to the fact that the principle of Article 37 had been recognized at the outset of the Working Group's discussion, and if that Article were not inserted in the Declaration, a serious omission would result.

The limitations connected with public order and morality had been omitted from the body of the Articles as it had been understood that they would be inserted in a special Article. He therefore moved that Article 37 be inserted in the Declaration.

DR. MALIK (Lebanon) said he was against that insertion. The substance of the Article was already embodied in Article 2 which had been adopted. Further, the text opened the door to all kinds of abuse by unscrupulous States.

The Chairman called for a vote on the insertion of Article 37 in the "Declaration".

Decision: This proposal was rejected by 10 votes to 4 with 2 abstentions.

The meeting rose at 1 p.m.

E/CN.4/SR.41

16 December 1947

Summary Record of the Forty-First Meeting [of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Tuesday,
16 December 1947, at 3 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Mr. C. Malik (Lebanon). Members: Colonel W. R. Hodgson (Australia); Professor F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Dr. C. H. Yu (China); Mr. O. Loutfi (Egypt); Professor R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Amado (Panama); General C. P. Romulo (Philippine Republic); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom); Mr. J. J. C. Victorica (Uruguay); Dr. V. Ribnikar (Yugoslavia). Representative of the Commission on the Status of Women: Mme. Uralova. Secretariat: Professor J. P. Humphrey; Mr. E. Lawson. Specialized Agencies: Mr. J. de Givry (ILO); Mr. J. Havet (UNESCO). [2] Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. P. V. S. Serrarens and Mr. van Istendael (International Federation of Christian Trade Unions); Mr. A. R. de Cléry (Inter-Parliamentary Union). Category B: Mr. O. F. Nolde (Commission of the Churches on International Affairs); Dr. Bienenfeld and Mr. Rigueur (World Jewish Congress); Miss de Romer (Union Internationale des Ligues Féminines Catholiques. Union Catholique Internationale de Service Social); Miss van Eeghen (International Council of Women); Mr. A. F. Ennals (World Federation of UN Organizations); M. de Félice (International Abolitionist Federation); M. Duchesne (Fédération Internationale Démocratique des Femmes).

[3]

1. Consideration of the Report of the Working Group on the Declaration on Human Rights (Document E/CN.4/57) (contd.)

MR. VICTORICA (Uruguay) said that he wished to speak in explanation of his vote on Article 37. He was unable to agree to the text proposed since, in his opinion, it

constituted a negation of the rights and freedoms recognized in the Declaration. In the view of his Government, and in that of most American Republics, the Declaration should not take the form of a recommendation, but should specifically mention the following three points:

- (1) That all the rights recognized and guaranteed therein should be limited only by reasonable laws.
- (2) That those laws should be based on the exigencies of public order, the security of the State and the life of the community as a whole.
- (3) That the Declaration should be considered as international law and that the enumeration of rights, duties and guarantees therein should not exclude the exercise of the inalienable rights of human beings or those derived under the democratic system.

Article 38

MR. BOGOMOLOV (Union of Soviet Socialist Republics) suggested that Article 38 should be deleted and inserted in the Commentary.

GENERAL ROMULO (Philippine Republic) reminded representatives that the Article had originally been suggested in the Working Group by the Philippine Delegation and was now presented in the form proposed by the representative of France. The objection had been made that the proposed text introduced a reference to implementation. In his view it was necessary to define the meaning of “law”, as used in the Declaration; in the past many crimes had been committed in the name of the law. He proposed an amended text which read:

[4]

“All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) maintained that the Article would be better placed in the Commentary. He pointed out that two stages of procedure still remained. First, States would have to agree on the text as a whole and on the steps for implementing the Declaration; secondly, they would have to decide how to harmonize the provisions with their respective national constitutions.

MR. CASSIN (France) suggested as a compromise that the second paragraph of Article 38, dealing with implementation, should be treated as a Commentary. If that were done, he would accept the text as amended by the Delegate for the Philippine Republic, with the addition of the words “and Declaration dealing with Human Rights”. It was not possible to ask Member States to modify their laws without indicating in what manner they were to be changed.

GENERAL ROMULO (Philippine Republic) thought that the inclusion of the word “Declaration” implied implementation, which might not be acceptable to some representatives. He therefore preferred that his text should be put to the vote separately from the French amendment.

MR. CASSIN (France) agreed to the deletion of the word “Declaration”.

After further discussion, the following text for Article 38 was adopted by 13 votes, with 3 abstentions:

“All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter in so far as they deal with human rights”.

[5]

THE CHAIRMAN, referring to the French proposal that the second paragraph of the draft of Article 38 (Document E/CN.4/57) should be inserted as a comment, pointed out that the suggestion differed from the Soviet Union proposal, which was to delete the whole Article and treat it as a comment.

COLONEL HODGSON (Australia) thought it had been made quite clear in the previous meetings that the question of ensuring that national laws were in conformity with the Declaration had no bearing on the Declaration itself; the matter had been treated under implementation. Whilst he had no objection to the substance of Article 38, he strongly opposed its inclusion in the Report either in the form of an Article or of a comment.

MR. MALIK (Lebanon) said that whether or not a vote was taken on the French proposal, the French representative had the right, in common with other representatives, to make any comment he desired.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that the remarks of the Australian representative might be taken to infer that, whilst the Convention was a serious document which required measures of implementation, the Declaration had no such significance. He did not accept that view. On the contrary, he regarded the Declaration as an extremely important document. His previous observations did not imply that provisions on implementation should not be contained in the Declaration, but that to include them at the present stage was premature. The text should first be referred to Member Governments for comment. The first step was to ensure agreement upon the full Declaration, and until its substance was approved, it was not, in his opinion, logical to insert references to implementation in the Commentary.

THE CHAIRMAN observed that the discussion was academic, in view of the comment by the Rapporteur.

[6]

MR. DEHOUSSE (Belgium) agreed with the Chairman’s view and moved the closure of the debate.

THE CHAIRMAN put to the vote the motion for closure of the debate on Article 38; it was adopted unanimously.

Article 39 proposed by the French Delegation (Document E/CN.4/70)

MR. CASSIN (France) said that, as the Article concerned implementation, he desired that it should be withdrawn and accepted as a comment.

MR. DEHOUSSE (Belgium) considered that it would be useful to include the proposed Article. He therefore asked the representative of France to reconsider his decision and allow the question to be debated.

MR. CASSIN (France) said that he had not finally withdrawn the text as an Article, but thought that the moment was ill-chosen for discussion, as it had been agreed that all decisions on implementation should be referred to the next Session of the Commission.

MR. MALIK (Lebanon) said that the treatment of comments was of importance to him as Rapporteur and asked that a vote should be taken on this procedure at the end of consideration of the Declaration (Document E/CN.4/57).

THE CHAIRMAN agreed to that proposal. The French proposal was withdrawn for inclusion as a comment.

Proposal by representative of Lebanon for an additional Article to be inserted at the end of the Declaration (Document E/CN.4/74)

MR. MALIK (Lebanon) proposed the insertion of the following Article at the end of the Declaration:

“In construing the Articles of this Declaration the several Articles shall be regarded in their relation to each other”.

He reminded representatives that the United States' Delegation had suggested the insertion of a similar Article at the end of the Convention.

[7]

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) enquired what purpose the proposed Article would serve.

MR. MALIK (Lebanon), in reply, stated that, during discussion of Article 38, the question of the order of the Articles had been raised. It had then been decided to review the order after consideration of the Report. He had at the same time suggested that a covering Article should be introduced at the end of the Declaration, stating that all Articles should be considered in their relationship to each other.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) felt that the document on the Declaration was becoming too long and cumbersome with the result that it would be difficult for the ordinary people to understand it. The last suggestion, if adopted, would render the text still more complicated. He considered that the efforts of representatives should be directed rather to producing a clear and simple Declaration, which would be easily understood by the man in the street.

THE CHAIRMAN put to the vote the proposal of the representative of Lebanon, which was rejected by 7 votes to 7, with 2 abstentions.

**Proposal by the representative of Lebanon for an addition at the end
of the Declaration (Document E/CN.4/74)**

MR. MALIK (Lebanon) suggested that the following words should be added at the end of the Declaration:

“Nothing in this Declaration shall be considered to recognize the right of any person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed therein.”

He felt that the intention of the proposal should be clear. The Declaration granted all kinds of rights to mankind. Persons who were opposed to the spirit of the Declaration or who were working to undermine the rights of men should not be given the protection of those rights. It might be possible, particularly in the early [8] days of a despotic regime, for would-be tyrants to engage in activities under cover of and without infringement of the Declaration. Many Articles of the Declaration were open to such abuse and a provision of that nature was an essential protection. Its object was to prevent any persons from engaging in any subversive activities which might be in any direct or indirect manner damaging to the rights of man.

COLONEL HODGSON (Australia) enquired why the Article was limited to “persons”, since in the past it had frequently been States which were the chief offenders against human rights. He proposed the phrase “. . . right of any State or any person . . .” should be used.

MRS. MEHTA (India) pointed out that the Declaration dealt with the rights of individuals and not of States.

MR. MALIK (Lebanon) said that the observation of the representative of India was strictly correct, but he had no objection if the Australian representative wished the rights of Governments to be included.

MR. VICTORICA (Uruguay) stated that, since amendments introduced by him had not been translated into English and placed before the Commission, he had decided to abstain from voting. In his opinion the wording of the proposed Article was obscure.

THE CHAIRMAN put to the vote the proposal of the representative of Lebanon, as amended by the Australian representative, which was adopted by 8 votes, with 7 abstentions.

Article 25

THE CHAIRMAN reminded the Commission that consideration of Article 25 had been deferred until the end of the debate on the Declaration. It would have to be decided whether it was to be included in the Preamble, or inserted as the final Article, or deleted.

[9]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) did not feel that the text was satisfactory enough for inclusion as a separate Article. He suggested that it should be inserted in the Commentary, with a note recommending that it should be taken into consideration in the drafting of the Preamble.

THE CHAIRMAN put to the vote the proposal of the Soviet Union representative, which was adopted by 10 votes, with 6 abstentions.

The Chairman asked the Rapporteur to state his views regarding the treatment of the comments in Document E/CN.4/57.

MR. MALIK (Lebanon) pointed out that nearly every Article of Document E/CN.4/57 had some comment by a member of the Working Group appended. Representatives who had not served on the Working Group might also have comments to make. He therefore proposed that his Report should contain only those comments passed to him in writing by Delegations for inclusion in the Annex.

THE CHAIRMAN said that the effect of the Rapporteur's proposal would be that he would include in the Annex to his Report only such comments as were given to him in writing. She pointed out that other comments by representatives appeared in the Summary Records of the Commission and of the Working Groups.

Replying to a question by the representative of China as to the treatment to be accorded to the two versions of Article 36, the Chairman agreed that the draft text proposed by the Sub-Commission on the Protection of Minorities would be included in the Annex.

The proposal of the representative of Lebanon was accepted without a vote.

The Chairman directed attention to the United States' Resolution contained in Document E/CN.4/72. She reminded representatives of the advantages of a clear, brief text, which could be readily understood by the ordinary man and woman. The Convention [10] was essentially a legal document, and as such it might not be easily understandable; on the other hand the Declaration ought to be in terms whose meaning would be immediately clear. She pointed out that the present draft of the Declaration contained 36 Articles in considerable detail. The United States'

Resolution had been proposed in the hope that the Drafting Committee might be able to shorten it, while retaining all the essential provisions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked if a vote would be taken on the document as a whole.

THE CHAIRMAN said that, if it was desired, a vote would be taken on the whole document.

MRS. MEHTA (India), supporting the proposed Resolution, stated that, in her opinion, the Bill of Human Rights should be simple, short and intelligible to all; she felt that necessary details should be included in the Convention or Conventions.

MR. MALIK (Lebanon) agreed in substance with the proposed Resolution. He considered, however, that the suggestion that the document should be shorter ought to have been made at the beginning of the work of the Commission. He suggested that the Drafting Committee might consider that abbreviation of the draft document should have been done by the Commission. He proposed the following wording:

“The Human Rights Commission requests the Drafting Committee, in revising the Draft Declaration in its second session, to make it as short as possible.”

GENERAL ROMULO (Philippines) pointed out that the Working Group had considered, but had not approved, the abridged Declaration, suggested by the United States (E/CN.4/36). He felt that simplicity of language was more important than the length of the Declaration, and he did not agree with the amendment proposed by the representative of Lebanon.

[11]

THE CHAIRMAN said that the question of adopting the Declaration proposed by the United States of America did not arise, and she put to the vote the Resolution as amended by the representative of Lebanon.

This was adopted by 8 votes to 3, with 5 abstentions.

The Chairman then proposed that the vote on the Declaration as a whole should be deferred until the Rapporteur had produced his report for consideration.

GENERAL ROMULO (Philippines) proposed that the Commission should vote immediately on the Declaration as a whole.

COLONEL HODGSON (Australia) raised the problem of the drafting of proposals, the substance of which had been accepted by the Commission. In his opinion it was necessary to use language easily intelligible both to the peoples of the world and to governments. He referred to Articles 11, 12, 13, 14 and 22 which were drafted in imperative language; and to Articles 15 to 21 which were, he thought, correctly drafted in declaratory language. He said he had understood that the Rapporteur would make the final and correct draft of the Declaration.

THE CHAIRMAN said that she had understood that members who had proposed verbal amendments would co-operate with the Rapporteur for drafting purposes and with the representative of France for the translation.

MR. MALIK (Lebanon) felt that the proposal by the representative of Australia was one of substance. He explained that some articles had lent themselves to a declaratory form, but that others, not yet fully developed in substance, had been drafted in imperative form. He suggested that the point raised should be included in a note to the effect that the declaratory language of the Declaration should be kept distinct from the imperative language of the Convention. He also proposed that the final drafting should be left to the Drafting Committee.

[12]

MR. DEHOUSSE (Belgium), referring to the proposal by the representative of the Philippines, said that, in his opinion, the Declaration was both insufficient and inoperative. This was not, he said, by reason of its contents, which he considered to be good, but because the Declaration by its legal nature could not be obligatory. However, he would support the proposal for two reasons: first, as a token of his good will, as he considered that international co-operation involved the appreciation of other points of view; secondly, because he considered that the Declaration was the first step towards the protection of human rights.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) felt that the draft Declaration was insufficient with regard to the protection of human rights. He stated that the Soviet Union Delegation reserved the right to present at a later date its own version of a draft Declaration of Human Rights.

MR. AMADO (Panama) said that it had frequently been stated, in these discussions, that what was asked for in the documents of the San Francisco Conference and in those of subsequent meetings of the United Nations, was not an International Declaration of Human Rights, which would have no binding force, but an International Bill of Rights. Such a Bill of Rights had been defined by some delegates as consisting of the whole Declaration, one or more Conventions, and machinery for implementation. He said that instead of a clear-cut Declaration with inter-connected articles, a general text had now been drawn up which readily lent itself to various interpretations and which might give rise to regrettable disputes.

At the San Francisco Conference the adoption had been proposed of a Declaration of Fundamental Human Rights and a Declaration of the Rights and Duties of the Nations, to constitute jointly an International Bill of Rights. Panama intended to submit her [13] draft for a Declaration of the Rights and Duties of States at the next meeting, for incorporation in a pact of fellowship between American Republics.

American opinion, he said, was that a Declaration of the reciprocal Rights and Duties of States constituted a valuable foundation for the future clarification of International Law. In 1933, the American nations concluded a Convention on the Rights and Duties of States.⁴⁷ He considered that there was no reason why the United Nations should declare themselves incapable of making a similar effort.

The international protection of the individual, which they were now advocating, required a previous recognition that the human person, like the State, is a subject of international law. In urging the imperative need for a Declaration, he said that Panama was not merely paying lip service to these principles.

He said that it had also been stated that, merely by drawing up a Declaration, one or more Conventions and machinery for implementation, effective, if not complete, protection of the individual was obtained. The fact that the individual was a subject of international law is remembered, but he considered that the fact that he is a citizen of the State is forgotten. It is obvious, he said, that, even for the purpose of completing the protection of the individual himself, the simultaneous conclusion of a declaration of human rights (supplemented by conventions and machinery for implementation) and a declaration on the rights and duties of nations is required. This necessity, in his opinion, had not always been taken into account, in drawing up the preliminary draft declaration. The individual needs to know not only what are his internationally recognized rights, but also what are the rights and the duties of the State, of which he is a citizen, towards other States and other individuals.

[14]

He considered that a knowledge of the consequences of a national breach of those duties would act as a strong brake on dictatorship, and would be one of the most certain means of establishing the democratic ideals of the United Nations.

In short, to carry out the Declaration, he said, was a binding obligation, but it does not offer complete protection, even from the point of view of the individual, without a Declaration of the Rights and Duties of States.

LORD DUKESTON (United Kingdom) referred to the Document E/CN.4/38, at page 4, concerning the "task of promotion of human rights". He proposed that this statement should be adopted as an introduction both to the Declaration and to the Convention. He asked whether his proposal could be moved in any form, or whether

⁴⁷ The Montevideo Convention on the Rights and Duties of States, signed during the Seventh International Conference of American States on 26 December 1933 in Montevideo, Uruguay, dealt with statehood as a part of customary international law. The convention, signed by 19 states, establishes the definition of a state and the rights and duties accompanying this classification.

any such motion for an introduction should be deferred until the third session of the Commission in May 1948.

THE CHAIRMAN said that it had been agreed by the Commission that a Preamble should be considered by all members from a political and from a literary point of view, in order that the Commission could choose the best version when the draft Declaration was finally ready.

LORD DUKESTON (United Kingdom) said that he understood the problem to be whether any proposed draft introduction should be discussed at that session or should be forwarded in time for the discussion of the draft Convention and Declaration in May 1948. If the latter was the case, he said that he could not force a consideration of the introduction proposed by his Delegation before the consideration of similar proposals by other countries. MR. CASSIN (France) said that he would support the entire text of the Declaration. He realised its imperfections, but considered that it would be operative if a Convention, or other organ of implementation, was agreed.

[15]

MR. MALIK (Lebanon), referring to the statement by the representative of Panama, paid a tribute to Dr. Alfaro for his contribution to the work of Human Rights since the time of the San Francisco Conference. He added that he had great respect for the humane and juridical culture of Latin America which had contributed essentially to the Declaration.

THE CHAIRMAN put to the vote the adoption of the Declaration.

It was adopted by 13 votes to 0, with 4 abstentions.

MR. VICTORICA (Uruguay), in explanation of his vote, said that he regarded the Declaration as a vague document, but one with a good intention. He considered that the Declaration should be positive and not only a statement of recommendations.

Article 1 of the Convention

MR. CASSIN (France) said that his proposed amendment (E/CN.4/71) was designed to show the connection between the Declaration and the Convention. He said that, in his opinion, it was necessary to show at the beginning of the Convention, and that this was only the first of, perhaps, several Conventions. He would be willing for it to be included in a Preamble.

LORD DUKESTON (United Kingdom) said that the French amendment was an Introduction and not an amendment to Article 1.

...

E/CN.4/SR.42

16 December 1947

Summary Record of the Forty-Second Meeting
[of the Commission on Human Rights]

Held at the Palais des Nations, Geneva, on Tuesday,
 16 December, 1947 at 9 p.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Dr. Charles Malik (Lebanon). Members: Col. W. R. Hodgson (Australia); Mr. F. Dehousse (Belgium); Mr. A. S. Stepanenko (Byelorussian SSR); Dr. C. H. Wu (China) (Alternate); Mr. O. Loutfi (Egypt) (Alternate); Mr. R. Cassin (France); Mrs. Hansa Mehta (India); Mr. A. G. Pourevaly (Iran); Mr. M. Klekovkin (Ukrainian SSR); Mr. A. E. Bogomolov (USSR); Lord Dukeston (United Kingdom); Mr. J. J. C. Victorica (Uruguay) (Alternate); Dr. V. Ribnikar (Yugoslavia). Secretariat: Prof. J. P. Humphrey; Mr. E. Lawson. Specialized Agencies: Mr. J. de Givry (ILO). Non-Governmental Organizations: Category A: Miss Toni Sender (American Federation of Labor); Mr. van Istendael (International Federation of Christian Trade Unions). Category B: Mr. O. F. Nolde (Commission of the Churches on International Affairs); Mr. A. F. Ennals (World Federation of U.N. Associations); Mr. Riegner (World Jewish Congress); Mr. Weill (Co-ordinating Board of Jewish Organizations).

...

[The initial portion of the meeting concerned the draft convention. A discussion of the name of the convention followed. It has been included because of its relevance to the name of the Declaration and of the International Bill of Rights.]

[8]

...

THE CHAIRMAN invited the Commission to decide on the name to be given to the Convention. She recalled that in the course of the discussions certain delegations had proposed the terms Bill, Convention and Covenant.

[9]

COL. HODGSON (Australia) was in favour of the term Bill of Human Rights, since that was the term which had been employed in the General Assembly, the Economic and Social Council, the War Crimes Commission and the Human Rights Commission itself. Furthermore, that term was employed constantly in the Nuremberg doctrine. His chief reason, however, was that "Bill" was the word used in the Commission's terms of reference.

DR. WU (China) regarded the term "Bill" as so sacred that he would like it to cover the threefold aspects of the Commission's work: the Convention, the Declaration and Implementation. He would agree to the term "Bill" (in French

“Charte”) being used for that triptych, but would vote against that title if it were used solely for the Convention.

MR. DEHOUSSE (Belgium) recalled that he had already proposed the term “Pacte” (in English “Covenant”). He was opposed to “Convention” which was a nondescript term applied to the most diverse instruments. Nor could he accept the term “Bill” as there was no French, Russian or Spanish translation for it. He understood that in English the word “Bill” meant an instrument of national law. But this was an international instrument. He formally moved that the Convention be called the “Covenant on Human Rights”, not only for the negative reason that the other terms did not seem to him to have any special merit, but also for the positive reason that a Covenant set a seal on friendly relations between States and was applicable to political as well as to security and mutual assistance agreements between States. What were Human Rights but a form of security and mutual assistance among men? He was categorically opposed to the term “Charte” (English “Bill”), which held bitter memories for all the countries of Western Europe. He was sorry, moreover, that the term in [10] question had been chosen for the basic document of the United Nations. In point of fact, a “Charte” was not obtained by the people, but granted to them by a King endowed with Divine right who consented to renounce some of his sovereign rights.

MR. CASSIN (France) stated that, at the present stage of its work, the Commission should give the various instruments their appropriate technical names. He proposed that the Convention be called a *Convention* and the Declaration, a *Declaration*. It was impossible for the Convention to be termed a “Bill”. He recalled that when the President of the United States referred at the San Francisco Assembly to a “Bill of Rights”, he was thinking of a Declaration to be annexed to the United Nations Charter. The Economic and Social Council itself, when it had examined the Commission’s terms of reference, had mentioned a “Bill” in the sense of a Declaration.

He asked the Commission to leave the question of names open. He would agree to the Convention being called a “Covenant”, since it would thereby gain in solemnity and since it was to serve as a model for other agreements.

MR. LOUTFI (Egypt) supported the French representative’s remarks.

MR. VICTORICA (Uruguay) agreed with the representative of France that the Convention should be called a *Convention* and the Declaration a *Declaration*. He recalled, however, that at all the American Conferences on Human Rights, particularly the Mexico Conference, it was agreed, having regard to the terminology of the United Nations Charter, that the Declaration should have the legal character of a Convention between States.

[11]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out for the Commission's information that in Russian the word "Bill" had the meaning of "English law" and the term "Charter" also the meaning of "English law" but with a wider scope. The terms "Convention" and "Covenant" were broad legal expressions, used for agreements between States. Lastly, there was the word "Treaty" which was the most commonly used in Russian.

DR. MALIK (Lebanon) observed that the Commission could not disregard the terminology contained in its terms of reference and should therefore use the word "Bill" somewhere. He recalled that that was the term used by the Nuclear Commission in the Economic and Social Council, when the question of the Commission's terms of reference was being discussed, and on a second occasion when those terms of reference were revised. He would agree to call the Declaration a "Declaration" and the Convention a "Covenant" as Professor Dehousse had proposed, and agreed to Dr. Wu's proposal that the whole collection of instruments should be called the "Bill".

THE CHAIRMAN invited the Commission to vote successively on the proposals made by the delegations of Australia, China, Belgium and France.

MR. DEHOUSSE (Belgium) wished to clear up a point connected with the voting procedure. He noted that the Chairman was putting four proposals to the vote in a chronological order which rested solely on chance. In his view the Lebanese representative's proposal was a compromise proposal for which he requested priority.

DR. WU (China) seconded the Lebanese representative's proposal.

[12]

THE CHAIRMAN accordingly put to the vote the Sino-Lebanese proposal that the Declaration he called a *Declaration*, the Convention a *Covenant* and the whole thing a *Bill* ("Charte").

Decision: This proposal was adopted by *four* votes to *one* with *five* abstentions.

The Chairman put the document as a whole to the vote, under the name "Covenant".

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that at the outset of the Commission's work, the Soviet delegation had emphasized that its primary task was to make a careful and serious study of the draft Declaration. Only an effective discussion of essential human rights could provide a satisfactory foundation for subsequent work in other fields, such as the elaboration of a Convention or other international undertakings. The Soviet delegation still considered that to be the main task of the Commission, which should endeavour to define what it meant by "Human Rights" and what that concept comprised. In the

course of the discussion on those rights, the Soviet delegation had laid emphasis on the simplest and most essential of them: the right to work, leisure, education, social security and the inviolability of the human person. Unfortunately, the greatest difficulties had arisen in connection with precisely those essential rights. In the draft Convention, in whose elaboration the Soviet delegation had been unable to take part, there were no detailed provisions concerning the fundamental rights of concern to the common man, *e.g.* the right to work, to education, to social security, on which there had been no discussion. The Soviet delegation therefore asked for the following note to be recorded in the Report: "The Soviet delegation considers that the [13] drafting of a Convention is premature before the end of the work on the preparation of a text of a Declaration on Human Rights and before discussion of the opinion of the Governments on this Declaration. For these reasons, it will vote against taking any decision on the acceptance of this document."

MR. DEHOUSSE (Belgium) reminded the Commission and the Soviet representative that the proposed Convention did not exhaust the subject. It was only the first of a series and should not be found fault with because it contained only a limited number of stipulations. For its part the Belgian delegation was determined to press for it to be followed by other Conventions enumerating other rights, particularly the economic and social rights on which it had laid emphasis in the early stages of the present session. He would like this statement to appear in the summary record. He had no wish, however, to regard the Soviet representative's statement as holding out no hope. The latter had merely pointed out that he regarded the drafting of a Convention as premature. It was therefore only a question of a difference of opinion as to timing, not a final rejection.

MR. CASSIN (France) stated that the French delegation would vote for the draft Convention. Since June it had been of the opinion that the methods of a Declaration and a Convention could be employed simultaneously by the Commission in drafting the document it was preparing. The first draft Convention now before the Commission offered a good illustration of that method. If the Commission had tried to draw up a Convention covering rights less universally recognized, it might have been accused of imprudence. Future conventions should be drawn up slowly and carefully with the assistance of experts. The French delegation would vote for the proposed Convention, as a preface to other Conventions.

[14]

DR. RIBNIKAR (Yugoslavia) explained that he stood by the statement he had made before the Working Group on the Convention, as summarized in the Working Group's Report. The Yugoslav delegation would vote against the proposed Convention.

LORD DUKESTON (United Kingdom) stated that the British delegation would support the draft Convention. He admitted it to be incomplete, but in the sense indicated by the Soviet representative's criticisms, he thought that in the nature of things it could not be otherwise. However, it covered fundamental freedoms without which social security measures could not take shape unless they were imposed by a philanthropic State, the awareness of those freedoms and rights not having had the chance to develop freely in the minds of men. It could be said, therefore, that economic and social rights and social security rested primarily on the affirmation of freedom of speech and the right of association. Hence the first essential was to lay the foundations of the elementary freedoms. There was always a great temptation to criticize a draft for its omissions, but there could be no final text. If the rights and freedoms proclaimed in the present Bill became a reality, they would contribute to the gradual establishment of the other freedoms. Therefore he considered that in the time allowed it the Commission had done excellent work. It could not be deemed to have formulated all the rights and freedoms concerning mankind, but its task was to draw up a text of world-wide application. That text had not been drawn up for States where the practice of such freedoms had become customary. It was intended to be applied more especially in areas where those rights were still only partially recognized. One of the documents drawn up defined an ideal. In order to extend the field of human rights, the Commission had begun by [15] laying down the fundamental rights, which would become weapons in the battle for freedom. In no democratic country had freedom developed otherwise. Human rights developed primarily through the recognition of freedom of speech, then they passed into law. Each of those rights, in order to be clearly understood and effective, had to be drawn up when the time was ripe. It was better to teach the common man how democracy worked than to regard him as a child and impose certain rules on him. Such an attitude might bear some resemblance to dictatorship systems. The world needed free men and not well-fed slaves. Therefore, in developing human rights, it was necessary to begin by proclaiming freedom of speech, freedom of association and freedom of thought. Without those fundamental freedoms, human rights could not be developed. It was in that spirit he hoped that the Commission had drawn up a Convention covering the fundamental freedoms, so as gradually to bring them to the knowledge of those who did not yet enjoy them.

THE CHAIRMAN stated that the United States delegation had always been in favour of drawing up a Declaration and a number of Conventions.

MR. LOUTFI (Egypt) stated that he would vote for the draft Convention. Although it covered only the most elementary rights, he hoped it would be possible to

supplement it later by a number of other instruments. He urged that, when the text was submitted to the Governments for their observations, the Secretariat should point out that it was merely a draft which would have to be put into proper legal shape by a Committee of Experts.

MR. KLEKOVKIN (Ukrainian SSR) regretted that the Commission had not devoted more care and attention to its essential [16] task of drafting the texts of a Declaration and a Convention on Human Rights. In his view the Convention was lacking in sincerity. It dealt with only one aspect of human rights and completely disregarded economic rights such as trade union rights, social insurance, the prevention of unemployment, *etc.*, which were the very foundation of all other rights. The Commission had forgotten that those instruments were intended for the great mass of workers, whose views on life had changed considerably since the World War. He was afraid that when the peoples became aware of the contents of the documents produced by the Commission's work they would take up a critical attitude and might even make fun of them. The rights covered by the Convention might be compared with the right of a negro to be taken to a police station just like a white man. The Convention contained no guarantee of protection against unemployment and economic crises. He feared that in periods of economic depression the principles contained in the present Convention on Human Rights might sound hollow. The Convention confirmed the truth of the expression he had heard in the United States: "Men are free, but are dying of hunger".

The common man was only interested in freedom of speech and freedom of the press, when he was protected against poverty; yet the Convention provided no guarantee of material living conditions. He concluded that the Commission's work had been unproductive because it had been unable to find a means of harmonizing the economic and the political rights of man.

THE CHAIRMAN put the draft Covenant on Human Rights to the vote.

[17]

MR. DEHOUSSE (Belgium) asked for a vote by roll call.

Decision: The Commission adopted the draft Covenant on Human Rights by *ten* votes to *four*.

The following voted in favour: Belgium, China, Egypt, France, India, Iran, Lebanon, the United Kingdom, the United States of America, Uruguay.

The following voted against: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, and Yugoslavia.

Absent: Australia, Chile, Panama and the Philippines.

The meeting rose at 12:25 a.m.

E/CN.4/77

16 December 1947

**Draft Report of the Commission on Human Rights Submitted
to the Economic and Social Council
Geneva, 2 December to ____ December 1947**

[The Table of contents is omitted.]

[2]

Chapter I

Introduction

1. The Second Session of the Commission on Human Rights opened at 10 a.m. Tuesday, 2 December 1947, at the European Headquarters of the United Nations, Geneva, Switzerland. The Commission held Plenary Meetings and terminated its work on ____ December 1947.

2. The following Representatives of Member Nations on the Commission attended:

Chairman: Mrs. Franklin D. Roosevelt (United States, Representative); Rapporteur: Dr Charles Malik (Lebanon, Representative). Col. W.R. Hodgson (Australia, Representative); Mr. Fernand Dehousse (Belgium, Representative); Mr. A. S. Stepanenko (Byelorussian SSR, Representative); Senator E. Cruz Coke (Chile, Alternate); Dr. C. H. Wu (China, Alternate); Mr. Omar Loutfi (Egypt, Alternate); Prof. René Cassin (France, Representative); Mrs. Hansa Mehta (India, Representative); Mr. A. G. Pourevaly (Iran, Alternate); Mr. M. Amado (Panama, Alternate); Brig. Gen. Carlos P. Romulo (Philippine Republic, Representative); Mr. Michael Klekovkin (Ukrainian SSR, Representative); Mr. A. E. Bogomolov (USSR, Representative); Lord Dukeston (United Kingdom, Representative); Mr. Juan J. C. Victorica (Uruguay, Alternate); Dr. Vladislav Ribnikar (Yugoslavia, Representative).

[3]

3. The following Representatives also present at the session: International Labour Organization: Mr. J. de Givry, Mr. P. de Briey, and Mr. J. Bessling; United Nations Educational, Scientific and Cultural Organization: Mr. J. Havet; Preparatory Commission for the International Refugee Organization: Miss M. Barblé, and Mr. Weiss.

4. The following consultants from non-governmental organizations were also present: *Category A:* American Federation of Labor: Miss Toni Sender; International Federation of Christian Trade Unions: Mr. A. van Istendael and Mr. P. J. S. Serrarens; Inter-Parliamentary Union: Mr. Leopold Boissier and Mr. A. R. de

Cléry. *Category B*: Catholic International Union for Social Service, and the International Union of Catholic Women's Leagues: Mlle. E. de Romer; Commission of the Churches on International Affairs: Mr. O. Frederick Nolde; Coordinating Board of Jewish Organizations: Mr. A. G. Brotman; Consultative Council of Jewish Organizations: Prof. Norman Bentwich, Mr. Milton Winn, Mr. Eugene Weill and Prof. Paul Mantoux; International Abolitionist Federation: Mr. Th. de Félice; International Committee of the Red Cross: Mr. J. M. E. Duchosal and Mr. C. Pilloud; International Council of Women: Dr. Eden and Miss van Eeghen; [4] Women's International Democratic Federation: Mrs. Gabrielle Duchène; World Federation of United Nations Associations: Mr. John A. F. Ennals; World Jewish Congress: Dr. F. R. Bienenfeld, Mr. Alex Easterman and Mr. Gerhard M. Riegner.

5. Although scheduled to meet on December 1st, the Commission could not open its session before December 2nd, owing to the unavoidable delay in arriving in Geneva of the Chairman and several other Representatives.

6. The Representatives or Alternates representing Chile (Senator Cruz-Coke), China (Dr. C. H. Wu), Lebanon (Dr. Charles Malik), the Philippines (Brig.-Gen. Carlos P. Romulo), the United Kingdom (Lord Dukeston) and Uruguay (Mr. Juan J. C. Victorica) were unavoidably delayed in reaching the session. Senator Cruz-Coke participated from the 33rd to the 37th meeting; Dr. Wu and Dr. Malik participated in the 28th and following meetings, Brig.-Gen. Romulo in the 29th and following meetings, Lord Dukeston in the 24th and following meetings, and Mr. Juan J. C. Victorica in the 32nd and following meetings. Dr. C. H. Wu was represented at the 23rd to the 27th meeting by Dr. Nan-Ju Wu. Brig.-Gen. Romulo was represented at the 28th meeting by Mr. Salvador P. Lopez. Lord Dukeston was represented at the 23rd meeting by Mr. A. Campbell.

7. Observers representing the Governments of Greece, Poland, Romania and Turkey, and the Holy See, attended the Session.

8. Prof. John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Commission.

9. The Commission took note of the Rules of Procedure for Functional Commissions adopted by the Economic and Social Council on 12 August 1947.

[5]

10. The Commission adopted the Provisional Agenda (Document E/CN.4/22/Rev.2) as its Agenda, with the understanding that the listing of documents in brackets after each item was for information purposes only.

11. In accordance with Resolution 46(IV) of the Fourth session of the Economic and Social Council, the Commission invited the officers of the Commission on the Status of Women to be present and to participate without vote in its deliberations

when sections of the draft of the International Bill of Human Rights concerning the particular rights of women were being considered. The Commission on the Status of Women was represented by Mrs. Bodil Begtrup, Chairman, and Mrs. E. Uralova, Rapporteur.

12. The expression of the views of the Members of the Commission is embodied in the summary records of the plenary meetings (documents E/CN.4/SR.23 to _____) and in the summary records (Documents E/CN.4/AC.2/SR.1 to 9, E/CN.4/AC.3/SR.1 to 9, and E/CN.4/AC.4/SR.1 to 7) and the reports of the 3 working groups (documents E/CN.4/53, E/CN.4/56 and E/CN.4/57).

13. (The Commission authorized the Chairman, or in the absence of the Chairman, the Rapporteur, to present this report to the Economic and Social Council).

14. The Commission instructed the Secretary-General to transmit the draft articles contained in Annexes A and B of this Report to all States members of the United Nations for their observations, suggestions and proposals, to be submitted to the Drafting Committee prior to its meeting in May 1948 in conformity with Resolution 46(IV) of the Economic and Social Council. The Commission also instructed the Secretary-General to transmit the discussion on implementation contained in Annex C to all States members of the United Nations requesting them to submit their comments to the Drafting Committee in time for consideration in its meeting of May 1948.

[6]

Chapter II

Plan of Work in Regard to the Bill of Human Rights

15. The Commission decided to proceed without delay to consider the suggested Articles for inclusion in an International Declaration of Human Rights, contained in Annex F of the Report of the Drafting Committee (Document E/CN.4/21); and the suggested Articles for inclusion in an International Convention of Human Rights, contained in Annex G of the same Report.

16. In order to fulfil its mission, the Commission decided to set up three working groups immediately, to deal respectively with the problem of the Declaration, the Convention or Conventions, and Implementation. The membership of these working groups, as determined by the Chairman with the approval of the Commission, was as follows:

Working Group on the Declaration: The Representatives of the Byelorussian SSR, France, Panama, the Philippines, the USSR and the USA.

Working Group on the Convention or Conventions: The Representatives of Chile, China, Egypt, France, Lebanon, the United Kingdom and Yugoslavia.

Working Group on Implementation: The Representatives of Australia, Belgium, Iran, the Ukrainian SSR, and Uruguay.

17. The Working Groups began their work immediately upon establishment, and met simultaneously. The Working Group on the Declaration met 9 times, that on the Bill or Convention 9 times, and that on the question of implementation 7 times. When the Commission received the Reports of the three Working Groups (Documents E/CN.4/53, E/CN.4/56 and E/CN.4/57 respectively) it decided to examine first the proposed Articles for the Declaration Article by Article, referring to corresponding Articles in the Convention wherever such existed. [7] The Commission did not attempt to draft the articles of either document in a final form, being of the opinion that this could only be done after comments had been received from the Governments.

18. Four titles were frequently used in respect of the documents under preparation, Declaration and Convention. The latter was to be entered into and ratified by Governments and not only to be discussed and passed by the General Assembly. The question arose whether the term "Bill of Rights" was to be applied only to the Convention or to the two documents taken together. No decision was taken on this point. Other terms suggested were Covenant and Pact.

19. In discussing the Articles for the two documents, the Commission accepted a ruling of the Chairman (which was challenged and upheld) that in order to save time only one person would be recognized to speak for, and only one to speak against, each article or proposed amendment.

20. It was agreed that every Representative had a right to submit to the Rapporteur, in writing, any comment he wished to make upon a particular article or upon the documents as a whole, for inclusion in the Report.

[8]

Chapter III

International Declaration of Human Rights

21. The Working Group on the Declaration on Human Rights held nine meetings. Mrs. Franklin D. Roosevelt (United States) was elected Chairman and Professor René Cassin (France), Rapporteur. The views expressed by the members of the Working Group will be found in its Report (Document E/CN.4/57) and in the summary records of its meetings (Document E/CN.4/AC.2/1 to 9).

22. The Report of the Working Group was received and noted by the Commission, and Chapter 3, containing articles suggested for inclusion in an

International Declaration on Human Rights, was considered in detail. Members commented upon the form and substance of the various articles, and proposed alterations. These comments and proposals are found in the summary records. The result of this examination is embodied in Annex A of this Report.

...

[12]

Chapter VII

Freedom of Information and of the Press

...

31. The Commission adopted the following resolution:

The Commission on Human Rights

1. *Recognizes* that freedom of expression and of information is one of the most fundamental freedoms;
 2. *Affirms* that this freedom must be included both in the International Declaration and in the Convention on Human Rights;
 3. *Decides*, having before it two texts on this subject for inclusion in the International Convention, one submitted by the United States of America and one by the Drafting Committee, not to elaborate a final text until it has before it the views of the Sub-Commission on Freedom of Information and of the Press and of the International Conference on Freedom of Information and of the Press these two texts for its consideration, requesting it further:
 - (a) to take into account the two resolutions of the General Assembly on this question (document A/C.1/228, "Measures to be taken against Propaganda and the Inciters of a New War" and document A/C.3/180, "Slandorous Information");
- [13]
- (b) to consider the social, economic and political conditions which will render this fundamental freedom real;
 - (c) to consider the possibility of denying this freedom to publications and other media of public expression which aim or tend to inflict injury, or incite prejudice or hatred, against persons or groups because of their race, language, religion or national origin.
4. *Recommends* to the Economic and Social Council that it remit to the International Conference on Freedom of Information the same documents with identical instructions; and
 5. The Commission also decided to refer Articles 21 and 23 of the draft Declaration to the Sub-Commission on Freedom of Information and of the Press for its consideration and report and to request the Economic and Social Council to refer these articles also to the Conference on Freedom of Information for its own consideration and report.

E/CN.4/77/Annex A
16 December 1947

Draft International Declaration on Human Rights*

(Numbering of Articles corresponds to numbering in Chapter III of the Report of the Working Group on a Declaration (Document E/CN.4/57))

Article 1

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

(Wherever the word “men” is used, the Commission implied both men and women).

Article 2

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

The Representative of *China* suggested the following wording: “In the exercise of these rights everyone shall respect the rights of others and comply with the just requirements of the democratic State.”

The Representative of the *United Kingdom* expressed the view that the State should not be regarded as limiting the rights of individuals but as promoting the rights of all. He proposed the following alternative text, which he requested should be placed on record: “In the exercise of these rights everyone must recognize the rights of others and his obligation to society so that all may develop their spirit, mind and body in wider freedom.”

[*] The Soviet delegation feel that the draft “Declaration on Human Rights”, as prepared by the Commission, is not sufficient for the protection of the essential human rights. Consequently, the Soviet delegation reserves its right to present, at a later stage of the work, a Soviet draft “Declaration of Human Rights.”

[2]

3. The Representative of the *United States* preferred the following text, which she had suggested: “The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.”

Article 3

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

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

Article 7

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

Article 8

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

(The Representative of *Australia* expressed the view that the language of this and other articles of the Declaration is confused in that it is both declaratory and mandatory.

As it has been agreed that the Declaration imposes no legal obligation and requires no measures for implementation, it should be drafted throughout in declaratory form only, or in present indicative tense. For this reason proposed Article 38 is quite out of place, and is applicable only to the Convention or Bill of Human Rights. Australia suggests that some such wording as “No one is to be deprived of . . .” or “Everyone has the right . . .” should be used in articles of the Declaration. Further, the wording of every article in the Convention should be in mandatory form.)

[3]

Article 9

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it, and to use a language which he can speak.

Article 10

Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at

which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

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

Article 11

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

Article 12

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

[4]

Article 13

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

Individuals shall have the right to leave their own country and if they so desire, to acquire the nationality of any country willing to grant it.

Article 14

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

Article 15

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

Article 15A

The family deriving from marriage is the natural and fundamental unit of society. Men and women shall have the same freedom to contract marriage in accordance with the law.

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

(The Representative of *Lebanon* made a motion to amend Article 15-A of the Declaration by substituting for the second sentence of the text the two sentences following: "The family deriving from marriage is the natural and fundamental group unit of society. It is endowed by the Creator with inalienable rights antecedent to all positive law and as such shall be protected by the State and society." Only the first of these substitute sentences was adopted. Consequently the Representative of *Lebanon* desires that the second sentence be further considered in the future.)

[5]

Article 17

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

No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to a nationality.

All persons who do not enjoy the protection of any government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations.

Article 20

Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in worship, observance, teaching and practice.

Articles 21 and 22

(The Commission decided not to elaborate a final text on these articles until it had before it the views of the Sub-Commission on Freedom of Information and of the Press and of the International Conference on Freedom of Information.)

Article 21

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

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

Article 22

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

[6]

Article 23

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

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

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

Article 24

Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.

Articles 26 and 27

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

Article 28

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

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

[7]

Article 29

Everyone has the right to work.

The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

The State is bound to take all necessary steps to prevent unemployment.

Article 30

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

Women shall work with the same advantages as men and receive equal pay for equal work.

Article 33

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

Article 34

Everyone has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequences of unemployment, disability, old age and all [8] other loss of livelihood for reasons beyond his control. Motherhood shall be granted special care and assistance. Children are similarly entitled to special care and assistance.

Article 31A

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

Article 32

Everyone has the right to rest and leisure.

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

Article 35

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

Article 31

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

[9]

Article 36

(The Commission did not take a decision on the two texts reproduced below, but submits both for consideration.)

Text Proposed by the Drafting Committee

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

Text Proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities:

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

New Article No. 1

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.

[10]

New Article No. 2

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

*Comments**Comment No. 1*

The Representative of France proposed that the following article, which appears as Article 38 in the Report of the Working Group on the Declaration, be considered for inclusion;

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

“A system of effective judicial and administrative appeal shall be organized by each State for the purpose of penalizing violations of these principles.”

Comment No. 2

The Representative of France proposed that the following additional article be considered for inclusion in the Declaration:

“The United Nations shall recommend all the international conventions and shall take, with the assistance of the Member States, all necessary measures to give full effect to the provisions of the Charter and of this Declaration, in order to safeguard those rights and freedoms throughout the world.”

[11]

Comment No. 3

The following Article, which appears as Article 25 in the Report of the Working Group on the Declaration, is suggested for consideration in connection with the formulation of a preamble to the Draft Declaration:

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

Comment No. 4

The Representative of Lebanon proposed the addition of the following Article at the end of the Declaration:

“In construing the Articles of this Declaration, the several articles shall be regarded in their relation to each other.”

This proposal was lost by 7 votes for to seven against. The Representative of Lebanon wishes this Article to be further considered in the future.

Comment No. 5

The Representative of the Philippines proposed the following comment on Article 13 in the Report of the Working Group on the Declaration:

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

[12]

Comment No. 6

The Representative of the Philippines requested that the following comment on Article 31 be inserted in the Report of the Commission:

“The right of private education will be respected and in such places or countries as desire it, religious education shall be permitted in the schools.”

Comment No. 7

The Representative of Australia suggested that all Articles of the Declaration be put in declarative form, for which the indicative mood is alone appropriate. The imperative mood is more proper for the Convention. The Commission agreed to pass this suggestion on to the Drafting Committee.

Comment No. 8

The Representative of France requested that the following comment be inserted in the Report of the Commission:

[The French text of the amendments is omitted.]

The French Delegation withdrew the two following amendments which it had proposed:

Art. 38. “A system of effective judicial and administrative appeal shall be organized by each State for the purpose of penalising violations of these principles.”

Art. 39. “The United Nations recommends . . . all the International Conventions and would take, with the assistance of Member States, all necessary steps to give full effect to the provisions of the Charter and of the present Declaration, in order to safeguard these rights and freedoms throughout the world.”

This withdrawal was dictated solely by the desire to reserve for a suitable stage all discussions concerning the “implementation” of human rights both in the International Declaration and in the multilateral Conventions to follow.

E/CN.4/78**16 December 1947****Original Text: French**

**Communication Addressed by the United Nations Educational,
Scientific and Cultural Organization to the Chairman of the
Commission on Human Rights**

I.

The following letter was addressed by Mr. J. L. Havet to Mrs. Roosevelt on 13 December 1947:

On behalf of UNESCO, which I represent at the Commission on Human Rights, I have the honour to submit to you and the Commission the following information on the work UNESCO proposes to undertake in matters related to questions falling within your Commission's field of competence. I am referring to the UNESCO programme in the field of philosophy as confirmed by a vote of the General Conference at Mexico City two weeks ago.

However, in order to place this information in its proper context, it is necessary for me to give you a few preliminary explanations regarding the work undertaken by UNESCO in that field in the year 1947 in pursuance of the instructions of the first General Conference.

UNESCO's work in the field of philosophy consists mainly in trying to bring about a better understanding among men belonging to different cultures and professing different ideologies. Under this programme, the General Conference of November 1946 decided that the first centre of interest would be the difficult problem of the philosophical bases of human rights.

Of course, a purely philosophical inquiry into the bases of human rights is very different from the task of drafting an International Declaration or a Convention. However, certain of the fundamental difficulties, which it was essential to solve for the purpose of drafting such texts, sprang from the clash of opposing ideological viewpoints. It was therefore decided that UNESCO's work should be carried out in collaboration with the United Nations Commission on Human Rights and that the conclusions it reached should be respectfully communicated to the Commission, in the conviction that this classification of opposing ideologies and this attempt at a constructive synthesis could be used by the delegates to reach an agreement, without their being bound by them in any way.

[2]

May I retrace briefly the history of these contacts in our work?

The permanent representative of UNESCO at the United Nations, Mr. Darchambeau, informed the Commission at its first session of the measures UNESCO proposed to take. In January 1947, UNESCO was represented at the Economic and Social Council by a special observer, Mr. Archibald MacLeish, who stated the Organization's point of view and gave a detailed analysis of its programme of action. I would only remind you of the subsequent exchange of letters between the Director-General of UNESCO and yourself. From that time onwards liaison between the Secretariat of UNESCO and the Human Rights Division has been continuous. UNESCO was represented by a special observer at the session of the Drafting Committee last June. Finally, the Report of the Drafting Committee to the Commission on Human Rights was transmitted to UNESCO in July, and the Organization is requested to submit its comments to the United Nations in its capacity as a Specialized Agency. It was in answer to that request that the document (UNESCO/Phil/10), which was distributed to the Commission at the beginning of the present session, was sent to the United Nations.

...

[3]

...

Jacques L. Havet

Representative of UNESCO at the United Nations Commission on Human Rights
Geneva, 13 December 1947.

[4]

The following letter, addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization was annexed to Mr. J.L. Havet's letter:

July 14th 1947

Dr. Julian Huxley

Director-General

United Nations Educational, Scientific and Cultural Organization

Sir,

I have the honour to invite the United Nations Educational, Scientific and Cultural Organization to send a representative to participate in the second session of the Commission on Human Rights, which will convene in Geneva on the 25th of August for a period of approximately two weeks.

Your attention is directed to the provisional agenda of this session (document 2/CN4/22 [sic]) and to the report of the Drafting Committee (document 2/CN4/21 [sic]). The latter document contains two proposed working papers: Annex F, comprising suggested articles for an International Declaration of Human Rights;

and Annex G, comprising suggested articles for an International Convention on Human Rights.

The United Nations Educational, Scientific and Cultural Organization is requested to send any comments it may wish to make upon the report of the Drafting Committee to the Division on Human Rights, Geneva, in time for translation and distribution before the opening of the session; and to inform the Division of the name of the representative.

I have the honour to be, Sir,

Your obedient servant

Signed: Jan Stanczyk

Acting Assistant Secretary-General in Charge of Social Affairs.

Note. Article 33 of the draft contained in the Report of the Drafting Committee on an International Bill of Human Rights was accompanied by the following commentary:

“The Drafting Committee suggested that each Article referring to economic and social rights should be referred to the appropriate Specialized Agencies for their consideration and comment.”¹

The United Nations Secretariat has accordingly referred to the various Specialized Agencies, including UNESCO.

^[1] Document E/CN.4/21, 1 July 1947 – Annex F.

E/600

17 December 1947

**Report to the Economic and Social Council on the
Second Session of the Commission [on Human Rights]
Held at Geneva, from 2 to 17 December 1947**

Chapter I

Introduction

1. The Second Session of the Commission on Human Rights opened on Tuesday, 2 December 1947, at the European Headquarters of the United Nations, Geneva, Switzerland. The Commission held twenty-three Plenary Meetings and terminated its work on Wednesday, 17 December 1947.

2. The following representatives of Member Nations on the Commission attended: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Rapporteur: Dr. Charles Malik (Lebanon); Australia: Colonel W. R. Hodgson; Belgium: Mr. Fernand Dehousse; Byelorussian Soviet Socialist Republic: Mr. A. S. Stepanenko; Chile: Senator E. Cruz-Coke (alternate); China: Dr. C. H. Wu (alternate); Egypt: Mr. Omar Loutfi (alternate); France: Professor René Cassin; India: Mrs. Hansa Mehta; Iran: Mr. A. G. Pourevally (alternate); Panama: Mr. M. Amado (alternate); Philippines: General Carlos P. Romulo; Ukrainian Soviet Socialist Republic: Mr. Michael Klekovkin; Union of Soviet Socialist Republics: Mr. A. E. Bogomolov; [2] United Kingdom: Lord Dukeston; Uruguay: Mr. Juan J. Carbajal Victorica (alternate); Yugoslavia: Mr. Vladislav Ribnikar.

3. The following representatives of specialized agencies were also present at the session: Mr. J. de Givry, Mr. P. de Briey, and Mr. J. Bessling: International Labour Organization; Mr. J. Havet: United Nations Educational, Scientific and Cultural Organization; Miss M. Barblé, and Dr. P. Weiss: Preparatory Commission for the International Refugee Organization.

4. The following consultants from non-governmental organizations were also present: *Category A*: Miss Toni Sender, American Federation of Labor; Mr. A. van Istendael and Mr. P. J. S. Serrarens, International Federation of Christian Trade Unions; Mr. Leopold Boissier and Mr. A. R. de Cléry, Inter-Parliamentary Union. *Category B*: Miss E. de Romer, Catholic International Union for Social Service, and the International Union of Catholic Women's Leagues; Mr. O. Frederick Nolde, Commission of the Churches on International Affairs; Mr. A. G. Brotman, Co-ordinating Board of Jewish Organizations; Professor Norman Bentwich, Mr. Milton Winn, Mr. Eugène Weill and Professor Paul Mantoux, Consultative Council of Jewish Organizations; Mr. Th. de Félice, International Abolitionist Federation; Mr. J. M. E. Duchosal and Mr. Pilloud, International Committee of the Red Cross; Dr. Eder and Miss van Eeghen, International Council of Women; Mrs. Alva Myrdal, International Federation of Business and Professional Women; Mrs. Gabrielle Duchène, Women's International Democratic Federation; Mr. John A. F. Ennals, World Federation of United Nations Associations; Dr. F. R. Bienenfeld, Mr. Alex Easterman and Mr. Gerhard M. Riegner, World Jewish Congress.

5. Although scheduled to meet on 1 December, the Commission could not open its session before 2 December, owing to the unavoidable delay in arriving in Geneva of the Chairman and several other Representatives.

6. The representatives or alternates representing Chile (Senator Cruz-Coke), China (Dr. C. H. Wu), Lebanon (Dr. Charles Malik), the Philippines (General Carlos P. Romulo), the United Kingdom (Lord Dukeston) and Uruguay (Mr. Juan

J. Carbajal Victorica) were unavoidably delayed in reaching the session. [3] Senator Cruz-Coke participated from the thirty-third to the thirty-seventh meeting; Dr. C.H. Wu participated in the thirty-first and following meetings; Dr. Malik participated in the twenty-eighth and following meetings; Mr. Amado from the twenty-third to the forty-first meeting; General Romulo from the twenty-ninth to the forty-first meeting; Lord Dukeston in the twenty-fourth and following meetings; and Mr. Juan J. Carbajal Victorica in the thirty-second and following meetings. Dr. C.H. Wu was represented from the twenty-third meeting to the thirty-first by Dr. Nan-Ju Wu. General Romulo was represented at the twenty-eighth meeting by Mr. Salvador P. Lopez. Lord Dukeston was represented at the twenty-third meeting by Mr. A. Campbell.

7. Observers representing the Governments of Greece, Poland, Rumania and Turkey, and the Holy See, attended diverse meetings of the Session.

8. Professor John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Commission.

9. The Commission took note of the Rules of Procedure for Functional Commissions adopted by the Economic and Social Council on 12 August 1947.

10. The Commission adopted the Provisional Agenda (document E/CN.4/22/Rev.2) as its Agenda, with the understanding that the listing of documents in brackets after each item was for information purposes only.

11. In accordance with Resolution 46(IV) of the Economic and Social Council, the Commission invited the officers of the Commission on the Status of Women to be present and to participate without vote in its deliberations when sections of the draft of the International Bill of Human Rights concerning the particular rights of women were being considered. The Commission on the Status of Women was represented by Mrs. Bodil Begtrup, Chairman, and Mrs. E. Uralova, Rapporteur.

12. The expression of the views of the members of the Commission is embodied in the summary records of the plenary meeting (documents E/CN.4/SR.23 to 45) and in the summary records (documents E/CN.4/AC.2/SR.1 to 9, E/CN.4/AC.3/SR.1 to 9, and E/CN.4/AC.4/SR.1 to 7) and the reports (documents E/CN.4/53, E/CN.4/56 and E/CN.4/57) of the three working groups.

13. Taking into consideration the necessity for the Drafting Committee to be fully informed of the replies from the Governments before its next meeting on 3 May 1948, the Commission requested the Secretary-General (a) to transmit [4] this Report to the Governments during the first week of January 1948; (b) to fix the date of 3 April 1948 as the time limit for the reception of the replies from Governments on the draft International Bill of Human Rights, and (c) to circulate these replies to the members of the Commission as soon as they are received.

14. In respect of the report of its third session to the seventh session of the Economic and Social Council, the Commission requested the Economic and Social Council to waive, if necessary, its rule requiring the submission of Reports of Commissions at least six weeks in advance of the session of the Council in which the Reports would be considered.

Chapter II

Plan of Work in Regard to the Bill of Human Rights

15. The Commission decided, by a majority vote of ten to four with one abstention, to proceed without delay to the consideration of the Articles suggested for inclusion in an International Declaration of Human Rights, contained in Annex F of the Report of the Drafting Committee (document E/CN.4/21); and the Articles suggested for inclusion in an International Convention on Human Rights, contained in Annex G of the same Report.

16. In order to fulfil its mission, the Commission decided to set up three Working Groups immediately, to deal respectively with the problem of the Declaration, the Convention or Conventions, and Implementation. The membership of these Working Groups, as determined by the Chairman with the approval of the Commission, was as follows:

Working Group on the Declaration: The Representatives of the Byelorussian Soviet Socialist Republic, France, Panama, the Philippines, the Union of Soviet Socialist Republics and the United States.

Working Group on the Convention or Conventions: The Representatives of Chile, China, Egypt, Lebanon, the United Kingdom and Yugoslavia.

Working Group on Implementation: The Representatives of Australia, Belgium, India, Iran, the Ukrainian Soviet Socialist Republic and Uruguay.

17. The Working Groups began their work immediately upon establishment, and met simultaneously. The Working Group on the Declaration met nine times, that on the Convention nine times and that on the question of Implementation seven times. When the Commission received the Reports of the three Working Groups (documents E/CN.4/57, E/CN.4/56 and E/CN.4/53) respectively, it decided to examine first the [5] proposed Articles for the Declaration, article by article, referring to corresponding Articles in the Convention wherever such existed.

18. Two titles were frequently used in respect of the documents in preparation, Declaration and Convention. The latter was to be entered into and ratified by Governments and not only to be discussed and adopted by the General Assembly. The question arose whether the term "Bill of Rights" was to be applied only to the

Convention, or only to the Declaration, or to the two documents taken together. In its night meeting on 16 December 1947 the Commission decided:

- (a) To apply the term “International Bill of Human Rights”, or, for brevity, “Bill of Rights”, to the entirety of documents in preparation: the Declaration, the Convention and the Measures of Implementation;
- (b) To use the term “Declaration” for the articles in Annex A of this Report;
- (c) To call the Convention on Human Rights embodied in Annex B, “The Covenant on Human Rights”; and
- (d) To refer to the outcome of the suggestions embodied in Annex C as “Measures for Implementation”, regardless of whether these measures will eventually form part of the Covenant or not.

19. In discussing the Articles for the Declaration and the Convention, the Commission accepted a ruling of the Chairman (which was challenged and upheld) that in order to save time only one person would be recognized to speak for, and only one to speak against, each Article or proposed amendment.

20. It was agreed that every Representative had a right to submit to the Rapporteur, in writing, before the closure of the session, any comment he wished to make upon a particular Article or upon the documents as a whole, for inclusion in the Report, provided that such comment be read first to the Commission.

Chapter III

International Declaration on Human Rights

21. The Working Group on the Declaration on Human Rights held nine meetings. Mrs. Franklin D. Roosevelt (United States) was elected Chairman and Professor René Cassin (France), Rapporteur. The views expressed by the members of the Working Group will be found in its Report (document E/CN.4/57) and in the summary records of its meetings (documents E/CN.4/AC.2/1 to 9).

[6]

22. The Report of the Working Group was received and noted by the Commission, and Chapter 3, containing articles suggested for inclusion in an International Declaration on Human Rights, was considered in detail. Members commented upon the form and substance of the various articles, and proposed alterations. These comments and proposals are found in the summary records. The result of this examination is embodied in Annex A of this Report.

[Chapters IV and V concern the Covenant and the question of implementation. Chapter VI deals with communications.]

[8]

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Chapter VIII

Freedom of Information and of the Press

31. The Commission noted the Report of the first session of the Sub-Commission on the Freedom of Information and of the Press (document E/441), which had been submitted directly to the Economic and Social Council in conformity with that Council's Resolution No. 46 (IV) of 28 March 1947.

32. The Commission decided to recommend to the Economic and Social Council the extension of the life of the Sub-Commission on Freedom of Information and of the Press for one additional year, in order that this Sub-Commission might hold a meeting after the session of the United Nations Conference on Freedom of Information which will open on 23 March 1948.

33. The Commission adopted the following resolution:

The Commission on Human Rights

1. *Recognizes* that freedom of expression and of information is one of the most fundamental freedoms;
2. *Affirms* that this freedom must be included both in the International Declaration and in the Covenant on Human Rights;
3. *Decides*, having before it two texts on this subject for inclusion in the International Covenant, one submitted by the United States of America and one by the Drafting Committee, not to elaborate a final text until it has before it the views of the Sub-Commission on Freedom of Information and of the Press and of the United Nations Conference on Freedom of Information, and remits to the Sub-Commission on Freedom of Information and of the Press these two texts for its consideration, requesting it further:
 - (a) To take into account the two resolutions of the General Assembly on this question (document A/428, "Measures to be taken against Propaganda and the Inciters of a New War" and document A/C.3/180/Rev.1, "False or Distorted Reports");
 - (b) To consider the social, economic and political conditions which will render this fundamental freedom real; and
 - (c) To consider the possibility of denying this freedom to publications and other media of public expression which aim or tend to inflict injury, or incite prejudice or hatred, against persons or groups because of their race, language, religion or national origin;
4. *Recommends* to the Economic and Social Council that it remit to the United Nations Conference on Freedom of Information the same documents with identical instructions; and
5. *Decides* to refer articles 17 and 18 of the draft Declaration to the Sub-Commission on Freedom of Information and of the Press for its consideration and report and to request the Economic and Social Council to refer these Articles to the Conference on Freedom of Information for its own consideration and report.

...

[15]

Annex A***Part I******Draft International Declaration on Human Rights****Article 1*

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

Article 2

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

Article 3

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

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

Article 4

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

Article 5

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

Article 6

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

Article 7

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in [16] force at the time when the offence was committed.

2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

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

Article 8

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

Article 9

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

Article 10

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

2. Individuals shall have the right to leave their own country and, if they so desire, to acquire the nationality of any country willing to grant it.

Article 11

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

Article 12

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

Article 13

1. The family deriving from marriage is the natural and fundamental unit of society. Men and women shall have the same freedom to contract marriage in accordance with the law.
2. Marriage and the family shall be protected by the State and Society.

Article 14

1. Everyone has the right to own property in conformity with the laws of the State in which such property is located.
2. No one shall be arbitrarily deprived of his property.

Article 15

Everyone has the right to a nationality.

All persons who do not enjoy the protection of any Government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations.

[17]

Article 16

1. Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right.
2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in worship, observance, teaching and practice.

(With regard to the following two articles, 17 and 18, the Commission decided not to elaborate a final text until it had before it the views of the Sub-Commission on Freedom of Information and of the Press and of the United Nations Conference on Freedom of Information.)

[Article 17]

- (1. Everyone is free to express and impart opinions, or to receive and seek information and the opinion of others from sources wherever situated.
2. No person may be interfered with on account of his opinions.)

[Article 18]

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

Article 19

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

Article 20

Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.

Article 21

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

Article 22

1. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.
2. Access to public employment shall not be a matter of privilege or favour.

Article 23

1. Everyone has the right to work.
 2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.
 3. The State is bound to take all necessary steps to prevent unemployment.
- [18]

Article 24

1. Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions and to join trade unions for the protection of his interests in securing a decent standard of living for himself and his family.
2. Women shall work with the same advantages as men and receive equal pay for equal work.

Article 25

Everyone without distinction as to economic and social conditions has the right to the preservation of his health through the highest standard of food, clothing, housing

and medical care which the resources of the State or community can provide. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

Article 26

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

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

Article 27

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

Article 28

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

Article 29

1. Everyone has the right to rest and leisure.

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

Article 30

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

[Article 31]

(The Commission did not take a decision on the two texts that follow. They are reproduced here for further consideration.)

[19]

(Text proposed by the Drafting Committee:

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

(Text proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities:

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

Article 32

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.

Article 33

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

Part II

Comments on the Draft International Declaration on Human Rights

General Comments on the Draft Declaration

1. Wherever the word “men” is used, the Commission implied both men and women.

2. The Commission decided to suggest the following article, which appears as article 25 in the Report of the Working Group on the Declaration, for consideration in connexion with the formulation of a preamble to the Draft Declaration:

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

3. The Representative of *Australia* expressed the view, with which the Representative of the *United States* associated herself, that the language of the articles of the Declaration is confused in that it is both declaratory and mandatory. He felt that as it had been agreed that the Declaration imposes no legal obligation and requires no measures for implementation, it should be drafted in declaratory form only, or in the present indicative sense. For this reason he felt that Article 38 proposed by the Working Group (document E/CN.4/57, page 17) was out of place, since it appeared to be applicable only to the Covenant on Human Rights. The Representative of *Australia* suggested some such wording as “No one is to be deprived of . . .” or “Everyone has the right . . .” should be used in articles of the Declaration; and that the wording of every article in the Covenant should be in mandatory form.

4. The Representative of *France* withdrew the following two amendments which he had proposed:

Article 38. “A system of effective judicial and administrative appeal shall be organized by each State for the purpose of penalizing violations of these principles.”

Article 39. “The United Nations recommends . . . all the International Conventions and would take, with the assistance of Member States, all necessary steps to give full effect to the provisions of the Charter and of the present declaration, in order to safeguard these rights and freedoms throughout the world.”

This withdrawal was dictated solely by the desire to reserve for a suitable stage all discussions concerning the “implementation” of human rights, both in the Declaration and the Convention or Conventions to follow.

5. The Representative of *France* requested that the following comment be inserted in the Report:

“In voting for the draft Declaration, the French delegation emphasized that it constitutes the first stage reached after eighteen months work. Its defects do not detract from the fact that it contributes something new: the individual becomes a subject of international law in respect of his life and liberty; principles are affirmed, side by side with those already laid down by the majority of national laws which no national or international authority had hitherto been able to proclaim, let alone enforce.”

6. The Representative of *France* also requested that attention be directed to the suggestions he submitted for articles of the International Declaration of Human Rights during the first session of the Drafting Committee. These suggestions are contained in Annex D of the Report of the Drafting Committee to the Commission on Human Rights (document E/CN.4/21, pages 48–68).

7. The Representative of *Lebanon* proposed the addition of the following Article at the end of the Declaration:

“In construing the Articles of this Declaration, the several articles shall be regarded in their relation to each other.”

The proposal was lost by seven votes for to seven against. The Representative of *Lebanon* wishes this article to be further considered in the future.

8. The Representative of *Panama* made the following comments:

“1. The draft has been made under the definite assumption that the Declaration implies no obligation whatever, and as a consequence, the drafting of the instrument is neither clear nor precise.

“2. The present draft, although it should have taken into special consideration, according to a unanimous vote by the Group that worked on the Declaration, the text submitted by the delegation of Panama since the San Francisco Conference, (see document E/CN.4/53, page 3), actually has ignored the text proposed by Panama.

[21]

“3. The present draft carries as articles what in the text proposed by Panama goes into the comments. The present draft includes some controversial wording of rights which will not be acceptable to several Governments.

“4. In the course of the discussion it has been evident that the only basis of discussion can be the text originally proposed by Panama, not only because of the various provisions already taken in its behalf, but particularly because it contains a minimum of rights acceptable to all, drafted in a series of eighteen short articles, worded with juridical correctness and precision.

“5. The delegation of *Panama* points out that in the San Francisco Conference three Latin-American Republics – Panama, Cuba and Mexico – proposed the drafting of an international Bill of Rights made up of two Declarations: one on the fundamental rights of man and the other on the duties and rights of the States. The guarantees of the individual cannot be satisfactorily declared unless the duties and rights of the State, of which he is a citizen, are also recognized.”

9. The Representative of the *Union of Soviet Socialist Republics* felt that the draft “Declaration on Human Rights”, as prepared by the Commission is not sufficient for the protection of the essential human rights. Consequently, he reserved his right to present, at a later stage of the work, a Soviet draft “Declaration on Human Rights”.

10. The Representative of the *United States* requested that the following articles, suggested by her at the commencement of the second session, be included as a comment. The articles might be considered by Member Governments which would prefer a shorter and less technical Declaration:

Article 1

Everyone is entitled to life, liberty, and equal protection under law.

Article 2

Everyone has the right to freedom of information, speech, and expression; to freedom of religion, conscience, and belief; to freedom of assembly and of association; and to freedom to petition his Government and the United Nations.

Article 3

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation. No one shall be arbitrarily deprived of his property.

Article 4

There shall be liberty to move freely from place to place within the State, to emigrate, and to seek asylum from persecution.

Article 5

No one shall be held in slavery or involuntary servitude. No one shall be subjected to torture or to cruel or inhuman punishment or indignity.

Article 6

No one shall be subjected to arbitrary arrest or detention. Anyone who is arrested has the right to [22] be promptly informed of the charges against him, and to trial within a reasonable time or to be released.

Article 7

Everyone, in the determination of his rights and obligations, is entitled to a fair hearing before an independent and impartial tribunal and to the aid of Counsel. No one shall be convicted or punished for crime except after public trial pursuant to law in effect at the time of the commission of the act charged. Everyone, regardless of office or status, is subject to the rule of law.

Article 8

Everyone has the right to a nationality. Everyone has a right to take an effective part in his government directly or through his representatives; and to participate in elections, which shall be periodic, free and by secret ballot.

Article 9

Everyone has the right to a decent living; to work and advance his wellbeing; to health, education and social security. There shall be equal opportunity for all to participate in the economic and cultural life of the community.

Article 10

Everyone, everywhere in the world, is entitled to the human rights and fundamental freedoms set forth in this Declaration without distinction as to race, sex, language or religion. The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.

11. The Working Group on the Declaration suggested the following Article, which the Commission omitted from its draft with a view to inclusion of its substance either in the preamble or in a final Article:

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

*Comments on Specific Articles of the Draft Declaration**Article 2*

1. The Representative of *China* suggested the following wording:

“In the exercise of these rights everyone shall respect the rights of others and comply with the just requirements of the democratic State.”

2. The Representative of the *United Kingdom* expressed the view that the State should not be regarded as limiting the rights of individuals but as promoting the rights of all. He proposed the following alternative text, which he requested should be placed on record: “In the exercise of his rights everyone must recognize the rights of others and his obligation to society so that all may develop their spirit, mind and body in wider freedom.”

3. The Representative of the *United States* preferred the following text, which she had suggested:

“The full exercise of these rights requires recognition [23] of the rights of others and protection by the law of the freedom, general welfare and security of all.”

4. The Representative of *Uruguay* proposed that the provision adopted be replaced by another, more in harmony with the final provisions of the Declaration and the Convention he had himself proposed, which provide for the deprivation and limitation of rights, specifying the juridical acts required for this purpose, which, in principle, must be the law, and the reasons on which these acts must be based: public order and the security of the State; normal development of social life; harmonious exercise of all rights.

Article 10

The Representative of the *Philippines* requested that the following comment on Article 10 appear in the Report:

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

Article 13

1. The Representative of *Lebanon* made a motion to amend Article 13 by substituting for the second sentence of the text the two sentences following:

“The family deriving from marriage is the natural and fundamental group unit of society. It is endowed by the Creator with inalienable rights antecedent to all positive law and as such shall be protected by the State and society.”

Only the first of these substitute sentences was adopted: consequently the Representative of *Lebanon* desires that the second sentence be further considered in the future.

2. The Representative of the *United Kingdom* suggested the following additional wording for Article 13:

“Married persons shall have the right to reside together in any country from which they cannot be lawfully excluded.”

3. The Representative of *Uruguay* stated, with reference to the motion of the Representative of *Lebanon*, that his country would not accept any national or international document, whether legal or political, embodying assertions of a religious nature, on account of his country’s Constitution which provided for the separation of Church and State, though at the same time it ensured freedom of worship and instruction.

Article 19

1. It is understood that no individual or association that aims to destroy the fundamental rights and freedoms set forth in this Declaration can claim protection under this Article. The Article is not intended to include international political associations forbidden by law.

2. The Representative of *Uruguay*, in accordance with the position of his country on liberty of thought and all its logical consequences and with the formula submitted to replace the article of the Covenant dealing with the right of assembly disapproves any restriction on the right of assembly.

[24]

Article 21

Following the suggestion of the Representative of the *United Kingdom*, it was agreed that in non-metropolitan territories the use of such balloting procedure as the secret ballot could not be imposed when its effect might be contrary to the intentions of Article 74 (b) of the Charter, or to the obligations contained in the relevant parts of the Trusteeship Agreements.

Article 24

A. The Representative of the *United Kingdom* expressed the view that the first line of Article 24 should read, "Everyone has the right to work or to maintenance," and that Article 24 should be placed immediately after the end of Article 27. In this way the responsibility of society for providing adequate measures of social security would be placed in its proper relationship with the right of the individual to work.

B. The Representative of the *United States* questions the desirability of setting forth positive duties of the State in this Article, since it tends to throw the rest of the Declaration (the Articles of which with a few exceptions do not set forth such positive duties) out of balance.

C. The Representative of the *Byelorussian Soviet Socialist Republic* suggested the following addition to this Article:

"The State is obliged to take all necessary measures against unemployment."

Article 25

The Representative of *Uruguay* calls attention to the necessity to insert in the first paragraph of this article: "Everyone has the duty to preserve his health." Although his proposal was rejected, he urges that this duty justifies the intervention of the State in matters of health.

Article 26

See comment of the Representative of the *United States* (B above) on Article 24.

Article 27

1. The Representative of the *Philippines* suggested the following additional text for this Article:

"The right of private education will be respected and in such places or countries as desire it, religious education shall be permitted in the schools."

2. The Representative of *Uruguay* voiced the opinion that, in accordance with the provisions of the Uruguayan Constitution, free State-provided elementary,

secondary, higher vocational, artistic and physical education should be declared to be nationally and internationally beneficial.

[Annex B consists of the Draft International Covenant on Human Rights. Annex C is the Report of the Working Group on Implementation.]

E/CN.6/SR.28

9 January 1948⁴⁸

Summary Record of the Ninth Meeting [of the Commission on the Status of Women]

Lake Success, New York, Friday, 9 January 1948,
at 10:50 a.m.

Present: Chairman: Mrs. Marie-Hélène Lefauchaux (France). Rapporteur: Mrs. Cosma (Syria). Mrs. J. M. Grey Street (Australia); Mrs. E. I. Uralova (Byelorussian Soviet Socialist Republic); Mrs. C. Zung (China); Mrs. Begtrup (Denmark); Mrs. De Monzon (Guatemala); Mrs. Hamid Ali (India); Mrs. De Castillo Ledon (Mexico); Mrs. Mihri Pektas (Turkey); Mrs. E. A. Popova (Union of Soviet Socialist Republics); Miss M. Sutherland (United Kingdom); Miss D. Kenyon (United States of America); Mrs. Urdaneta (Venezuela). Representatives from Specialized Agencies:⁴⁹ Miss Maass (UNESCO); Miss Howe (WHO). Observers: Miss Bernardino (Inter-American Commission of Women). Secretariat: Dr. John P. Humphrey (Director, Division of Human Rights); Miss L. M. Mitchell (Secretary of the Commission).

[2]

Discussion on Human Rights and the Prevention of Discrimination on Grounds of Sex – Item 8 of the Agenda (document E/CN.6/SR.22/Rev.1)

(a) Report of the Officers of the Commission on sections of the draft of the International Bill of Human Rights concerning the particular rights of women

MRS. BEGTRUP (Denmark) who, together with Mrs. Uralova (Byelorussian Soviet Socialist Republic), represented the Commission on the Status of Women as chairman and rapporteur respectively at the session of the Commission on Human Rights held at Geneva from 2 to 17 December 1947, gave an account of her interventions during the discussion of the draft bill of human rights. Mrs. Street (Australia),

⁴⁸ This is the date of the meeting. The document was issued on 14 January 1948.

⁴⁹ Pursuant to E/CN.6/SR.28/Corr.1 of 20 January 1948, the name of Miss F. Fairchild (ILO) should be included among the representatives of specialized agencies present at the meeting.

former vice-chairman had not been able to attend the session of the Commission on Human Rights.

The Commission on Human Rights had divided into three working groups dealing respectively with the declaration, the covenant and the implementation. Mrs. Begtrup and Mrs. Uralova had mainly followed the discussion of the working group on the declaration as presenting the greatest interest from the point of view of the Commission on the Status of Women.

Mrs. Begtrup emphasized the difficulty of participating in a debate without vote or the right to propose a motion. She could only express wishes and had made the following suggestions: that the idea of equality between men and women should be stressed in the preamble by means of a note stating that “when a noun or pronoun denoting the male sex is used in respect of any provision contained in the Bill of Human Rights, such provision shall apply without discrimination to the female sex.”

She supported the inclusion of some words to the effect that all human beings should behave towards each other like brothers, but expressed the view that the words “all men are brothers” proceeded from an antiquated conception and should be replaced by a phrase expressing more adequately the wishes of a new world.

A new text was presented and adopted as article 1 (document E/600, Annex A, Part I).

Article 3 seemed to be satisfactory, and could be deemed to cover also the discriminatory treatment of prostitutes or women presumed to be prostitutes.

With regard to article 4 some delegates and voluntary organizations wanted a definition as to when life begins, the intention being to protect life from the moment of conception. As this matter had not been discussed by the Commission on the Status of Women, Mrs. Begtrup could not express any view in its name, but suggested that the question should be [3] left open without any definition as to when life began.

With regard to article 8, Mrs. Begtrup received the assurance that it was meant to cover the traffic in women and children or white slavery.

She understood that this assurance appeared in the form of a comment, but PROFESSOR JOHN P. HUMPHREY (Director, Division of Human Rights) explained that document E/600 reproduced only such comments as were accepted by the plenary commission on human rights. All the comments included in the reports of the three working groups did not appear in the report.

Moving to article 13, Mrs. Begtrup stated that she had suggested the inclusion of a clause ensuring “full equality in all civil rights, irrespective of marriage, nationality, race, language or religion”.

She found that the article was not satisfactory in its present form, as it did not mention specifically equal freedom in respect of the dissolution of marriage.

Article 15 raised the question of the nationality of married women – a problem solved differently in various countries. The Commission on Human Rights agreed that this problem should be solved on international lines and that it should be settled by the convention envisaged on the subject of nationality.

For article 21, she had suggested the wording: “everyone has an *equal* right to take an effective part in the government of his country”.

The Commission, however, adopted the expression “*without discrimination*” which Mrs. Begtrup found satisfactory.

Paragraph 2 of article 24 which runs: “Women shall work with the same advantages as men and receive equal pay for equal work”, could be credited to a large extent to Mrs. Uralova, who had made a strong plea for the equality of economic and social rights as between men and women. The present wording was accepted by Mrs. Begtrup on the understanding that the rights of motherhood as formerly agreed upon should be safeguarded elsewhere in the declaration.

Working group 1 had included in its report a comment presented by Mrs. Begtrup to the effect that the conditions prevailing at present in the world might require legislation providing varying degrees of protection for women, in particular in regard to heavy or specifically harmful work.

A short discussion ensued, Mrs. Uralova and the representative of the American Federation of Labor stating that the plenary Commission on Human Rights had adopted that comment to be embodied in its report, though the [4] report as compiled (document A/600) did not include it.

Article 26 safeguarded the rights of motherhood as apart from the protection owed specifically to children.

Mrs. Begtrup had addressed to the Chairman of the working group on the draft convention on human rights a message drawing his attention to the desirability of stating explicitly that when a noun or pronoun denoting the male sex is used in respect to any provision contained in the Bill of Human Rights, such provision shall be taken to apply without discrimination to the female sex. She thought that such a statement could be made in a footnote.

In conclusion, Mrs. Begtrup stated that the experience gained by attending the last session of the Commission on Human Rights showed the importance of having a representative of the Commission attend the debates of drafting groups, and urged that the Commission on the Status of Women should not fail to send representatives to the next session of the Commission on Human Rights which was due to start on 18 May 1948.

THE CHAIRMAN opened the discussion on the draft declaration on human rights and observed that any change which the Commission might like to advocate should be presented in the form of recommendations to the Economic and Social Council.

MRS. DE URDANETA (Venezuela) wished, before the discussion started, to impart to the Commission the terms of recent laws adopted by the Government of Venezuela concerning the nationality of married women. This legislation provided for the assumption of Venezuelan nationality by the wife of a Venezuelan if the laws of her country contained no provision to the contrary.

The Venezuelan woman married to a foreigner kept her nationality unless she expressed the will to renounce it and thereby acquired the nationality of her husband.

MRS. STREET (Australia) moved that the provision included in comment 1 on the draft declaration, and stating that wherever the word “man” is used the Commission on Human Rights implied both men and women, should appear as article 1 in the body of the declaration.

She pointed out that although the text obviously included women, this terminology had been interpreted restrictively in the past so that women had had to wage a constant fight to secure the same rights as men for voting, university education and access to liberal professions.

MISS KENYON (United States of America) thought that the term “persons” or “people”, which latter appeared in the Charter could be used in article 1 and could achieve the objective sought by Mrs. Street; otherwise the declaration on Human Rights should be explicit in itself and should avoid the use of sentences meant to explain the text which was essentially the function of a footnote. The idea expressed by Mrs. Street could be [5] incorporated in a footnote or left as a comment but footnotes or comments were not desirable in a declaration of this character.

MRS. BEGRUP (Denmark) pointed out that article 1 in its present form provided the wrong start for a declaration in which equality between men and women was to be expressed. She supported Miss Kenyon’s suggestion. She proposed further that the Commission should deal with specific points which would best secure the advantages sought by women.

MISS ZUNG (China) thought that the idea of equality of women and men would be best expressed in a sub-heading to the title of the declaration.

The Commission decided by 7 votes to replace the term “man” in the declaration by a more general term.

MISS ZUNG (China) thought that the term “brothers” used in article 1 should be replaced by some more general term like “members of the same family”, and BEGUM HAMID ALI (India) suggested: “in a spirit of brotherhood”. After some discussion as to whether “in a spirit of brotherhood and sisterhood” would not preserve equality still better, the Commission felt that the “spirit of brotherhood” sufficiently expressed the idea advocated.

By 12 votes in favour the Commission decided to recommend that the words "and should act toward one another like brothers" appearing at the end of article 1 should be changed to "and should act toward one another in a spirit of brotherhood".

A short discussion followed as to the proper place for article 2, as some of the delegates felt that if article 3 were to appear as 2 the emphasis on equality would be enhanced.

MISS KENYON (United States of America) pointed out, article 2 set forth the limitations within which all the rights enumerated further could be exercised and it could only be placed before the enumeration of the rights.

The Commission agree to leave the sequence of the articles unchanged.

MISS SUTHERLAND (United Kingdom) thanked Mrs. Begtrup for the extreme vigilance which she had displayed on behalf of the rights of women.

She wished to draw particular attention to the right to marriage. The drafting group proposed to include that right in article 15, but had postponed consideration until a decision had been reached on the subject by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. Marriage was now protected by articles 12 and 13, which seemed insufficient however, as they did not provide for freedom of choice.

Since a situation had actually arisen in which married couples were prevented from joining each other in the country of their choice, Miss Sutherland submitted that the fundamental right to freedom of choice was thereby infringed, and moved that it should be safeguarded by the [6] inclusion in article 13 of a provision stating that: "married persons shall have the right to reside together in any country from which they cannot be lawfully excluded".

BEGUM HAMID ALI (India) supported the motion.

MRS. STREET (Australia) thought that the Commission should be careful in making recommendations of this sort, since it was working in a world unsettled by post-war conditions, where the Australian Government had found necessary, temporarily, at all events to make regulations which would not conform to the recommendation advocated by Miss Sutherland. Even if the Economic and Social Council should agree to the proposal, individual countries would not be able to implement such clauses at present. She could not, therefore, accept the suggestion, although she agreed with the principle and trusted that conditions would allow the implementation in due course.

MISS SUTHERLAND (United Kingdom) thought that principles should be supported, even though representatives might not be in agreement with the measures enforced by their own governments.

MISS KENYON (United States of America) considered that the declaration should follow the broad pattern of the United States Bill of Rights, defining first the duties

of the state toward the individual and protecting the individual from possible tyrannical acts by the state. She thought that the family should be explicitly protected against the state, but pointed out that the concern voiced by Miss Sutherland was not in fact a matter of discrimination against women, so that the Commission was not empowered to deal with that subject.

MRS. URALOVA (Byelorussian Soviet Socialist Republic) submitted that some specific provision might be included to provide government protection for married couples.

MISS SUTHERLAND (United Kingdom) welcomed this statement as giving support to her proposal.

MRS. URALOVA (Byelorussian Soviet Socialist Republic) pointed out that it should not be understood as giving support to Miss Sutherland's point of view, since she was thinking in terms of protection within the boundaries of a given country.

MRS. BEGRUP (Denmark) felt sure that every member of the Commission supported protection of marriage both nationally and internationally, but thought, as did several other delegates, that freedom of movement was sufficiently ensured by the wording of article 10.

THE CHAIRMAN, speaking as representative of France, also considered that article 10 ensured freedom of movement, and stated that she would abstain if the matter were put to a vote, since she agreed with the [7] principle but thought it had already been safeguarded.

A vote was taken by show of hands.

4 votes were cast in favour of the motion and 4 against, with 6 abstentions. Miss Sutherland's motion was therefore rejected.

MRS. STREET (Australia) proposed that article 13 should contain some provisions for divorce. She pointed out that in some countries women could be divorced on the slightest pretext where in others a divorce was practically unobtainable for them.

BEGUM HAMID ALI (India) supported this motion. She also expressed the wish that the Commission would support the principle of monogamy, which had now been proclaimed in part of India.

THE CHAIRMAN suggested that the Commission might recommend the addition of the words "and to dissolve marriage" after the words "to contract marriage" in article 13.

The motion was adopted by 11 votes.

THE CHAIRMAN requested Begum Hamid Ali (India) and Mrs Uralova (Byelorussian Soviet Socialist Republic) to present texts for the afternoon meeting for their respective motions.

...

E/CN.6/SR.29

9 January 1948

***Summary Record of the Tenth Meeting [of the Commission
on the Status of Women]***

Lake Success, New York, Friday, 9 January 1948,
at 3:00 p.m.

Present: Chairman: Mrs. Marie-Hélène Lefaucheu (France). Rapporteur: Mrs. A. Kandaleft Cosma (Syria). Mrs. J. M. Grey Street (Australia); Mrs. I. I. Uralova (Byelorussian Soviet Socialist Republic); Mrs. C. Zung (China); Mrs. G. Morales de Escheverria (Costa Rica); Mrs. Bodil Begtrup (Denmark); Mrs. de Monzon (Guatemala); Begum Hamid Ali (India); Mrs. A. C. de Castillo Ledon (Mexico); Mrs. Mihri Pektas (Turkey); Mrs. E. A. Popova (Union of Soviet Socialist Republics); Miss M. Sutherland (United Kingdom); Miss D. Kenyon (United States of America); Mrs. Isabel de Urdaneta (Venezuela). Representatives from Specialized Agencies: Miss Fairchild (International Labour Organization); Miss Maass (UNESCO). Observers from Non-Governmental Organizations: Miss Tony Sender (American Federation of Labor). [2] Other Observer: Miss Minerva Bernardino (Inter-American Commission of Women). Secretariat: Mr. John P. Humphrey (Director, Division of Human Rights); Mr. E. Lawson (Division of Human Rights); Miss L. M. Mitchell (Secretary of the Commission).

...

**Continuation of the Discussion on the Report of the Commission
on Human Rights**

MRS. BEGTRUP said she had sent a letter to the Chairman of the Human Rights Commission drawing her attention to document E/CN.4/21, Annex C, and asking that a footnote might be added explaining that all its provisions should be taken to apply without discrimination to the female sex. Article 20 of the Draft International Covenant on Human Rights covered that point.

With regard to the treatment of prostitutes, the Commission on Human Rights considered that that would be covered by the word "indignity" in Article 7.

...

[6]

...

**Report of the Representatives of the Commission Concerning the Deliberations
of the Sub-Commission on Prevention of Discrimination and Protection
of Minorities Regarding Items Relating to Discrimination Based on Sex: Item
8 of the Agenda: Action by the Commission**

THE CHAIRMAN referred to the suggestion of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities that the Commission on the Status

of Women should give its opinion concerning Article 15 of the Draft International Declaration on Human Rights drawn up by the Drafting Committee (document E/CN.4/21, Annex F) especially insofar as the question of marriage was concerned. She asked whether the Commission would like to state its opinion on that matter.

MRS. BEGRUP (Denmark) pointed out that the Sub-Commission's request for the present Commission's advice could not come directly to the Commission on the Status of Women, but would have to be transmitted by the Commission on Human Rights to which the Sub-Commission reported. As the Commission on Human Rights had not asked the opinion of the Commission on the Status of Women, there was no opportunity for it to answer the Sub-Commission's request.

THE CHAIRMAN suggested that the Commission might ask the Economic and Social Council to express to the Commission on Human Rights whatever views it might decide to adopt.

MISS SUTHERLAND (United Kingdom), supported by Mrs. Begtrup (Denmark), felt that the Commission should repeat and perhaps expand the ideas it had already expressed on the subject of marriage in its first report to the Economic and Social Council (document E/281). It would certainly be useful to have the Commission's views on the subject recorded again in case they might be needed before the Commission should meet again.

In that connection, BEGUM HAMID ALI (India) proposed the following resolution:

"The Commission on the Status of Women expresses its belief in the principle of monogamy and advocates its acceptance by the United Nations. It forwards the resolution to the Economic and Social Council for action."

[7]

THE CHAIRMAN thought that Begum Hamid Ali's resolution might be considered a proposed amendment to Article 13 of the Draft Articles for an International Declaration on Human Rights (document E/600, Annex A).

In spite of the difficulties in making any amendment to that Declaration, the point raised by Begum Hamid Ali was important enough to be presented to the Economic and Social Council.

MRS. STREET (Australia) thought it might be sufficient to suggest that the second sentence of Article 13 of the Draft Articles for an International Declaration on Human Rights be changed to read:

"Men and women shall have the same freedom to contract marriage and obtain divorce in accordance with the law."

BEGUM HAMID ALI (India), supported by MRS. DE URDANETA (Venezuela), felt that it was important to emphasize the Commission's belief in monogamy.

MISS SUTHERLAND (United Kingdom) suggested that in its report to the Economic and Social Council, the Commission should add a note in connection

with Article 13 of the Draft Declaration on Human Rights, in which it should draw to the Council's attention all its views on the subject of marriage as stated in its previous report and as enlarged by any decisions it might take at the present session.

THE CHAIRMAN, BEGUM HAMID ALI (India), and MRS. DE URDANETA (Venezuela) agreed to the procedure proposed by Miss Sutherland.

...

E/CN.6/69

14 January 1948

Draft Resolution on Marriage Submitted by the Representatives of India and the United Kingdom

The Commission on the Status of Women draws the attention of the Economic and Social Council to the following extract from the statement of aims adopted at its first session:

“Full equality in all civil rights, irrespective of nationality, race, language or religion, including

(a) *Marriage* – Freedom of choice, dignity of the wife, monogamy, equal right to dissolution of marriage.”

1. *Monogamy*. The Commission emphasizes its belief in the principle of monogamy and urges the United Nations to work for the acceptance of this principle.
2. *Freedom of Choice*. This right cannot be fully guaranteed unless it is recognized that individuals have the right to leave their country on marriage and to reside with the other partner in any country from which they cannot lawfully be excluded. The Commission therefore notes with satisfaction the terms of Article 10(2) of the Draft Declaration on Human Rights (E/600) as recognizing a right essential for safeguarding freedom of choice in marriage.

E/CN.6/74

15 January 1948

Draft Report of the Commission on the Status of Women to the Economic and Social Council Lake Success, 5 to 16 January 1948

...

[13]

Chapter V

Section of the Draft of the International Bill of Human Rights Concerning the Particular Rights of Women

26. In accordance with Resolution 48(IV) of the Economic and Social Council, the preliminary draft of the International Bill of Human Rights, prepared by the Commission on Human Rights at its Second Session, was circulated to the Members of the Commission on the Status of Women. The Commission reviewed this Report. The former Chairman and Rapporteur of the Commission, who represented the Commission at the Second Session of the Commission on Human Rights, reported on the discussions that took place concerning the particular rights of women and on their participation in those deliberations. The representative of France reported on her participation in the First Session of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

Following upon its review of the Report of the Commission on Human Rights, the Commission on the Status of Women adopted the following resolutions:

Amendment to the Text of Article 1 of the Draft International Declaration on Human Rights:
All people are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in the spirit of brotherhood.

Amendment to Article 13 of the Draft International Declaration on Human Rights:
Men and women shall have equal rights to contract or dissolve marriage in accordance with the law.

[14]

Chapter VI

Marriage

27. The Commission on the Status of Women decided to draw the attention of the Economic and Social Council to the following extract from the statement of aims adopted at its first session:

Full equality in all civil rights, irrespective of nationality, race, language or religion, including

(a) *Marriage* – Freedom of choice, dignity of the wife, monogamy, equal right to dissolution of marriage.

To this statement of aims the Commission decided to add the following observations:

1. *Monogamy.* The Commission emphasizes its belief in the principle of monogamy and urges the United Nations to work for the acceptance of this principle.

2. *Freedom of Choice.* This right cannot be fully guaranteed unless it is recognized that individuals have the right to leave their country on marriage and to reside with the other partner in any country from which they cannot lawfully be excluded. The Commission therefore notes with satisfaction the terms of Article 10(2) of the Draft Declaration on Human Rights (E/600) as recognizing a right essential for safeguarding freedom of choice in marriage.

E/CN.4/Sub.1/36

10 January 1948

**Draft Articles for a Covenant and Declaration of Human Rights
(Item 4, Provisional Agenda – Document E/CN.4/Sub.1/35/Rev. 1)**

At its Second Session, the Commission on Human Rights decided as follows (document E/600):

The Commission on Human Rights

1. *Recognizes* that freedom of expression and of information is one of the most fundamental freedoms;
 2. *Affirms* that this freedom must be included both in the International Declaration and in the Covenant on Human Rights;
 3. *Decides*, having before it two texts on this subject for inclusion in the International Covenant, one submitted by the United States of America and one by the Drafting Committee, not to elaborate a final text until it has before it the views of the Sub-Commission on Freedom of Information and of the Press and of the International Conference on Freedom of Information and of the Press these two texts for its consideration, requesting it further:
 - (a) To take into account the two resolutions of the General Assembly on this question (document A/C.1/228, “Measures to be taken against Propaganda and the Inciters of a New War” and document A/C.3/180/rev.1, “False or Distorted Reports”);
 - (b) To consider the social, economic and political conditions which will render this fundamental freedom real; and
 - (c) To consider the possibility of denying this freedom to publications and other media of public expression which aim or tend to inflict injury, or incite prejudice or hatred, against persons or groups because of their race, language, religion or national origin.
- [2]
4. *Recommends* to the Economic and Social Council that it remit to the International Conference on Freedom of Information the same documents with identical instructions; and
 5. *Decides* to refer Articles 17 and 18 of the draft Declaration to the Sub-Commission on Freedom of Information and of the Press for its consideration and report and to request

the Economic and Social Council to refer these Articles to the Conference on Freedom of Information for its own consideration and report.

...
[3]

Draft Declaration on Human Rights

Concerning Articles 17 and 18, of the Draft Declaration the Commission decided not to elaborate a final text until it had before it the views of the Sub-Commission on Freedom of Information and of the Press and of the International Conference on Freedom of Information.

(Article 17)

- (1. Everyone is free to express and impart opinions, or to receive and seek information and the opinion of others from sources wherever situated.)
- (2. No person may be interfered with on account of his opinions.)

(Article 18)

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

E/CN.6/SR.36/Corr.1
16 January 1948⁵⁰

Corrigendum to the Summary Record of the Seventeenth Meeting [of the Commission on the Status of Women]

Lake Success, New York, Friday 16 January 1948,
at 2:00 p.m.

[The Commission was considering the Report to the Economic and Social Council (Document E/CN.6/74).]

...

Section 26

MRS. STREET (Australia) proposed the insertion of the following sentence between the third and fourth sentences of Section 26: "Certain suggestions they made

⁵⁰ This was the date of the meeting. The document is dated 28 January 1948.

concerning safeguards against discrimination on the grounds of sex were inserted in the Draft International Declaration on Human Rights.”

The suggestion was adopted by 5 votes.

MRS. URALOVA (Byelorussian Soviet Socialist Republic) felt that the wording of Article 1 of the draft Universal Declaration of Human Rights was too general, and that it should contain a reference to the necessity for guaranteeing equality before the law. She did not however wish to propose a substitute text, as that would require time for reflection.

[2]

The Commission decided by 13 votes to retain the text as it stood.

E/CN.4/Sub.1/43

19 January 1948

**Suggested Text for the Draft Declaration on Human Rights
Submitted by Mr. A. R. K. Mackenzie (United Kingdom)**

“There shall be freedom of opinion and expression, and freedom to seek and receive information and the opinion of others from all sources wherever situated.”

E/CN.4/Sub.1/SR.24

19 January 1948

***Summary Record of the First Meeting [of the Second
Session of the Sub-Commission
on Freedom of Information and of the Press]***

Lake Success, New York, Monday, 19 January, 1948,
at 11.30 a.m.

Chairman: Mr. G.J. Van Heuven Goedhart (Netherlands). *Rapporteur:* Mr. G.R. Ferguson (Canada). *Present:* Mr. Z. Chafee (United States of America); Mr. P.H. Chang (China); Mr. C.A.R. Christensen (Norway); Mr. G.V. Ferguson (Canada); Mr. André Géraud (France); Mr. J. Illueca (Panama); Mr. J.M. Lomakin (Union of Soviet Socialist Republics); Mr. J.S.P. Lopez (Philippines); Mr. A.R.K. Mackenzie (United Kingdom); Mr. Jose A. Mora (Uruguay). *Representatives of Specialized Agencies:* Mr. Charles E. Rogers (Food and Agriculture Organization);

Mr. René Mahou (UNESCO); Mr. Knud Stowman (World Health Organization). Observers from Non-Governmental Organizations: Miss Tony Sender (American Federation of Labor); Mr. Harry Martin (International Organization of Journalists); [2] Secretariat: Mr. John P. Humphrey (Director of the Human Rights Division); Mr. Charles Hogan (Secretary of the Sub-Commission).

THE CHAIRMAN welcomed the members of the Sub-Commission. . .

Moreover, the Commission on Human Rights had decided to refer to the Sub-Commission the consideration of the drafts of two articles to be included in the Declaration of Human Rights. . .

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Discussion of the Order of Items in the Agenda

MR. HUMPHREY (Secretariat) stated that the Commission on Human Rights was putting before the Economic and Social Council and the States Members of the United Nations two bills of human rights: a declaration in the form of a resolution to be submitted for the approval of the General Assembly, which imposed no binding legal obligations, and a convention known as the Covenant on Human Rights, which would have to be ratified by the Member States, and which would then become legally binding. The Sub-Commission had been asked by the Commission on Human Rights to draft articles for both documents.

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MR. MACKENZIE (United Kingdom) suggested that the draft Covenant on Human Rights should be considered before the draft Declaration on Human Rights, that being the order in which the subjects had been referred to the Sub-Commission on Human Rights.

MR. ILLUECA (Panama) proposed that the Declaration on Human Rights should be considered first. The Covenant would impose certain legal obligations on the States which ratified it. It appeared logical to examine first the broad general principles outlined in the Declaration, and to proceed next to the narrower and more definite provisions of the Covenant.

MR. CHAFEE (United States of America) supported Mr. Illueca's proposal.

A vote was taken by show of hands. Mr. Illueca's proposal that the draft Declaration on Human Rights should receive first consideration was adopted by 8 votes to 8.

The meeting rose at 12:35.

E/CN.4/Sub.1/SR.25**19 January 1948**

***Summary Record of the Second Meeting [of the Second
Session of the Sub-Commission
on Freedom of Information and of the Press]***

Lake Success, New York, Monday, 19 January, 1948,
at 3:30 p.m.

Present: Chairman: Mr. G. J. Van Heuven Goedhart (Netherlands). Rapporteur: Mr. G. R. Ferguson (Canada). Mr. Z. Chafee (United States of America); Mr. P. H. Chang (China); Mr. C. A. R. Christensen (Norway); Mr. André Géraud (France); Mr. J. Illueca (Panama); Mr. J. M. Lomakin (Union of Soviet Socialist Republics); Mr. J. S. P. Lopez (Philippines); Mr. A. R. K. Mackenzie (United Kingdom); Mr. Jose A. Mora (Uruguay). Representatives of Specialized Agencies: Mr. René Mahou (UNESCO); Mr. Charles E. Rogers (Food and Agriculture Organization); Mr. Knud Stowman (World Health Organization). Observers from Non-Governmental Organizations: Mr. Harry Martin (International Organization of Journalists); Miss Tony Sender (American Federation of Labor); [2] Secretariat: Mr. John Humphrey (Director of the Division of Human Rights); Mr. Charles Hogan (Secretary of the Sub-Commission).

**Articles Concerning Freedom of Information for Inclusion in a Draft
Declaration of Human Rights and a Draft Covenant on Human Rights
(Document A/600)**

THE CHAIRMAN proposed that the Sub-Commission begin discussion of Articles 17 and 18 of the draft Covenant,⁵¹ concerning freedom of information.

MR. CHAFEE (United States of America) reminded the members of the Sub-Commission that the United States representative had submitted a draft declaration on human rights to the Geneva Conference of the Commission on Human Rights. Article 2 of this draft concerned freedom of information, as did the articles now being discussed. It said:

“Every man has a right to freedom of information, of speech and of expression; to freedom of religion, conscience and opinion; to freedom of meeting and association; to freedom to address petitions to his government and to the United Nations.”

⁵¹ The reference to the Covenant seems incorrect. Earlier in the day, at the close of the previous session, the Sub-Commission had agreed to consider the draft Declaration before the draft Covenant. The Commission had asked the Sub-Commission to examine articles 17 and 18 of the draft Declaration and article 17 of the draft Covenant. Reference here and in the subsequent discussion to articles 17 and 18 provides confirmation that the Sub-Commission is in fact speaking of the draft Declaration, and that either the Chairman misspoke or the précis writer drafting the summary record was in error.

MR. MACKENZIE (United Kingdom) said that the aim of the Human Rights Commission was to establish universally acceptable principles in as concise a form as possible. The Sub-Commission should examine Article 17 and 18 in that spirit. Except for the phrase “access to means of communication of ideas shall be equal for everyone”, he would be prepared to accept the articles.

He believed that Articles 17 and 18 might be combined in the following text:

“Every man has the right to freedom of opinion and expression and to freedom to seek and collect the information of others from sources wherever situated.”

MISS SENDER (American Federation of Labor) did not agree that it was necessary to combine Articles 17 and 18; they established different moral obligations. She was also opposed to Mr. Mackenzie’s proposal to delete the last sentence of Article 18, referring to equal access to all channels of communication.

THE CHAIRMAN observed that the Sub-Commission’s task was to offer any proposals it might consider good on the articles relating to freedom of information. It would be able to do this twice, first, during discussion of the draft declaration; secondly, during debate on the international covenant.

MR. CHAFEE (United States of America) asked the Director of the Human Rights Division to explain the last sentence of Article 18: “There shall be equal access to all channels of communication.”

MR. HUMPHREY (Secretariat) believed that this sentence established the [3] freedom of everybody to make use of such media of information as press and radio. It was a general political principle.

MR. FERGUSON (Canada) asked whether that principle provided for freedom of the material means of information.

MR. HUMPHREY (Secretariat) replied that that question had not been discussed in detail.

THE CHAIRMAN was of opinion that the sentence was not precise. It was not possible to determine, for example, whether it concerned free use of press organs or of newsprint.

MR. HUMPHREY (Secretariat) referred the members of the Sub-Commission to document E/CN.4/Sub.1/38, which summarized the drafting committee’s work.

THE CHAIRMAN thought that it would be difficult to interpret the sentence and proposed its deletion.

MR. MACKENZIE (United Kingdom) supported the Chairman.

MR. LOMAKIN (Union of Soviet Socialist Republics) declared that the Commission on Human Rights had sent the articles back to the Sub-Commission because difficulties had already arisen over them. Was freedom of expression to be extended to propaganda in favour of murder or to warmongering? Would one of

Hitler's satellites be allowed full freedom to express the idea of revenge? It was important to guard against such a possibility.

The members of the Sub-Commission did not seem prepared for a discussion of articles of such wide scope.

THE CHAIRMAN pointed out that the present issue was not difficulties regarding freedom of expression but equal rights of access to means of expression.

MR. CHAFEE (United States of America) remarked that Mr. Lomakin had brought out two of the Sub-Commission's difficulties.

The first difficulty related to the limitations to be placed on freedom of expression. The draft International Covenant listed those limitations. He referred Mr. Lomakin to Articles 4 and 33 of the draft International Declaration on Human Rights, but added that he himself preferred a more general expression of principle to a detailed statement.

The second difficulty was to guard the individual's freedom of expression. The American Constitution was designed to protect the individual against abuse of power by the Federal Government; Article 24 of the draft Covenant provided for extension of its principles to a Federal State.

When possibility of access to means of communication of ideas was under discussion, the obstacles which certain private groups might put in the way of freedom of expression were also under consideration. For example, everybody [4] should have free access to radio stations and to time on the air.

MR. GÉRAUD (France) recalled that the French Declaration of the Rights of Man – that of 1789, not the Declaration of 1791 – guaranteed to everybody the right of free communication of ideas, of free speech, of free writing and printing, except on matters forbidden by law.

The principle of freedom of information should be combined with the ideas of responsibility and, in this monopolistic era, of equality.

THE CHAIRMAN reminded the Sub-Commission that it was the moral obligations of governments that were under discussion. If it took up the question of monopolies, it would be going into too much detail.

MR. MACKENZIE (United Kingdom) agreed with the Chairman that the declaration should be only a general statement. Article 2 of the draft Declaration made clear the individual's responsibility for the use he made of his freedom.

He repeated his previous suggestion to delete the sentence about equal access to all channels of communication from the draft of Article 18.

THE CHAIRMAN suggested that discussion on access to channels of communication should be deferred until the members had had time to make up their minds on the matter.

He would like the Sub-Commission's views on Mr. Mackenzie's proposal to combine Articles 17 and 18.

MR. FERGUSON (Canada) supported Mr. Mackenzie's proposal.

Mr. Mackenzie's proposal was adopted.

MR. FERGUSON (Canada) asked what was the meaning of the phrase "Everyone is free to express and impart opinions" in Article 17, and whether the two words "express" and "impart" were not repetitious.

MR. CHAFEE (United States of America) suggested that the words "to hold" should be added to the article and the right of expression should be defined by one word. A man might for example be compelled to express an opinion because of moral pressure or even physical threat. Some Congressional Committees had compelled American citizens to state their view of communism under penalty of contempt.

MR. LOMAKIN (Union of Soviet Socialist Republics) thought that the discussion showed that there had not been sufficient preliminary study of the articles the Sub-Commission was considering. The articles were in rough shape and it was not possible to vote on them. It was difficult to adopt a combined text of Articles 17 and 18 when the sense of those articles was not clear to the members of the Sub-Commission. He proposed that a drafting committee be appointed.

[5]

THE CHAIRMAN was of the opinion that a drafting committee might be useful later. For the moment the Sub-Commission should continue its discussion; specifically it should decide whether Article 17 should include the word "express", the word "impart", or both.

After an exchange of views the Chairman suggested that the Sub-Commission should approve the phrasing "to hold and to impart", thus assuring freedom to have and express opinions to everyone.

The Chairman's proposal was adopted.

MISS SENDER (American Federation of Labor) remarked that to ensure individual freedom to hold and to impart opinion was not enough. It was necessary also to ensure the right freely to receive information.

MR. MACKENZIE (United Kingdom) pointed out that Article 17 provided for precisely this freedom to "seek information and the opinion of others from sources wherever situated".

MR. CHAFEE (United States of America) reminded the Sub-Commission that the Japanese had a law against dangerous thoughts.

MR. MORA (Uruguay) thought it necessary to ensure freedom both to hold and to impart opinions. The individual should be free not to express his thoughts, and he should not be obliged to express an opinion contrary to his conscience.

MR. ILLUECA (Panama) recalled that the United States and Panamanian draft declarations had emphasized another point; the importance of ensuring an individual's ability to collect the information necessary to the formation of an opinion.

THE CHAIRMAN thought the Sub-Commission should consider the draft Mr. Mackenzie had proposed in substitution for Articles 17 and 18.

MR. CHAFEE (United States of America) believed that the members should discuss ideas rather than words, and that they should define their ideas clearly before asking a committee to prepare a draft.

THE CHAIRMAN asked what was the meaning of the phrase in Article 17 "from sources wherever situated".

MR. FERGUSON (Canada) said that this might mean that some opinions could be expressed by other than the usual channels.

MR. GÉRAUD (France) asked whether it would not be better to speak of the "right to" rather than the "freedom of" expression and quoted the following passage from the French Declaration of the Rights of Man: "Free expression of thought and opinions is one of man's most sacred rights."

MR. HUMPHREY (Secretariat) pointed out that the draft declaration generally used the word "right".

[6]

MR. MACKENZIE (United Kingdom) quoted Article 19 of the Declaration, which spoke of the right of association.

MR. CHAFEE (United States of America) referred to the following passage from Article 16: "Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right."

This article used both the word "right" and the word "freedom" and in Mr. Chafee's opinion the word "freedom" was preferable.

MR. MACKENZIE (United Kingdom) proposed that they keep close to the draft in Article 19 and say, "Everyone shall have the right to freedom of opinion and expression". That was to say that everyone should freely enjoy the right of opinion and expression.

THE CHAIRMAN suggested that the question be submitted to a drafting committee. Replying to a question from Mr. Chafee, he said that the Sub-Commission's task was to draft some articles of a declaration of human rights. The word "right" therefore seemed suitable. It would however, be for the drafting committee to decide between the words "right" and "freedom", or to use both.

MR. MACKENZIE (United Kingdom) pointed out that article 3 of the draft declaration used both "rights" and "freedoms". He himself preferred "rights".

THE CHAIRMAN proposed the appointment of a drafting committee of three members which would bear in mind the opinions expressed during the discussion.

It was decided by nine votes to appoint a drafting committee.

THE CHAIRMAN proposed that the Committee be composed of Mr. Géraud, Mr. Ferguson and Mr. Mackenzie.

The Chairman's proposal was approved.

The meeting rose at 5:45 p.m.

E/CN.4/Sub.1/45

20 January 1948

Report of the Drafting Committee on an Article for the Declaration on Human Rights

The Drafting Committee on an Article for the Declaration on Human Rights met at 1 p.m. on 20 January. Mr. Ferguson, Mr. Géraud, and Mr. McKenzie were present. Mr. Ferguson was chosen chairman and Mr. Mackenzie, rapporteur.

The Commission decided to pass to the Sub-Commission two texts:

- (a) Everyone shall have the right to freedom of opinion and expression; freedom to seek and receive information and the opinions of others by any medium, within and beyond the borders of his own land; and having regard to the rights of others, to transmit all information and opinion without limitation.
- (b) The free communication of thoughts, opinions, and facts, regardless of frontiers, is one of the rights of man. Everyone has, therefore, the right to speak, to write, to print, to employ freely all modes of expression, being liable only for the abuses of this freedom in cases determined by the law of nations.

E/CN.4/Sub.1/48

20 January 1948

Report of the Committee Appointed to Draft a Proposed Article for the Declaration on Human Rights

Everyone shall have the right to freedom of thought and communication: this shall include freedom to hold opinions without interference; and to seek, receive and impart information and ideas by any means and regardless of frontiers.

E/CN.4/Sub.1/SR.27

20 January 1948

***Summary Record of the Fourth Meeting [of the Second
Session of the Sub-Commission
on Freedom of Information and of the Press]***

Lake Success, New York, Tuesday, 20 January, 1948,
at 3:00 p.m.

Present: Chairman: Mr. G. J. Van Heuven Goedhart (Netherlands). Rapporteur: Mr. P. H. Chang (China). Mr. Z. Chafee (United States of America); Mr. C. A. R. Christensen (Norway); Mr. G. R. Ferguson (Canada); Mr. Géraud (France); Mr. J. Illueca (Panama); Mr. J. M. Lomakin (Union of Soviet Socialist Republics); Mr. A. R. K. Mackenzie (United Kingdom); Mr. J. A. Mora (Uruguay); Mr. D. L. Sychrava (Czechoslovakia). Representatives of Specialized Agencies: Mr. René Mahou (UNESCO); Mr. Charles E. Rogers (Food and Agriculture Organization). Observers from Non-Governmental Organizations: Mr. Harry Martin (International Organization of Journalists); Miss Tony Sender (American Federation of Labor). Secretariat: Mr. John P. Humphrey (Director of the Division of Human Rights); Mr. Charles Hogan (Secretary of the Sub-Commission).

[2]

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THE CHAIRMAN then called upon MR. MACKENZIE to comment on the alternative texts for inclusion in the Declaration on Human Rights.

MR. MACKENZIE (United Kingdom) explained that text A was a redraft by Mr. Ferguson of the text of the previous day. Text B was a new one largely due to Mr. Géraud, and was based on the famous Declaration of Rights of 1789. The words "regardless of frontiers" should be inserted after the word "facts" in the first line of that text.

MR. MACKENZIE expressed his preference for text B, though he expressed doubts as to the limitation imposed at the end, since it had been his understanding that in the Declaration, as opposed to the Covenant, there would be no restrictive phrases in the articles.

MR. FERGUSON (Canada) stated that he had been so impressed by the wording of text B, which largely reproduced that of the solemn Declaration of Rights of 1789, that he had been loath to suggest any modification thereto, though he felt that they might be desirable.

In reply to Mr. Chafee, who said that no provision seemed to have been made as regards freedom to "hold" opinions, MR. MACKENZIE (United Kingdom) stated that in his opinion the word "communication" in text B covered that point. Communication implied forming or holding an opinion, expressing an opinion

and receiving an opinion. He asked whether these three stages were adequately covered or needed to be specified.

MR. SYCHRAVA (Czechoslovakia) expressed his dissatisfaction with the text. No liberty of information or of the press could be conceived of, if [3] such liberty were prejudicial to the common welfare. The problem at issue was to define the word liberty and the limitations thereto. The greatest crimes in history had been committed in the name of liberty. He felt that the expression "law of nations" was inadequate and required clarification.

THE CHAIRMAN recalled that it had been previously agreed that the Declaration should consist of brief articles of a positive character. He stated that article 33 of the Declaration laid down the desired limitations very clearly. In his opinion Mr. Sychrava's suggestion would be valuable in the drafting of the Covenant but not of the Declaration.

MR. CHAFEE (United States) called attention to article 2 of the Declaration which made every provision to keep liberty within bounds. He felt that it was undesirable to introduce restrictive clauses in particular articles.

MR. MAHOU (UNESCO) said that it was necessary to distinguish between two fundamental freedoms: freedom of information and freedom of opinion. Information meant the objective knowledge of facts; opinion implied a personal judgment of an interpretative or appreciative character. Freedom of information came first in order of logic.

In the 18th and 19th centuries, the press was used as a vehicle of personal opinion; it was now a vehicle of information. The immediate consequence of that change, was that at present the "subject of right" was the public, whose freedom of information had to be guaranteed, rather than the individual's liberty of expression.

He therefore expressed his preference for a text that should speak first of freedom of information. That was a universal concept to which everyone would adhere. Then should come the right of expressing an opinion, which involved the individual's responsibility, and necessarily entailed numerous limitations.

He therefore suggested that the proposed article should contain two paragraphs or two sentences, the first referring to freedom of information without restrictions, the second to freedom of expression with the necessary restrictions.

MR. FERGUSON (Canada) and MR. GÉRAUD (France) felt that the distinction drawn was too clear-cut. There was a shadow line between freedom of information and freedom of opinion and except in reporting absolute material facts, the journalist's personality played a great part.

MR. ILLUECA (Panama) agreed with the representative of UNESCO that a distinction should be drawn between the two concepts and suggested that the article should be re-examined.

He recalled that Mr. Ricardo Alfaro's draft Bill of Rights⁵² contained [4] two articles on freedom of thought and freedom of expression respectively. The United States delegation at San Francisco had itself divided the concept of the freedom of the press into freedom of opinion, of expression and of transmission.

THE CHAIRMAN thought that it was impossible to separate the two concepts and that moreover text A covered the two points raised.

MR. MAHOU (UNESCO) said that text B made no reference to seeking information. He therefore preferred text A, provided that freedom of information was mentioned first.

MR. FERGUSON (Canada) thought that the word "communication" in text B was adequate to cover the two concepts and thought that the distinctions were unnecessary.

MR. LOMAKIN (Union of Soviet Socialist Republics) stated that the Sub-Commission was approaching the whole problem from a wrong angle. However much he respected historical declarations, they could not be used as a background for present day conditions. The world had just emerged from a terrible war, the objectives and scope of the press had changed and it was necessary to set limitations to the liberty of the press if it were used as a vehicle of war propaganda and exhortation to revenge. It was impossible to reach a definitive formula in the present circumstances, since every generation had to formulate the principles it thought best fitted for the prevailing political conditions.

He stated that he did not agree with either of the two texts proposed.

THE CHAIRMAN put to the vote the question whether freedom of information and freedom of opinion should be the subject of two separate paragraphs as had been suggested, or dealt with in one sentence.

The Sub-Commission decided by 9 votes that the two concepts of freedom of information and of opinion should be included in one and the same sentence.

MR. CHAFEE (United States of America) suggested the addition, in the first line in text A, of the words "freedom to hold his opinion without interference".

MR. MACKENZIE (United Kingdom) supported the suggestion made by Mr. Chafee and proposed further changes so that paragraph A would read:

"Everyone should have the right to seek and receive information and the opinions of others by any medium within and beyond the boundaries of his own land; the right to hold his opinion without interference; and the right to express his opinions through all lawful means of communication."

⁵² E/HR/3.

The last part of the sentence was thus clearer than the proposed text: “and having regard to the rights of others, to transmit all information and opinions without limitation”.

[5]

MR. CHAFEE (United States of America) suggested that the members of the Sub-Commission should write out all suggestions for alterations and the Drafting Committee might then work on the text again.

THE CHAIRMAN thought that the Drafting Committee should reconsider both texts A and B.

MR. MACKENZIE (United Kingdom) felt that it would be better for the Sub-Commission to decide whether or not it wished to retain the restrictive phrases in the two texts.

MR. CHAFEE (United States of America) approved the deletion of all restrictive phrases. The limitations stated in article 2 and 33 of the Draft Declaration on Human Rights were sufficient, and there was no need to repeat them in the article under discussion. In text B, the reference to the “law of nations” was not intended to mean international law, but referred rather to the articles of the proposed Covenant.

To delete all mention of limitations would be an unrealistic approach to the problem.

THE CHAIRMAN pointed out that in order for a person to be punished by his Government in accordance with the articles of the Covenant, they would have to be incorporated into the criminal law of the State.

MR. CHAFEE (United States of America) said that the Declaration might very well go into effect before the Covenant, thus making reference to the “law of nations” meaningless.

MR. GÉRAUD (France) suggested the words “by law”.

MR. CHAFEE (United States of America), supported by MR. MACKENZIE (United Kingdom), observed that merely to state that a person would be held responsible only in cases determined by law was no protection against tyranny.

MR. MORA (Uruguay) favoured eliminating all mention of limitations from the articles in the Declaration other than that made in articles 2 and 33.

THE CHAIRMAN put the question to the vote.

The Sub-Commission decided by 8 votes to delete from text B the clause “being responsible only for the abuses of this freedom in cases determined by the law of nations”.

The Sub-Commission decided by 7 votes to delete the restrictive phrase “having regard to the rights of others” from text A.

MR. MACKENZIE (United Kingdom) thought that a distinction should be made between freedom of thought and freedom of expression, and asked for the [6] Sub-Commission's opinion.

MR. FERGUSON (Canada) and MR. GÉRAUD (France) felt that the words "free communication" in text B clearly implied both freedom of thought and freedom of expression.

The Sub-Commission decided by 6 votes to 3 that specific mention should be made of freedom of opinion.

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E/CN.4/Sub.1/SR.28

21 January 1948

***Summary Record of Fifth Meeting [of the Second
Session of the Sub-Commission
on Freedom of Information and of the Press]***

Lake Success, New York, Wednesday,
21 January, 1948, at 11 a.m.

Present: Chairman: Mr. G. J. Van Heuven Goedhart (Netherlands). Rapporteur: Mr. P. H. Chang (China). Mr. Z. Chafee (United States of America); Mr. C. A. R. Christensen (Norway); Mr. G. V. Ferguson (Canada); Mr. André Géraud (France); Mr. J. Illueca (Panama); Mr. J. Ingles (Philippines); Mr. J. M. Lomakin (Union of Soviet Socialist Republics); Mr. A. R. K. Mackenzie (United Kingdom); Mr. J. Mora (Uruguay). Representatives of Specialized Agencies: Mr. René Mahou (United Nations Educational, Scientific and Cultural Organization); Mr. Charles E. Rogers (Food and Agriculture Organization). Representatives of Non-Governmental Organizations: Mr. Peter Garvin (American Federation of Labor); Mr. Harry Martin (International Organization of Journalists). Secretariat: Mr. John Humphrey (Director, Human Rights Division); Mr. Charles Hogan (Secretary of the Sub-Commission).

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Continuation of the Consideration, Pursuant to a Resolution of the Second Session of the Commission on Human Rights (E/600) of Articles Concerning Freedom of Information for Inclusion in a Draft Declaration on Human Rights and a Draft Covenant on Human Rights: Examination of the Rights, Obligations and Practices Which Should be Included in the Concept of Freedom of Information

MR. MACKENZIE (United Kingdom) submitted the following proposed draft of Article 17 for the Declaration on Human Rights, which had been unanimously adopted by the Drafting Committee:

“Everyone shall have the right to freedom of thought and communication: this shall include freedom to hold opinions without interference; and to seek, receive and impart information and ideas by any means and regardless of frontiers.”

MR. CHAFEE (United States of America) thought this was to some extent a repetition of Article 16 of the Draft Declaration; for example, the words “freedom of thought” occurred in both articles. He assumed that Article 16 intended religious freedom to be interpreted very broadly. Article 16 of the Covenant, which corresponded to Article 16 of the Declaration, appeared to support that view. The new draft Article 17 for the Declaration covered other freedoms. He suggested retaining the draft and recommending to the Commission on Human Rights that the word “thought” should be deleted from Article 16.

MR. FERGUSON (Canada) pointed out that in the proposed Article 17 the word “thought” had been substituted for “opinion” for reasons of style.

MR. MACKENZIE (United Kingdom) agreed that it would be more logical to include the idea of freedom of thought in article 17 and to concentrate on freedom of conscience in article 16.

On MR. FERGUSON’s suggestion it was decided to leave the new draft of Article 17 as it stood and to recommend to the Commission on Human Rights the deletion of the words “thought and” in Article 16; if that were to raise any difficulties “thought” could be replaced by “opinion” in the draft Article 17.

[4]

MR. MARTIN (International Organization of Journalists) reminded the Sub-Commission that the original draft had read “expression of opinion”. Freedom of thought or opinion was meaningless without freedom of expression.

MR. MACKENZIE (United Kingdom) was prepared to accept the word “expression” instead of “communication”.

The Sub-Commission decided by seven votes to replace “communications” by “expression”.

MR. GÉRAUD (France) said that he would abstain from voting on the rest of the draft article.

The proposed Article 17 of the Draft Declaration on Human Rights was adopted by eight votes with one abstention.

...

E/CN.4/Sub.1/56

27 January 1948

**Draft article for the Declaration of Human Rights Presented by
Mr. J. Lomakin (Union of Soviet Socialist Republics)**

In the interests of democracy, everyone shall be guaranteed by law the right to free expression of opinion, especially freedom of speech and the press and also of graphic representation.

It is inadmissible to use freedom of speech and of the press for purposes of the propaganda of fascism and aggression, the dissemination of false news and dishonest information and also for the purposes of fomenting hostility between peoples.

E/CN.4/Sub.1/60

28 January 1948

**Suggested Text of Article on Freedom of Information in
International Declaration on Human Rights
(By Mr. Lev Sychrava, Czechoslovakia)**

Everyone has the right to seek to learn and to impart information and ideas, and the duty to abstain from spreading false or malicious information and to help by peaceful means to increase the flow of true and useful knowledge.

E/CN.4/Sub.1/SR.45

2 February 1948⁵³

***Summary Record of Twenty-Second Meeting [of the Second
Session of the Sub-Commission
on Freedom of Information and of the Press]***

Lake Success, New York, Monday, 2 February 1948,
at 2:30 p.m.

Present: Chairman: Mr. G. J. Van Heuven Goedhart (Netherlands). Rapporteur: Mr. P. H. Chang (China). Mr. Z. Chafee (United States of America); Mr. G. V. Ferguson (Canada); Mr. A. Géraud (France); Mr. J. D. Ingles (Philippines); Mr. J. M. Lomakin (Union of Soviet

⁵³ This is the date of the meeting. The document was issued on 6 February 1948.

Socialist Republics); Mr. A. R. K. Mackenzie (United Kingdom); Mr. J. A. Mora (Uruguay); Mr. D. Sychrava (Czechoslovakia). Secretariat: Mr. C. Hogan (Secretary of the Sub-Commission); Mr. J. Humphrey (Director, Human Rights Division).

...

[10]

Consideration of the Draft Report of the Sub-Commission on Freedom of Information and of the Press to the Commission on Human Rights

...

Paragraphs 6, 7, 8, 9, 10 and 11 were adopted without discussion

MR. GÉRAUD (France) drew attention to the fact that the text of the article proposed in paragraph 12 did not include the word “responsibility”, and requested that a note should be inserted stating that because of that omission he had resigned from the drafting committee responsible for the text as it finally appeared.

MR. SYCHRAVA (Czechoslovakia) asked whether a further note could be incorporated in paragraph 12 stating that although he had been absent from the discussion owing to ill health he had intended to propose a text mentioning other points.

THE CHAIRMAN considered that the best course would be to ask the Sub-Commission to vote immediately on the draft articles submitted by Mr. Lomakin (document E/CN.4Sub.1/56) and Mr. Sychrava (document E/CN.4/Sub.1/60).

Mr. Lomakin's proposal was rejected by six votes to one.

Mr. Sychrava's proposal was rejected by six votes to two.

Paragraph 12 was adopted without further discussion.

Paragraphs 13 and 14 were adopted without further discussion.

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E/SR.128⁵⁴

5 February 1948

Summary Record of the One Hundred and Twenty-Eighth Meeting [of the Economic and Social Council]

Held at Lake Success, New York, on Thursday,
5 February 1948, at 11 a.m.

President: MR. CHARLES MALIK (Lebanon)

⁵⁴ The text of the document is taken from *Official Records of the Economic and Social Council*, Third Year, Sixth Session, 2 February–11 March 1948, pp. 42–9.

THE PRESIDENT welcomed Mrs. Roosevelt, Chairman of the Commission on Human Rights, and requested her to present the Commission's report (E/600).

MRS. ROOSEVELT said that the Commission did not expect the Council to pronounce itself at the current session either on the draft declaration of human rights or on the draft covenant, since the Commission was awaiting the comments of the various governments to which those documents had been submitted and would prepare a final draft at its next session in the light of those comments.

...

MR. STINEBOWER (United States of America) recalled that his delegation had always attached the greatest importance to the work of the Human Rights Commission.

He considered that the detailed discussion of the declaration and the covenant should be undertaken at the seventh session of the Council, after the Commission had had the opportunity of revising the draft in the light of the observations received from the various governments.

...

[44]

...

MR. MUNIZ (Brazil) said that Brazil was happy to be able to make its contribution to the drafting of the bill of rights by presenting its comments thereon.

The principles embodied in the declaration and in the covenant were recognized by all civilized nations. It was essential that precise definitions of norms of conduct should be established and practical measures taken for their implementation.

...

MR. ARUTIUNIAN (Union of Soviet Socialist Republics) said that the Commission's report could be divided into two parts. The first, composed of chapters II to V inclusive, dealt with the declaration and the covenant of human rights. . .

In accordance with the Council's resolution 46(IV), the first part was still in the drafting stage, since the observations of the various governments had not yet been received.

...

[45]

...

He suggested that the Council should ask the Trusteeship Council to provide such information and to give its advice on the drafting of the part of the bill of rights which dealt with the subject [of the social, political and educational status of the peoples of Non-Self-Governing Territories, Trust Territories and colonies]. Though some colonial Powers might be loath to do so, it was essential to take practical steps to safeguard the fundamental rights and freedoms of the peoples of those territories.

...

In conclusion, he said that chapters II to V of the report should be referred to the next session of the Council without discussion.

...

MR. MAYHEW (United Kingdom) congratulated the Commission on Human Rights on its excellent report.

He agreed with the U.S.S.R. representative that the first part of the report could not suitably be discussed by the Economic and Social Council at its current session.

...

MR. DEDMAN (Australia) considered that the Commission on Human Rights had rightly devoted most of its time to the drafting of an international bill of rights. A declaration of rights was not [46] sufficient; there must be a covenant, whereby governments would undertake to give effect to it.

...

MR. THORN (New Zealand) thanked the Commission on Human Rights for its industry and competence in preparing its report. The draft declaration and covenant embodied principles which could be accepted by every civilized human being. The Commission had adopted a business-like procedure, and by the use of committees had accomplished praiseworthy results in the short space of two weeks.

...

The declaration of human rights, which listed all those rights for which human beings should strive, was of necessity broader than the covenant, [47] which embodied certain human rights to which all nations could subscribe. It was therefore essential to define human rights clearly in the declaration before drafting the covenant in its final form. In that connexion, he would like to point out, without in any way detracting from the work of the Commission, that the language of the draft declaration was somewhat confusing at certain points. Certain articles defined certain human rights, while others outlined what things were to be done and what were not to be done. The latter were more suitable for inclusion in a legal document, and were out of place in a declaration of human rights.

The views of Member States on the draft declaration must be assembled before the Council could consider it. The covenant could only be written finally after mature consideration and examination, based on the proposals which would ultimately be laid down in the declaration.

MR. GELISSEN (Netherlands)...did not intend to discuss the declaration, but would point out that in article 31 no distinction was made between national minorities and groups of persons living in a State without being nationals of it.

...

MR. CHANG (China) congratulated the Commission on Human Rights on its work and thanked the Secretariat for its contribution to that work, emphasizing the great importance given to the formulation of the declaration and covenant by his country.

THE PRESIDENT noted that there appeared to be agreement that chapters I to V, together with annexes A and B, as suggested by the representative of the USSR, should not be considered at the current session.

...

E/AC.7/SR.33

19 February 1948⁵⁵

Summary Record of the Thirty-Third Meeting [of the Social Committee of the Economic and Social Council]

Lake Success, New York, Thursday, 19 February 1948,
at 3:15 p.m.

Present: Chairman: Mr. L. Kaminsky (Byelorussian Soviet Socialist Republic). Australia: Mr. Harry; Brazil: Mr. Souza Gomez; Canada: Mr. Roy; Chile: Mr. Larrain; China: Mr. Wu; Denmark: Mr. Friis; France: Mr. Ordonneau; Lebanon: Mr. Azkoul; Netherlands: Mr. van der Mandele; New Zealand: Mr. Lendrum; Peru: Mr. Labarthe; Turkey: Mr. Savot; United Kingdom: Mr. Phillips; United States of America: Mr. Kotschnig; Union of Soviet Socialist Republics: Mr. Borisov; Venezuela: Mr. Pérez Perozo. *Representatives of Specialized Agencies:* Mr. Metall, International Labour Organization; Mr. Thomas, UNESCO. [2] *Secretariat:* Mr. Humphrey, Director of the Division of Human Rights; Mr. Messing-Mierzejewski, Secretary of the Committee.

**Discussion on the Report of the Commission on Human Rights
on its Second Session (Document E/600)**

Resolution on Freedom of Information and the Press (document E/AC.7/W.20)

...

[3]

...

[The Committee adopted an amendment, proposed by the United States, requesting the Conference on Freedom of Information and of the Press to express its views on the texts of draft article 17 of the Covenant adopted by the Drafting Committee and the Sub-Commission on Freedom of Information and of the Press.]

MR. HUMPHREY (Secretariat) drew the attention of the Committee to the fact that it would also be desirable to submit to the Conference Article 17 of the Draft International Declaration on Human Rights prepared by the Sub-Commission on Freedom of Information and of the Press. Paragraph B of the resolution would therefore need to be correspondingly altered, if the Committee agreed.

⁵⁵ This is the date of the meeting. The document was issued on 23 February 1948.

MR. HARRY (Australia) agreed with Mr. Humphrey's suggestion, and proposed that paragraph B of the resolution be amended as follows:

"To remit Articles 17 and 18 of the Draft International Declaration on Human Rights (Document E/600, Annex A), together with the draft prepared by the Sub-Commission on Freedom of Information and of the Press (document E/CN.4/80, paragraph 12) to the Conference [4] on Freedom of Information for its consideration and report."

MR. BORISOV (Union of Soviet Socialist Republics) opposed the amendment since the Sub-Commission's draft had not been considered by the Council.

MR. KOTSCHNIG (United States of America) emphasized that the Australian representative's amendment was a necessary consequence of the amendment to paragraph C which had just been adopted.

THE CHAIRMAN put to the vote the amendment to paragraph B of the resolution proposed by the Australian representative.

The Australian amendment was adopted by fifteen votes with two abstentions.

...

E/704⁵⁶

26 February 1948

Report of the Social Committee

The Council agreed at its 128th meeting that chapters I to V of the report of the Commission on Human Rights on its second session (E/600) should not be considered at the current session and referred chapters VI *et seq.*, together with the draft resolution regarding chapter V submitted by the representative of Australia (E/AC.7/42) to the Social Committee.

The Social Committee discussed those matters on 19 and 20 February (E/AC.7/SR.32 to 35), and recommended the following draft resolutions for adoption by the Council:

...

Freedom of Information and of the Press

The Economic and Social Council,

Having considered chapter VII of the report of the Commission on Human Rights (E/600),

⁵⁶ The text of the document is taken from *Official Records of the Economic and Social Council*, Annex, Sixth Session, 1948, pp. 87–88.

Notes that General Assembly resolutions 110(II) and 127(II) have been remitted by the General Assembly to the United Nations Conference on Freedom of Information, and

Decides

1. To remit articles 17 and 18 of the draft International Declaration on Human Rights (E/600, annex A) together with the draft proposed by the Sub-Commission on Freedom of Information and of the Press (E/CN.4/80) to the United Nations Conference on Freedom of Information for its consideration and report;

...

[88]

...

Trusteeship Council Questionnaire

The Economic and Social Council,

Having regard for the importance of the Questionnaire adopted by the Trusteeship Council under Article 88 of the Charter in developing standards of social policy, and desiring to promote the widest possible application of the International Bill of Human Rights,

Requests the Trusteeship Council to consider the human rights section of its Questionnaire as provisional until the Commission on Human Rights is able to review it in the light of an approved Bill of Human Rights.

...

E/AC.7/SR.39

27 February 1948⁵⁷

Summary Record of the Thirty-Ninth Meeting [of the Social Committee of the Economic and Social Council]

Lake Success, New York, Friday, 27 February 1948,
at 2:45 p.m.

Present: Chairman: Mr. Kaminsky (Byelorussian Soviet Socialist Republic). *Members:* Australia: Mr. Jockel; Brazil: Mr. de Souza-Gomez; Byelorussian Soviet Socialist Republic: Mrs. Uralova; Canada: Mr. Curry; Chile: Mr. Larrain; China: Mr. Wu; Denmark: Mr. Dick; France: Miss Labeyrie; Lebanon: Mr. Azkoul; Netherlands: Mr. van der Mandele; New Zealand: Mr. Sutch and Mr. Lendrum; Peru: Mr. Labarther; Turkey: Mr. Kural; United

⁵⁷ This is the date of the meeting. The document was issued on 2 March 1948.

Kingdom: Mr. Mayhew and Mr. Morgan; United States of America: Mr. Stinebower; Union of Soviet Socialist Republics: Mr. Borisov; Venezuela: Mr. Pérez Perozo. *Also present:* Mrs. Cosma, Rapporteur, Status of Women Commission. *Representatives of Specialized Agencies:* Mr. Metall, International Labour Organization. [2] *Secretariat:* Sir Raphael Cilento, Director, Social Activities Division; Mr. Schwelb, Assistant Director, Division of Human Rights; Mr. Herman, Deputy Director, Conference Co-ordination Division; Mr. Messing-Mierzejewski, Secretary of the Committee.

**Continuation of the Discussion of the Report of the Second
Session of the Commission on the Status of Women: Resolutions for Urgent
Consideration (Documents E/615, E/615/Add.1, E/615/Add.2,
E/615/Corr.1, E/615/Corr.2, E/AC.7/W.19, E/AC.7/W.19/Add.1 and E/AC.7/
W.19/Corr.1)**

...

[3]

...

Resolution 4, International Bill of Human Rights (document E/AC.7/W.19)

MR. BORISOV (Union of Soviet Socialist Republics) recalled the decision of the Council not to discuss any drafts of the International Bill of Human Rights at the present session. He therefore suggested that the Committee might take note of resolution 4, but should not approve it before it had been considered by the Commission on Human Rights and the Drafting Committee.

MR. STINEBOWER (United States of America) supported the observations of the USSR representative. In that spirit, he suggested that the first paragraph should be amended to read:

“Transmits to the Commission on Human Rights and its Drafting Committee suggestions of the Commission on the Status of Women for amendments to the draft International Declaration of Human Rights.”

[4]

MR. BORISOV (Union of Soviet Socialist Republics) approved the text suggested by the United States representative, understanding it to mean that the Council had not examined the substance of the amendments suggested by the Commission and did not express approval of them.

*The first paragraph, as amended by the United States representative was adopted.
Resolution 4 was adopted.*

...

E/SR.157⁵⁸

1 March 1948

***Summary Record of the One Hundred and Fifty-Seventh Meeting
[of the Economic and Social Council]***

Held at Lake Success, New York, on Monday,
1 March 1948, at 3 p.m.

President: MR. CHARLES MALIK (Lebanon)

...

[301]

*70. Report of the Commission on Human Rights (second session) [continued]¹:
report of the Social Committee (E/704 and E/704/Add.1)*

...

Freedom of information and of the Press

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that, in considering the report of the Sub-Commission on Freedom of Information and of the Press (E/CN.4/80), the Council had decided (155th meeting) to transmit the document in question to the United Nations Conference on Freedom of Information. It was unnecessary to go back on the question.

Mr. Kaminsky therefore proposed that paragraphs 1 and 2 should be deleted.

MR. STINEBOWER (United States of America) agreed that the resolution involved repetition but felt that the Byelorussian proposal would delete too much. Since article 17 and 18 of the Draft International Declaration of Human Rights had not yet been transmitted to the Conference, the first part of paragraph 1 should be retained.

Mr. Stinebower proposed that the words “together with the draft proposed by the Sub-Commission on Freedom of Information and of the Press (E/CN.4/80)” in paragraph 1 should be deleted but paragraph 2 should be retained.

THE PRESIDENT put to the vote the Byelorussian amendment by which paragraphs 1 and 2 would be deleted.

The amendment was rejected by 12 votes to 3, with 3 abstentions.

THE PRESIDENT put to the vote the United States amendment, by which the words “together with the draft proposed by the Sub-Commission on Freedom of Information and of the Press (E/CN.4/80)” in paragraph 1 would be deleted.

⁵⁸ The text of the document is taken from *Official Records of the Economic and Social Council*, Third Year, Sixth Session, 2 February–11 March 1948, pp. 294–303.

The amendment was adopted by 10 votes to 2, with 3 abstentions.

...

E/738

1 March 1948

...

**Resolution of 1 March 1948 [Economic and Social Council
Resolution 118(VI)]**

B

The Economic and Social Council,

Having considered chapter VII of the report of the Commission on Human Rights (document E/600),

Notes that General Assembly resolutions 110(II) and 127(II) have been remitted by the General Assembly to the United Nations Conference on Freedom of Information and

Decides:

1. To remit articles 17 and 18 of the Draft International Declaration on Human Rights (document E/600, Annex A) to the United Nations Conference on Freedom of information for its consideration and report;

...

E/737

3 March 1948

...

**Resolution of 3 March 1948 [Economic and Social Council
Resolution 120(VI)]**

C

The International Bill of Human Rights

The Economic and Social Council,

Transmits to the Commission on Human Rights and its Drafting Committee on an International Bill of Human Rights the following suggestions of the Commission on

the Status of Women for amendments to the Draft International Declaration of Human Rights:

Article 1

“All people are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in the spirit of brotherhood.”

Article 13

“Men and women shall have equal rights to contract or dissolve marriage in accordance with the law.”

E/CN.4/81

24 March 1948

**Suggestions Made by the Commission on the Status of Women
[to the Third Session of the Commission on Human Rights]**

Memorandum by the Secretary-General

The Commission on the Status of Women passed a resolution, during its second session in January 1948, recommending the following amendments to the Draft International Declaration on Human Rights (document E/615, page 14, paragraph 28):*

Article 1: All *people* are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another *in the spirit of brotherhood*.

Article 13: Men and women shall have equal rights to contract *or dissolve* marriage in accordance with the law.

At its meeting on 3 March 1948, the Economic and Social Council passed the following resolution: (document E/737)

The Economic and Social Council,
Transmits to the Commission on Human Rights and its Drafting Committee on an International Bill of Human Rights the following suggestions of the Commission on the Status of Women for amendments to the Draft International Declaration of Human Rights:

Article 1: “All *people* are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another *in the spirit of brotherhood*”.

Article 13: “Men and Women shall have equal rights to contract *or dissolve* marriage in accordance with the law”.

[[¶]] The proposed alterations to the Draft International Declaration on Human Rights are in italics.

E/CONF.6/C.4/1

24 March 1948

Agenda of the Fourth Committee [of the Conference on Freedom of Information and of the Press]

...

[2]

...

B. Items from the Report of the Commission on Human Rights, Second Session (Document E/600)

Annex A

Part I. Draft International Declaration of Human Rights

Article 16

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

2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in worship, observance, teaching and practice.

(Concerning the following two articles, 17 and 18, the Commission decided not to elaborate a final text until it had before it the views of the Sub-Commission on Freedom of Information and of the Press and of the United Nations Conference on Freedom of Information.)

[3]

[Article 17]

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

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

[Article 18]

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

...

E/CN.4/80

25 March 1948

**Report of the Second Session of the Sub-Commission on Freedom
of Information and of the Press**

Lake Success, 19 January to 3 February 1948

...

[3]

...

Chapter II

Consideration of Articles 17 and 18 of the Draft Declaration on Human Rights

11. The Commission on Human Rights at its second session referred Article 17 and 18 of the Draft Declaration on Human Rights to the Sub-Commission [4] for its consideration and report (document E/600, Chapter VII).

12. The Sub-Commission decided to recommend to the Commission the following Article:

“Everyone shall have the right to freedom of thought and expression; this shall include freedom to hold opinions without interference; and to seek receive and impart information and ideas by any means and regardless of frontiers.”

13. The following note was included at the request of Mr. A. Géraud (France):

Mr. Géraud voted against this text because it did not include a reference to the responsibility which he believed as implied in the right to freedom of expression.

14. The Sub-Commission decided to recommend to the Commission the deletion of the words “thought and” in Article 16 of the Draft Declaration (document E/600). The Sub-Commission recommended that, should this deletion prove unacceptable, the Commission could replace the word “thought” by the word “opinion” in the above article which it proposed to the Commission.

...

E/CONF.6/C.4/3
25 March 1948

**United Kingdom Proposals on Items B and C of the Agenda
 (Documents E/CONF.6/C.4/1, Documents E/CONF.6/C.4/1/Rev.1)**

The United Kingdom Delegation proposes

1. that the draft Articles prepared by the Sub-Commission on Freedom of Information and of the Press for inclusion in the Declaration and Covenant on Human Rights should be adopted by Committee IV as a starting point for the discussion of items B and E of its Agenda;

2. that the Sub-Commission's draft Article for inclusion in the Declaration on Human Rights should be accepted as it stands;

...

E/CONF.6/C.4/1/Rev.1
25 March 1948

**Agenda of the Fourth Committee [of the Conference on Freedom
 of Information and of the Press]**

**E. Items from the Report of the Second Session of the Sub-Commission
 on Freedom of Information and of the Press (Document E/CN.4/80)**

Chapter II

Consideration of Articles 17 and 18 of the Draft Declaration on Human Rights

11. The Commission on Human Rights at its second session referred Article 17 and 18 of the Draft Declaration on Human Rights to the Sub-Commission [4] for its consideration and report (document E/600, Chapter VII).

12. The Sub-Commission decided to recommend to the Commission the following Article:

“Everyone shall have the right to freedom of thought and expression; this shall include freedom to hold opinions without interference; and to seek receive and impart information and ideas by any means and regardless of frontiers.”

13. The following note was included at the request of Mr. A. Géraud (France):
 Mr. Géraud voted against this text because it did not include a reference to the responsibility which he believed as implied in the right to freedom of expression.

14. The Sub-Commission decided to recommend to the Commission the deletion of the words “thought and” in Article 16 of the Draft Declaration (document E/600).

The Sub-Commission recommended that, should this deletion prove unacceptable, the Commission could replace the word “thought” by the word “opinion” in the above article which it proposed to the Commission.

...

E/CONF.6/C.4/8

1 April 1948

Original Text: Russian

**Draft of Article 17 of the Declaration on Human Rights and
Article 17 of the International Covenant Submitted by the
Delegation of the USSR**

“In the interests of democracy, every person shall be guaranteed by law freedom to express his opinion, and in particular, freedom of speech, of the press, and of artistic representation. Freedom of speech and freedom of the press shall not be used to advocate fascism or aggression, to sow racial, national or religious hatred, to disseminate false or dishonest information, or to incite the nations to mutual enmity.”

E/CONF.6/C.4/9

2 April 1948

Original Text: French

French Delegation

Amendment to the draft text of Article 17 of the Declaration on Human Rights prepared by the Sub-Commission on Freedom of Information and the Press: Paragraph 1:

After: “Every one shall have the right to freedom of thought and expression. . .”

Add: “provided that he shall be answerable, in cases defined by the law, for abuses of that freedom.”

E/CONF.6/C.4/10

2 April 1948

Original Text: French

**Amendment to Article 17 of the Covenant and the Declaration
on Human Rights, Submitted by the Hungarian Delegation**

The Hungarian Delegation,

Considering that freedom of expression cannot be conceived as an abstract right taking no account of the requirements of the peoples and the experiences of the second world war,

Proposes that it be stated in Article 17 of the Covenant on Human Rights and in Article 17 of the Declaration on Human Rights

- a) that freedom of expression shall be exercised in the interest of the community, thereby becoming a fundamental human right,
- b) that freedom of expression, as a fundamental right, cannot be extended to those who in abuse of that right, engage in warmongering attacks or endanger international co-operation and understanding.

E/CONF.6/C.4/SR.4

2 April 1948

***Summary Record of the Fourth Meeting [of Committee IV
(Law and Continuing Machinery) of the United Nations
Conference on Freedom of Information and of the Press]***

Held at the Palais des Nations, Geneva, on Friday,
2 April 1948 at 10.30 a.m.

Chairman: Sir Ramaswami Mudaliar (India); Vice-chairman: Mr. Romanov (Byelorussia);
Rapporteur: Prof. Dehousse (Belgium); Secretaries: Mr. Herman, Mrs. Day

[2]

Consideration of Document E/CONF.6/C.4/1, Item B, Annex B, Part I

MR. TIMOTYEVIC (Yugoslavia), raising a question of procedure, said that it had been decided in the General Committee to refer the Draft Articles concerning Freedom of Information of the Draft Declaration and Covenant of Human Rights (Document E/600) to Committee I for consideration of their general political implications, and then to Committee IV for consideration of their juridical aspects. This decision had not been mentioned in the Report of the General Committee to the Conference (Document E/CONF.6/36), doubtless owing to an oversight on the part of the Secretariat.

MR. ROSCHIN (Union of Soviet Socialist Republics) said they could not escape the question as to whether they could deal with political matters or not. If they could not, then the question should be referred back to Committee I.

MR. CHAFEE (United States) said that they could ask the General Committee to change its allocation of items for their consideration, but the General Committee had felt that this subject could properly be referred to this Committee. They were competent to discuss all its aspects.

The Chairman explained that the matter had been discussed at length in the General Committee. It had been agreed that Committee I could discuss all aspects of the question. But it had been thought that decisions on action to be taken came within the competence of Committee IV.

MR. EVANS (United Kingdom) referred to Point 1 of Document E/CONF.6/C.4/3. That suggested that the draft [3] articles prepared by the Sub-Commission on Freedom of Information and the Press for inclusion in the Declaration and Covenant on Human Rights should be adopted by Committee IV as a starting point for the discussion of Items B and E of its agenda (documents E/CONF.6/C.4/1 and E/CONF.6/C.4/1/Rev.1).

The Drafting Committee of the Commission on Human Rights had begun to draft the Covenant in June, 1947. It had adopted a number of articles dealing with liberty of information. This draft had been remitted to the Commission on Human Rights last December. The Commission on Human Rights had decided, before drafting a Covenant, to wait for the views of the Sub-Commission on Freedom of Information and of the Press and of this Conference. The Sub-Commission had produced its own draft in January last, which was set out in Chapter III of its report. The draft superseded former ones. They should begin where the Sub-Commission had left off, and adopt this draft as a working document.

MR. CHAFEE (United States) as a member of the Sub-Commission, was gratified to think that its work had been considered an advance. He would support the United Kingdom motion. The United States Delegation, however, would submit an amendment to the draft of Article 17 by proposing general limitations in place of the specific limitations there laid down.

SIR DHIRON MITRA (India) suggested that they take up consideration of the Article recommended by the Sub-Commission to the Commission on Human Rights, as presented in Paragraph 16 of Chapter III of Document E/CN.4/80.

MR. ROSCHIN (Union of Soviet Socialist Republics) felt that they should go beyond the draft suggested by the Sub-Commission, and deal with the question as a whole on the basis of all the proposals before them.

[4]

THE CHAIRMAN suggested that, while not limiting their discussions to the draft suggested by the Sub-Commission, they should take it as a basis for discussion.

MR. SZABO (Hungary) said that the Drafting Committee of the Sub-Commission on Human Rights had fallen into the same error as did the authors of the French Constitutions 160 years ago. The text as suggested was abstract and unpractical. It did not take into account recent developments.

They should ask themselves whether those articles would serve the cause of peace. They must take into account the recent painful experience of humanity, when human rights had been trampled underfoot by fascism, all traces of which his country was bound by her Peace Treaty to eradicate. It was inadmissible that other Governments should not do the same.

Consequently the texts before them should specify clearly that freedom could only be used in the interest of all, and not as a vehicle for incitement to war or for fascist propaganda.

...

[8]

...

After some discussion, MR. ROSCHIN (Union of Soviet Socialist Republics) presented the amendment contained in Document E/CONF.6/C.4/8, (quoted above), it being understood that this amendment, which applied to the whole of the article, was submitted in the first instance as an amendment to paragraph 1⁵⁹ and that, in the event of its adoption, he would call for the deletion of subsequent paragraphs of the Sub-Commission's draft.

MR. EVANS (United Kingdom) opposed the Soviet Union amendment on the grounds that the text was less precise than that proposed by the Sub-Commission, and that the second sentence of the text was inappropriate for insertion in a document such as the Covenant.

MR. KOTSCHNIG (United States of America) could not support the Soviet amendment since, in addition to the deficiencies indicated by the representative of the United Kingdom, the [9] qualifications required were in any case contained in subsequent paragraphs. Moreover, the objections were in respect of matters which were covered by Article 21 of the Covenant, and since the latter Article had not been referred to the Committee, the amendment was out of order.

MR. ROSCHIN (Union of Soviet Socialist Republics) with a view to meeting this objection, proposed that the phrase in line 6 "to sow racial, national or religious hatred" be omitted.

In response to a remark by MR. TERROU (France) that the second sentence referred to limitations of freedom, which in any case figured in paragraph 2, he pointed out that if the amendment were accepted in principle it might thereafter be divided into paragraphs as required.

On a vote being taken, *the amendment proposed by the representative of the USSR was rejected by 16 votes to 5.*

The meeting rose at 1:20 p.m.

⁵⁹ Although the Soviet amendment applied to both the Declaration and the Covenant, the focus of the debate was on article 17 of the Covenant.

E/CONF.6/17**3 April 1948****Original Text: French**

**Amendment proposed by the Greek Delegation to the
draft Articles prepared by the Sub-Commission on Freedom
of Information and of the Press for inclusion in the Declaration
and Covenant on Human Rights (points E and B)
(Document E/CONF.6/C.4/3)⁶⁰**

After item (g) of paragraph 2 of Article 17, add item (h), to run as follows;

“(h) Writings or pronouncement inimical to the religion or religions professed in a country.”

E/CONF.6/C.4/SR.5**3 April 1948**

***Summary Record of the Fifth Meeting [of Committee IV
(Law and Continuing Machinery) of the United Nations
Conference on Freedom of Information]***

Held at the Palais des Nations, Geneva, on Saturday,
3 April 1948 at 10.30 a.m.

Chairman: Sir Ramaswami Mudaliar (India). Rapporteur: Prof. Dehousse (Belgium).
Secretaries: Mrs. Claude Day, Mr. Lloyd Herman.

...

[6]

Discussion of Amendment to Article 17 of the Covenant and the Declaration on Human Rights, Submitted by the Hungarian Delegation (document E/CONF.6/C.4/10).

THE CHAIRMAN requested the representative of Hungary to explain in what respect he considered his amendment differed from the amendment of the Union of Soviet Socialist Republics, which had already been voted on.⁶¹

MR. SZABO (Hungary) recalled that, in the course of the previous discussion, he had explained the motives for the amendment to Article 17 of the Covenant and the

⁶⁰ The title of the Greek proposal indicates that it pertains to the Declaration as well as to the Covenant, but the text appears to relate only to the Covenant.

⁶¹ See E/CONF.6/C.4/SR.4, pp. 8–9.

Declaration on Human Rights. The text submitted by the Sub-Commission was too abstract and needed to be completed by more concrete proposals to define freedom of expression. Freedom of expression should not be permitted to those who used it for the purpose of incitement to war.

THE CHAIRMAN ruled that the representative for Hungary had not substantiated his claim that his proposal differed from the proposal of the Soviet Union which had already been rejected. His proposal was therefore out of order.

MR. ROSCHIN (Union of Soviet Socialist Republics) appealed against this ruling, and on the proposal of MR. CHAFEE (United States of America), who invoked Article 22 of the Rules of Procedure, the ruling of the Chairman was put to the vote.

The Chairman's ruling on the Hungarian amendment was accepted by 15 votes to 5 with 1 abstention.

...

E/CONF.6/C.4/SR.6⁶²

5 April 1948

***Summary Record of the Sixth Meeting [of Committee IV
(Law and Continuing Machinery) of the United Nations
Conference on Freedom of Information and of the Press]***

Held at the Palais des Nations, Geneva, on Monday,
5 April 1948 at 2:30 p.m.

Chairman: Sir Ramaswami Mudaliar (India). Rapporteur: Prof. Dehousse (Belgium).
Secretaries: Mrs. Claude Day, Mr. Lloyd Herman.

...

[10]

...

THE CHAIRMAN suggested, and the Committee agreed, that the Greek amendment (Document E/CONF.6/C.4/17) should be discussed in connection with the above-mentioned British amendment to sub-paragraph (d).⁶³

MR. VEZANI (Greece) emphasizing the profoundly devout character of the Greek people, whose religious beliefs were protected by constitutional laws, felt that those religious beliefs ought to be protected against atheist propaganda.

⁶² E/CONF.6/C.4/SR.4/SR.6/Corr.1 contains a correction to page 11 but it is illegible.

⁶³ The United Kingdom amendment, E/CONF.6/C.4/3, concerned the Covenant only. Its purpose was to add reference to blasphemy to accepted limitations on freedom of expression.

MR. MENCEL (Poland) opposed the United Kingdom proposal because any provision against blasphemy might lead to clerical abuse.

[11]

He appealed to the Greek representative to withdraw his amendment in favour of the Polish proposal relating to “expressions which incite to war or to racial, national or religious hatred”.⁶⁴

After a lengthy discussion on the Greek amendment, during which MR. NINOFF (Bulgaria) and MR. ROSCHIN (Union of Soviet Socialist Republics) strongly opposed it, MR. VEZANI (Greece) stressed that he had only referred to the protection of all creeds and of the religion of the people.

MR. EVANS (United Kingdom) wished to make it quite clear that the offence of blasphemy could not be held to justify any religious controversy. Blasphemy was punishable in the United Kingdom only when there was an element of vilification or ridicule, or when used to exasperate the feelings of others.

The Greek proposal (Document E/CONF.6/C.4/17) was put to the vote and rejected by 13 votes to 2 with 10 abstentions.

...

E/CONF.6/C.4/SR.10

7 April 1948

***Summary Record of the Tenth Meeting [of Committee IV
(Law and Continuing Machinery) of the United Nations
Conference on Freedom of Information and of the Press]***

Held at the Palais des Nations, Geneva, on Wednesday,
7 April 1948 at 2:45 p.m.

Chairman: Sir Ramaswami Mudaliar (India). Rapporteur: Prof. Dehousse (Belgium).
Secretaries: Mrs. Claude Day, Mr. Lloyd Herman

...

[7]

...

Consideration of Texts of the Draft International Declaration of Human Rights (Document E/CONF.6/C.4/1), Draft of Article 17 of the Declaration and Covenant Submitted by the Soviet Union (Document E/CONF.6/C.4/8)

⁶⁴ The Polish amendment, E/CONF.6/C.4/18, concerned the Covenant only.

MR. ROSCHIN (Union of Soviet Socialist Republics) said that his proposal dealt with major principles which had already been commented upon at previous meetings, and required no further explanation

The Soviet proposal for a new text of Article 17 was put to the vote and rejected by 18 votes to 5.

Amendment Submitted by France to the Draft Text of Article 17 (Document E/CONF.6/C.4/9)

MR. TERROU (France) stated that the text of the Sub-Commission omitted any reference to the responsibility which he believed was implied in the right to freedom of expression.

MR. CHAFEE (United States of America) explained that the Sub-Commission had felt that the principle of responsibility was included in the Declaration as a whole since Article 2 clearly stressed that rights were limited by the rights of others and by the just requirements of the democratic State.

MR. EVANS (United Kingdom) although not entirely in agreement with Mr. Chafee, could not support the French amendment.

[8]

MR. TERROU (France) maintained that it was essentially necessary to define the limits of freedom of expression. The text of the French amendment was similar to the Bill of Rights introduced in France in 1789, which stated that freedom of expression existed except in cases of abuses of that freedom. If a reference to responsibility were not included in Article 17, there would be a contradiction between the Covenant and the Declaration.

The French amendment was put to the vote and rejected by 10 votes to 3 with 10 abstentions.

Hungarian Amendment to Article 17 on the Declaration of Human Rights (Document E/CONF.6/C.4/10)

THE CHAIRMAN ruled that paragraph (b) of the amendment was out of order since it was essentially the same as the USSR amendment which had been rejected.

MR. SZABO (Hungary) speaking on paragraph (a), explained that his amendment was not submitted as a final text, but to affirm a certain principle directly concerned with freedom of expression.

In reply to MR. EVANS (United Kingdom), MR. SZABO (Hungary) stressed that his amendment differed from article 2 since it referred to freedom of expression exercised in the interests of the community.

The Hungarian amendment was put to the vote and rejected by 16 votes to 4 with 3 abstentions.

The text of Article 17 of the Draft Declaration on Human Rights submitted by the Sub-Commission on Freedom of Information and of the Press and referred to Committee

IV (Document E/CONF.6/C.4/1, Rev 1) was then put to the vote and adopted by 17 votes to none with 6 abstentions.

The meeting rose at 5:30 p.m.

E/CONF.6/C.4/71

14 April 1948

**Draft Resolution
(E/CONF.6/C.4/1, Rev.1)**

The United Nations Conference on Freedom of Information,

Having Considered the resolution of the Economic and Social Council of 3 March 1948 referring to the Conference for its consideration and report Articles 17 and 18 of the Draft Declaration on Human Rights and Article 17 of the Draft Covenant on Human Rights with the recommendations of the Sub-Commission on Freedom of Information and of the Press,

Is of the opinion that

I. Articles 17 and 18 of the Declaration may be embodied in one Article as follows:

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

...

E/CONF.6/C.4/SR.24

16 April 1948

***Summary Record of the Twenty-Fourth Meeting*
[of Committee IV (Law and Continuing Machinery) of the
United Nations Conference on Freedom of Information and
of the Press]**

Held at the Palais des Nations, Geneva, on Friday,
14 April 1948 at 2:45 p.m.

Chairman: Sir Ramaswami Mudaliar (India). Vice-Chairman: Mr. Romanov (Byelorussia SSR). Rapporteur: Prof. Dehousse (Belgium). Secretaries: Mrs. Day, Mr. Herman

[2]

**Consideration of Draft Resolutions Proposed by the
Drafting Committee**

...
[4]

...

The drafts of the Resolutions contained in the following documents were accepted subject to minor drafting alteration.

...

E/CN.4/82/Rev.1
16 April 1948⁶⁵

**Comments of Governments on the Draft International
Declaration on Human Rights, Draft International
Covenant on Human Rights and the Question of
Implementation**

Memorandum by the Secretary-General

1. At its Second Session the Commission on Human Rights requested the Secretary-General (a) to transmit its report to the Governments during the first week of January 1948, (b) to fix the date of 3 April 1948 as the time limit for the reception of their comments on the draft International Declaration on Human Rights, draft International Covenant on Human Rights and the Question of Implementation and (c) to circulate these comments to the members of the Commission as soon as they are received.

2. In compliance with this request the Secretary-General transmitted the Commission's report to the Governments, and has the honour to circulate the following communications which have been received from Member Governments:

1. Telegram received from Pakistan

Dated, the 2nd April 1948

Your note SOA 17/1/01/JH January 9th

Draft International Declaration on Human Rights and corresponding Convention Government of Pakistan have no comments at this stage.

⁶⁵ This is the date of document E/CN.4/82. Document E/CN.4/82/Rev.1 was issued on 22 April 1948.

2. Communication received from Canada

Department of External Affairs Canada

Ottawa, April 1, 1948

Sir:

I have the honour to refer to your letter of January 9, 1948, in which was enclosed a report on the Second Session of the Commission on Human Rights, [2] and to inform you that the proposals contained in the draft International Bill of Human Rights have been closely considered by officials of the Government, and it is expected that they will be considered by a Joint Parliamentary Committee on Human Rights. A discussion of this subject by Parliament has not yet been possible, however, and the Canadian Government would not wish to express views on a matter of such importance without having had the benefit of learning the opinion of Parliament. This is especially true in view of the nature of the Canadian Constitution, and the Canadian Government, therefore, regrets that final comments on the Declaration will not be available for April 3rd.

The Canadian Government is anxious that ample opportunity be afforded to comment on the International Bill of Rights both at the meeting of the Economic and Social Council in July and at the meeting of the General Assembly in September.

It is the opinion of the Canadian Government that the final drafting of an International Bill of Rights is a serious task involving the reconciliation of differing philosophies and judicial principles. It is therefore respectfully suggested that the final expression by the United Nations of human rights and fundamental freedoms may well require much more time than is at present contemplated, and that postponement of approval of the Draft Bill from the 1948 to the 1949 Session of the General Assembly might be with advantage taken into consideration.

3. Communications Received from the Netherlands

Netherlands Delegation

April 9, 1948

With reference to your letter dated January 9, 1948, No. SOA 17/1/01, concerning the observations, suggestions and proposals which Member Governments might wish to make relating to the Draft International Declaration on Human Rights, the Draft International Covenant on Human Rights, and the Question of Implementation, contained in Annexes A, B and C of the Report of the Second Session of the Commission on Human Rights, I have the honour to submit herewith the observations of the Netherlands Government on the above Report of the Commission on Human Rights.

[3]

Observations of the Netherlands Government on the Report of the Commission on Human Rights (E/600)

The Netherlands Government have submitted the report of the Commission on Human Rights to the National Commission established in conformity with the resolution of the Economic and Social Council of 21 June 1946. Having taken cognizance of the report presented by this National Commission, the Government have the honour to present the following observations.

A. General Observations

1. The Netherlands Government welcome the work accomplished by the Commission on Human Rights. As the Netherlands representative said in the Economic and Social Council, on 5 February last, the Netherlands is keenly interested in this problem. It is the wish of the Netherlands Government that by the further study of this matter an "International Bill of Human Rights", in the sense given to this term by the Commission on Human Rights, may be attained in a near future.

Some co-ordination, however, of the various provisions proposed will be indispensable before deciding on their final form; on the whole a shorter and less detailed text might in some cases be preferable; finally it might be advisable, to leave out certain provisions (f.i. Articles 29 and 30 of the Declaration) which, because of their vague nature, can be of no use.

2. The Netherlands Government agree with the proposal of the Commission to prepare at the same time a Declaration and a Covenant, it being understood that the Declaration gives a great number of general directions, whereas the Covenant contains those provisions which in the present stage of international development will probably be acceptable to a number of States as provisions of a formal treaty. In conformity with the Commission the Government assume the Declaration having only a moral importance, to be adopted by the General Assembly, whereas the Covenant which will be a legally binding instrument will have to be ratified or accepted in a formal way by the States.

In accepting this distinction between the two instruments Her Majesty's Government feel that a further and different definition of their nature would be desirable. In the same way as the International Labour Conference uses to adopt a recommendation as an addition to a Convention, laying down in the recommendation provisions which States are not willing to accept in a binding form, it might be suggested that the Declaration on Human Rights should be considered as a supplement to the Covenant. The Netherlands Government are not in favour of such a conception: in their opinion the Declaration should cover the *whole* field of human rights and should therefore deal with [4] *all* the problems treated in the Covenant;

this latter document should elaborate in a treaty-form some of the principles laid down in the Declaration. By this procedure Members of the United Nations who are not prepared to ratify the Covenant, will by their vote in the Assembly, have an opportunity to accept the contents of the Declaration as general directives. Although the Netherlands Government do not share the opinion that the drafting of the Covenant is premature so long as the text of the Declaration is not completed and the opinions of the Governments on the Declaration have not been received and considered, priority should be given to the Declaration.

As observed by the representative of France the Covenant now under discussion may be considered as a first Convention of a series of international instruments to be elaborated later on.

3. In the opinion of the Netherlands Government it is not advisable to bind the Parties to the Covenant with regard to the manner in which they will bring their national legislation in conformity with the Covenant; some Parties will have recourse to a modification of the Constitution, but it should be left to each State to decide whether or not the provisions of the Covenant should be included in the Constitution. On the other hand, it should be stated explicitly that, by ratifying the Covenant, the parties undertake to bring their national legislation in conformity with the contents of the Covenant. It goes without saying that equally all the other organs of the State which has become a Party must act accordingly; Article 2 of the Covenant which deals with this problem should be shortened and drafted in a more precise way.

4. The drafts of the Declaration and of the Covenant submitted by the Commission contain some isolated provisions with regard to discrimination as to race, sex, religion a.s.o. In the Declaration, Article 3 contains a general rule on this matter; Articles 21 and 25 repeat the terms “without discrimination” or “without distinction”; as to the Covenant, Article 20 contains a general rule. If in fact, the principles of non-discrimination could be accepted on the whole line, it would be preferable if both instruments contained one article of a general character on this point. It must, however, be admitted that such stipulations will hardly be acceptable to countries where populations of a totally different character are living together.

5. In some cases the rights granted to individuals are expressed in the form of a duty imposed on the State (f.i. Articles 21 and 23 of the Declaration). It should be remembered that the instruments to be [5] elaborated do not deal with rights and duties of States but should as a rule be confined to rights and freedoms of the individual.

6. Both the Declaration and the Covenant admit limitations of the rights and freedoms which are accorded; these limitations are of a various nature.

In Article 16, paragraph 2, persons who are not “of full age and sound mind” are excluded.

Article 16, paragraph 3 of the Covenant introduces limitations “as are prescribed by law and are necessary to protect public order and welfare, morals and the rights and freedoms of others”.

Article 17 of the Covenant dealing with the freedom of information enumerates in paragraph 3 a number of restrictions.

In Article 19 of the Declaration the right to freedom of assembly and of association is stated to be subject to the condition that this right is not inconsistent with this Declaration.

On the other hand, in some articles (Articles 2 and 33 of the Declaration, Article 22 of the Covenant) an attempt has been made to put a general limit to the human rights by stipulating that no one will have the right to aim at the destruction of the rights and freedoms prescribed in the Declaration or Covenant.

The Netherlands Government suggest that this question of limitations should be considered as a whole. Anyhow, it is essential to make clear that a human right may never be exercised in such a way as to destruct any human right of other people.

7. Finally, attention may be drawn to the safeguarding clause which is to be found in Article 4 of the Covenant, and which may imperil the success of the work of the Commission. The expression “other public emergency” seems so vague, that it might for instance include an economic crisis or other abnormal conditions in a country. If possible, the circumstances under which a Party may evade its obligations should be defined as precisely as possible. Moreover it will be necessary to state explicitly that the application of this clause will also be subject to the jurisdiction provided for in the Chapter on implementation.

Declaration

Article 1

It seems superfluous to state explicitly that the word “men” implies both men and women.

[6]

Article 3

The words “regardless of office or status” should be deleted.

Comment: The use of the word “status” in paragraph 2 probably means to prohibit a distinction by race, sex, language, *etc.* as mentioned in paragraph 1. The word “status”, however, may also be interpreted in a more restrictive sense as “civil status”. Such an

interpretation should be excluded, because, if accepted, discrimination on the grounds mentioned in paragraph 2, would be lawful. If the words “regardless of office or status” are deleted it is made clear that paragraph 2 has in view the prohibition of the same discrimination as paragraph. 1.

Article 4

This article should read as follows: “Everyone has the right to life, to bodily integrity and to liberty of person”.

Comment: The right to “security of person” is too vague an expression. The proposed wording which is in conformity with Article 6 of the Covenant, although being somewhat more restrictive, would be preferable.

Article 7

This article deals with two different matters: one is the protection of the individual against unjust treatment, the other is a doctrine of general character. Therefore it is suggested that the article should be divided into two articles: the first to contain the first two sentences of paragraph 1 together with paragraph 3, the other consisting of the rest of the first paragraph and the second paragraph.

Article 9

This article should read as follows: “No one shall be subjected to unreasonable interference with his privacy, family, home correspondence or reputation”.

Comment: In order to enable legal exceptions to the principle of inviolability of home and correspondence, the first sentence of Article 3 proposed by the United States is to be preferred to the text as proposed by the Commission.

Article 10

It is suggested to insert in paragraph 2 after the word “individuals” the words “who are not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service, tax liabilities or voluntarily contracted obligations binding the individual to the Government”.

[7]

Comment: An unrestricted right, to emigrate is inadvisable. The question may be raised whether a Government, in view of urgent national necessity, may not retain within the borders of the country persons exercising a special profession. Anyhow, the freedom to emigrate should not be given to persons who have undertaken special

obligations to the Government which commitments have not yet been fulfilled. Finally, it goes without saying that people who are lawfully imprisoned should not be free to leave the country.

Article 11

It may be doubted whether the problem of asylum enters within the scope of the Declaration. As the Commission decided to examine this question at an early opportunity, the Netherlands Government prefer not to pronounce themselves for the moment on this article.

Article 12

It must be understood that this article does not exclude a legal provision that special categories of individuals, for instance married women, will need the authorization of other individuals when they have to appear before a Law Court.

Article 15

The first paragraph should be deleted.

Comment: It appears from the second paragraph that the object of this article is to ensure that everyone will have the right to invoke some official protection; for this purpose paragraph 1 stipulating that everyone has the right to a nationality is not necessary, and as this right is not a very clear denotation, it had better be left out.

If the suggestion of the protection of the United Nations to be given to stateless persons is accepted the question arises whether such a protection should be given by the United Nations themselves or whether it would be preferable to entrust this task to the International Refugee Organization.

Article 16

(a) Paragraph 1 should read as follows: "Every person shall have the right to freedom of thought, religion, conscience and belief, including the right, either alone or in community with other persons of like mind, to hold, adopt and manifest any religious or other belief, to practise any form of religious worship and observance and he shall not be required to perform any act which is contrary to such worship and observance."

[8]

Comment: The suggested draft which is in conformity with Article 16 of the Covenant is to be preferred to the draft proposed by the Commission.

(b) It may be asked whether the last part of this paragraph “and he shall not be required *etc.*” does not go too far for certain cases in which the refusal to perform such an act would be contrary to existing legislation.

(c) It is suggested to add to paragraph 2 “and to persuade other persons of the truth of his beliefs”.

Comment: The freedom of conversion should be included.

Article 20

It should be understood that the right “to petition or to communicate with the public authorities” can only be exercised in writing.

Article 22

The meaning of the words “citizen” and “national” in contradiction to a foreigner should be made clear.

Article 24

(a) The acceptance of the principle of equal pay for equal work for men and women should not exclude the system of family allowances being given to married people, although, in practice, such a system implies that different people do not get equal remuneration for equal work.

(b) The condition that women shall work with the same advantages as men should not exclude the possibility of special prohibitive laws with regard to the labour of women, such as a prohibition of night work for women only.

Article 25

The second sentence should be deleted.

Comment: Apart from the question as to whether the regulation of this matter really enters in the scope of the Declaration, the inclusion of such an obscure provision should be avoided.

Article 27

(a) The first sentence should read: “Everyone has the right to fundamental education”.

Comment: Other education than fundamental education cannot be demanded as a right.

(b) The second sentence should be deleted.

Comment: The Declaration cannot deal with the problem whether education should be free and compulsory; should the sentence be maintained, the question arises whether the gratuitous education should not be limited to those who are unable to pay.

[9]

(c) In the third sentence the words “higher education” should be replaced by “other than fundamental education”.

Comment: By this substitution instruction such as technical education will also be included. It should be understood that the term “fundamental education” means general education and not merely technical education. Perhaps the word “elementary” would be preferable to make this clear.

Article 31

The Netherlands Government reserve the right to determine their point of view with regard to the important problem of schools and language of minorities. In any case, it should be made clear that stipulations on these problems will only apply to nationals and not to foreigners.

[Comments on the Covenant and on implementation have been omitted.]

[16]

4. Communication Received from Australia

Australian Mission to the United Nations

14 April 1948

I have the honour to refer to your Note SOA-17-1-01 of 9th January 1948. I am setting out in the following paragraphs the comments of the Australian Government on the draft International Bill of Human Rights prepared by the Commission on Human Rights at its Second Session.

Draft International Declaration of Human Rights

The Australian Government considers that the Draft Declaration in the form proposed by the Second Session of the Commission is not satisfactory, and contains many provisions which would be more appropriately inserted in the Covenant. The Declaration should be an instrument of popular appeal and persuasion, and the present text should be replaced by a more concise statement of general principles. The Australian Government reserves the right to make detailed comments, both at the meeting of the Drafting Committee and the following

session of the Commission, on the present text and on any other proposal there put forward.

The Government also considers that the Declaration should be incorporated as a preamble to the Covenant. It should also be promulgated as a separate instrument.

[Comments on the draft International Covenant and implementation are omitted.]

[17]

5. Communication Received from the United States

15 April 1948

The United States Representative at the Seat of the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to his note of January 9, 1948 has the honour to transmit herewith the observations, suggestions and proposals of the United States relating to the Draft International Declaration on Human Rights, and the Draft International Covenant on Human Rights contained in Annexes A and B of the Report of the Commission on Human Rights, dated December 17, 1947.

The observations with respect to implementation will be forwarded at a later date.

[18]

***Observations, Suggestions and Proposals of the United States
Relating to the Draft International Declaration on Human Rights,
and the Draft International Covenant on Human Rights Contained in
Annexes A and B of the Report of the Commission on Human
Rights Dated December 17, 1947***

The Government of the United States desires in the first place to indicate its awareness and appreciation of the intensive and able work which has been done on the Bill of Human Rights by the Commission, its Drafting Committee and by the Secretariat. The work that has thus far been done is of great significance, taking into account the magnitude of the task and the multiplicity of possible approaches to its accomplishment. This Government believes, however, that much needs to be done in the way of refinement of the documents so far produced in order that they may serve the purpose for which they are intended.

A basic difficulty which the Government of the United States finds with both the draft Declaration and draft Covenant is that they are too long and complex effectively to accomplish their purpose.

Declaration – General Comments

The Declaration is envisaged as properly fulfilling two functions:

1. To serve as basic standards to guide the United Nations in achieving, within the meaning of the Charter, international co-operation in promoting and encouraging respect for and observance of human rights and fundamental freedoms for all;
2. To serve as a guide and inspiration to individuals and groups, throughout the world in their efforts to promote respect for and observance of human rights.

For the achievement of the first of these purposes, a shorter and more concise declaration will be more effective than a long and detailed declaration. The Declaration is not intended to be a legislative document in any sense. The manner in which the United Nations will undertake the task of promoting and encouraging respect for and observance of human rights and fundamental freedoms remains to be determined but it will almost necessarily have to adopt as a general rule, a broad rather than a detailed approach. However, its freedom to take up matters of detail would be enhanced, rather than diminished, by a declaration in broad and comprehensive terms.

With respect to the second purpose of the Declaration, namely to serve as a focal point for the development of world public opinion, this [19] objective is largely defeated by a long and complicated instrument. The first prerequisite to such a result is a document that is set forth in as simple and readily understandable terms as possible. A spelling out of details in the Declaration itself cannot increase its usefulness for such purposes.

The United States accordingly is strongly in favour of a short and concise Declaration.

Since it is the proper purpose of the Declaration to set forth basic human rights and fundamental freedoms, as standards for the United Nations, it is inappropriate to state the rights in the Declaration in terms of governmental responsibility. In particular it is improper to state in the Declaration that certain things shall be unlawful. If such references are retained, it will be difficult to know what the purpose and meaning of the Declaration is, especially in contrast to the Covenant. The same consideration applies to some extent to assertions of governmental responsibility found in some parts of the draft Declaration. It is true that the guaranty of certain rights, such as the right to fair trial, rests exclusively in the hands of the Government. In the case of other rights, such as the right to work, the right to health and the right to social security, there are widely different theories and practices in different parts of the world as to the manner in which the Government can best facilitate the desired end.

The United States believes that the Declaration should proclaim rights, but should not attempt to define the role of government in their ultimate attainment. This role will necessarily vary from country to country. The United States not only

feels that this difference is inevitable, but that the flexibility of approach which results from it is valuable, and should be preserved.

In concluding its commentary on the Declaration, the United States believes that it cannot better express its view of the nature and purpose of this document than by setting forth the following statement by Abraham Lincoln. Referring to the assertion of human equality in the United States Declaration of Independence, he said:

“They [the drafters] did not mean to assert the obvious untruth that all were then actually enjoying that equality, or yet that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the *right*, so that the *enforcement* of it might follow as fast as circumstances should permit.

“They meant to set up a standard maxim for free society which should be familiar to all, – constantly looked to, constantly [20] laboured for and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people, of all colours, everywhere.”⁶⁶

...

E/CN.4/82/Add.1

16 April 1948

Original Text: Spanish

Comments from Governments on the Draft International Declaration of Human Rights, Draft International Covenant on Human Rights and the Question of Implementation

Communication from Mexico (Ministry of Foreign Affairs)

[2]

Comments of the Mexican Government of the Draft International Declaration on Human Rights and the Draft International Covenant on Human Rights

With reference to the Report of the United Nations Economic and Social Council's Commission on Human Rights Second Session, Geneva, 2 December to 17

⁶⁶ Lincoln was speaking in Springfield, Illinois on 26 June 1857 about *Dred Scott v. Sandford*, 60 U.S. 393, decided by the United States Supreme Court earlier that year. The Court held that “the legislation and histories of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument”. In 2010 the United States Supreme Court confirmed that the fourteenth amendment to the Constitution “declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the *Dred Scott* decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States”. *McDonald v. Chicago*, 561 U.S. 3025 (2010).

December 1947, document E/600, containing a “Draft International Declaration on Human Rights” (Annex A, pages 17 to 22), a “Draft International Covenant on Human Rights” (Annex B, pages 30–36) and a Report of the Working Group on Measures of Implementation (Annex C, pages 41–64), the Government of Mexico wishes to submit the following comments:

I.

Mexico has always been eager to see fundamental human rights codified in an international declaration. At the Inter-American Conference on Problems of War and Peace (Mexico, 1945) she took the initiative in this question; and the outcome was the adoption of Resolution XL by the Conference. At the San Francisco Conference she proposed the drafting of an “International Declaration on Human Rights” to be annexed to the United Nations Charter.

These earlier proposals were not simply a response to immediate circumstances, prompted by the strong reaction of world opinion to the crimes against human dignity committed by certain countries; they derived, rather, from the deep conviction that a peaceful international order necessarily presupposes a regime of liberty and respect for the rights of the human personality.

For these reasons Mexico welcomes with great interest the Draft International Declaration on Human Rights drawn up by the Commission on Human Rights, an organ of the Economic and Social Council of the United Nations.

The Mexican Government notes with real satisfaction that this Draft fully conforms to the purposes and principles of the United Nations, as declared both in the Preamble and in Articles 1, 3, 4, 55 (c), 56, 62 (2) and 68 of the Charter. The Declaration in no way conflicts with the principle of the sovereign equality of States on which the United Nations is based, nor is it inconsistent with the principle of domestic jurisdiction which, according to authoritative interpretation (UNCIO, Report of the Rapporteur of Committee II/3, document 861, II/3/55/1, pages 3–4), was recognized at the time the Charter was drafted to be the basis of human rights, and is laid down in Article 2 (7).

[3]

The Charter’s provisions on human rights correspond to one of the functions of the United Nations, namely to create (over and above the legal preventive measures and the machinery of sanctions to deal with threats to the peace or acts of aggression or war) the essential conditions of stability and wellbeing which are necessary for peaceful and friendly relations among nations. Amongst these conditions the Charter expressly mentions the economic ones and universal respect for, and observance of, human rights and fundamental freedoms.

As the Commission recognized and clearly stated at the time the Geneva drafts were being prepared, the Declaration on Human Rights imposes no legal obligation

on States “and requires no measures for implementation”; it should therefore “be drafted in declaratory form only” (document E/600, page 23). The Working Group on Implementation shared this opinion of the Working Group on the Declaration, stating that “the Group ruled out completely any further consideration of the question of implementing the Declaration” (document E/600, page 44).

The Mexican Government acknowledges with satisfaction the correctness of these early statements, which are fully in accordance with its conception of an International Declaration on Human Rights.

The usefulness and importance of the Declaration are not lessened by the fact that it includes no provisions for legal sanctions. The Declaration has a real and effective value in itself; first, because it states precisely the human rights and fundamental freedoms which States Members undertook in signing the Charter of the United Nations to promote and develop, and second, because it solemnly proclaims before the whole world a standard of justice and freedom to serve as guide and encouragement to States in their own practice, and enjoying the approval of international public opinion.

But the very latitude of the Declaration serves its fundamental objectives, since the fact that it is drafted in rather broad terms and lays down a bare minimum of guarantees and rights will make it readily acceptable by almost all States. The Declaration will thus achieve a character of universality. Furthermore it must be remembered that although this Declaration imposes no precise legal obligations on Members, these in signing the Charter undertook to fulfil in good faith the principles stated therein; and these principles include the promotion and respect of human rights. The General Assembly, moreover, may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, and may make recommendations [4] with a view to securing the human rights and fundamental freedoms of all; it may also call the attention of the Security Council “to situations which are likely to endanger international peace and security” (Article 11(3)).

The Government of Mexico therefore expresses its approval of an International Declaration on Human Rights of the above described character, considering it the most effective means of promoting these rights; and it declares its agreement with the general lines of the Draft Declaration prepared by the Commission on Human Rights at its second session in Geneva, subject to certain comments thereon, as set forth below:

Article 2: The first sentence of this Article should be amplified as follows:

“In the exercise of his rights everyone is limited by the rights of others, by the legal safeguards for the liberty, general welfare and security of all, and by the just requirements of the democratic State”.

Article 5: On grounds of justice, and for political and historical reasons, the following paragraph should be added:

“No one may be imprisoned for purely civil debts.”

Article 10: In paragraph 2 of this Article the words “temporarily or permanently” should be inserted. The paragraph would thus read as follows:

“Individuals shall have the right to leave their own country temporarily or permanently and, if they so desire, to acquire the nationality of any country willing to grant it”.

Article 13: The Government of Mexico considers that this Article fails to lay down the principle of freedom to contract marriage sufficiently broadly. It proposes that the Article be redrafted to read as follows:

“Men and women shall have the same freedom to contract marriage, and the law guarantees them that freedom without distinction as to race, nationality or religion.”

Article 16: The Mexican Government considers that this Article is incorrectly drafted in view of the provisions of Article 2; and it therefore proposes that the first part of Article 16 be redrafted as follows:

“Individual freedom of thought and conscience and freedom to hold and change beliefs are fundamental human rights.”

The Mexican Government proposes that the second paragraph of this Article be redrafted as follows:

“Every person has the right, either alone or in community with [5] other persons of like mind, to manifest his beliefs by means of worship, the observance of rites, practices and teachings in churches or other places provided for by the national law applicable.”

Article 18: This article should be redrafted as follows:

“Every person has the right to use the spoken or written word, the press, books and all visual, auditive or any other means of expression. There shall be equal access for all to all channels of communication of ideas.”

Article 22: The Mexican Government proposes that this article be redrafted as follows:

“Every person shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen, subject or national, except in special cases provided for in the national law.

“Access to public employment shall not be a matter of privilege or favour.”

Article 23: The first paragraph of this article would be more adequately drafted as follows:

“Everyone has the right to paid work.”

Article 28: The drafting of this article is correct, but the provisions with respect to international relations are purely negative. The Mexican Government therefore proposes the addition of the following text:

“It will use all means to promote understanding and concord amongst peoples and to develop effective support of the pacific activity of the United Nations.”⁶⁷

Article 30: The following text should be added to this article:

“Everyone is likewise entitled to just protection, compatible with the progress of mankind, for his moral and material interests in any inventions or literary, scientific or artistic works of which he is author.”

Comments on the Draft International Covenant on Human Rights

Articles 1, 2, 3 and 4 of the Draft provide that States shall undertake to secure effectively in their domestic legislation the human rights stated in the Declaration. Hence, the second part of the Covenant (Articles 5 to 22), which in effect confirms and provides for implementing the Declaration on Human Rights, appears unnecessary. If States undertake to respect human rights in their domestic legislation no such confirmation would seem to be required; and as for implementation, this should preferably be left to the domestic jurisdiction of each country.

[6]

[Comments on implementation have been omitted.]

Mexico, D. F., 31 March 1948

E/CONF.6/69

18 April 1948

Original Text: Russian

USSR: Amendment to Draft Article 17 of the Draft Declaration and Draft Covenant on Human Rights Elaborated by Committee IV (Document E/CONF.6.65)

The Soviet Delegation proposes that the text suggested by Committee IV be replaced by the following Draft Article 17 of the Draft Declaration and Draft Covenant on Human Rights.

“In the interests of democracy every person shall be guaranteed by law freedom to express his opinions and in particular freedom of speech, of the press and, equally, of artistic

⁶⁷ Pursuant to document E/CN.4/82/Add.1/Corr.1 of 23 June 1948, the Communication from Mexico (Ministry of Foreign Affairs) Article 28 on page 5, second paragraph should be corrected to read as follows: “It will use all means to promote understanding and concord amongst peoples and to develop effective support of United Nations activities on behalf of peace.”

representation. Freedom of speech and freedom of the press shall not be exploited to advocate fascism or aggression, or to spread false news, or with the object of provoking enmity between nations.”

E/CONF.6/65
19 April 1948

Final Act of the United Nations Conference on Freedom of Information⁶⁸

...

[5]

...

5. At the request of the Economic and Social Council the Conference also prepared draft articles for the Draft Declaration on Human Rights and the Draft Covenant on Human Rights. These draft articles are appended to this Final Act as Annex B.

...

[36]

Annex B

Draft Declaration and Draft Covenant on Human Rights

The United Nations Conference on Freedom of Information,

Having Considered the resolution of the Economic and Social Council of 3 March 1948 referring to the Conference for its consideration and report Articles 17 and 18 of the Draft Declaration on Human Rights and Article 17 of the Draft Covenant on Human Rights with the recommendations of the Sub-Commission on Freedom of Information and of the Press,

Is of the opinion that

I. Articles 17 and 18 of the Declaration may be embodied in one Article as follows:

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

...

⁶⁸ The relevant parts concerning the Declaration are unchanged in the definitive version adopted as E/CONF.6/79 on 22 April 1948 (see pp. 5, 22).

E/CONF.6/74**19 April 1948****Original Text: French****Poland: Amendment to Annex B (Document E/CONF.6/65)**

Add the following Section IV at the end of Annex B:

The Soviet Delegation proposes that the text suggested by Committee IV be replaced by the following Draft Article 17 of the Draft Declaration and Draft Covenant on Human Rights.

“IV. The Conference recommends the Commission on Human Rights to refer Annex B to the Sub-Commission on Freedom of Information and of the Press for the purpose of preparing, both from the juridical standpoint and as regards drafting and basic principles, such texts of Articles 17 and 18 as may be acceptable to, and applicable by, all countries invited to the Conference.”

E/CONF.6/SR.10**20 April 1948**

***Summary Record of the Tenth Meeting [of the United Nations
Conference on Freedom of Information]***

Held at the Palais des Nations, Geneva, on Tuesday,
20 April 1948 at 3 p.m.

Chairman: MR. CARLOS P. ROMULO (Philippines)

...

[3]

...

MR. DAVIES (United Kingdom) stated that the proposed Articles 17 and 18 of the Draft Declaration on Human Rights and [4] the proposed Article 17 of the Draft Covenant on Human Rights were a joint product of the Commission on Human Rights, the Sub-Commission on Freedom of Information and of the Press, and of Committee IV of the present Conference, and had been thoroughly discussed in those bodies. They were therefore sound, worthy of adoption by the Conference, and should be recommended to the Commission on Human Rights. Section I contained a brief statement of fundamental universal human rights and could be accepted by all. The text contained in Section II, as was fitting for a solemn agreement binding all signatory states, was a precise legal definition of those rights

and an enumeration of the duties and responsibilities attaching to them. The United Kingdom delegation had opposed a motion for a general clause for the limitation of freedom of expression, since it considered that the permissible restrictions of such freedom should be defined as narrowly as possible, if any guarantee in that regard was not to be illusory. The point of view had gained acceptance in the Commission on Human Rights, the Sub-Commission on Freedom of Information and of the Press, and in Committee IV of the present Conference. Section III recognized the fact that suitable additions to the list of restrictions might be made and provided for their presentation.⁶⁹

The amendment proposed by the Soviet Union representative (Document E/CONF.6/69) was inadequate and would not improve the present text. Similarly, the amendment proposed by the Polish delegation (Document E/CONF.6/74) should be rejected, since the Article had already been discussed fully by the Sub-Commission on Freedom of Information and of the Press. The Commission on Human Rights might decide to refer the Articles to the Sub-Commission, but no explicit directions in this regard should be given by the Conference.

[5]

MR. BENTON (United States of America) supported the Article proposed for the draft Declaration of Human Rights.

...

[6]

MR. BOLDISZAR (Hungary) stated that the Hungarian Government's concern for human rights was exemplified by the laws it had passed, the treaties it had concluded, and its efforts in the international field.

The present text of the draft articles lacked any precise guarantee for the human rights championed by the Hungarian Government. The information agencies in those countries which claimed absolute freedom in this sphere were, in fact, restricted by material factors; the draft articles should contain a provision condemning this state of affairs. During consideration of the texts in Committee IV, the Hungarian delegation had submitted amendments prescribing that freedom of information should not be extended to agencies serving selfish interests or to those engaged in warmongering or in the destruction of friendly relations between peoples. Certain delegations, however, had not accepted those texts and it was to be doubted whether they sincerely accepted the relevant language of the Charter. The Hungarian delegation opposed the present text because it offered no protection against the return of fascism and no safeguard for the democratic governments which had been established in many countries. It would, however, welcome any improved wording that might be proposed.

⁶⁹ The references to Sections II and III concern article 17 of the draft Covenant.

MR. ROSCHIN (Union of Soviet Socialist Republics), convinced of the great importance of the articles under discussion, believed that they should be designed to serve the vital interests of peoples and democracies. Quoting the preamble of the Charter, line one, and Article 1 of the Charter, he pointed out that no provision prohibiting practices detrimental to the aims therein enunciated had been [7] included. It was in the vital interests of all peoples that peace should be maintained, and that measures should be taken against fascist and militaristic ideologies. . . The Soviet Union Delegation opposed the text as it stood, and recommended the amendment contained in Document E/CONF.6/69.

MR. MENCEL (Poland) considered the text of Annex B vague and inadequate.

With regard to Clause 1, the principle of freedom of information could not be stated without mentioning the principle of responsibility and physical equality.

...
[8]

...

There was nothing in the text as a whole which introduced the modern concept of collective defamation, which had developed out of the notion of individual slander.

He moved the adoption of the Polish amendment (Document E/CONF.6/74).

MR. RIBNIKAR (Yugoslavia) thought that the texts contained in Annex B were abstract and empty formulae which, instead of containing the quintessence of the deliberations of the Conferences, merely reproduced the original draft submitted to it by the Committee on Human Rights. The declaration circulated by the Yugoslav delegation at the beginning of the Conference clearly set forth the point of view held by his Government. Their main task was to adopt resolutions which would condemn and aim to prevent the dissemination of false and distorted news, and remove the dissemination of news from the power of trusts and monopolies.

...
[9]

...

In spite of the unanimous agreement reached with regard to war-mongering, this principle had not been inserted in the draft article. The draft article attempted to protect the dissemination of news irrespective of the degree of truth it contained and tended to ensure the domination of organizations belonging to large monopolies throughout the world. He supported the amendment submitted by the Soviet delegation.

MR. TERROU (France) agreed that their most important task was not to proclaim freedom of information but to formulate principles in respect to it. The limits to that freedom had to be closely defined, and Committee IV had done its best to cope with this difficult task.

...
[10]

The Polish amendment proposed to submit Annex B to the Sub-Commission on Freedom of Information. But it was not the Sub-Commission which had referred the drafting of Article 17 to the Conference. Annex B was not an abstract text. Its basis was to be found in the Declaration on Human Rights first enunciated in 1788 [sic] which he thought might be conceded to have brought about considerable changes.

...

[11]

...

MR. COOREMANS (Belgium) stated that it was not without hesitation that the Belgian delegation had decided to vote for the present text. The Belgian Constitution was clear upon this subject. Article 18 of that Constitution stated that the Press was free and that no censorship could be set up.

...

MR. WATT (Australia) supported the Draft Declaration.

...

[13]

...

On a vote being taken, the Russian amendment (Document E/CONF.6/69) was rejected by 23 votes to 6 with 3 abstentions.

...

Clause I of Annex B was adopted by 29 votes to 6, with no abstentions.

...

The Polish amendment (Document E/CONF.6/74) was rejected by 24 votes to 6, with 2 abstentions.

...

E/CN.4/AC.1/16
21 April 1948

Drafting Committee

Third Session

Draft Provisional Agenda

1. Opening of the session.
2. Adoption of the provisional agenda.
3. Election of officers.

4. Reconsideration of the Draft International Declaration on Human Rights, Draft Covenant on Human Rights, and the Question of Implementation in the light of:
 - (a) Comments from Governments
 - (b) Instructions from the Economic and Social Council
 - (c) Amendments suggested by the Commission on the Status of Women.
5. Other items.
6. Adoption of the Drafting Committee's report to the Commission on Human Rights.

E/CN.4/82/Add.2

22 April 1948

Comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of Implementation

Communication received from Brazil

The Brazilian delegation to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Secretariat's note No. SOA/17/1/01, of January 9, 1948, has the honour to transmit the enclosed comments and observations of the Brazilian Government on the draft International Declaration, the draft International Covenant and the suggestions on implementation, prepared by the Commission on Human Rights at its Second Session.

New York, April 19, 1948

[2]

Comments and Observations of the Brazilian Government on the Draft "Bill of Rights"

Draft International Declaration of Human Rights

1. The International Declaration on Human Rights should be as broad as possible. There would hardly be any point in making a declaration embodying only those principles already accepted by the States. The Declaration should constitute an ideal that the States would strive to reach, thereby fulfilling the deficiencies in their juridical organizations. It would thus become a stimulus to the progress of the legal organization of all States.

2. On the other hand, the text of the Declaration should be as concise as possible. Such conciseness, however, should not prevent an accurate definition of acknowledged rights.

3. Attention should be paid to the duties that correspond to the rights. This relation has been emphasized in juridical doctrine and in the most advanced legislations. It seems that, aside from the general reference in Article 2, it has not been always felicitously indicated in the draft Declaration.

4. In the draft there are references to duties of the State. It may be observed that such references would fit better in a specific Declaration of Rights and Duties of States than in the present one.

5. In certain instances the guarantees of the rights are presented as substantive rights. It is well known, furthermore, that guarantees are often as important as the corresponding rights, or even more so, for without guarantees such rights are void. For this reason, it would be better to replace the expression “rights and liberties”, used in the draft, by “rights and guarantees”.

Comments on the Articles of the International Draft Declaration

Article 1

It would seem that this article could be dropped as an independent provision. Only a part of it, namely the statement that all men “should act towards one another like brothers”, might be retained and incorporated into Article 2 since it involves a duty which should go along with the other duties of the individual, stated in that article. The remainder of Article 1 has a certain philosophical and mystical quality. Unfortunately, it is not exactly true that all men are endowed by nature with reason and conscience. [3]

Article 2

As mentioned in the foregoing comment, it should be added here that “all should act toward one another like brothers” – or, at least, in a fraternal spirit. The text would thus become complete, for the exercise of the rights of each one is limited not only by the rights of others but also by this duty of fraternity, which modern law recognizes in a revival of the old Roman precept: *summum jus, summa injuria*.⁷⁰

Instead of “just requirements” it would be better to say “legal requirements”. The requirements of the State should not be motivated by a vague and subjective notion of justice, but by strict legality. The Commission on Human Rights was quite justified in adopting the form – democratic state – proposed by the representative of China.

⁷⁰ “The rigour or height of law, is the height of wrong.” *Hob.* 125; 1 *Chan. Rep.* 4.

The Brazilian Government is in accord with the view expressed by the representative of the United Kingdom that the State should not be regarded as “limiting” the rights of the individual. It would be preferable, however, to say that the exercise of the right is “conditioned” by the rights of others, by the legal requirements of the State and by the duty of fraternity.

Finally, it is the view of the Brazilian Government that the proper position for this article reworded as suggested in the text should be after all others dealing with individual rights. The restriction contained in Article 16, No. 3, of the Covenant, should be included in this article.

Article 3

In accord with the preceding comments, this article would become No. 1. This would be, in fact, the proper position for it in view of its text.

Article 4

In this article there should be included the restriction contained in Article 5 of the Covenant, also the amplification contained in Article 6 of the Covenant.

Article 5

Article 9 of the Covenant mentions in detail the cases in which arrest or detention may be effected. These exceptions indicate that the article under discussion should not be drafted in terms as broad as those appearing in the text submitted. It is also made, evident that it should not be said “*after* due process” but rather “*by* due process”.

Article 6

There might be added after the last word: “and in which he can be understood”. This would complete the guarantees given the accused in the matter of expression.

[4]

Article 7

No. 2 should be deleted from this article, since it involves an unacceptable derogation of the traditional precept – *nullum crimen sine lege*.

On the other hand, it is suggested that there might be added that no one can be compelled in any way to confess responsibility for an act or omission of which he be accused.

Article 8

No comment.

Article 9

The first part should be redrafted as follows: “Everyone shall be entitled to protection under law *not only* from unreasonable interference with, *but also from any offence against* his reputation, his privacy and his family” (additions are in italics).

It would be proper to mention freedom from threats, terror or oppression.

The inviolability of the home is subject to restrictions arising out of the necessity for repressing crime – and it should so be stated.

The inviolability of correspondence should figure in Article 17 which deals with freedom of expression.

Article 10

The statement of principle in No. 1 is followed immediately by the restriction applying thereto, while that in No. 2 is presented in absolute terms and its restriction appears in Article 11, No. 2, of the Covenant.

Reference should be made in this article to the guarantees of the alien against arbitrary expulsion, which appear in Article 12 of the Covenant.

Article 11

It is stated that asylum shall not be accorded to criminals. Exception should be made of persons accused of crimes having a merely political nature.

Article 12

Because of its broadness, the precept contained in this article should be incorporated into Article 3 of the draft, which, in accord with previous comments, would become Article 1.

Article 13

There is, perhaps, a small flaw in drafting technique in this article. It is evident, and as such it has been expressly stated in the General Comments on the Draft

Declaration, No. 1, that the word “men” comprises both men and women. In this article, however, it has been used in a restrictive sense. This and No. 2 of Article 24 are the only instances of specification in the matter appearing in the Declaration. It would be preferable to use [5] here a generic expression, such as “everyone” or “every person” which appear repeatedly throughout the Declaration.

The Brazilian Government considers acceptable the additional wording proposed by the Representative of the United Kingdom, “married persons shall have the right to reside together in any country from which they cannot be lawfully excluded”, or at least the first nine words of the foregoing.

The following item, from the draft on the same subject prepared by the Inter-American Juridical Commission, should be added:

“The parents have the right of paternal power over their children during the minority of the latter and the essential obligation to maintain and support them.”

It might be possible to improve the text, to read as follows:

“Parents shall have paternal power over their minor or non-emancipated children, involving the obligation to provide them with sustenance and education.”

Article 14

It is not enough to say that “no one shall be arbitrarily deprived of his property.” It should be said also “or without prior and fair indemnity.”

Article 15

The Brazilian Government recommends the following disposition:

“No State shall deny its nationality to a person having right thereto by birth, in accord with local legislation, nor deprive of such nationality any person who may have acquired it by birth, except by motive of an act declared by law to be incompatible with subsistence of nationality.”

It would be advisable to include also the following item proposed by the Inter-American Juridical Commission in drafting a similar document:

“Every person shall be entitled to renounce his nationality, whether such nationality be native or acquired, and to adopt the nationality of another State.”

It might be convenient to add: “. . . in accordance with the laws of the latter and without detriment to prior obligations”.

Article 16

In No. 1 of this article, it would be better to say “unrestricted” instead of “absolute and sacred”.

The manifestation of beliefs, in public or in private, as mentioned in No. 2, is subject to restrictions arising out of requirements of public order and it should so be stated therein, as is done, perhaps in somewhat too broad a manner, in Article 16 of the Covenant.

[6]

Articles 17 and 18

The Brazilian Government would prefer that the text of the Declaration follow the draft text proposed by the Commission on Human Rights for Article 17 of the Covenant.

In further connection with these Articles, attention is drawn to the comments to follow, under Article No. 19.

Article 19

The principle embodied in this article is presented without the restrictions which are mentioned in Article 18 of the draft covenant. The right to establish associations is regulated by Article 19 of the Covenant. In the comments on Article 19 of the Draft Declaration, which appear in Annex A, Part II, of the Report of the 2nd Session of the Human Rights Commission, the remark is found that “it is understood that no individual or association that aims to destroy the fundamental rights and freedoms set forth in this Declaration can claim protection under this article”. It is recommended that a disposition to that effect be included both in the text of the Declaration and in that of the Covenant and extended so as to apply to associations aiming at the violent destruction of social or political order.

The right to constitute associations in the manner prescribed by law should be added to that of “participating” therein.

The constitutions and the legislation of some countries contain justifiable restrictions to the participation of aliens in certain associations. An example of such restrictions is found in the Brazilian Constitution, Articles 155 and 160. Domestic regulations of this nature should be admissible under the International Bill of Rights.

Article 20

No remarks.

Article 21

The right set forth in this article should be subject to restrictions in political capacity through legal incompetence (minority, criminality, *etc.*).

Article 22

No. 2 appears unnecessary in view of the comprehensiveness of No. 1.

Article 23

As pointed out by the United States representative, it would be best not to mention positive duties of the State. However, if it is decided that such mention is to be made, No. 3, which appears redundant in view of No. 2, might be worded as proposed by the representative of Byelorussia: "The State is obliged to take all necessary measures against unemployment."

[7]

The question of compulsory labour, which is clearly set forth in No. 2 and 3 of Article 8 of the Covenant, has not been taken into consideration in the article under review.

Article 24

No. 2 seems unnecessary in view of Article 3, which assures all rights and freedoms set forth in the Declaration, without distinction of sex.

Article 25

The Brazilian Government endorses the additional wording suggested by the delegate of Uruguay: "Everyone has the duty to preserve his health". Here, likewise, the observation of the United States representative as to the declaration of positive duties for the State should be taken into account.

Article 26

The remarks under Articles 24 and 25 also apply to this article.

Articles 27 and 28

No remarks.

Article 29

This article would be better placed immediately following Article 24, thus bringing together the dispositions relating to labour. This would result in the further advantage that the present Article 30 would be located immediately following Articles 27 and 28 which deal with education.

Article 30

Add: without detriment to literary, scientific and artistic property rights.

Article 31

The Brazilian Government would prefer the text proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. It would seem advisable, however, to add that such provisions do not refer to groups formed by immigration, whether spontaneous or officially fostered, into independent States already in existence at the time of immigration.

Article 32

Besides the Charter, reference might be made to the Bill of Rights.

Article 33

No remarks.

The Brazilian Government is in agreement with the article suggested in Annex A, Part 2, No. 2 of the Report of the Commission on Human Rights:

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

Such right to resist should be recognized, not only as against [8] oppression and tyranny, but always against illegality, and it should be manifested through adequate judicial recourse, through non-co-operation and even, *in extremis*, by force.

It should be made evident that the enumeration of rights in the Declaration is not exhaustive but merely exemplary and that it does not preclude the consideration of implied rights; a statement to this effect should be included in the Declaration.

[Comments on the Covenant and on implementation are omitted.]

E/CN.4/82/Add.4

27 April 1948

**Comments from Governments on the Draft International
Declaration on Human Rights, Draft International Covenant on
Human Rights and the Question of Implementation**

[2]

1. Communication Received from the United Kingdom

20th April 1948.

[The communication from the United Kingdom only concerns the Covenant and is omitted.]

[10]

2. Communication Received from the Union of South Africa

23rd April 1948

Sir,

With reference to your letter SOA 17/1/101 of 9th January regarding the resolution adopted by the Commission on Human Rights on 17th December, 1947, it is regretted that it has not been possible for my Government to finalize their comments on the draft Convention and draft Declaration on Human Rights in time for submission by April 3rd. However I now enclose herewith the observations which my Government desire to offer on these two documents and it would be appreciated if these comments could be submitted to the Commission on Human Rights.

[11]

Pretoria, South Africa

17th April, 1948

[Comments concerning the Covenant are omitted.]

[21]

...

Draft Declaration on Human Rights:

Article 3, Articles 6 and 7(1) and (2), Article 7(3), Article 10, and Article 19 of the draft declaration, correspond with Articles 20, 13, 7, 11 and 18, respectively, of the Draft Convention. The Union Government have no further comment to offer on

these articles of the declaration except to say in regard to the presumption referred to in Article 7 that there are many statutory qualifications of this presumption.

Article 9: This article obviously goes too far in declaring a man's home and correspondence "inviolable". That would, for instance, preclude the execution of search warrants in respect of homes, and the opening by post office officials of insufficiently addressed letters, in order to return them to the senders.

Article 11: The first part of this article appears to be in conflict with every restriction on immigration existing anywhere in the world. The second part seems to say that criminals and persons who have acted "contrary to the principles and aims of the United Nations", are not to be granted asylum from persecution. This would mean that once convicted of a crime or once having acted contrary to those principles and aims the offender forfeits his right to asylum, on whatever ground he may be persecuted. There is the further objection that the phrase "those whose acts are contrary to the principles and aims of the United Nations" is so wide and vague as to mean everything and nothing. Would this category of persons include, for instance, the members of a Government who pursued a policy which is contrary to a recommendation of the United Nations? Would the supporters of such a Government fall within the same category?

Article 12: This article introduces a further refinement of confusion into the already chaotic picture of proposed fundamental human rights. It purports to include in such rights, the right to the enjoyment of so called fundamental civil rights. This is a definition of the unknown, by what is even more unknown. What are fundamental civil rights? Are we to have another convention and another declaration to define these? Are we to delve from fundamentals to fundamentals until we have cut every root of national autonomy?

[22]

Article 13: The intention and purpose of the provision that "men and women shall have the same freedom to contract marriage in accordance with the law", are somewhat obscure. Is it the intention to say *inter alia* that there shall be no difference as to the respective ages at which men and women may contract marriage, that where there is an *annus luctus*⁷¹ for a widow there must be the same *annus luctus* for a widower, and that where a State recognizes the right of men to contract polygamous marriages, it is bound also to recognize the right of women to contract polyandrous marriages? It may be said that the answers to these questions are to be found in the words "in accordance with the law", but if that is so, this provision becomes meaningless, because that would leave every State free to impose legal restrictions upon the freedom of women to contract marriage which are not applicable to men, and *vice versa*.

⁷¹ Term for the year of mourning following the death of her husband during which a widow was not permitted to remarry.

Article 14: If it is the intention to say that a State may not deprive any person of all right to own property, or limit this right in such a way as to render it altogether ineffective it would be desirable to re-word the article.

Article 15: The provision that everyone has the right to a nationality seems to imply some underlying obligation on the part of a State in whose territory a stateless person may be resident, to grant that person its nationality. It may even imply that there is an obligation not to denationalize any person, where the result would be to make him a stateless person. If these are in fact the intended implications of this provision, they would require the revision of the laws relating to Union nationality, as in terms of these laws there is no legal obligation to naturalize if certain requirements are not complied with, and there is no restriction which would prevent denaturalization where the person concerned would become stateless. The provision that all persons who do not enjoy the protection of any government shall be placed under the protection of the United Nations, comes perilously near to the recognition of the United Nations as a super-state. To make this protection effective, the Organization would have to issue passports, and may have to appoint officers exercising the functions of diplomatic or consular representatives in States harbouring any considerable number of stateless persons. The United Nations would, presumably have the same status to make representations as to the treatment of such persons, as a State would have in regard to the treatment of its own nationals, and that may open another door to international pressure in internal affairs.

The last sentence of this Article corresponds with the second part of Article 11, on which we have already commented above.

[23]

Articles 17 and 18: The Sub-Committee on Freedom of Information and of the Press, have recommended an article to take the place of these articles. This article corresponds with Clause 1 of the article recommended by the Sub-Commission for inclusion in the convention. We have dealt with this latter article in our comments on Article 17 of the convention.

Article 20: The addition at the end of this Article of the words “or with the United Nations”, constitutes, in its context, a recognition of the right of individuals to petition the United Nations on whatever matter they may desire to raise. This implies a jurisdiction on the part of the United Nations, which they obviously do not possess. If the intention is to deal only with petitions relating to fundamental human rights, the matter could be best dealt with when the implementation of the convention is under consideration.

Article 21: The scope of this Article would appear to be too wide; convicts, stateless persons, aliens and in some cases, absentee voters cannot take an effective part in the government of all countries. Nor can persons who cannot comply with property and literacy or educational qualifications where such qualifications are in vogue.

Article 22: It is difficult to see how equal opportunity to engage in public employment and to hold public office can be regarded as a fundamental human right. In some countries members of the Communist Party, in others members of a fascist party, or an organization with subversive objectives are debarred from holding public office. The Union Government regard restrictions, imposed for purposes of national security and public peace as legitimate.

Article 23: The second and third clauses of this Article do not constitute human rights or freedoms, but duties of the State concerning which a separate Convention or declaration is being considered. These clauses should be deleted.

Article 24: What criterion is to be applied to determine whether the pay received is commensurate with an individual's skill in circumstances where so often the wage paid is determined by the law of supply and demand? It would be preferable to be realistic and stipulate for a "fair and reasonable" wage, all circumstances considered.

As regards reference to Trade Unions, see remarks under Article 19 of the draft Covenant.

This article further embodies the contentious principle of equal pay for men and women for equal work. Where this principle for good reasons is not universally recognized it would be preferable to leave it out, as not an acknowledged fundamental human right.

[24]

Articles 25–29: The general principles enunciated in these articles are no doubt highly commendable, but in some cases are too sweeping in their generality. Many of the provisions inserted here do not comprise fundamental human rights at all but rather the duties of States and it would be preferable to consider such duties in conjunction with the draft Convention or declaration concerning the latter subject.

General: In conclusion the Union Government would point out that some of the articles of this draft declaration do not purport expressly or by implication, to define any right or freedom at all. (See Article 1, Article 13 (except the second sentence of Clause (1)), Article 28 and Article 32). Others again, describe in general terms the duties of States, rather than the specific rights and freedoms of individuals. (See Article 23 (2) and (3), Article 25 (the last sentence of Article 26 (1)), Article 28 and Article 32). Some articles, moreover, would seem to go much beyond the scope of what could legitimately be regarded as rights and freedoms so fundamental as to call for international protection by the society of nations. Amongst these we would refer to the following:

Article 7. The right to be presumed innocent, which, however important, is no more than a question of onus of proof.

Article 10. General freedom of movement and choice of residence, and the right to leave one's own country and to acquire another nationality.

Article 15. The right to a nationality.

Article 21. The right to take part in the government.

Article 22. The right to engage in public employment.

Article 23. The right to useful work, and to claim from the State all necessary steps to prevent unemployment.

Article 24. The right to remuneration commensurate with ability and skill, to just and favourable conditions of work, and to join trade unions, and the right of women to equal pay for equal work.

Article 25. The right to the highest standard of health which the State can provide.

Article 26. The right to social security.

Article 27. Free and compulsory education.

Article 29. The right to leisure, to reasonable limitations on working hours and to periodic vacations with pay.

Article 30. Participation in the cultural life of the community, enjoyment of the arts and a share in the benefits of scientific discoveries.

[25]

In the submission of the Union Government these go beyond the elementary essential rights which are indispensable for physical and mental existence as a human being, and with which alone the United Nations are called upon to concern themselves. These articles no doubt give expression to certain ideals of advanced development, but a condition of existence does not constitute a fundamental human right merely because it is eminently desirable for the fullest realization of all human potentialities. What the Charter envisages is the protection of that minimum of rights and freedoms which the conscience of the world feels to be essential, if life is not to be made intolerable, at the whim of an unscrupulous Government. This declaration embraces very much more than that, and to the extent to which it does so, it trespasses upon matters which should be left where they belong, in the domestic sphere of the member States.

In regard to the economic rights, *i.e.* the right to work, and to do useful work, the right to rest and leisure, the right to remuneration commensurate with ability, the right of women to equal pay for equal work, the right to social security, *etc.*, it will be apparent that the extent to which they can be assured will depend also upon the action taken by private employers. They cannot be effectively ensured for all without the co-operation, compulsory or otherwise, of private employers. If, therefore, they are to be taken seriously (as is intended) it would, in the submission of the Union Government be found necessary to resort to more or less totalitarian control of the economic life of the country. To declare them to be fundamental human rights, would therefore amount to an injunction by the United Nations to State members to move to the left, by assuming greater and greater economic control, an injunction, in fact, to move nearer to the communistic economic system, under which, in practice, many essential human rights are being denied.

It seems to be realized that a declaration of this nature, if passed by the Assembly, would not create legal rights and obligations. That is why, perhaps, it has been

drawn with so little regard for precision and particularity, or for the true scope of fundamental rights and freedoms. But it will undoubtedly be invoked as a source of moral rights and obligations, and may therefore lead not only to intensified internal unrest and agitation, but also to repeated embarrassment and agitation before the United Nations and their various organs. It is of the greatest importance, therefore, that it should not be passed in a form so completely unacceptable.

E/CN.4/83

29 April 1948

**Copy of a Resolution on Religious Freedom Adopted by the
Foreign Mission Committee of the Church of Scotland on
17 February 1948***

“9845. *Resolution on Religious Freedom.* The Secretary submitted a draft Article on the subject of Religious Liberty and *the Sub-Committee agreed* to approve this draft for consideration by the Foreign Mission Committee. It was proposed that an Article along these lines should be sent in the name of the Foreign Mission Committee to the United Nations Commission on Human Rights.

“The Foreign Mission Committee of the Church of Scotland has heard with appreciation of the efforts of the United Nations Commission on Human Rights to secure agreement to a Declaration and Covenant which will embody the essentials of human rights for all men. We beg to draw your attention to the fact that the question of religious liberty is bound up with the general question of human rights and that, where it is threatened or denied, freedom of speech and assembly, the rights of minorities, the family, and the status of women are soon endangered. By religious liberty we mean not only freedom of conscience and belief, but freedom to change one’s beliefs, to express religious beliefs in corporate worship and observance, and to form associations which can hold property according to law without discrimination on the grounds of religion. We are [illegible] that every person should be free, provided he does not infringe the freedom of other citizens, to persuade others of the truth of his beliefs and, in the case of a minor, that the parent or guardian should be entitled to decide what religious teaching he or she shall receive. We would point out that, in the conditions of this modern world, religious freedom involves freedom for a religious community to maintain schools for its own members or to provide religious teaching for its own children within the State educational system.

[*] This document is distributed at the request of the United Kingdom delegation.

[2]

“We urge that, provided it is open to members of other faiths to take advantage of a conscience clause, the schools of a religious community should be free to follow

their own curriculum, subject to the normal government requirements as to health, administration and efficiency, and that they should not be obliged to provide teaching in any religion other than their own.

“The Foreign Mission Committee, on behalf of the Church of Scotland, assures the United Nations Commission that these matters are all of vital importance in the areas where it works, and that in no case can the concern for human rights in general be fully implemented without regard to the religious convictions of individuals and associations as represented in this Article.

“*Approved* for sending to the United Nations Commission on Human Rights.”

“Extracted by,

(signed) James W. C. Dougall

General Secretary.”

E/CN.4/84

30 April 1948

Opinion of the United Nations Conference on Freedom of Information on Articles 17 and 18 of the Draft International Declaration on Human Rights and Article 17 of the Draft International Covenant on Human Rights

Note by the Secretary-General

The Commission on Human Rights at its Second Session decided to refer Articles 17 and 18 of the Draft International Declaration on Human Rights and Article 17 of the Draft International Covenant on Human Rights to the Sub-Commission on Freedom of Information and of the Press for its consideration and report, and to request the Economic and Social Council to refer these Articles to the Conference on Freedom of Information for its own consideration and report (document E/600, paragraph 33).

The Economic and Social Council by its resolution 118 (VI) decided:

- A. To remit Articles 17 and 18 of the Draft International Declaration on Human Rights (document E/600, Annex A) to the United Nations Conference on Freedom of Information for its consideration and report.
- B. To request the Conference to express its view upon the two texts on Freedom of Information submitted for inclusion in the International Covenant on Human Rights by the Drafting Committee on the International Bill of Human Rights and the Sub-Commission on Freedom of Information and of the Press.

In compliance with this request the United Nations Conference on Freedom of Information considered these articles and passed the following resolution: (Final Act E/CONF.6/79, Annex B):

[2]

Draft Declaration and Draft Covenant on Human Rights

The United Nations Conference on Freedom of Information,

Having considered the resolution of the Economic and Social Council of 3 March 1948 referring to the Conference for its consideration and report Articles 17 and 18 of the Draft Declaration on Human Rights and Article 17 of the Draft Covenant on Human Rights with the recommendations of the Sub-Commission on Freedom of Information and of the Press,

Is of the opinion that:

I. Articles 17 and 18 of the Declaration may be embodied in one Article as follows:

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

II. Article 17 of the Draft Covenant on Human Rights may be as follows:

1. Every person shall have the right to freedom of thought and the right to freedom of expression without interference by governmental action; these rights shall include freedom to hold opinions, to seek, receive and impart information and ideas, regardless of frontiers, either orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices.
2. The right to freedom of expression carries with it duties and responsibilities and may, therefore, be subject to penalties, liabilities or restrictions clearly defined by law, but only with regard to:
 - (a) matters which must remain secret in the interests of national safety;
 - (b) expressions which incite persons to alter by violence the system of Government;
 - (c) expressions which directly incite persons to commit criminal acts;
 - (d) expressions which are obscene;
 - (e) expressions injurious to the fair conduct of legal proceedings;
 - (f) infringements of literary or artistic rights;
 - (g) expressions about other persons natural or legal which defame their reputations or are otherwise injurious to them without benefiting the public;

[3]

- (h) the systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples and states;

A state may establish on reasonable terms a right of reply or a similar corrective remedy.

3. Measures shall be taken to promote the freedom of information through the elimination of political, economic, technical or other obstacles which are likely to hinder the free flow of information.
4. Nothing in this Article shall be deemed to affect the right of any State to control the entry of persons into its territory or the period of their residence therein.

III. *The Conference* having considered the above Articles of the Declaration and the Covenant, and the Second Report of the Sub-Commission,

Is of the opinion that Article 17 of the Covenant is intended to apply to the freedom of expression of individuals as well as to the freedom of media of information and, *considering* there are particular provisions in many sources of law which restrict the freedom of expression and information other than those permitted by Draft Article 17 suggested above,

Resolves, that the problem created by the omission of such provisions be called to the attention of the Commission on Human Rights.

E/CN.4/82/Add.5

30 April 1948

Comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of Implementation

Communication Received from Norway

With reference to your letter SOA 17/1/01 of 19 January 1948 concerning the Draft Articles for an International Declaration on Human Rights and Draft Articles for an International Covenant on Human Rights, I have the honour to submit the following observations from my government:

With regard to Article 9 in the Draft International Declaration, my government should like to suggest a limitation by adding the following: “except in cases prescribed by law and after due process”. Furthermore, my government understands that it has been agreed, that the Declaration imposes no legal obligations.

As to Article 9, 2(a) in the Draft International Covenant, the provisions to arrest a person to prevent his committing a crime, might be open to objections on principle. As to Article 9, 2(b), it seems advisable to extend these measures to include also persons suffering from contagious diseases (confer Norwegian law of 12 December 1947 on measures against venereal diseases, article 8). In this connection I should also like to draw your attention to the fact that in Norway alcoholics may be subject to detention according to a Norwegian law of May 26, 1939, article 7.

Regarding Article 13, 2, it is presumed that this provision does not exclude punishment in those cases especially provided for by law, where fines may be imposed by the police.

E/CN.4/82/Add.3⁷²

1 May 1948

Original Text: French

Comments from Governments on the Draft International Declaration on Human Rights, International Covenant on Human Rights and the Question of Implementation

Communication Received from Egypt

Cairo, 21 April 1948

Memorandum

The Royal Ministry of Foreign Affairs presents its compliments to the Secretary-General of the United Nations and has the honour to inform him, with reference to his letter No. SOA 17/I/01/JH of 9 January 1948, that the Royal Government approves in principle of the draft International Declaration on Human Rights and the draft International Covenant on Human Rights. It would nevertheless make the following observations on these two drafts and on the question of implementation:

A. Observations on the Draft Declaration

1. The Draft Declaration, which contains virtually a complete enumeration of all possible human rights, would be improved by making it more concise.

2. With regard to Article 10(2), the Royal Government would point out that some legislations make it obligatory for nationals wishing to acquire foreign nationality to obtain the prior authorization of their own Governments. It is understood that this formality does not conflict with the provisions of the aforesaid Article.

3. The freedoms and rights enumerated in Articles 16, 17, 18 and 19 are not in the Draft Declaration made subject to any restrictions, whereas in the Draft Covenant on Human Rights they are subject to restrictions. The Royal Government considers that, unless both drafts are put into effect simultaneously, the freedoms and rights

⁷² The original indicates this document as Add.6, but it is crossed out and replaced in manuscript by Add.3.

enumerated in the above-mentioned Articles should be made subject to the same restrictions as in the Covenant.

4. The duty incumbent on the State under the provisions of Article 23 [2] is a positive one; all that can be required of the State is that it should do everything possible to organize its domestic economy in such a way as to give all persons ordinarily resident in its territory an opportunity for useful work.

5. The Royal Government proposes that the following paragraphs be added at the end of Article 26:

“It is understood that the rights enumerated in Articles 23, 24, 25 and 26 can only be exercised so far as the economic conditions and potentialities of each State permit”.

6. With regard to Article 31, which deals with the problem of minorities, and on which no decision was taken by the Commission, the Royal Government considers that such an article is out of place in a declaration on human rights, the object of such a declaration being to enumerate the rights of man and not those of minorities. Minority rights should be covered by a convention on minorities. It is to be hoped, moreover, that when the International Declaration on Human Rights is put into effect by States and men are given equal treatment everywhere the problem of minorities will disappear.

[Comments on the Covenant and on implementation are omitted.]

E/CN.4/85

1 May 1948

Collation of the Comments of Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of implementation

(Note by the Secretary-General)

The present document has been prepared by the Secretariat in order to facilitate the work of the Commission on Human Rights and its Drafting Committee in considering the comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant *on* Human Rights and the question of implementation. It reproduces the replies from Governments received by the Secretariat by 30 April 1948 arranged according to subjects. Replies from the following Governments are collated in the order as they were received: Canada, Netherlands, Australia, United States, Mexico, Brazil, United Kingdom, Union of South Africa, Egypt and Norway.

[2]

I. General Observations on the Work of the Commission on Human Rights and its Importance

1. Canada

It is the opinion of the Canadian Government that the final drafting of an International Bill of Rights is a serious task involving the reconciliation of differing philosophies and judicial principles. It is therefore respectfully suggested that the final expression by the United Nations of human rights and fundamental freedoms may well require much more time than is at present contemplated, and that postponement of approval of the Draft Bill from the 1948 to the 1949 Session of the General Assembly might be with advantage taken into consideration.

2. Netherlands

1. The Netherlands Government welcome the work accomplished by the Commission on Human Rights. As the Netherlands representative said in the Economic and Social Council, on 5 February last, the Netherlands is keenly interested in this problem. It is the wish of the Netherlands Government that by the further study of this matter an "International Bill of Human Rights", in the sense given to this term by the Commission on Human Rights, may be attained in a near future.

Some co-ordination, however, of the various provisions proposed will be indispensable before deciding on their final form; on the whole, a shorter, and less detailed text might in some cases be preferable; finally it might be advisable to leave out certain provisions (f.i. Articles 29 and 30 of the Declaration) which, because of their vague nature, can be of no use.

2. The Netherlands Government agree with the proposal of the Commission to prepare at the same time a Declaration and a Covenant, it being understood that the Declaration gives a great number of general directions, whereas the Covenant contains those provisions which in the present stage of international development will probably be acceptable to a number of States as provisions of a formal treaty. In conformity with the Commission the Government assume the Declaration having only a moral importance, to be adopted by the General Assembly, whereas the Covenant which will be a legally binding instrument will have to be ratified or accepted in a formal way by the States.

In accepting this distinction between the two instruments Her Majesty's Government feel that a further and different definition of their nature would be desirable. In the same way as the International Labour Conference uses to adopt a recommendation as an addition to a Convention, laying down in the recommendation provisions which States are not willing to accept in a binding form, it might be suggested that the Declaration on Human Rights should be [3] considered as a

supplement to the Representative of the Netherlands Government are not in favour of such a conception. In their opinion, the Declaration should cover the whole field of human rights and should therefore deal with *all* the problems treated in the Covenant; this latter draft should elaborate in a treaty form some of the principles laid down in the Declaration. By this procedure Members of the United Nations who are not prepared to ratify the Covenant will by their vote in the Assembly have an opportunity to accept the contents of the Declaration as general directives. Although the Netherlands Government do not share the opinion that the drafting of the Covenant is premature so long as the text of the Declaration is not completed and the opinions of the Governments on the Declaration have not been received and considered priority should be given to the Declaration.

As observed by the representative of France the Covenant now under discussion may be considered as a first Convention of a series of international instruments to be elaborated later on.

3. In the opinion of the Netherlands Government it is not advisable to bind the Parties to the Covenant with regard to the manner in which they will bring their national legislation in conformity with the Covenant; some Parties will have recourse to a modification of the Constitution but it should be left to each State to decide whether or not the provisions of the Covenant should be included in the Constitution. On the other hand, it should be stated explicitly that by gratifying the Covenant; the Parties undertake to bring their national legislation in conformity with the contents of the Covenant. It goes without saying that equally all the other organs of the State which has become a Party must act accordingly; Article 2 of the Covenant which deals with this problem should be shortened and drafted in a more precise way.

4. The drafts of the Declaration and of the Covenant submitted by the Commission, contain some isolated provisions with regard to discrimination, as to race, sex, religion, a.s.o. In the Declaration, Article 3 contains a general rule on this matter, Articles 21 and 25 repeat the terms “without discrimination” or “without distinction” as to the Covenant; Article 20 contains a general rule. If, in fact, the principles of non-discrimination could be accepted on the whole line, it would be preferable if both instruments contained one article of a general character on this point. It must, however, be admitted that such stipulations will hardly be acceptable to countries where populations of a totally different character are living together.

[4]

5. In some cases the rights granted to individuals are expressed in the form of a duty imposed on the State (f.i. Articles 21 and 23 of the Declaration). It should be remembered that the instruments to be elaborated do not deal with rights and duties of States but should as a rule be confined to rights and freedoms of the individual.

6. Both the Declaration and the Covenant, admit limitations of the rights and freedoms which are accorded; these limitations are of a various nature. In Article 167 paragraph 2, persons who are not “of full age and sound mind” are excluded.

Article 16, paragraph 3 of the Covenant introduces limitations “as are prescribed by law and are necessary to protect public order and welfare, morals and the rights and freedoms of others”.

Article 17 of the Covenant dealing with the freedom of information enumerates in paragraph 3 a number of restrictions.

In Article 19 of the Declaration the right to freedom of assembly and of association is stated to be subject to the condition that this right is “not inconsistent with this Declaration.”

On the other hand, in some articles (Articles 2 and 33 of the Declaration, Article 22 of the Covenant) an attempt has been made to put a general limit to the human rights by stipulating that no one will have the right to aim at the destruction of the rights and freedoms prescribed in the Declaration or Covenant.

The Netherlands Government suggest that this question of limitations should be considered as a whole. Anyhow, it is essential to make clear that a human right may never be exercised in such a way as to destruct any human right of other people.

7. Finally attention may be drawn to the safeguarding clause which is to be found in Article 4 of the Covenant, and which may imperil the success of the work of the Commission. The expression “other public emergency” seems so vague, that it might for instance include an economic crisis or other abnormal conditions in a country; if possible, the circumstances under which a Party may evade its obligations should be defined as precisely as possible. Moreover it will be necessary to state explicitly that the application of this clause will also be subject to the jurisdiction provided for in the Chapter on implementation.

3. United States

The Government of the United States desires in the first place to indicate its awareness and appreciation of the intensive and able work which has been done on the Bill of Human Rights by the Commission, its Drafting Committee and by the Secretariat. The work that has thus far [5] been done is of great significance taking into account the magnitude of the task and the multiplicity of possible approaches to its accomplishment. This Government believes, however, that much needs to be done in the way of refinement of the documents so far produced in order that they may serve the purpose for which they are intended.

A basic difficulty which the Government of the United States finds with both the draft Declaration and draft Covenant is that they are too long and complex effectively to accomplish their purpose.

[6]

II. Draft International Declaration on Human Rights

A. *General Comments on the Declaration*

1. *Netherlands*

(See above under i; General Observations)

2. *Australia*

The Australian Government considers that the Draft Declaration in the form proposed by the Second Session of the Commission is not satisfactory, and, contains many provisions which would be more appropriately inserted in the Covenant. The Declaration should be an instrument of popular appeal and persuasion, and the present text should be replaced by a more concise statement of general principles.

The Australian Government reserves the right to make detailed comments, both at the meeting of the Drafting Committee and the following session of the Commission, on the present text and on any other proposal there put forward.

The Government also considers that the Declaration should be incorporated as a preamble to the Covenant. It should also be promulgated as a separate instrument.

3. *United States*

The Declaration is envisaged as properly fulfilling two functions:

1. To serve as basic standards to guide the United Nations in achieving, within the meaning of the Charter, International co-operation in promoting and encouraging respect for and observance of human rights and fundamental freedoms for all;
2. To serve as a guide and inspiration to individuals and groups throughout the world in their efforts to promote respect for and observance of human rights.

For the achievement of the first of these purposes, a shorter and more concise declaration will be more effective than a long and detailed declaration. The Declaration is not intended to be a legislative document in any sense. The manner in which the United Nations will undertake the task of promoting and encouraging respect for and observance of human rights and fundamental freedoms remains to be determined but it will almost necessarily have to adopt as a general rule, a broad rather than a detailed approach. However, its freedom to take up matters of detail would be enhanced, rather than diminished, by a declaration in broad and comprehensive terms.

With respect to the second purpose of the Declaration, namely to serve as a focal point for the development of world public opinion, this objective is largely defeated by a long and complicated instrument. The first prerequisite to such a result is a document that is set forth in [7] as simple and readily understandable terms as

possible. A spelling out of details in the declaration itself cannot increase its usefulness for such purposes.

The United States accordingly is strongly in favour of a short and concise Declaration.

Since it is the proper purpose of the Declaration to set forth basic human rights and fundamental freedoms, as standards for the United Nations, it is inappropriate to state the rights in the Declaration in terms of governmental responsibility. In particular it is improper to state in the Declaration that certain things shall be unlawful. If such references are retained, it will be difficult to know what the purpose and meaning of the Declaration is, especially in contrast to the Covenant. The same consideration applies to some extent to assertions of governmental responsibility found in some parts of the draft Declaration. It is true that the guaranty of certain rights, such as the right to fair trial, rests exclusively in the hands of the Government. In the case of other rights, such as the right to work, the right to health and the right to social security, there are widely, different theories and practices in different parts of the world as to the manner in which the Government can best facilitate the desired end.

The United States believes that the Declaration should proclaim rights, but should not attempt to define the role of government in their ultimate attainments. This role will necessarily vary from country to country. The United States not only feels that this difference is inevitable, but that the flexibility of approach which results from it, is valuable and should be preserved.

In concluding its commentary on the Declaration the United States believes that it cannot better express its view of the nature and purpose of this document than by setting forth the following statement by Abraham Lincoln. Referring to the assertion of human equality in the United States Declaration of Independence, he said:

“They [the drafters] did not mean to assert the obvious untruth that all were then actually enjoying that equality, or yet that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the *right*, so that the *enforcement* of it might follow as fast as circumstances should permit.

“They meant to set up a standard maxim for free society, which should be familiar to all, constantly looked to, constantly laboured for, and even though never perfectly attained, [8] constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people, of all colours, everywhere.”

4. Mexico

Mexico has always been eager to see fundamental human rights codified in an international declaration. At the Inter-American Conference on Problems of War and Peace (Mexico, 1945) she took the initiative in this question; and the outcome was the adoption of Resolution XL by the Conference. At the San Francisco

Conference she proposed the drafting of an “International Declaration on Human Rights” to be annexed to the United Nations Charter.

These earlier proposals were not simply a response to immediate circumstances, prompted by the strong reaction of world opinion to the crimes against human dignity committed by certain countries; they derived, rather, from the deep conviction that a peaceful international order necessarily presupposes a regime of liberty and respect for the rights of the human personality.

For these reasons Mexico welcomes with great interest the Draft International Declaration on Human Rights drawn up by the Commission on Human Rights, an organ of the Economic and Social Council of the United Nations.

The Mexican Government notes with real satisfaction that this Draft fully conforms to the purposes and principles of the United Nations Charter, as declared both in the Preamble and in Articles 1, 3, 4, 55(c), 56, 62(2) and 68 of the Charter. The Declaration in no way conflicts with the principle of the sovereign equality of States on which the United Nations is based, nor is it inconsistent with the principle of domestic jurisdiction which, according to authoritative interpretation (UNCIO, Report of the Rapporteur of Committee II/3, document 861, II/3/55/1, pages 3–4) was recognized at the time the Charter was drafted to be the basis of human rights, and is laid down in Article 2(7).

The Charter’s provisions on human rights correspond to one of the functions of the United Nations, namely to create (over and above the legal preventive measures and the machinery of sanctions to deal with threats to the peace or acts of aggression or war) the essential conditions of stability and wellbeing which are necessary for peaceful and friendly relations among nations. Amongst these conditions the Charter expressly mentions the economic ones and universal respect for, and observance of, human rights and fundamental freedoms.

As the Commission recognized and clearly stated, at the time the Geneva drafts were being prepared, the Declaration on Human Rights [9] imposes no legal obligation on States and requires no measures for implementation; it should therefore “be drafted in declaratory form only” (document E/600, page 23). The Working Group on implementation shared this opinion of the Working Group on the Declaration, stating that “the Group ruled out completely any further consideration of the question of implementing the Declaration” (document E/600, page 44).

The Mexican Government acknowledges with satisfaction the correctness of these early statements, which are fully in accordance with its conception of an International Declaration on Human Rights.

The usefulness and importance of the Declaration are not lessened by the fact that it includes no provisions for legal sanctions. The Declaration has a real and effective value in itself; first, because it states precisely the human rights and fundamental freedoms which States Members undertook, in signing the Charter of the United

Nations to promote and develop, and second, because it solemnly proclaims before the whole world a standard of justice and freedom to serve as guide and encouragement to States in their own practice, and enjoying the approval of international public opinion.

But the very latitude of the Declaration serves its fundamental objectives, since the fact that it is drafted in rather broad terms, and lays down a bare minimum of guarantees and rights will make it readily acceptable by almost all States. The Declaration will thus achieve a character of universality. Furthermore it must be remembered that although this Declaration imposes no precise legal obligations on Members, these in signing the Charter undertook to fulfil in good faith the principles stated therein; and these principles include the promotion and respect of human rights. The General Assembly, moreover, may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations and may make recommendations with a view to securing the human rights, and fundamental freedoms of all; it may also call the attention of the Security Council "to situations which are likely to endanger international peace and security" (Article 11(3)).

The Government of Mexico therefore expresses its approval of an International Declaration on Human Rights of the above described character considering it the most effective means of promoting these rights and it declares its agreement with the general lines of the Draft Declaration, prepared by the Commission on Human Rights at its second session in Geneva, subject to certain comments thereon.

5. *Brazil*

1. The International Declaration on Human Rights should be as broad as possible. There would hardly be any point in making a declaration [10] embodying only those principles already accepted by the States. The Declaration should constitute an ideal that the States would strive to reach, thereby fulfilling the deficiencies in their juridical organizations. It would thus become a stimulus to the progress of the legal organization of all States.
2. On the other hand, the text of the Declaration should be as concise as possible. Such conciseness, however, should not prevent an accurate definition of acknowledged rights.
3. Attention should be paid to the duties that correspond to the rights. This relation has been emphasized in juridical doctrine and in the most advanced legislations. It seems that, aside from the general reference in Article 2, it has not been always felicitously indicated in the draft Declaration.
4. In the draft there are references to duties of the State. It may be observed that such references would fit better in a specific Declaration of Rights and Duties of States than in the present one.

5. In certain instances the guarantees of the rights are presented as substantive rights. It is well known, furthermore, that guarantees are often as important as the corresponding rights, or even more so, for without guarantees such rights are void. For this reason, it would be better to replace the expression “rights and liberties”, used in the draft, by “rights and guarantees”.

Special Comment

The Brazilian Government favours the inclusion, in the International Bill of Rights, of Articles 5, 6 and 7, proposed by the United Kingdom and mentioned in the Report of the Commission, Annex C, Part 2, No. 4.

6. *Union of South Africa*

Draft Declaration on Human Rights

Article 3, Articles 6 and 7(1) and (2), Article 7(3), Article 10, and Article 19 of the draft declaration, correspond with Articles 20, 13, 7, 11 and 18, respectively, of the Draft Convention. The Union Government have no further comment to offer on these articles of the declaration except to say in regard to the presumption referred to in Article 7 that there are many statutory qualifications of this presumption.

Articles 25–29: The general principles enunciated in these articles are no doubt highly commendable, but in some cases are too sweeping in their generality. Many of the provisions inserted here do not comprise fundamental human rights at all but rather the duties of States and it would be preferable to consider such duties in conjunction with the draft Convention or declaration concerning the latter subject. [11]

General: in conclusion the Union Government would point out that some of the articles of this draft declaration do not purport expressly or by implication, to define any right or freedom at all. (See Article 1, 13 (except the second sentence of Clause (1)), Article 28 and Article 32). Others again, describe in general terms the duties of States, rather than the specific rights and freedoms of individuals (See Articles 23 (e) and (3), Article 25 (the last sentence of Article 26(1)), Article 28 and Article 32). Some articles, moreover, would seem to go much beyond the scope of what could legitimately be regarded as rights and freedoms so fundamental as to call for international protection by the society of nations. Amongst these we would refer to the following:

Article 7. The right to be presumed innocent, which, however important, is no more than a question of onus of proof.

Article 10. General freedom of movement and choice of residence, and the right to leave one's own country and to acquire another nationality.

Article 15. The right to a nationality.

Article 21. The right to take part in the government.

Article 22. The right to engage in public employment.

Article 23. The right to useful work and to claim from the State all necessary steps to prevent unemployment.

Article 24. The right to remuneration commensurate with ability and skill, to just and favourable conditions of work and to join trade unions and the right of women to equal pay for equal work.

Article 25. The right to the highest standard of health which the State can provide.

Article 26. The right to social security.

Article 27. Free and compulsory education.

Article 29. The right to leisure, to reasonable limitations on working hours and to periodic vacations with pay.

Article 30. Participation in the cultural life of the community, enjoyment of the arts and a share in the benefits of scientific discoveries.

In the submission of the Union Government these go beyond the elementary essential rights which are indivisible for physical and mental existence, as a human being, and with which alone the United Nations are called upon to concern themselves. These articles no doubt give expression to certain ideals of advanced development, but a condition of existence does not constitute a fundamental human right merely because it is eminently desirable for the fullest realization of all human potentialities. What the Charter [12] envisages is the protection of that minimum of rights and freedoms which the conscience of the world feels to be essential, if life is not to be made intolerable, at the whim of an unscrupulous Government. This declaration embraces very much more than that, and to the extent to which it does so, it trespasses upon matters which should be left where they belong, in the domestic sphere of the member States.

In regard to the economic rights, i.e. the right to work, and to do useful work, the right to rest and leisure, the right to remuneration commensurate with ability, the right of women to equal pay for equal work, the right to social security, etc., it will be apparent that the extent to which they can be assured will depend also upon the action taken by private employers. They cannot be effectively ensured for all without the co-operation, compulsory or otherwise, of private employers. If, therefore, they are to be taken seriously (as is intended) it would, in the submission of the Union Government be found necessary to resort to more or less totalitarian control of the economic life of the country. To declare them to be fundamental human rights, would therefore amount to an injunction by the United Nations to State members to move to the left, by assuming greater and greater economic control, an injunction, in fact, to move nearer to the communistic economic system, under which, in practice, many essential human rights are being denied.

It seems to be realized that a declaration of this nature, if passed by the Assembly, would not create legal rights and obligations. That is why, perhaps, it has been drawn with so little regard for precision and particularity, or for the true scope of fundamental rights and freedoms. But it will undoubtedly be invoked as a source of

moral rights and obligations, and may therefore lead not only to intensified internal unrest and agitation, but also to repeated embarrassment and agitation before the United Nations and their various organs. It is of the greatest importance, therefore, that it should not be passed in a form so completely unacceptable.

7. Egypt

The Royal Government approves in principle of the draft International Declaration on Human Rights and the draft International Covenant on Human Rights. It would nevertheless make the following observations on these two drafts and on the question of implementation:

The Draft Declaration, which contains virtually a complete enumeration of all possible human rights, would be improved by making it more concise.

[13]

The freedoms and rights enumerated in Articles 16, 17, 18 and 19 are not in the Draft Declaration made subject to any distinctions, whereas in the Draft Covenant on Human Rights they are subject to restrictions. The Royal Government considers that, unless both drafts are put into effect simultaneously, the freedoms and rights enumerated in the above mentioned Articles should be made subject to the same restrictions as in the Covenant.

[14]

B. Comments on the Articles of the Draft International Declaration on Human Rights

Article 1

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

1. Netherlands

It seems superfluous to state explicitly that the word “men” implies both men and women.

2. Brazil

It would seem that this article could be dropped as an independent provision. Only a part of it, namely the statement that all men “should act towards one another like brothers”, might be retained and incorporated into Article 2 since it involves a duty which should go along with the other duties of the individual, stated in that article. The remainder of Article 1 has a certain philosophical and mystical quality. Unfortunately, it is not exactly true that all men are endowed by nature with reason and conscience.

[15]

Article 2

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

1. Mexico

The first sentence of this Article should be amplified as follows:

In the exercise of his rights everyone is limited by the rights of others, by the legal safeguards for the liberty, general welfare and security of all, and by the just requirements of the democratic State.

2. Brazil

It should be added here that “all should act toward one another like brothers” or, at least, in a fraternal spirit. The text would thus become complete, for the exercise of the rights of each one is limited not only by the rights of others but also by this duty of fraternity, which modern law recognizes in a revival of the old Roman precept *summum jus, summa injuria*.

Instead of “just requirements” it would be better to say “legal requirements”. The requirements of the State should not be motivated by a vague and subjective notion of justice, but by strict legality. The Commission on Human Rights was quite justified in adopting the form – democratic state – proposed by the representative of China.

The Brazilian Government is in accord with the view expressed by the representative of the United Kingdom that the State should not be regarded as “limiting” the rights of the individual. It would be preferable, however, to say that the exercise of these rights is “conditioned” by the rights of others, by the legal requirements of the State and by the duty of fraternity.

Finally, it is the view of the Brazilian Government that the proper position for this article reworded as suggested in the text should be after all others dealing with individual rights. The restriction contained in Article 16, No. 3, of the Covenant, should be included in this article.

[16]

Article 3

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

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

1. Netherlands:

The words “regardless of office or status” should be deleted.

Comment: The use of the word “status” in paragraph 2 probably means to prohibit a distinction by race, sex, language, etc. as mentioned in paragraph 1. The word “status”, moreover, may also be interpreted in a more restrictive sense as “civil status”. Such an interpretation should be excluded, because, if accepted, discrimination on the grounds mentioned in paragraph 2, would be lawful. If the words “regardless of office or status” are deleted it is made clear that paragraph 2 has in view the prohibition of the same discrimination as paragraph 1.

2. Brazil

In accord with the preceding comments, of the Brazilian Government on Articles 1 and 2, this article would become No. 11. This would be, in fact, the proper position for it, in view of its text.

[17]

Article 4

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

1. Netherlands

This article should read as follows: “Everyone has the right to life, to bodily integrity and to liberty of person”.

Comment: The right to “security of person” is too vague an expression. The proposed wording which is in conformity with Article 6 of the Covenant, although, being somewhat more restrictive, would be preferable.

2. Brazil

In this article there should be included the restriction contained in Article 5 of the Covenant, also the amplification contained in Article 6 of the Covenant.

[18]

Article 5

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

1. Mexico

On grounds of justice, and for political and historical reasons, the following paragraph should be added:

“No one may be imprisoned for purely civil debts”.

2. Brazil

Article 9 of the Covenant mentions in detail the cases in which arrest or detention may be effected. These exceptions indicate that the article under discussion should not be drafted in terms as broad as those appearing in the text submitted. It is also made evident that it should not be said “*after due process*” but rather “*by due process*”.

[19]

Article 6

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

1. Brazil

There might be added, after the last word: “and in which he can be understood”. This would complete the guarantees given the accused in the matter of expression.

[20]

Article 7

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

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

1. *Netherlands*

This article deals with two different matters: one is the protection of the individual against unjust treatment, the other is a doctrine of general character. Therefore it is suggested that the article should be divided into two articles: the first to contain the first two sentences of paragraph 1 together with paragraph 3, the other consisting of the rest of the first paragraph and the second paragraph.

2. *Brazil*

No. 2 should be deleted from this article, since it involves an unacceptable derogation of the traditional precept *nullum crimen sine lege*. On the other hand, it is suggested that there might be added that no one can be compelled in any way to confess responsibility for an act or omission of which he be accused.

[21]

Article 8

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

No comments received.

[22]

Article 9

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

1. *Netherlands*

This article should read as follows: “No one shall be subjected to unreasonable interference with his privacy, family, home correspondence or reputation”.

Comment: In order to enable legal exceptions to the principle of inviolability of home and correspondence, the first sentence of Article 3 proposed by the United States is to be preferred to the text as proposed by the Commission.

2. *Brazil*

The first part should be redrafted as follows: “Everyone shall be entitled to protection under law *not only* from unreasonable interference with, *but also from any offence against* his reputation, his privacy and his family” (additions are underlined).

It would be proper to mention freedom from threats, terror or oppression. The inviolability of the home is subject to restrictions arising out of the necessity for repressing crime and it should so be stated. The inviolability of correspondence should figure in Article 17 which deals with freedom of expression.

3. Union of South Africa

This article obviously goes too far in declaring a man's home and correspondence "inviolable". That would, for instance, preclude the execution of search warrants in respect of homes, and the opening by post office officials of insufficiently addressed letters, in order to return them to the senders.

4. Norway

The Norwegian government should like to suggest a limitation by adding the following: "except in cases prescribed by law and after due process". Furthermore, my government understands that it has been agreed, that the Declaration imposes no legal obligations.

[23]

Article 10

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

2. Individuals shall have the right to leave their own country and, if they so desire, to acquire the nationality of any country willing to grant it.

1. Netherlands

It is suggested to insert in paragraph 2 after the word "individuals" the words "who are not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service, tax liabilities or . . . voluntarily contracted obligations binding the individual to the Government".

Comment: An unrestricted right to emigrate is inadvisable, the question may be raised whether a Government, in view of urgent national necessity, may not retain within the borders of the country persons exercising a special profession. Anyhow, the freedom to emigrate should not be given to persons who have undertaken special obligations to the Government which commitments have not yet been fulfilled. Finally, it goes without saying that people who are lawfully imprisoned should not be free to leave the country.

2. Mexico

In paragraph 2 of this Article the words "temporarily or permanently" should be inserted. The paragraph would thus read as follows:

"Individuals shall have the right to leave their own country temporarily or permanently and, if they so desire, to acquire the nationality of any country willing to grant it".

3. Brazil

The statement of principle in No. 1 is followed immediately by the restriction applying thereto, while that in No. 2 is presented in absolute terms and its restriction appears in Article 11, No. 2, of the Covenant.

Reference should be made in this article to the guarantees of the alien against arbitrary expulsion, which appear in Article 12 of the Covenant.

4. Egypt

With regard to Article 10(2), the Royal Government would point out that some legislations make it obligatory for nationals wishing to acquire foreign nationality to obtain the prior authorization of their own Governments. It is understood that this formality does not conflict with the provisions of the aforesaid Article.

[24]

Article 11

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

1. Netherlands

It may be doubted whether the problem of asylum enters within the scope of the Declaration. As the Commission decided to examine this question at an early opportunity, the Netherlands Government prefer not to pronounce themselves for the moment on this article.

2. Brazil

It is stated that asylum shall not be accorded to criminals. Exception should be made of persons accused of crimes having a merely political nature.

3. Union of South Africa

Article 11: The first part of this article appears to be in conflict with every restriction on immigration existing anywhere in the world. The second part seems to say that criminals and persons who have acted “contrary to the principles and aims of the United Nations”, are not to be granted asylum from persecution. This would mean that once convicted of a crime or once having acted contrary to those principles and aims the offender forfeits his right to asylum, on whatever ground he may be persecuted. There is the further objection that the phrase “those acts are contrary to the principles and aims of the United Nations” is so wide and vague as to mean everything and nothing. Would this category of persons include, for instance, the members of a Government who pursued a policy which is contrary to a

recommendation of the United Nations? Would the supporters of such a Government fall within the same category?

[25]

Article 12

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

1. *Netherlands*

It must be understood that this article does not exclude a legal provision that special categories of individuals, for instance married women, will need the authorization of other individuals when they have to appear before a Law Court.

2. *Brazil*

Because of its broadness the precept contained in this article should be incorporated into Article 3 of the draft, which in accord with previous comments, would become Article 1.

3. *Union of South Africa*

Article 12: This article introduces a further refinement of confusion into the already chaotic picture of proposed fundamental human rights. It purports to include in such rights, the right to the enjoyment of so called fundamental civil rights. This is a definition of the unknown by what is even more unknown. What are fundamental civil rights? Are we to have another convention and another declaration to define these? Are we to delve from fundamentals to fundamentals until we have cut every root of national autonomy?

[26]

Article 13

1. The family deriving from marriage is the natural and fundamental unit of society. Men and women shall have the same freedom to contract marriage, in accordance with the law.

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

1. *Mexico*

The Government of Mexico considers that this article fails to lay down the principle of freedom to contract marriage sufficiently broadly. It proposes that the article be redrafted to read as follows:

“Men and women shall have the same freedom to contract marriage, and the law guarantees them that freedom without distinction as to race, nationality or religion.”

2. *Brazil*

There is, perhaps, a small flaw in drafting technique in this article. It is evident, and as such it has been expressly stated in the General Comments on the Draft Declaration, No. 1, that the word “men” comprises both men and women. In this article, however, it has been used in a restrictive sense. This and No. 2 of Article 24 are the only instances of specification in the matter appearing in the Declaration. It would be preferable to use here a generic expression, such as “everyone” or “every person” which appear repeatedly throughout the Declaration.

The Brazilian Government considers acceptable the additional wording proposed by the representative of the United Kingdom, “married persons shall have the right to reside together in any country from which they cannot be lawfully excluded”, or at least the first nine words of the foregoing.

The following item, from the draft on the same subject prepared by the inter-American Juridical Commission, should be added:

“The parents have the right of paternal power over their children during the minority of the latter and the essential obligation to maintain and support them.”

It might be possible to improve the text, to read as follows:

“Parents shall have paternal power over their minor or non-emancipated children, involving the obligation to provide them with sustenance and education.”

3. *Union of South Africa*

Article 13: The intention and purpose of the provision that “men and women shall have the same freedom to contract marriage in accordance with the law” are somewhat obscure. Is it the intention to say *inter alia* that there shall be no difference as to the respective ages at which men and women may contract marriage, that where there is an *annus luctus* for [27] a widow there must be the same *annus luctus* for a widower, and that where a State recognizes the right of men to contract polygamous marriages, it is bound also to recognize the right of women to contract polyandrous marriages? It may be said that the answers to these questions are to be found in the words in accordance with the law, but if that is so, this provision becomes meaningless, because that would leave every State free to impose legal restrictions upon the freedom of women to contract marriage which are not applicable to men, and *vice versa*.

[28]

Article 14

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

2. *No one shall be arbitrarily deprived of his property.*

1. Brazil

It is not enough to say that no one shall be arbitrarily deprived of his property. It should be said also “or without prior and fair indemnity”.

2. Union of South Africa

Article 14: if it is the intention to say that a State may not deprive any person of all right to own property, or limit this right in such as to render it altogether ineffective it would be desirable to re-word the article.

[29]

Article 15

Everyone has the right to a nationality.

All persons who do not enjoy the protection of any government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations.

1. Netherlands

The first paragraph should be deleted.

Comment: It appears from the second paragraph that the object of this article is to ensure that everyone will have the right to invoke some official protection; for this purpose paragraph 1 stipulating that everyone has the right to a nationality is not necessary and as this right is not a very clear denotation, it had better be left out if the suggestion of the protection of the United Nations to be given to stateless persons is accepted. The question arises whether such a protection should be given by the United Nations themselves or whether it would be preferable to entrust this task to the International Refugee Organization.

2. Brazil

The Brazilian Government recommends the following disposition:

“No State shall deny its nationality to a person having right thereto by birth, in accord with local legislation, nor deprive of such nationality any person who may have acquired it by birth, except by motive of an act declared by law to be incompatible with subsistence of nationality.”

It would be advisable to include also the following item proposed by the Inter-American Juridical Commission in drafting a similar document:

“Every person shall be entitled to renounce his nationality, whether such nationality be native or acquired, and to adopt the nationality of another State.”

It might be convenient to add “. . . in accordance with the laws of the latter and without detriment to prior obligations”.

3. *Union of South Africa*

Article 15: The provision that everyone has the right to a nationality seems to imply some underlying obligation on the part of a State in whose territory a stateless person may be resident, to grant that person its nationality. It may even imply that there is an obligation not to denationalize any person, where the result would be to make him a stateless person. If these are in fact the intended implications of this provision, [30] they would require the revision of the laws relating to Union nationality, as in terms of these laws there is no legal obligation to naturalize if certain requirements are not complied with and there is no restriction which would prevent denaturalization where the person concerned would become stateless. The provision that all persons who do not enjoy the protection of any government shall be placed under the protection of the United Nations, comes perilously near to the recognition of the United Nations as a super-state. To make this protection effective, the Organization would have to issue passports, and may have to appoint officers exercising the functions of diplomatic or consular representatives in States harbouring any considerable number of stateless persons. The United Nations would, presumably have the same status to make representations as to the treatment of such persons, as a State would have in regard to the treatment of its own nationals, and that may open another door to international pressure in internal affairs. The last sentence of this article corresponds with the second part of article 11, on which we have already commented above.

[31]

Article 16

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

2. *Every person has the right, either alone or in community with other persons of like mind and in public or private to manifest his beliefs in worship, observance, teaching and practice.*

1. *Netherlands*

- (a) Paragraph 1 should read as follows: “Every person shall have the right to freedom of thought, religion, conscience and belief, including the right, either alone or in community with other persons of like mind, to hold, adopt and manifest any religious or other belief, to practise any form of religious worship and observance and he shall not be required to perform any act which is contrary to such worship and observance.”

Comment: The suggested draft which is in conformity with Article 16 of the Covenant is to be preferred to the draft proposed by the Commission.

- (b) it may be asked whether the last part of this paragraph “and he shall not be required etc.” does not go too far for certain cases in which the refusal to perform such an act would be contrary to existing legislation.
- (c) it is suggested to add to paragraph 2 “and to persuade other persons of the truth of his beliefs”.

Comment: The freedom of conversion should be included.

2. Mexico

The Mexican Government considers that this article is incorrectly drafted in view of the provisions of Article 2, and it therefore proposes that the first part of Article 16 be redrafted as follows:

“Individual freedom of thought and conscience and freedom to hold and change beliefs are fundamental human rights.”

The Mexican Government proposes that the second paragraph of this article be redrafted as follows:

“Every person has the right, either alone or in community with other persons of like mind, to manifest his beliefs by means of worship, the observance of rites, practices and teachings in churches or other places provided for by the national law applicable.”

3. Brazil

In No. 1 of this article, it would be better to say “unrestricted” instead of “absolute and sacred”.

[32]

The manifestation of beliefs, in public or in private, as mentioned in No. 2, is subject to restrictions arising out of requirements of public order and it should so be stated therein, as is done, perhaps in somewhat, too broad a manner, in Article 16 of the Covenant.

[33]

(Article 17)

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

(2. No person may be interfered with on account of his opinions.)

(Concerning Articles 17 and 18 the Commission on Human Rights decided not to elaborate a final text until it had before it the views of the Sub-Commission on Freedom of Information and of the Press and of the United Nations Conference on Freedom of Information).

1. Brazil

The Brazilian Government would prefer that the text of the Declaration follow the draft text proposed by the Commission on Human Rights for Article 17 of the Covenant.

In further connection with these articles, attention is drawn to the comments to follow, under Article No. 19.

2. Union of South Africa

Articles 17 and 18: The Sub-Committee on Freedom of Information and of the Press, have recommended article to take the place of these articles. This article corresponds with Clause 1 of the article recommended by the Sub-Commission for inclusion in the convention. We have dealt with this latter article in our comments on Article 17 of the convention.

The Sub-Commission on Freedom of Information and of the Press at its second session decided to recommend to the Commission on Human Rights the following article, which embodies Articles 17 and 18 of the Draft Declaration (document E/CN.4/80, page 4):

“Everyone shall have the right to freedom of thought and expression; this shall include freedom to hold opinions without interference, and to seek, receive and impart information and ideas by any means and regardless of frontiers.”

The United Nations Conference on Freedom of Information adopted the following opinion on Articles 17 and 18 (Final Act, E/CONF.6/79, Annex B):

Articles 17 and 18 of the Declaration may be embodied in one Article as follows:

“Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.”

[34]

(Article 18)

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

(Concerning Articles 17 and 18, the Commission decided not to elaborate a final text until it had before it the views of the Sub-Commission on Freedom of Information and of the Press and of the International Conference on Freedom of Information.)

1. Mexico

This article should be redrafted as follows:

“Every person has the right to use the spoken or written word, the press, books and all visual, auditive or any other means of expression. There shall be equal access for all to all channels of communication of ideas.”

2. Brazil

The Brazilian Government would prefer that the text of the Declaration follow the draft text proposed by the Commission on Human Rights for Article 17 of the Covenant.

In further connection with these articles, attention is drawn to the comments to follow, under Article No. 19.

The Sub-Commission on Freedom of Information and the United Nations Conference on Freedom of Information decided to recommend to the Commission on Human Rights that Articles 17 and 18 should be embodied into one article, the proposed texts of which are quoted under the preceding Article.

[35]

Article 19

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

1. Brazil

The principle embodied in this article is presented without the restrictions which are mentioned in Article 18 of the draft covenant. The right to establish associations is regulated by Article 19 of the Covenant. In the comments on Article 19 of the Draft Declaration, which appear in Annex A, Part II, of the Report of the 2nd Session of the Human Rights Commission, the remark is found that it is understood that no individual or association that aims to destroy the fundamental rights and freedoms set forth in this Declaration can claim protection under this article. It is recommended that a disposition to that effect be included both in the text of the Declaration and in that of the Covenant and extended so as to apply to associations aiming at the violent destruction of social or political order.

The right to constitute associations in the manner prescribed by law should be added to that of “participating” therein.

The constitutions and the legislation of some countries contain justifiable restrictions to the participation of aliens in certain associations. An example of such restrictions is found in the Brazilian Constitution, Articles 155 and 160. Domestic regulations of this nature should be admissible under the International Bill of Rights. [36]

Article 20

Everyone has the right, either individually or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.

1. Netherlands

It should be understood that the right to petition or to communicate with the public authorities can only be exercised in writing.

2. Union of South Africa

Article 20: The addition at the end of this article of the words “or with the United Nations”, constitutes, in its context, a recognition of the right of individuals to petition the United Nations on whatever matter they may desire to raise. This implies a jurisdiction on the part of the United Nations, which they obviously do not possess. If the intention is to deal only with petitions relating to fundamental human rights, the matter could be best dealt with when the implementation of the convention is under consideration.

[37]

Article 21

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

1. Brazil

The right set forth in this article should be subject to restrictions in political capacity through legal incompetence (minority, criminality, etc.).

2. Union of South Africa

Article 21: The scope of this article would appear to be too wide; convicts, stateless persons, aliens and in some cases, absentee voters, cannot take an effective part in

the government of all countries. Nor can persons who cannot comply with property and literacy or educational qualifications where such qualifications are in vogue.
[38]

Article 22

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

2. Access to public employment shall not be a matter of privilege or favour.

1. Netherlands

The meaning of the words “citizen” and “national” in contradiction to a foreigner should be made clear.

2. Mexico

The Mexican Government proposes that this article be redrafted as follows:

“Every person shall have equal opportunity to engage in public employment, and to hold public office in the State of which he is a citizen, subject or national, except in special cases provided for in the national law.

“Access to public employment shall not be a matter of privilege or favour.”

3. Brazil

No. 2 appears unnecessary in view of the comprehensiveness of No. 1.

4. Union of South Africa

Article 22: it is difficult to see how equal opportunity to engage in public employment and hold public office can be regarded as a fundamental human right. In some countries members of the Communist Party, in other members of a fascist party, or an organization with subversive objectives are debarred from holding public office. The Union Government regard restrictions, imposed for purposes of national security and public peace as legitimate.

[39]

Article 23

1. Everyone has the right to work.

2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

3. The State is bound to take necessary steps to prevent unemployment.

1. Mexico

The first paragraph of this article would be more adequately drafted as follows:

“Everyone has the right to paid work.”

2. Brazil

As pointed out by the United States representative, it would be best not to mention positive duties of the State. However, if it is decided that such mention is to be made. No. 3, which appears redundant in view of No. 2, might be worded as proposed by the representative of Byelorussia: “The State is obliged to take all necessary measures against unemployment.”

The question of compulsory labour, which is clearly set forth in Nos. 2 and 3 of Article 8 of the Covenant, has not been taken into consideration in the article under review.

3. Union of South Africa

Article 23: The second and third clauses of this article do not constitute human rights or freedoms, but duties of the State concerning which a separate Convention or declaration is being considered. These clauses should be deleted.

4. Egypt

The duty incumbent on the State under the provisions of Article 23 is a positive one; all that can be required of the State is that it should do everything possible to organize its domestic economy in such a way as to give all persons ordinarily resident in its territory an opportunity for useful work.

[40]

Article 24

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

2. Women shall work with the same advantages as men and receive equal pay for equal work.

1. Netherlands

(a) The acceptance of the principle of equal pay for equal work for men and women should not exclude the system of family allowances being given to married people, although, in practice, such a system implies that different people do not get equal remuneration for equal work.

- (b) The condition that women shall work with the same advantages as men should not exclude the possibility of special prohibitive laws with regard to the labour of women, such as a prohibition of night work for women only.

2. Brazil

No. 2 seems unnecessary in view of Article 3, which assures all rights and freedoms set forth in the Declaration, without distinction of sex.

3. Union of South Africa

Article 24: What criterion is to be applied to determine whether the pay received is commensurate with an individual's skill, in circumstances where so often the wage paid is determined by the law of supply and demand? It would be preferable to be realistic and stipulate for a "fair and reasonable" wage, all circumstances considered.

As regards reference to Trade Unions, see remarks under Article 19 of the draft Covenant. This article further embodies the contentious principle of equal pay for men and women for equal work. Where this principle for good reasons is not universally recognized it would be preferable to leave it out, as not an acknowledged fundamental human right.

[41]

Article 25

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

1. Netherlands

The second sentence should be deleted.

Comment: Apart from the question as to whether the regulation of this matter really enters in the scope of the Declaration, the inclusion of such an obscure provision should be avoided.

2. Brazil

The Brazilian Government endorses the additional wording suggested by the delegate of Uruguay: "Everyone has the duty to preserve his health".

Here, likewise, the observation of the United States representative as to the declaration of positive duties for the State should be taken into account.

[42]

Article 26

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

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

1. Brazil

The remarks of the Brazilian Government to Articles 24 and 25 also apply to this article.

2. Egypt

The Royal Government proposes that the following paragraphs be added at the end of Article 26:

“It is understood that the rights enumerated in Articles 23, 24, 25 and 26 can only be exercised so far as the economic conditions and potentialities of each State permit.”

[43]

Article 27

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

1. Netherlands

(a) The first sentence should read: “Everyone has the right to fundamental education”.

Comment: Other education than fundamental education cannot be demanded as a right.

(b) The second sentence should be deleted.

Comment: The Declaration cannot deal with the problem whether education should be free and compulsory; should the sentence be maintained, the question arises whether the gratuitous education should not be limited to those who are unable to pay.

- (c) in the third sentence the words “higher education” should be replaced by “other than fundamental education”.

Comment: By this substitution instruction such as technical education will also be included. It should be understood that the term “fundamental education” means general education and not merely technical education. Perhaps the word “elementary” would be preferable to make this clear.

[44]

Article 28

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

1. Mexico

The drafting of this article is correct, but the provisions with respect to international relations are purely negative. The Mexican Government therefore proposes the addition of the following text:

“It will use all means to promote understanding and concord amongst peoples and to develop effective support of the pacific activity of the United Nations.”

[45]

Article 29

1. *Everyone has the right to rest and leisure.*
2. *Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.*

1. Brazil

This article would be better placed immediately following Article 24, thus bringing together the dispositions relating to labour. This would result in the further advantage that the present Article 30 would be located immediately following Articles 27 and 28 which deal with education.

[46]

Article 30

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

1. Mexico

The following text should be added to this article:

“Everyone is likewise entitled to just protection, compatible with the progress of mankind, for his moral and material interests in any inventions or literary, scientific or artistic works of which he is author.”

2. Brazil

Add: without detriment to literacy, scientific and artistic property rights.

[47]

(Article 31)

(The Commission did not take a decision on the two texts below. They are reproduced here for further consideration)

(Text proposed by the Drafting Committee:)

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

(Text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities:)

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

1. Netherlands

The Netherlands Government reserve the right to determine their point of view with regard to the important problem of schools and language of minorities. In any case,

it should be made clear that stipulations on these problems will only apply to nationals and not to foreigners.

2. Brazil

The Brazilian Government would prefer the text proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

It would seem advisable, however, to add that such provisions do not refer to groups formed by immigration, whether spontaneous or officially fostered, into independent States already in existence at the time of immigration.

3. Egypt

With regard to Article 31, which deals with the problem of minorities, and on which no decision was taken by the Commission, the Royal Government considers that such an article is out of place in a declaration on human rights, the object of such a declaration being to enumerate the rights of man and not those of minorities. Minority rights should be covered by a convention on minorities. It is to be hoped, moreover, that when the International Declaration on Human Rights is put into effect by States and men are given equal treatment everywhere the problem of minorities will disappear.

[48]

Article 32

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.

1. Brazil

Besides the Charter, reference might be made to the Bill of Rights.

[49]

Article 33

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed to the destruction of any of the rights and freedoms prescribed herein.

1. Brazil

No remarks.

The Brazilian Government is in agreement with the article suggested in Annex A, Part 2, No. 2 of the Report of the Commission on Human Rights:

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

Such right to resist should be recognized, not only as against oppression and tyranny, but always against illegality, and it should be manifested through adequate judicial recourse, through non-co-operation and even *in extremis*, by force.

It should be made evident that the enumeration of rights in the Declaration is not exhaustive but merely exemplary and that it does not preclude the consideration of implied rights; a statement to this effect should be included in the Declaration.

[50]

III. Draft International Covenant on Human Rights⁷³

A. *General Comments on the Covenant*

...

2. *Australia*

The Australian Government considers that the Covenant should be more comprehensive, and include more provisions for the implementation of the general principles of the Declaration. In particular the Covenant does not at present give definitive effect to the principles contained in the Draft Declaration in its present form in Articles 1, 9, 11, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 32 and additional articles of the Covenant should be included accordingly. The Australian Government reserves the right to propose appropriate additional articles, and also to make comments on matters of detail in the Covenant as a whole.

3. *The United States*

The United States is of the opinion that brevity and conciseness are at least as important in the Covenant as in the Declaration.

...

[52]

...

4. *Mexico*

Articles 1, 2, 3 and 4 of the Draft provide that States shall undertake to secure effectively in their domestic legislation the human rights stated in the

⁷³ The parts of the document concerning the International Covenant that make reference to the Universal Declaration of Human Rights are included.

Declaration. Hence, the second part of the Covenant (Articles 5 to 22), which in effect confirms and provides for implementing the Declaration on Human Rights, appears unnecessary. If States undertake to respect human rights in their domestic legislation no such confirmation would seem to be required; and as for implementation, this should preferably be left to the domestic jurisdiction of each country.

...

E/CN.4/AC.1/17

3 May 1948

***List of Comments on the Draft International Declaration
on Human Rights, on the Draft International Covenant on
Human Rights and the Question of Implementation Received
by the Secretariat up to 3 May 1948***

1. Pakistan – E/CN.4/82/Rev.1, page 1
2. Canada – E/CN.4/82/Rev.1, page 1
3. Netherlands – E/CN.4/82/Rev.1, page 2
4. Australia – E/CN.4/82/Rev.1, page 16
5. United States – E/CN.4/82/Rev.1, page 17
6. Mexico – E/CN.4/82/Add.1
7. Brazil – E/CN.4/82/Add.2
8. Egypt – E/CN.4/82/Add.3
9. United Kingdom – E/CN.4/82/Add.4, page 2
10. Union of South Africa – E/CN.4/82/Add.4, page 10
11. Norway – E/CN.4/82/Add.5

E/CN.4/AC.1/18

3 May 1948

Draft International Declaration on Human Rights
(Submitted by the Chinese Delegation)

Article I

Every person has the right to life.

Article II

Every person has the right to freedom of conscience and belief, to freedom of assembly and of association, and to freedom of information, speech and expression.

Article III

Every person has the right to a decent living, to work and leisure, to health, education, economic and social security.

Article IV

Every person has the right to take part in the affairs of his government directly or through his representatives.

Article V

Every person has the right to equal protection under law.

Article VI

Every person has the right to seek asylum from persecution.

Article VII

No person shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article VIII

No person shall be subjected to arbitrary arrest or detention.

Article IX

No person shall be held in slavery or involuntary servitude or be subjected to torture or to cruel or inhuman punishment or indignity.

Article X

Every person is entitled to the human rights and fundamental freedoms set forth in this declaration without distinction as to race, sex, language or religion. The

exercise of these rights requires recognition of the rights of others and the just requirements of the community in which he resides.

E/CN.4/AC.1/SR.20

3 May 1948

Summary Record of the Twentieth Meeting [of the Drafting Committee, Second Session]

Lake Success, New York,
Monday, 3 May 1948 at 3.15 p.m.

Present: Mr. Heywood⁷⁴ (Australia); Mr. Santa Cruz (Chile); Dr. Wu (China); Mr. Ordonneau (France); Mr. Malik (Lebanon); Mr. Fearnley (United Kingdom); Mrs. Roosevelt (United States of America); Mr. Pavlov (Union of Soviet Socialist Republics). *Specialized Agencies*: Mr. René Lebar (UNESCO). *Non-Governmental Organizations*: Miss Toni Sender (American Federation of Labor). *Secretariat*: Dr. E. Schwelb; Mr. John Male.

1. Opening of the Meeting and Adoption of the Provisional Agenda

MRS. ROOSEVELT (United States of America) opened the meeting and welcomed the members of the Committee. She urged that the Committee proceed with its work as quickly as possible, enumerated the items of the Draft Provisional Agenda, and asked for comments from members.

MR. PAVLOV (Union of Soviet Socialist Republics) considered that with reference to Item 4 of the Draft Provisional Agenda, it would be more correct to hold a general debate on the basic questions concerning the Draft Declaration on Human Rights, the Draft Covenant on Human Rights and the Measures of Implementation than to discuss the drafts prepared by the [2] Commission on Human Rights article by article. He pointed out that it was in this way that work on the Charter of the United Nations was carried on. He would be in a position, if Item 4 of the agenda were changed, to submit a draft outline of a Draft Covenant on Human Rights.

MRS. ROOSEVELT (United States of America) understood the delegate of the Union of Soviet Socialist Republics to mean that if this new method of discussion were adopted, the Union of Soviet Socialist Republics would be ready to submit a draft document of a Covenant on Human Rights. Considering this, she felt that the Committee should first adopt the Provisional Agenda. After adoption of the agenda,

⁷⁴ The name of the Australian representative on the Drafting Committee is spelled inconsistently (Heywood and Heyward) in the summary records. In the final report of the Committee, it is spelled Heyward.

the Committee could proceed, when Item 4 was under consideration, to a discussion of the method proposed by the delegate of the Union of Soviet Socialist Republics.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that approval of the agenda did not place the Union of Soviet Socialist Republics under an obligation to discuss article by article the provisions listed under Item 4. He felt that it would be more correct to word this item "to provide for a general discussion of the basic questions of the Declaration which could be the basis for fundamental provisions and which could be the foundation of the Draft International Declaration on Human Rights, and the Draft Covenant on Human Rights".

MRS. ROOSEVELT (United States of America) pointed out that since much work had already been done with regard to the Declaration and Covenant and since some Governments had already submitted their comments, she felt that in this last stage of the work, it would be difficult to ignore the documents that had been prepared. She was under the impression that the reason the Government of the Union of Soviet Socialist Republics had not submitted comments was that the Union of Soviet Socialist Republics wanted to change the whole approach to the problem.

According to the Economic and Social Council resolution, the observations, suggestions and proposals of Governments were to be used as a basis for re-drafting, which might include preparation of a Draft Declaration, a Draft Covenant and Measures for Implementation. The task of the Drafting Committee, therefore, would be to produce documents on all three points, unless the question of Measures of Implementation were to be incorporated into the Covenant, in which case only two documents would be required. Ideally the Committee should base its new text on the comments on Governments accepting what was found to be valuable and rejecting what was disapproved by the Committee. She declared that little would be gained by a discussion of general principles, since this was not the time for theoretical conjecture. [3]

The representative of the Union of Soviet Socialist Republics, however, had suggested that the Committee proceed to a discussion of general principles. She considered that this would be contrary to the procedure envisaged by the Economic and Social Council and that the question should be postponed, in any case, until after the election of officers.

MR. SANTA CRUZ (Chile) stated the task of the Drafting Committee was quite clearly defined in the terms of reference established by the Economic and Social Council and the Commission on Human Rights. He pointed out that in the Fourth Session of the Economic and Social Council, it had been decided to establish the Drafting Committee of the Commission on Human Rights with a view to preliminary consideration of the problem, after which the Commission on Human Rights, at its Second Session, would prepare a draft document. This would be submitted to Governments for comment, after which it would be the task of the Drafting Committee to re-draft the document for

submission to the Third Session of the Commission, which would refer the completed document to the Economic and Social Council.

The task, therefore, of the Drafting Committee was to revise the document already prepared by the Second Session of the Commission, on the basis of comments of governments. The Committee could, of course, discuss general principles under Item 4 of the Provisional Agenda and he felt that comments received from the Governments would provide a good field for such discussion. Should any member of the Committee decide to propose a new draft, this procedure would be entirely acceptable.

MRS. ROOSEVELT (United States of America) stated that full opportunity will be given to the delegate of the Union of Soviet Socialist Republics to present his views when Item 4 of the Provisional Agenda was being discussed.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that the problem before the Committee was carefully to prepare the basis of its work, in order that a solid foundation be established. Therefore, he felt that before taking up any Draft Declaration, Draft Covenant or Measures for Implementation, a general discussion under Item 4 of the Provisional Agenda should be held. He disagreed with the statement of the Chairman that discussion could be based only on the draft document prepared by the Commission on Human Rights at its second session.

MRS. ROOSEVELT (United States of America) explained that the Economic and Social Council's recommendation would not prevent the Committee from changing anything in the documents already presented, nor would it prevent a member of the Committee from presenting a new draft document if he so desired. However, the documents which were already before the Committee [4] would have to be considered as the basis of discussion. She felt that too much consideration had been given to these documents for them to be ignored.

She would put the Provisional Agenda to a vote with the understanding that under Item 4 new suggestions and procedures would be presented for consideration but that the Committee should take as a basis for discussion the documents which had already been presented to it together with the comments from Governments.

MR. SANTA CRUZ (Chile) quoted part of Resolution 46(IV) of the Economic and Social Council concerning the work of the Commission and its Drafting Committee. According to this Resolution, a preliminary draft document was to have been prepared in the first instance by the Drafting Committee. The draft as developed by the Commission on Human Rights was to be submitted to all States Members of the United Nations for their observations, suggestions and proposals which then were to be considered as a basis for a redraft, if necessary, by the Drafting Committee. The resulting document was to be submitted to the Commission on Human Rights for final consideration.

Consequently, he pointed out that the final stage of the work had arrived for the Committee. He felt that it was within the power of any delegate to say that he did not

agree with the comments of governments or the draft document itself and thus could present an entirely new draft if he chose to do so.

The Provisional Agenda was adopted by 6 votes for, to none against with one abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he had abstained from voting on the Provisional Agenda because he did not feel that the wording and substance of Item 4 of the Provisional Agenda should be binding on his views. He considered that the item might have been more appropriately worded.

2. Election of Chairman

MRS. ROOSEVELT (United States of America) asked the Committee to proceed with the Election of officers.

MR. HEYWOOD (Australia) proposed that the officers of the Commission on Human Rights be maintained. He then proposed Mrs. Roosevelt (United States of America) for Chairman.

M. ORDONNEAU (France) supported the nomination.

MRS. ROOSEVELT (United States of America) then asked Dr. Schwelb, of the Secretariat, to take the chair while the vote was being taken.

Mrs. Roosevelt (United States of America) was unanimously elected Chairman and took the chair.

[5]

3. Election of Vice-Chairman and Rapporteur

THE CHAIRMAN asked for nominations for the Vice-Chairmanship of the Committee.

MR. SANTA CRUZ (Chile) stated that he supported the representative of Australia in his proposal that the same officers be maintained for the Drafting Committee. However, since Dr. Chang (China) would be unable to be present, he considered that the functions of the Vice-Chairman and Rapporteur could be combined under one office. He then nominated Dr. Charles Malik (Lebanon).

M. ORDONNEAU (France) supported the nomination.

Dr. Malik (Lebanon) was elected Vice-Chairman and Rapporteur.

THE CHAIRMAN asked the Committee to decide upon its hours of work.

DR. SCHWELB (Secretariat) said that the Secretariat was at the disposal of the Committee but that he would like to point out that due to the fact that a meeting of the Ad Hoc Committee on Genocide⁷⁵ was scheduled for the following afternoon,

⁷⁵ The Ad Hoc Committee on Genocide was established by the Economic and Social Council to prepare a draft Convention on the Prevention and Punishment of the Crime of Genocide which, after consideration by the Third Committee, was adopted by the General Assembly on 9 December 1948.

and since several members of the Drafting Committee were also members of the Committee on Genocide, he would ask the Drafting Committee to hold a morning session only on that day. Due to budgetary limitations, it might be advisable for the Committee to refrain from evening or Saturday sessions.

It was agreed that the Drafting Committee would meet on Tuesday morning, 4 May 1948 at 10.30 a.m.

The Committee decided by a vote of 6 for, with 1 against, its working hours would be daily from 10.30 to 1.00 and from 2.30 to 5.30, exclusive of weekends.

Before proceeding to a general discussion, the Chairman asked those members of the Committee who had not yet sent in written comments, as well as those who wished to make additional comments, to present them to the Secretariat as soon as possible. She recommended to the Secretariat that all comments from governments be assembled in one document and grouped according to subject matter without acknowledgement of authorship.

DR. SCHWELB (Secretariat) stated that a document of this nature was being prepared, and would shortly be available.

MR. PAVLOV (Union of Soviet Socialist Republics) wondered whether, under a grouping of material, such as suggested by the Chairman, it would be possible to become familiar with all the comments of any one government, or even any one given point as set out by a Government in its comments.

MR. SANTA CRUZ (Chile) supported the representative of the Union of Soviet Socialist Republics and felt that the comments of governments should be circulated separately. He further wished to know whether it would be possible to have a verbatim record of the proceedings of the Drafting [6] Committee. If this was not possible, at least it would be desirable that the summary records be as complete as possible.

DR. SCHWELB (Secretariat) stated in answer to the first point of the representative of Chile that the Secretariat had prepared a comprehensive document arranging the written comments received from governments according to subject matter under the following main headings: General Comments, Comments on the Draft Declaration, Comments on the Draft Covenant and Problems of Implementation.

He explained that the delay in presenting the document to the Committee resulted from the tardy arrival of the comments from the Governments. He considered that this document would be satisfactory to the representative of the Union of Soviet Socialist Republics since it embodied comments from eleven Governments now before the Committee in separate documents.

In answer to the second point raised by the representative of Chile, Dr. Schwelb stated that the provisions laid down by the General Assembly did not permit verbatim reports.

4. General Discussion

DR. WU (China) wished to make a few general observations on the Draft Declaration, the Draft Covenant and the question of implementation. In the view of his delegation, the Draft Declaration as contained in the Report of the Second Session of the Commission on Human Rights was too lengthy, too technical and sometimes disorganized in ideas and in form. Some articles were in a declaratory, and some in a mandatory form. Some of the articles implied and demanded obligations on the part of governments. He considered that to be of value, in affecting and influencing public opinion and sentiment, the Declaration should be short, simple and appealing. He maintained that the Declaration could only serve as a moral standard towards which mankind should aspire.

He considered that the same applied to the Covenant, which is also too lengthy, and contained too many detailed limitations which might hinder its acceptance by governments. At this stage of the work, the Covenant should be more concise, with one overall clause of limitation which might be empowered in the future to include the economic and social rights which were so important today.

With regard to the question of implementation, he understood its necessity and importance. The International Bill of Human Rights would be quite meaningless without a provision on implementation. It was his opinion that at this stage of political and social development of human society, the creation of a World Court, either independently or as an adjunct to the present International Court of Justice, could not solve the [7] problem of implementation. Implementation should be provided for not by immediate creation of international machinery of a radical nature, but through gradual processes of education.

He hoped that the Committee would avoid singling out the state as the arch-enemy of men; and that the document it forwarded to the Commission would not set the individual, directly or indirectly, at odds with the community in which he resided. It is better, he added, to start with a modest beginning and achieve some success, than to start on an ambitious scale, with probable disappointments.

MR. PAVLOV (Union of Soviet Socialist Republics) reserved his right to make general comments at a later meeting.

MR. SANTA CRUZ (Chile) considered that the Committee was not prepared to present its views before considering the Secretariat's document.

DR. SCHWELB (Secretariat) stated every endeavour was being made to have the document ready for the following meeting of the Committee.

THE CHAIRMAN pointed out that the separate comments from Governments were in the hands of the Committee.

The meeting rose at 4.35 p.m.

E/CN.4/82/Add.7

4 May 1948

**Comments from Governments on the Draft International
Declaration on Human Rights, Draft International Covenant on
Human Rights and the Question of Implementation**

1. Communication Received from India

1st May 1948

Sir,

I have the honour to refer to your letter No. SOA 17/1/01/JH, dated the 9th January 1948, and to forward herewith a note containing the comments of the Government of India on the Draft Declaration on Human Rights, the Draft Covenant on Human Rights, and the Question of Implementation contained in Annexes A, B and C of the Report of the Commission on Human Rights – Second Session.

[2]

**Government of India's Comments
Covenant on Human Rights Annexure B of document E/600.**

Article 1. Substitute “civilized nations” by “principles of law recognized by Members of the United Nations”.

Article 2(a). It will not be possible to guarantee all rights in part II of Covenant to persons other than citizens of State. Government of India do not favour application of Article 17, 18, 19 and 20 to persons other than citizens of State.

Article 8. Reference to conscientious objectors should in our view be omitted altogether. Specific exclusion of conscientious objectors from compulsory military service laws as contemplated in Article 8(3)(a) may rather tend to encourage conscientious objection in time of war and in any case experience of last two wars shows that number of conscientious objectors was not too large and did not require any special protection. We also think that Article 8 3(c) should be omitted as such a provision might be interpreted to justify exactions of labour often made from backward communities under pretext of communal services.

Article 9. The list of cases justifying arrest should be treated as illustrative and not exhaustive.

Article 10. Should not apply to contractual obligations undertaken by any individuals towards State.

Article 11. The principle of this Article is most important condemning as it does restriction on movements and residential segregation within a State. As at present drafted however it leaves loophole to governments to apply such restrictions and segregation in “general interests” which is a wide term. Government of India is strongly of the view that this Article should be redrafted as to leave no manner of doubt and would therefore suggest that expression “for specific reasons of security or in the general interest” should be substituted by “for specific purpose of security in a state of emergency or for prevention of epidemics”.

Article 12. This article should read as “No alien legally admitted into the territory of a State shall be expelled therefrom except in accordance with procedure prescribed by law”.

Article 13. To clause (2) may be added a sentence “Such public trials may be dispensed with when considerations of security or public morals are involved”.

Article 14. Clause (2) is vague and seems unnecessary to provide for and may be omitted. Cases like war crimes can be dealt *ad hoc* by victorious powers whenever they arise in future.

Article 15. The meaning and purpose of this Article are not understood. It may be omitted.

[3]

Article 24. Clause (2) is in our opinion inappropriate. It ignores the fundamental fact that in States with Federal constitution it is Federal Government which always speaks for the whole country in foreign affairs and binds the State as a whole to treaty obligations. If this clause stands Governments may avoid their obligations undertaken by Covenant on the ground that they had no jurisdiction over the federal units in particular matters. In our view the only sound proposition tenable in international law is that an acceding state should bind the state as a whole irrespective of its internal constitution and Article 24 should be amended to give effect to it.

Article 25. For the same reasons we strongly object to this Article in its present form. If it is allowed to remain the benefits of Covenant may be denied to persons in colonies where they are in most need of its application. This Article should also be amended so as to make it clear that ratification by metropolitan power binds not only metropolitan territory but all other territories such as colonies, trust territories and protectorates for administration of which such metropolitan power is responsible.

[Comments on implementation are omitted.]

[4]

...

4. We generally agree with Draft Declaration subject to such modifications as may be necessary in the light of our comments on Covenant.

E/CN.4/AC.1/SR.21

4 May 1948

Summary Record of the Twenty-First Meeting [of the Drafting Committee, Second Session]

Held at Lake Success, 4 May 1948 at 10.30 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt (United States of America); Vice-Chairman and Rapporteur: Mr. Charles Malik (Lebanon). Mr. J. D. L. Hood (Australia); Mr. H. Santa Cruz (Chile); Dr. T. Y. Wu (China); Mr. P. Ordonneau (France); Mr. A. P. Pavlov (Union of Soviet Socialist Republics); Mr. G. Wilson (United Kingdom). *Representatives of Specialized Agencies:* Mr. Oliver Stone (International Refugee Organization). *Consultants from Non-Governmental Organizations:* Miss Toni Sender (American Federation of Labor). *Secretariat:* Dr. J. P. Humphrey; Mr. John Male.

1. Communication from the World Jewish Congress

THE CHAIRMAN said that the World Jewish Congress, as a non-governmental organization in Category 'B', had asked to be heard by the Committee. She read a letter offering the co-operation of the organization and reminded the Committee that if it decided to grant the permission requested it must be prepared to give similar permission to other organizations in the same category.

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DR. HUMPHREY (Secretariat) explained that although the full Commission had in the past heard organizations in Category 'A', there was no instance of an organization belonging to Category 'B' having been heard in the Committee, but that in Geneva such organizations had been heard in the working parties.

MR. MALIK (Lebanon) said that in Geneva the World Jewish Congress had made a real contribution to the work of the Commission.

MR. ORDONNEAU (France) asked whether the Committee was prepared to give more favourable treatment to non-governmental organizations than to Member States which were not represented on the Committee and which were not given a chance of being heard. Moreover, the Committee was informed of the views of organizations through their written communications.

THE CHAIRMAN, replying to a question from MR. PAVLOV (Union of Soviet Socialist Republics), explained that organizations in Category 'A' had the *ex officio* right to sit in the Committee and that organizations in Category 'B' had the right to ask for a hearing although none had so far exercised that right. She then put the question to the vote.

It was unanimously agreed that it was not possible to hear the World Jewish Congress.

2. General Discussion

The representatives of France and of the Union of Soviet Socialist Republics both asked that French and English translations of documents be circulated as soon as possible and simultaneously.

DR. HUMPHREY (Secretariat) explained that many comments from Governments had come in late, and that the technical services of the Secretariat were being strained by the work required by the Special Session of the General Assembly and for the other United Nations organs now in session, which had priority over the Drafting Committee.

THE CHAIRMAN asked the members if they had any general statements to make.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that his delegation was not satisfied with the Draft Declaration presented to the Committee. It did not make proper provision for the respect of human rights and fundamental freedoms for all without distinction as to race, creed, sex or religion as provided in the Charter. The Declaration and the Convention should enact an effective guarantee of implementation, bearing in mind the political, economic and social factors. The Declaration, moreover, should describe not only the rights of the individual but his obligations to his country, his people and his State.

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None of these requirements were to be found in the documents presented to the Committee. They dealt at length with the just requirements of democratic States, but made no reference to the basic democratic principle that every effort should be made to combat fascism, Nazism and racial hatred. Without this, the provisions of the Draft Declaration were mere abstractions, providing ample room for the propagation of their views by Fascist and Nazi organizations. The world was again threatened by terror imposed by reactionary elements. The absence of any provisions to combat this made the Soviet delegation sceptical as to the practical results of those documents.

In addition, the documents did not condemn discrimination because of race, sex or religion, and did not provide for its abolition. They dealt at length with voluntary discrimination, but made no provision to combat discrimination tolerated by law. Yet the situation of coloured people in the United States or of Indians in South Africa were matters of great concern.

As an example of what could be done, the representative quoted Article 123 of the Constitution of the Union of Soviet Socialist Republics which emphasized the equality of all people irrespective of race, sex and other factors and made all direct or indirect privileges based on these notions, or the defence of discrimination, punishable by law.

He added that the documents limited themselves to the formal establishment of rights without any provisions for their implementation. Again he cited the

Constitution of the Union of Soviet Socialist Republics as providing real guarantees for rights such as the right to work. What good did it serve the individual if the right to work were proclaimed in the Declaration, but in fact there was unemployment? In support of this contention he quoted figures on unemployment in the United States of America.

Another fault of the Draft Declaration was that it considered the right of citizens as unilateral, without correlative reference to the obligation of citizens to the State. The Declaration permitted anyone to leave his country and change his nationality without consideration of the higher interests of his homeland. Yet during the struggle against fascism, collaboration with the enemy had taken a terrible toll of human lives. How could the Soviet delegation recognize a document which would permit such practices?

Furthermore, there were provisions in the drafts which would violate the principle of the sovereignty of states, such as those contained in [4] Articles 20 and 22 of the Declaration. Article 20 dealt with the right of a person to petition the United Nations against his own government. This was in contradiction to Article 2(7) of the Charter and an encouragement to anti-patriotic doctrines.

Mr. Pavlov cited the fact that the Constitution of the Union of Soviet Socialist Republics guaranteed every citizen the right to due process in his own language, a fact which did not appear in the drafts, which provided no real guarantee or safeguard for linguistic minorities.

For these reasons the Soviet delegation was not prepared to accept the draft document as a basis for discussion. It proposed that it be rejected, and that basic principles be defined so as to give a clear anti-Fascist orientation to the work, give actual guarantees of implementation of every right stated, and ensure the punishment of all forms of discrimination. Only on this basis could the document be realistic. In the course of future work he would come back to each individual point and explain how he felt the instrument should be drafted. He recalled that the Union of Soviet Socialist Republics had reserved the right to present a Declaration on Human Rights which would be in conformity with the basic principles he had stated.

THE CHAIRMAN asked the representative of the Union of Soviet Socialist Republics to submit as soon as possible any concrete changes he envisaged in the drafts. The fact that he was concerned about the relationship of the state to the individual should be made very clear. She called his attention to the fact that certain rights could not be guaranteed by certain states without radical changes in their constitution. It must be remembered that the world comprised many states with many forms of government, and that they all had to work together. This should be kept in mind when drafting any declaration of human rights.

As representative of the United States, the Chairman declared that her delegation favoured presentation of a draft Declaration and Covenant to the Seventh Session of the Council and to the Third Session of the General Assembly. The drafts prepared in Geneva during the second session of the Commission could be improved, and an effort should be made to produce simple documents on which to work.

As regards the Declaration, the United States felt that a short document would meet with a wider appeal. It should not be regarded as a legislative document, but as a statement of standards, which, however, carried no legal weight. The description of legal rights would be found in the Covenant. Moreover, it was undesirable to spell out rights [5] in terms of government responsibility. The Declaration should state the rights of the individual and not deal with the rights of the government. The Covenant should be limited to civil rights which were widely accepted. The United States felt unable to enter a Covenant which was hedged in by limitations. Here again, the document should be simple.

MR. SANTA CRUZ (Chile) expressed great interest in the statement made by the representative of the Union of Soviet Socialist Republics, which he welcomed as the first positive contribution of that country to the drafting of a Bill of Human Rights. His delegation had welcomed the inclusion of the Union of Soviet Socialist Republics in the Committee precisely because that country represented a different philosophy of the subject. It was important, therefore, that the Soviet proposals be made available as soon as possible in order that an attempt might be made to find a common denominator. This endeavour might supply something so far lacking. The whole structure of Covenant depended on the relationship of the individual to the state. One might conceive of an omnipotent state, or one might give more importance to the individual, considering that society, national and international, was organized for his protection. He added that he would like to see the statement of the Soviet representative in writing, together with his views on the relationship between the state and the individual.

MISS SENDER (American Federation of Labor) said that the American Federation of Labor thought it encouraging that many governments had commented favourably on the question of implementation. The Federation considered that the Declaration should be concise, but at the same time comprehensive. It seemed a wrong approach to envisage it from the angle of national law, as national legislation must be adapted to international law. The Declaration represented an ideal towards which the states must look. The Federation noted with satisfaction the reminder in the comments submitted by the Government of Mexico that in adhering to the Charter, states had contracted obligations which they must respect.

It was important from the point of view of judicial interpretation to make it clear that the Declaration would not be exhaustive, and to have a general limitation clause subject to later judicial interpretation.

Many South American states had criticized the vagueness of such expressions as “cruel or inhuman”. This, however, did not seem a defect, as ideas on these matters were subject to change in time and space.

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Finally, she wished to make the following suggestions:

1. that the final drafting be done by one or two people, and brought out in one language;
2. that an attempt must be made to arrive at a more logical order within each document;
3. that the Declaration be checked against the Covenant, and these points of the Declaration on which agreement could be reached be taken into the Covenant.

MR. MALIK (Lebanon) declared that the discussions of the Committee would remain on an abstract plane unless the historic origin of the present concern for human rights were kept in mind. In recent years, men had arisen who embodied the worst aspects of human nature and had trampled on the dignity of the human being. That was the reason for the present desire to make the future safe against the recurrence of such monstrosities.

It seemed that the basic factors of modern life should be taken into account in a recast of ideas on human rights. He could quote four main factors. First of all came the maladjustments and ills of society resulting from the impersonal working of economic and social factors. Man was cramped by the social ills of modern society and this must be taken into account.

Secondly, the world was faced with a tendency to “statism”, or the determination by the state of all relations and ideas, thus supplanting all other sources of convictions. The state insisted on the individual’s obligations and duties to it. This too was a grave danger, for man was not the slave of the state, and did not exist to serve the state only. This applied also to the relative position of the individual and other groups to which he belonged. There were innumerable other intermediate loyalties which the individual must respect, such as those towards his family, his profession, his friends, and also towards philosophical laws. The state could not be the exclusive arbiter of truth and beauty. Real freedom sprang from the loyalty of the individual not to the state but to these intermediate forms. These must find their place in the general social picture.

Another modern evil was the exclusive concentration on material needs. Material abundance was not everything in life, and the requirements of culture, of the intellect and of the spirit must be taken into account.

Group pressure also should be curbed. Loyalty was owed to the group to which one belonged, but the individual must not be overwhelmed by the group, or he would lose his essential freedom.

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Should the Committee disregard these dangers, it would merely serve the trends of the age without improving it. Man might live in a perfect state, have all material security, be free from all social maladjustments, and yet not be the man which the Charter of the United Nations had in mind, a man with a worth and a dignity of his own. This exact worth and dignity must be determined. Man must be able to think and choose freely and even to reject freely and to rebel freely. He considered that the Declaration should be shorter, while the Covenant, which was more important, should be as wide as possible.

MR. WILSON (United Kingdom) stated that one of the main difficulties confronting the Committee was the definition of fascism and Nazism. If German law had guaranteed the rights of Jews, Communists, Socialists and other groups, Nazism would never have arisen there.

The delegation of the United Kingdom felt that the Declaration should be more concise. Whether the Covenant should have a general limitation clause was of fundamental importance. The Covenant was a piece of international statute law and therefore it could never be couched in simple terms. For example, the article on freedom of information had proved one of the most difficult to draft. He would be disappointed if the vague phrase "subject to the general welfare of the state" were accepted. The question of a general limitation clause might have to be decided by the full Commission or even beyond the Commission.

As a practical point, he felt that the Committee must face the fact that it might not be possible to accomplish its work in time for the coming sessions of the Economic and Social Council and General Assembly. It had taken three or four months for eleven governments, about one in five of all governments consulted, to make comments on the drafts. The remaining governments might make equally useful contributions and it was more important to work well than merely to work quickly.

MR. PAVLOV (Union of Soviet Socialist Republics) commenting on the remarks of the Chairman, said that his Government did not wish to impose its experience on anyone. The aim should be to achieve a maximum within the limits of existing conditions in the various countries. If the United States was unable, as was well realized, to eradicate unemployment, could something nevertheless not be done in favour of the [8] principle of equal pay for equal work of men and women, of equal pay for equal work of minors and adults doing the same type of work? The experience of the Union of Soviet Socialist Republics might be presented as an ideal, but that was not a reason for discarding other possibilities.

The fact that it is difficult to define fascism and Nazism was no reason for not adopting measures to prevent their recurrence. In combat, the allied armies did not need a clear definition of fascism and Nazism to know what they had to do in face of

the enemy. The waging of an effective struggle against fascism and Nazism could safely be inscribed in the documents; the people of the world would know the meaning.

3. Programme of Work

THE CHAIRMAN stated that the next meeting of the Committee would be on Wednesday, 5 May, at 10.30 a.m. and she suggested discussing the Covenant first, then the question of implementation and then the Declaration. Assuming that the Committee had eight days in which to work, three would be allotted to the Convention, two to the problem of implementation and three to the Declaration.

MR. PAVLOV (Union of Soviet Socialist Republics) suggested that the Committee consider the Declaration first, beginning with basic principles, then examine the Covenant and then the question of implementation.

MR. SANTA CRUZ (Chile) preferred that work start on the Declaration and MR. WILSON (United Kingdom) preferred to start with the Covenant.

MR. WU (China) suggested starting with the Covenant first and then proceeding to the Declaration, and considering implementation last.

MR. HOOD (Australia) suggested that one and a half days be allotted to consideration of the Declaration, three to the Covenant and that the Committee then return to the Declaration and the problem of implementation.

MR. PAVLOV (Union of Soviet Socialist Republics) reminded the Committee that they had decided at the chair's suggestion in adopting the provisional agenda, that the discussion should cover the Declaration, the Covenant and then the problem of implementation.

THE CHAIRMAN said that the right had been reserved to reverse this order.

The proposal to consider the Covenant first, the Declaration second and implementation third received three votes in favour and three against with two abstentions, and was declared lost.

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The proposal to consider the Declaration first, the Covenant second and implementation third received three votes in favour and three against, with two abstentions, and was declared lost.

The proposal of the representative of Australia was defeated by one vote in favour to seven against.

A proposal to consider the Covenant first was then approved by five votes in favour and one against with two abstentions.

The meeting rose at 1:00 p.m.

E/CN.4/AC.1/20

5 May 1948

Draft International Declaration on Human Rights (Document E/600) with United States' Recommendations

General Comment

The United States submits herewith certain suggestions for re-wording of individual articles of the Declaration. These suggestions envisage the substantive rights being expressed under an overall clause stating "Everyone is entitled to" these rights and freedoms, and will obviate the necessity of repeating "Everyone is entitled to" or similar wording in each article.

The United States representative is profoundly impressed by the draft Declaration submitted by China at this session of the Committee. It is encouraged to find that so brief and entirely understandable a Declaration will be considered. It will lend full support to a very substantial further curtailment of the length of the Declaration and considers that the length of the draft presented by China may well come close to the ideal.

[2]

Preamble

Draft Declaration	Recommendation	Covenant Article
None	<p><i>Whereas</i> the Members of the United Nations have reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and</p> <p>Pledged themselves to cooperate for the achievement of</p> <p style="padding-left: 40px;">higher standards of living, full employment, and conditions of economic and social progress and development;</p> <p style="padding-left: 40px;">solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and</p>	Article 1

Draft Declaration	Recommendation	Covenant Article
	<p>universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,</p> <p>The General Assembly recommends the following Declaration as a standard of achievement for its Members in their promotion of human rights and fundamental freedoms.</p>	
<p><i>Article 1</i></p> <p>All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers.</p> <p>[3]</p>	<p>All men are born free and equal in dignity and rights.</p>	<p>None</p>
<p><i>Article 2</i></p> <p>In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom.</p>	<p>The full exercise of the rights set forth in this declaration requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.</p>	<p>Article 2</p>
<p><i>Article 3</i></p> <p>Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin.</p> <p>All are equal before the law regardless of office or status and entitled to equal protection of the law against any arbitrary discrimination or against any incitement to such discrimination, in violation of this Declaration.</p>	<p>All are equal before the law regardless of office or status and entitled to equal protection of the law without distinction of any kind, such as race, (which includes colour), sex, language, religion, political or other opinion, property status, national or social origin or any other arbitrary discrimination.</p>	<p>Article 20</p>

Draft Declaration	Recommendation	Covenant Article
<i>Article 4</i> Everyone has the right to life, to liberty and security of person.	No change.	Article 5
<i>Article 5</i> No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Everyone placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.	Everyone is entitled to: Freedom from being arrested or detained without being promptly informed of the reasons for the arrest or detention and without being entitled to a fair hearing within a reasonable time or release.	Article 5 Articles 9, 13
[4] <i>Article 6</i> Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.	Everyone is entitled to: Freedom from conviction or punishment for crime except after a public trial within a reasonable time before a fair, impartial and independent tribunal; and The right to a fair hearing before an impartial and independent tribunal in the determination of any criminal charge against him or of any of his rights or obligations.	Articles 9, 13
<i>Article 7</i> 1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it	Everyone is entitled to: The right to be presumed innocent of crime until proved guilty; Freedom from <i>ex post facto</i> laws; and Freedom from torture or mutilation, or cruel or inhuman punishment or indignity.	Articles 9, 13 Article 14 Article 7

Draft Declaration	Recommendation	Covenant Article
<p>was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.</p> <p>2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.</p> <p>3. No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.</p>		
[5]		
<i>Article 8</i>		
Slavery, in all its forms, being inconsistent with the dignity of man, shall be prohibited by law.	Everyone is entitled to freedom from slavery or forced or compulsory labour.	Article 8
<i>Article 9</i>		
Everyone shall be entitled to protection under law from unreasonable interference with his reputation, his privacy and his family. His home and correspondence shall be inviolable.	Everyone is entitled to freedom from unreasonable interference with reputation, family, home or correspondence.	None
<i>Article 10</i>		
<p>1. Subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of security or in general interest, there shall be liberty of movement and free choice of residence within the border of each State.</p> <p>2. Individuals shall have the right to leave their own country and, if they so desire, to acquire the nationality of any country willing to grant it.</p>	Everyone is entitled to freedom of movement and residence within the borders of each State and freedom to emigrate, and to acquire the nationality of any state willing to grant it.	Article 11

Draft Declaration	Recommendation	Covenant Article
<i>Article 11</i>		
Everyone shall have the right to seek and be granted asylum from persecution. This right will not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations. [6]	Everyone is entitled to the right to seek and be granted temporary asylum in other countries to escape persecution.	None
<i>Article 12</i>		
Everyone has the right everywhere in the world to recognition as a person before the law and to the enjoyment of fundamental civil rights.	Everyone is entitled to the right to recognition as a person before the law.	Article 9, 13
<i>Article 13</i>		
1. The family deriving from marriage is the natural and fundamental unit of society. Men and women shall have the same freedom to contract marriage in accordance with the law. 2. Marriage and the family shall be protected by the State and Society.	Omitted as sufficiently protected in other Articles.	None
<i>Article 14</i>		
1. Everyone has the right to own property in conformity with the laws of the State in which such property is located. 2. No one shall be arbitrarily deprived of his property.	Everyone is entitled to the right to own property in conformity with the laws of the state in which such property is located and to freedom from the arbitrary deprivation of his property.	None
<i>Article 15</i>		
Everyone has the right to a nationality. All persons who do not enjoy the protection of any government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations. [7]	Omitted as sufficiently covered in Article 10.	None
<i>Article 16</i>		
1. Individual freedom of thought and conscience, to hold and	Everyone is entitled to freedom of religion, conscience, and belief,	Article 16

Draft Declaration	Recommendation	Covenant Article
<p>change beliefs, is an absolute and sacred right.</p> <p>2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in worship, observance, teaching and practice.</p>	<p>including the right, either alone or in community with other persons of like mind, to hold and manifest any religious or other belief, to change belief, and to practise any form of religious worship and observance.</p>	
<i>Article 17</i>		
<p>1. Everyone is free to express and impart opinions, or to receive and seek information and the opinion of others from sources wherever situated.</p> <p>2. No person may be interfered with on account of his opinions.</p>	<p>Everyone is entitled to freedom of speech and expression including freedom to hold opinions, and to seek, receive and impart information and ideas by any means and regardless of frontiers.</p>	Article 17
<i>Article 18</i>		
<p>There shall be freedom of expression either by word, in writing, in the press, in books or by visual, auditive or other means. There shall be equal access to all channels of communication.</p>		
<p>The Commission referred these articles to the Sub-Commission on Freedom of Information and of the Press, and to the Conference on Freedom of Information.</p>		
<p>The Sub-Commission on Freedom of Information and of the Press, at its second session (January 1948) approved the following one article to take the place of Articles 17 and 18: [8]</p>		
<p>“Everyone shall have the right to freedom of thought and expression; this shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.”</p>		
<p>The Conference on Freedom of Information (April 1948) approved this article in substantially the same language.</p>		

Draft Declaration	Recommendation	Covenant Article
<i>Article 19</i>		
Everyone has the right to freedom of peaceful assembly and to participate in local, national and international associations for purposes of a political, economic, religious, social, cultural, trade union or any other character, not inconsistent with this Declaration.	Everyone is entitled to freedom of peaceful assembly and association with others.	Articles 18, 19
<i>Article 20</i>		
Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.	Everyone is entitled to the right, either individually or in association with others, to communicate with the authorities of the State of which he is a national or with the United Nations.	None
<i>Article 21</i>		
Everyone without discrimination has the right to take an effective part in the Government of his country. The State shall conform to the will [9] of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.	Everyone is entitled to: (a) the right to take an effective part [9] in the government of the State of which he is a national, including the right to participate in free and fair elections held periodically by secret ballot, and including opportunity to hold office and to engage in public employment; and (b) The right to a government which conforms to the will of the people, with full freedom for minority opinion to persist and, if such is the people's will, to become the effective majority.	None
<i>Article 22</i>		
1. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national. 2. Access to public employment shall not be a matter of privilege or favour.		
<i>Article 23</i>		
1. Everyone has the right to work. 2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work. 3. The State is bound to take all necessary steps to prevent unemployment.	Everyone is entitled to: The right to work under fair and just conditions, to choose a vocation freely, and to join trade unions of his own choice for the protection of his interests in securing a fair standard of living for himself and his family.	None
<i>Article 24</i>		

Draft Declaration	Recommendation	Covenant Article
<p>1. Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions and to join trade unions for the protection of his interests in securing a decent standard of living for himself and his family.</p>		
<p>2. Women shall work with the same advantages as men and receive equal pay for equal work.</p>		
<p>[10]</p>		
<i>Article 25</i>		
<p>Everyone without distinction as to economic and social conditions has the right to the preservation of his health through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.</p>	<p>Everyone has the right to a standard of living necessary for health and general wellbeing, including social security and the opportunity to obtain adequate food, clothing, housing and medical care.</p>	<p>None</p>
<i>Article 26</i>		
<p>1. Everyone has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequences of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.</p>		
<p>2. Motherhood shall be granted special care and assistance. Children are similarly entitled to special care and assistance.</p>		
<i>Article 27</i>		
<p>Everyone has the right to education. Fundamental education shall be free and compulsory. There shall be equal access for higher education as can be</p>	<p>Everyone is entitled to the right to free fundamental education and to equal access on the basis of merit to higher education.</p>	<p>None</p>

Draft Declaration	Recommendation	Covenant Article
<p>provided by the State or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, financial means, or political affiliation.</p> <p>[11]</p>		
<p><i>Article 28</i></p> <p>Education will be directed to that full physical, intellectual, moral and spiritual development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere.</p>		
<p><i>Article 29</i></p> <ol style="list-style-type: none"> 1. Everyone has the right to rest and leisure. 2. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay. 	<p>In lieu of Article 29 and 30, and also of Article 31</p> <p>None</p> <p>The following, to be added to the Article on health and social security (recommendation on Article 25). The entire Article would read:</p> <p>“Everyone is entitled:</p> <p>To a standard of living necessary for health and general wellbeing, including social security and the opportunity to obtain adequate food, clothing, housing, medical care, to obtain rest and leisure, to participate in the customs and the cultural life of the community and of groups in the community, to enjoy the arts, and to share in the benefits that result from scientific discoveries.”</p> <p>See preceding Article – also covered in previous Articles.</p>	
<p><i>Article 30</i></p> <p>Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific discoveries.</p> <p>[12]</p>		
<p><i>Article 31</i></p> <p>(The Commission did not take a decision on the two texts below. They are reproduced here for further consideration.)</p> <p><i>(Text proposed by the Drafting Committee:)</i></p> <p>(In States inhabited by a substantial number of persons of a race, language</p>		

Draft Declaration	Recommendation	Covenant Article
<p>or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right, as far as compatible with public order, to establish and maintain schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State.)</p>		
<p><i>(Text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities:)</i></p>		
<p>(In States inhabited by well-defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose.)</p>		
<p>[13]</p>		
<p><i>Article 32</i></p>		
<p>All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.</p>	<p>Omit</p>	<p>None</p>

E/CN.4/82/Add.8

6 May 1948

Original Text: French

**Observations of Governments on the Draft International
Declaration on Human Rights, the Draft International Covenant
on Human Rights, and Methods of Application**

Communication Received from the French Government

I. Draft Declaration

Preamble

We, the Peoples of the United Nations,

1. *Whereas* ignorance and contempt for human rights are one of the root causes of human suffering, and of the threats and barbarous acts which have outraged the conscience of mankind before and more especially during the last world war;
2. *Whereas* there can be no peace without respect for human rights and freedoms; that respect for these rights and freedoms can be assured to all only by abolishing war and the threat of war;
3. *Whereas* the establishment of a system in which human beings have freedom of speech and belief and are protected from terror and hardship was proclaimed to be the highest stake in the recent conflict;
4. *Whereas* in the opening lines of the Charter of 26 June 1945 we reaffirmed our faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of all men and women;
5. *Whereas* one of the objects of the United Nations is to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion;
6. *Whereas* it is essential, if mankind is not to be compelled, as a last resource, to revolt against tyranny and oppression, that human rights should be protected by the community of nations and guaranteed both by international and by national law;

[2]

Have resolved to define in a solemn Declaration the essential rights and fundamental freedoms of the human being, so that this Declaration may be held constantly before all members of the world society to remind them at all times of their rights and duties, and so that the United Nations and its members may steadfastly apply the principles thus laid down,

And have therefore adopted the following Declaration:

Article 1

All members of the human family are born free and equal in dignity and rights. They remain so by virtue of the laws. They are one brotherhood. Each is responsible for the life, liberty and dignity of all.

Article 2*

Man owes duties to the society which allows him to shape and freely develop his personality. In their discharge, the right of each is limited only by the rights of others and by the just laws of the democratic State.

Article 3

Everyone is entitled to all the rights and freedoms set forth in this Declaration without any distinction of race, colour, sex, language, religion, opinion, status or national or social origin.

The equality of all men before the law is an inviolable rule. The law affords protection against arbitrary discrimination and against incitements to such discrimination.

Article 4

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

Slavery, in all its forms, shall be prohibited. Its practice is a challenge to the conscience of the world.

Article 5

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

Article 6

Everyone shall have access to independent tribunals which may, after fair discussion, impartially determine his rights and obligations

[*] This Article may in due course be merged in Article 29.

[3]

or the authenticity of any charges made against him. He shall be entitled to have the procedure explained to him and to state his own case in a language which he knows.

Article 7

Any person is presumed to be innocent until he has been legally proved guilty. No one shall be held guilty except after a public trial* at which he has been given all the safeguards necessary for his defence.

No one shall be convicted for any act or omission which did not constitute a criminal offence at the time when it was committed. No one may be given a heavier sentence than that laid down by the law in force at the time the offence was committed. This provision shall not prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

The horror inspired by crime shall never justify the use of cruel or degrading treatment either for its discovery or for its punishment. Torture in all its forms shall be eliminated from modern law.

Article 8

The law shall protect the honour and reputation of citizens, the freedom of private and family life and the inviolability of the home and of the secrecy of correspondence.

Article 9

Subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of security or in the general interest, there shall be liberty of movement and free choice of residence within the borders of each State; individuals shall have the right to leave their own country and, if they so desire, to acquire the nationality of any country willing to grant it.

Article 10

Everyone shall have the right to seek asylum from persecution. The United Nations is bound to secure them such asylum. Prosecutions genuinely justified by crimes against common law or by acts contrary to the purposes and principles of the United Nations shall constitute persecution.

Article 11

Everyone has the right, everywhere in the world, to be recognized as a legal person and to the enjoyment of fundamental civil rights.

[*] This provision does not preclude a hearing in camera.

[4]

Article 12

The family deriving from marriage is the natural and fundamental unit of society. Men and women of marriageable age shall have equal freedom to contract marriage in accordance with the law.

Marriage and the family shall be protected by the State and society.

Article 13

Property is a right. Its regulations shall conform with the laws of the country where the property is situated. No one shall be arbitrarily deprived of his property.

Article 14

Everyone has the right to a nationality. It is the duty of the United Nations and the Member States to prevent statelessness.

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

Article 15

Personal freedom of thought and conscience, freedom to hold or change one's beliefs, are absolute and sacred rights.

Every person has the right, either alone or in association, to manifest his beliefs, subject to respect for public order, by teaching and practising them, and by worship and observance.

Article 16

(Subject to reservation)

No person may be interfered with on account of his ideas or opinions. Everyone, on his own responsibility, is free to express, impart and publish these ideas or opinions. Everyone has the right to obtain and seek, without hindrance, any information on ideas and facts. There shall be freedom of expression either by word, in writing, in the press, in books or by any other means. Access to all channels for the communication of ideas shall be open to all.

Article 17

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

Article 18

Everyone has the right, either individually, or in association with others, to communicate with or to petition the public authorities of the State of which he is a national or in which he resides, and, in respect of human rights, the relevant organs of the United Nations.

[5]

Article 19

Every citizen without discrimination has the right, either personally or through his representatives, to take part in the management of public affairs in his country. The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.

Article 20

Everyone shall have equal opportunity to engage in public employment in the State of which he is a citizen or a national.

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

Article 21

Everyone has the right to work.

The State is bound to take such measures as may be within its power to prevent unemployment and to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

Every worker has the right to receive pay which shall be commensurate with his ability and skill and which shall secure for himself and his family a full, decent and dignified life. He also has the right to fair and satisfactory working conditions. He shall be free to join trade unions for the protection of his interests.

Women shall work with the same advantages as men and receive equal pay for equal work.

Article 22

Everyone has a right to social security.

The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against various social risks. In particular, the individual shall be guaranteed against the consequences of unemployment, disability, old age, and the loss of livelihood in circumstances beyond his control.

Mothers and children shall be granted special care and assistance.

Everyone without distinction as to economic or social conditions has the right to protection of his health by all the appropriate means relating to food, clothing, housing and medical care to as great an extent as the resources of the State or community permit.

It is the duty of the State and the community to take all adequate health and social measures to meet the responsibilities incumbent upon them.

[6]

Article 23

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

Article 24

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

Article 25

Everyone has a right to rest and leisure.

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

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

Article 26

Authors of creative works and inventors shall retain, apart from financial rights, a moral right over their work or discovery, which shall remain extant after the financial rights have expired.

Article 27

In States inhabited by well-defined ethnic, linguistic or religious groups which are distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, and in conformity with the degree of legislative unity in the State, to establish and maintain their schools and cultural or religious institutions and to use their own language and script.

Article 28

It is the duty of every State to establish an efficient judicial and administrative system to prevent, punish and remedy any violation of the principles stated in the present Declaration.

The United Nations, recognizing the necessity for establishing an international court of appeal, recommends the adoption of all the international conventions aimed at the full implementation of the [7] provisions of the Charter and of the present Declaration and, with the assistance of Member States, will take all the necessary measures to safeguard these rights and freedoms throughout the world.

Article 29

In all States no laws on human rights shall be considered equitable unless they are in conformity with the purposes and principles laid down in the Charter.

Article 30

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

...

E/CN.4/82/Add.9

10 May 1948

**Comments from Governments on the Draft International
Declaration on Human Rights, Draft International Covenant on
Human Rights and the Question of Implementation**

Communication Received from the United Kingdom

5th May 1948

Sir,

I have the honour to refer Your Excellency to my letter No. 84 (522/40/48) of the 20th April, 1948.

. . . 2. I am now enclosing the preliminary comments of His Majesty's Government on the Draft Declaration of the International Bill of Human Rights. I should like to stress to Your Excellency that these comments do not purport to represent all that His Majesty's Government may have to say in regard to the Declaration and are not intended to represent their final views.

[2]

General Comments

There are three General Comments which His Majesty's Government in the United Kingdom (hereafter referred to as H. M. G.) wish to make at the outset.

(a) The assumption on which His Majesty's Government have been studying the Draft Declaration is that it is a statement of ideals, a goal towards which mankind should strive, and in no way a document creating binding legal provisions, such as the Covenant. His Majesty's Government consider it important therefore that this point should be given due prominence, preferably both in the preamble to the text of the Declaration and in the text of the Assembly Resolution (see Part II (2) of the draft resolution at Appendix I of His Majesty's Government's written comments on Implementation) which will embody the General Assembly's approval both of the Declaration and of the Covenant.

A text on the following lines would meet the case:

As regards the Preamble:

“The states party to the Declaration on Human Rights reaffirm their faith in the principles of Fundamental Freedoms and Human Rights set out therein and solemnly declare that they will strive to realize this statement of ideals, having due regard to the safeguards required by their security, public order and general welfare.”

(b) His Majesty's Government second comment is that the Draft Declaration should be throughout in declaratory and not in mandatory form. This would be more in accordance with the purpose of the Declaration, which is to be a statement of ideals.

(c) The last comment, which His Majesty's Government wish to make, is that delegates of member states should agree, one and all, to try and keep the text of the Draft Declaration short, inspiring and on the lines, for instance, indicated in the United States Draft Declaration, (pages 25 and 26 of document E/600). There are a number of provisions in the existing text which are too detailed and verbose to be suitable for a declaration and are yet too loose to be suitable for a covenant. (See also paragraph 50 of E/600)

Detailed Comments

Preamble. This point has hardly been considered by delegations as yet and it is assumed that it will be given careful attention by the Drafting Committee. In (a) of the previous paragraph His Majesty's [3] Government have offered a suggestion for the preamble.

Article 1

Attention is drawn to the resolution of the Economic and Social Council passed on 3 March 1948, which recommends to the Human Rights Commission the following amendments:

“All *people* are born of [sic] free and equal in dignity and rights. They are endowed by nature with reason and conscience and should act towards one another *in the spirit of brotherhood*.”

It is suggested that the amendment be accepted, but that the word “persons” be used in lieu of the word “people”, as being more appropriate to the language of a Bill.

Articles 2 and 3

It would be preferable if the order of Articles 2 and 3 were reversed.

Article 2. Member States will probably agree that there exist diverging interpretations about the meaning of the phrase “just requirements of the *democratic state*”.

It is suggested, therefore, that the following draft, which omits any mention of the words “democratic state” and which appears to be more in accordance with

the language and spirit of a Draft Declaration should be inserted in lieu of the present text:

“The just claims of the State, which all men are under a duty to accept, must not prejudice the respect for man’s right to freedom and equality before the law and the safeguard of Human Rights, which are primary and binding conditions of all just Government.

“In the exercise of his rights everyone must recognize the rights of others and his obligations to society so that all may develop their spirit, mind and body in wider freedom.”

Article 3(1)

A shortening of this text by the Drafting Committee would be welcomed by His Majesty’s Government.

Article 3(2)

Many member states will probably find it difficult to accept this provision. The following redraft is suggested in lieu of the present text in the hope that it may find more general acceptance:

“All persons are entitled to equal protection of the law against any act of arbitrary discrimination, regardless of the office or status of the person, who commits such an act of arbitrary discrimination.”

[4]

Articles 4 and 5

If Article 4 is accepted, as appears to be reasonable, Article 5 seems unnecessary.

Articles 6 and 7

The following text is suggested as a drafting improvement instead of the original one which seems to fall half way between language appropriate for a Declaration and a Covenant.

“Any person is presumed to be innocent until proved guilty. Everyone shall be entitled to a fair hearing.

“No-one shall be subjected to torture or to inhuman indignity.”

Article 8

The following more comprehensive test is suggested in lieu of the present one:

“Slavery or enforced servitude in any form being inconsistent in the . . .”

Article 9

This Article appears to include a number of unrelated elements. The points concerning the family, it is suggested, should be omitted and should be dealt with in the context of Article 13.

As regards the remaining points the following redraft is suggested as representing an improvement on the original text:

“There shall be respect for the sanctity of the home and for the privacy of correspondence. The law shall afford protection for a person’s good reputation.”

Article 10(1)

The beginning of the present “Subject _____ . . . general interest” seems inappropriate for a declaration of ideals while yet being too imprecise for a covenant. The following redraft is suggested in lieu of the original:

“There shall be liberty of movement and free choice of residence within the borders of each state.”

Article 10(2)

The meaning of the second line of this paragraph is not clear. His Majesty’s Government have assumed that it aims at ensuring that “everyone has the right to divest himself of his nationality, if he wishes to do so.”

His Majesty’s Government are not convinced of the need to include a provision covering the above point. If the majority of other member states should wish it, however, His Majesty’s Government would suggest a provision on the lines indicated above.

Article 11

A number of member states will probably find it difficult to accept the [5] present formula. His Majesty’s Government wish to suggest the following text in lieu of the original one:

“Everyone shall have the right to seek and *may* be granted asylum from political, racial and religious persecution.”

The second sentence of this Article should be omitted altogether. A criminal seeking refuge is not a person seeking asylum from persecution. A prohibition against giving refuge to criminals is hardly suitable in this Declaration of ideals.

Article 12

It is suggested that this Article would fit more appropriately higher up in the text of the Declaration, *i.e.* before Article 4.

Article 13

It is suggested that this Article be simplified and recast as follows:

“The family deriving from marriage is a natural and fundamental unit of society,

- (ii) Marriage and the family should be protected by law.
- (iii) Men and women shall have equal rights to contract *or dissolve* marriage in accordance with the law.
- (iv) Marriage shall not be contracted before the age of puberty and without the full consent of both intending spouses.”

(N.B. (iii) above is in accordance with a resolution adopted on 3 March last by the Economic and Social Council. (It was originally suggested by the Commission on the Status of Women)).

Article 14(1)

It is suggested that the following draft would be more appropriate in the Declaration:

“Everyone has the right to own property.”

The meaning of this text is that some right of ownership of private property is regarded as an essential human right. It is not intended to mean that every sort of property must be susceptible of private ownership.

Article 15(1)

The meaning of this Article is not clear. It is assumed that it refers to stateless persons and that it endeavours to provide that no persons may be deprived of the right of holding the nationality he has possessed at birth, unless he has obtained another nationality. If the above interpretation is the correct one, it is suggested that the text should be redrafted as follows:

“Persons shall not be deprived of their nationality, which they have acquired at birth, unless possessing another nationality.”

[6]

Article 15(2)

The text of this paragraph is also not very clear. It appears no longer to concern stateless persons only, but to be mainly directed to the protection of refugees from Governments, of which such refugees are nationals, but whose protection they no longer enjoy.

If the above is the correct interpretation of the meaning of this text, before commenting on the suggestions made, His Majesty's Government would like to know the nature and the scope of the protection, which it is suggested the United Nations might be expected to extend to such persons, and secondly, the manner in which this protection should be exercised. It is questionable if this should be adopted as an ideal unless and until there is some general agreement on these points.

Articles 16(2), 17, 18 and 19

It is suggested that all the above mentioned articles could be amalgamated and that the provisions contained in them could be set out more concisely and shortly in the following redraft:

“There shall be freedom of religion, of expression of opinion, and of peaceful assembly.”

Article 20

The meaning of this Article is not clear, but, if it has been correctly understood, it would seem to raise a problem of considerable difficulty. Anybody may send a petition to the United Nations by post, but the substantial questions are

1. whether he is to be immune from penalties and liabilities for so doing and if so under what conditions;
2. what will be done with the petition when received.

As indicated above the intention of the provision is not clear. It may refer to the right of making petitions with regard to the operation of *the Declaration*. As it is however questionable whether it is appropriate to have any system of petition in respect of the operation of the Declaration, since petitions are in the nature of enforcement measures and the Declaration is a Declaration of Ideals, not calling for enforcement.

This Article, however, may aim at providing that everyone shall have the right to petition the head of his state and the United Nations on matters arising under *the Covenant*. If that is the intention the Declaration is not the place to deal with it.

It may be however that the intention of Article 20 with regard to petitions is not so much to create a right to petition with regard to the fulfilment of the Declaration, or

the Covenant, but to create a right to [7] petition a Head of a State and the United Nations *about any matter*, as a fundamental right. If this is the proposal, it demands most careful consideration.

Let us distinguish here between the two problems raised, namely the petition on any matter addressed to the Head of the State and the similar petition addressed to the United Nations. As regards the former, a petition addressed to the Head of a State is a thing essentially different from a petition addressed to an extraneous organization, whatever it may be since in the former case the whole matter is a domestic one.

The right to petition the Head of a Government with a high measure of immunity is part of the longstanding law and practice in the United Kingdom. His Majesty's Government would have no special observations on this point.

As regards the petition on any matter to the United Nations, this is a more complicated problem. As stated above, creating a right to petition means in effect to provide the right of privileged communications from individuals in an indefinite field. The right could not be unconditional. Such communications might be the means of transmitting the most secret information contrary to national security. It might be the means of transmitting enticement to committing offences.

It is questionable whether it would be right for the United Nations to hold itself out as a recipient of a petition on any conceivable subject irrespective of whether the subjects come within its scope or not. To create the right to petition on any matter might be held to connote a corresponding right of interference by the United Nations in an internal matter of a state.

The distinction between internal petitions and petitions to the United Nations is thus a profound one. Apart from the consideration mentioned one must recall other problems such as the possibility of a petitioner including matter, which is libellous or otherwise transcending the limits laid down in the Covenant on freedom of expression, the system of sanctions to be set up, the protection which a petitioner may enjoy under the law and the degree of confidentiality, in which petition will be dealt with at the United Nations.

In the circumstances it is suggested that it would be preferable to consider only the question of the right to petition the United Nations *with regard to the various subjects with which the United Nations deal* and to consider in connection with each of these subjects, whether there should be a right to petition and what, if any, should be the machinery for dealing with these petitions.

[8]

Article 21

In view of Article 3(1), it is suggested that the words "without discrimination" in the first line should be omitted.

Article 23

Sub-paragraph (1) is not clear in that it does not distinguish between the right to do work and the right to receive maintenance. Sub-paragraphs (2) and (3) furthermore do not appear to represent a suitable provision for inclusion in the Declaration. It is suggested therefore that this Article should be redrafted as follows:

“Everyone has the right to work or maintenance.”

Article 24(2)

Equal enjoyment of all human rights and fundamental freedoms is already provided for in Article 3(1). Furthermore there is no reason for singling out at this point “women”, whose rights equal to man’s should be considered as implicit in the expression “Human Rights”. It is suggested therefore that this provision be omitted.

Article 25

It is suggested that the words “without restriction to economic and social conditions” in the first line should be omitted as this point is already provided for in Article 3.

His Majesty’s Government would also appreciate an attempt at stating this provision in a more concise fashion.

Article 26

The right to social security referred to in this Article expresses in a general way matters, which are covered in Articles 23 to 26. There appears also to be an overlapping of ideas in Articles 23 to 26.

His Majesty’s Government hope that the Drafting Committee will agree to redraft this section by

- (a) bringing the phrase “Everyone has the right to social security” higher up in the text of the declaration and then
- (b) continuing by some words to the effect that social security includes certain other matters and
- (c) then specifying the provisions in question.

Article 27

It is suggested that the words “without distinction as to . . .” to the end should be omitted as the point in question is already dealt with in Article 3(1).

Article 29(2)

It is suggested that this provision is too verbose and detailed for [9] inclusion in the Declaration, and that it should be omitted altogether.

Article 31

His Majesty's Government propose the following text as an alternative:

“Minorities shall be entitled to preserve their culture, religion, and language.”

Article 32

The meaning of this Article is not clear, as the purpose of the Declaration and of the Covenant is to carry out the provisions of the Charter regarding Human Rights. If the laws of member states are therefore in conformity with the Declaration and the Covenant, they must *ex hypothesi* be in conformity with the principles of the Charter in so far as these deal with Human Rights.

Article 33

Please see His Majesty's Government's comments on the corresponding provision in the covenant. The provision seems to be out of place altogether in the Declaration.

E/CN.4/AC.1/29

11 May 1948

**Speech by Mr. A. N. Pavlov, Representative of the
Union of Soviet Socialist Republics in the *Drafting Committee of
the Commission on Human Rights***

4 May 1948 – Lake Success, New York

You have seen fit to reject the Soviet delegation's proposal for a general discussion in this Committee on the question of fundamental human rights. Such a discussion might have provided a firm basis for the subsequent elaboration of a draft of the basic provisions of a “Declaration on Human Rights”, and also, later of the “Declaration” itself.

Without even trying to obtain general agreement on the basic principles of such a “Declaration” and other documents connected with it, you prefer to proceed immediately to a consideration article by article of the draft Declaration and not only of

that, of the draft International Convention on Human Rights submitted to the Drafting Committee as the result of the work of the Second Session of the Commission on Human Rights held in Geneva in December 1947.

Such a course of procedure may, of course, be logical. But such logic has nothing in common with the logic of sincere and loyal international co-operation which is essential for the satisfactory discharge by the Committee of the tasks before it.

In connection with the Committee's acceptance of the working procedure referred to, I have already had occasion to state that such a working procedure reminds one most of all of the actions of people who, having decided to build a house, begin not by laying a firm foundation (as the Soviet delegation proposed) or even by setting up the walls, but begin straightaway to build the roof, and even to quarrel about how high above the ground this roof should be placed and how it should best be decorated.

You may blame yourselves, Gentlemen, if in the end the building you have constructed collapses, or turns out to be built on sand and unfit for habitation.

[2]

So far as concerns the Soviet delegation, it cannot of course assume responsibility for the construction of such houses of cards, which are bound in advance to dissolve into dust at the first contact with reality.

Let us now consider what value can be attached to the "Declaration on Human Rights" which was drawn up at Geneva in December 1947 and is now submitted here for our attention. I am empowered to state that the draft "Declaration" submitted to the Drafting Committee is unsatisfactory and unsuitable even as a basis for discussion. As a matter of fact, if this draft were converted into a "Declaration on Human Rights", such a "Declaration" would not properly guarantee human rights.

In this connection the Soviet delegation reserves the right to submit its own draft "Declaration" in place of this one at a later stage in the work of the Committee.

What requirements should a "Declaration on Human Rights" in fact satisfy?

1. A "Declaration on Human Rights" should first of all guarantee respect for human rights and fundamental freedoms for all, without distinction of race, nationality, class, religion, language or sex, in accordance with the principles of democracy, State sovereignty, and the political independence of States.
2. A "Declaration on Human Rights" must not only *proclaim* rights but guarantee their *realization*, regard being had, of course, to the economic, social, national and other peculiarities of each country.
3. A "Declaration on Human Rights" must not only define the rights but also the obligations of citizens towards their country, people and State.

The draft "Declaration" before us does not satisfy a single one of these requirements.

Take the question, for instance, of how far the contents of the “Declaration” are consistent with the basic principles of democracy. Surely a true democracy must, especially in present-day conditions, imply the necessity of combating Fascism and Nazism as manifestations of imperialist aggression and reaction which are most repulsive, bloody and dangerous to humanity and democracy itself! Can any genuine democrat in our day be other than an anti-Fascist, an anti-Nazi? Can we consider anyone a democrat who, in spite of the experience of the Second World War, which was an anti-Fascist war of liberation, wants now to stand aside from the fight with the remnants of Fascism and Nazism and the danger of their revival?

[3]

What can be said in this connection of the draft “Declaration on Human Rights”, in which there is a most solemn reference to the “just requirements of the democratic State” (Article 2 of the draft “Declaration”), but not a single word about such basic requirements of democracy as the obligation to fight against Fascism and Nazism, the prohibition of Fascist propaganda, the inadmissibility of propaganda in favour of nationalist and racial enmities, which undermine the very foundations of democracy!

In this connection one might point not only to Article 2 of the draft Declaration but also to Article 3, 17 and 18 on the fundamental human rights and freedoms. In all these articles, which talk about the freedom of political convictions, of the expression and transmission of thought and the dissemination of views, there is nothing which could prevent the open and secret enemies of democracy of all kinds, Fascist and Nazi, from using, or rather abusing, these rights and freedoms, and from exposing democracy and human rights to deadly danger once again.

It is impossible not to acknowledge that such a “Declaration”, which provides full scope for the activity of Fascist and Nazi elements and organizations and complete freedom for propaganda in support of Nazi and Fascist “theories” and views has nothing at all to do with the principles of true democracy.

The authors of the draft “Declaration” invite us, as it were, to close our eyes to the self-evident fact that, in spite of the defeat of Fascism and Nazism in the war that ended victoriously three years ago, peace is again threatened by the revival of that reactionary force which is attempting to stop and turn back the wheel of history, by the advent of a regime of open, terrorist dictatorship exercised by the most reactionary, aggressive and imperialistic elements. But after the frightful experience of the past, when Fascism not only trampled on human rights and freedoms and spread inequality and oppression by dividing people into “higher” and “lower” races, but actually destroyed millions of innocent people in the Maidaneks, Oswiecims⁷⁶ and

⁷⁶ Majdanek and Oświęcim were Nazi concentration camps in Poland. Oświęcim is better known by its German name, Auschwitz.

other death camps in the countries ruled by them and in the occupied territories and subjugated whole peoples to the horrors of terror, slavery and ruin, – after all this we cannot and will not forget the Fascist danger and look on complacently while people who deem themselves democratic are preparing to set the Fascist beast at liberty.

[4]

There is a Russian proverb which says: “If you let the fire burn too long, you won’t be able to put it out.” I think we could hardly do better than remember that proverb in the present circumstances.

The Soviet delegation therefore disapproves of the draft “Declaration” submitted, and thinks it should be disapproved by all members of the Drafting Committee, if only because, as has been said above, it does not warn peoples and Governments of the danger of the revival and growth of Fascism and Nazism in various forms, if only because it does not call upon them not to permit the establishment and operation of all kinds of Fascist organizations and associations, if only because it does not outlaw Fascist and pro-Fascist propaganda, the propaganda of racial, national and religious hostility and exclusiveness. A “Declaration on Human Rights”, based on such a draft, could not seriously hinder imperialist reaction in its attempts to revive Fascism and Nazism and with their help to deal a fresh blow to human rights, the freedom of peoples, and democracy.

Let us now take another question, that of respect for human rights and basic freedoms for all without distinction of race, nationality, class, religion and sex, and see how the draft “Declaration” proposes to guarantee these.

In Article 3 of the draft are to be found the relevant *words* about everyone being entitled to all the rights and freedoms without distinction of any kind on racial, national or any other grounds. There is also a reference to the effect that “all are equal before the law”, and entitled to protection against “arbitrary discrimination”.

However, if the text of this article is closely examined, it will easily be seen that it is quite abstract and has no practical significance.

In fact the “Declaration” does not contain the slightest criticism, or call for the elimination either of incitement to discrimination or of discrimination itself on grounds of race, sex, language, *etc.* In this respect it should be particularly noted that the Article talks only of “arbitrary discrimination” and incitement thereto, whereas discrimination in general is not mentioned. This constitutes a direct justification of this so-called “non-arbitrary” discrimination, *i.e.* discrimination based on the law. But one need only recall the mass discrimination, most disgraceful and offensive to human dignity, which is embodied in the laws against Negroes in the United States of America or against Indians in the Union of South Africa to understand how wretched, incomplete and consequently hypocritical and false is Article 3 of the draft “Declaration” in its present form.

[5]

It is obvious that such an Article does not and cannot guarantee a real respect for human rights and fundamental freedoms for all without distinction of race, nationality, class, religion, sex, *etc.*

The bare statement in Article 3 about the desirability of equality, without at least, an accompanying expression of censure and the characterization as criminal (with all the ensuing consequences) of both discrimination itself, whether racial, national or of any other kind, and in all its aspects without exception, and of propaganda in favour of such discrimination, – is of little value and can only lead honest men astray as to the “Declaration’s” real significance.

As a contrast to the hybrid and misleading article which it is proposed to include in the “Declaration” on the question of discrimination, whether racial, national, or other, I would like to read here the text of Article 123 of the Fundamental Law of my country, the Stalin Constitution, which condemns and punishes any kind of discrimination, not only “arbitrary” discrimination, and any propaganda in favour of discrimination in any form.

Our Constitution reads as follows:

“Equality of rights of citizens of the Union of Soviet Socialist Republics, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an infeasible law.

“Any direct or indirect restriction of the rights of, or, conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of regional or national exclusiveness or hatred and contempt, is punishable by law.”

You may, of course, say that in the countries that you represent and also the other capitalist countries it is not possible to ensure equal rights to people irrespective of their race or nationality as effectively and as fully as this has been done in our country. However, it would be wrong to think that in these countries too it is not possible at present to make some progress in the direction indicated in the Article of our Constitution which I have quoted, but first these countries must at least rid themselves of those survivals of the past which most vividly remind one of slavery, the Middle Ages or the Fascist and Nazi regimes which were defeated in the recent war.

The Soviet delegation would suggest that Article 3 of the draft Declaration be redrafted to this effect.

[6]

In this connection special consideration should be given to Articles 6 and 31 of the draft Declaration establishing the right of every individual “if he appears (in court) in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak” and stating the right of

persons belonging to “ethnic, linguistic or religious minorities to establish and maintain schools and cultural or religious institutions, and to use their own language in the Press, in public assembly and before the courts and other authorities of the State”.

It is noteworthy that in both versions of Article 31 of the Declaration, on which the Commission on Human Rights failed to reach a final decision, a substantial reservation is attached to this list, namely, “as far as compatible with public order” (the second version even adds “. . . and security”). How and in what circumstances the use of their own language by national minorities and the instruction in schools of children in the language of these minorities could be considered as incompatible with public order and still more as a threat to security remains the secret of the authors of the draft. Apparently, they are so terrified of granting national minorities equal rights with the majority of the population in the use of their language in schools and courts that they attach to the relevant articles of the Declaration reservations that can easily nullify even emasculated and formal rights of national minorities which are laid down in Articles 6 and 31 of the draft. And this despite the fact that the Declaration after all is not dealing with the establishment or development of national schools, with the conduct of court proceedings in the language of national minorities, or any similar questions.

This definition of the rights of national minorities which is so perverted and so unsatisfactory from the standpoint of democratic principles should be compared with the solution of similar questions given in the Constitution of the Union of Soviet Socialist Republics.

In our country the State ensures all citizens, whether they belong to a national majority or minority, instruction in their own language in the schools, whereas under the draft Declaration the establishment of schools using minority languages is only permitted with many reservations and, at the best, depends on the existence among the national minority of wealthy individuals able and willing to undertake the establishment and maintenance of such schools.

[7]

With regard to the poorer classes of national minorities, they are in fact offered and guaranteed nothing but a formal and limited right “to establish and maintain schools” of which they will certainly not be able to take advantage.

The same applies to judicial proceedings in the language of national minorities.

In our country “Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court” (Article 110 of the Constitution).

In contrast to this, Articles 6 and 31 of the draft Declaration state merely that the representative of a national minority has the very meagre right to have the proceedings which are therefore conducted in the language of the ruling nationality – a language which he does not know, explained to him; and may use his own language.

Is it not clear that all these emasculated, hypothetical clauses in the Declaration, which are not guaranteed in practice, are permeated with the blatant, panic-stricken and shameful fear which the great “civilized” colonial Powers feel towards the growth of the culture and consciousness of the indigenous colonial peoples and oppressed national minorities which have no civil rights? In any case, these feeble articles in the Declaration have nothing in common with real guarantee of actual national equality and the respect for human rights without distinction as to race, language or nationality.

Let us now consider whether the Declaration as a whole guarantees the realization of the fundamental human rights.

Take, for example, the right to work, as embodied in Article 23 of the Declaration, which is of extreme importance for all members of the wage-earning class.

What does the Declaration say about that right?

“(1) Everyone has the right to work.

(2) The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

(3) The State is bound to take all necessary steps to prevent unemployment.”

[8]

It is easy to understand that this article does not really give the working man any real guarantee against unemployment.

This article in fact says that the State must take “such measures as may be within its power” and “all necessary steps” to guarantee work to everyone and prevent unemployment.

But there is not a single concrete reference to these measures or their content. We do not know whether these necessary measures within the State’s power will be *sufficient* for the purpose, *i.e.*, for guaranteeing work to everyone and abolishing unemployment or at least remedying to some extent the situation in this respect. Furthermore, it follows from the indefinite, vague and ambiguous nature of all these formulas that this article is not intended to do anything really significant to help unemployed persons, not to mention the fact that the impossibility of dealing with the problem of unemployment is admitted in advance.

Thus the Declaration does not contain any really effective, even partial, let alone complete, guarantee of employment, or any guarantee against unemployment or even of the right to receive assistance in the event of unemployment; there is no point in cherishing any illusions on this subject.

Actually, it is a matter of entire indifference, after all, to an unemployed man who is starving and poverty-stricken whether or not the State considers that it had already done for him everything necessary and essential, if in reality he is in any case receiving no assistance. And in the face of such flexible definition what person can, when he is unemployed, claim any help at all from the State?

In contrast to the purely formal, ambiguous, and emasculated article in the Declaration which does not grant or guarantee anything to anybody, may I quote the text of Article 118 of the Constitution of the Soviet Union which deals with the same question in our country in the following terms:

“Citizens of the Union of Soviet Socialist Republics have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

“The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of the Soviet system, the elimination of the possibility of economic crises, and the abolition of unemployment.”

In the Soviet Union the right to work is a complete reality; we settled the problem of unemployment completely and decisively about twenty years ago; in our country unemployment not only has not [9] existed during those years and does not now exist, but it cannot exist. Since the victory of the socialist system of economy a generation of young people has grown up in our country which has no personal experience of unemployment and has never seen its fathers and mothers and the older generation in general unemployed. That is a great source of happiness for the people of our country.

The achievement of the Soviet Union in this field should be contrasted with the situation, for example, in the United States of America and other capitalist countries. We can say with pride that even such a technically and economically advanced capitalist country as the United States of America seems, from the point of view of the right to work, incredibly savage and backward in the eyes of the Soviet people.

May I remind you that in the United States in 1939, the year before the war, there were approximately nine million unemployed; in the year following the end of the war, that is to say in 1946, the number of unemployed according to the monthly official figures did not once fall below rather more than two millions (the *New York Times* for 17 June 1947, incidentally, gave another figure – three millions). Moreover, millions of workers do not have a full working week, that is to say they are partially unemployed.

What right to work and what real freedom can one speak of in the case of a man who is poor and hungry and does not know where to go or what to do, particularly when even the trade unions which could help him to find suitable employment meet with serious obstacles and difficulties in their development? It is sufficient in this

connection to point to the Taft-Hartley Law of 15 May 1947 in the United States, which was greeted with righteous indignation by the working classes in America and throughout the world.⁷⁷

I cannot see how the Declaration, if it is adopted in the form at present before the Drafting Committee, can help the twenty or thirty million needy and half-starved, or starving, people who for decades have formed the permanent army of the unemployed in the capitalist countries, not to mention India, China and the other countries of the East.

The same sad state of affairs, as or even worse that applying to the right to work, exists in the Declaration with regard to the right to the preservation of health (Article 25), the right to social security (Article 26), the right to education (Article 27), the right to rest and leisure (Article 29), *etc.*

[10]

At a later date when the Declaration is considered paragraph by paragraph, I may return to this subject and give some concrete examples to prove how worthless the drafts before us are. Meanwhile I shall restrict myself in this connection to what has been said about the right to work.

This example alone throws sufficient light on the draft Declaration's most serious shortcoming; namely, that while it proclaims democratic principles it restricts itself to defining the formal rights of citizens and disregards the conditions needed to put these rights into effect and the ways and means of implementing them.

It may be objected that the authors had every good intention in expressing all these pious hopes in the draft Declaration. I doubt that; but even if it were true it would not improve matters. There is a well-known old proverb which says that the road to hell is paved with good intentions.

Let us take, in conclusion, the question of those duties which are indissolubly linked with the basic human rights. In actual life the duties of citizens to their country, their people and their State exist side by side with their rights. There should be no one who enjoys every right but bears no responsibilities; just as there should be no persons having only obligations and enjoying no rights.

But how is this problem dealt with in the draft Declaration?

Not only does the Declaration fail to mention the above-mentioned duties of citizens to their country, their State and their people, but, on the contrary, it contains articles which openly declare that people should be completely free from such obligations.

For example, let me refer particularly to Article 10(2) of the draft Declaration, which provides that individuals shall have the right to leave their own country and to

⁷⁷ The "Taft-Hartley Act", enacted in 1947 (despite a veto by President Truman), imposed restrictions on the right to strike and prohibited communists from being union leaders.

acquire the nationality of any other country, regardless of the laws and interests of their homeland. This sub-paragraph contains not the slightest reference to the duties of citizens to their homeland, their State and their Country.

Apart from every other consideration it does not even mention the requirement that individuals should obtain the consent of their national authorities to their emigration.

It might be objected that Article 2 of the draft Declaration does in fact mention in a general way that there are limitations to human rights, deriving from the requirements of the democratic State and from the individual's "duties to society".

[11]

What value have these abstract, dry-as-dust formulas in Article 2, however, when in practice the Declaration ignores, in a matter of so great importance, the interests of States and nations and frees the individual emigrant from any restrictions and obligations whatsoever to the State and society of which he is a member?

In this instance the authors of the draft in effect directly encourage people to disregard their civil obligations and to ignore their State. The democratic peoples of the United Nations have learnt the value of true patriotism and of the loyal discharge of national obligations from their experience of the way in which individuals and groups basely betrayed the national interests of their own countries during the anti-Fascist war – whether as Quislings or followers of Pétain. Surely it ill befits the Drafting Committee of the United Nations Commission on Human Rights to retain Article 10(2), and similar provisions which oppose the interests of individuals to those of their countries and give preference to the former, in their draft Declaration. The disgraceful facts of collaboration, lack of civic loyalty and all other forms of treachery are still too fresh in the minds of humanity; and such treachery derives from the fact that some individuals and groups prefer their own selfish interests to the interests of their peoples and disregard their duties and obligations to their homeland.

Nor, as has already been made clear, can the draft Declaration be approved from the standpoint of consistency with the principles of State sovereignty and the political independence of States.

Not only, indeed, have the authors of the draft Declaration failed to mention certain elementary duties of citizens, but they have disregarded the corresponding right of States.

The draft Declaration directly violates the principle of State sovereignty by failing in many instances to give proper consideration to national, domestic legislation. More than that, it openly assumes (Article 20) that any national may lodge with the United Nations a complaint against his own nation, his own State!

If such an article is embodied in the Declaration it may become a direct incitement to, and encouragement of, the anti-patriotic activities of people who have broken with their own people and homeland.

Apart from the consideration that this is at variance with Article 2(7) of the United Nations Charter, which forbids the United Nations to intervene in matters which are essentially within the democratic jurisdiction of any State, all this is a direct violation of the principle of State sovereignty.

[12]

Let me summarize what I have said about this unfortunate draft Declaration on Human Rights, which is about to be discussed article by article in the Drafting Committee.

In the opinion of the Soviet delegation the draft Declaration should not be used as a basis for discussion; it should be rejected and in its place a new draft prepared which would provide a basis for a future declaration.

The Declaration on Human Rights will have to satisfy the basic demands of which I have already spoken. In particular, its orientation should be clearly anti-Fascist and it should not merely state empty formulas on equality and the rejection of discrimination, but declare outright that every Member of the United Nations must extirpate discrimination based on race, religion, nationality, sex, or any other motive, and suppress and punish incitement to discrimination.

With regard to the most important human rights, namely the right to work, rest, education, housing, social security, *etc.*, the Declaration should not content itself with pious hope and empty definitions but should indicate ways and means of really ensuring and giving effect to these rights comparable at least to some extent with what has been done in those progressive countries which have carried out a profound and consistent democratization of their social and State system. I say nothing of the most advanced country of all, where real and complete democracy – that is, socialist democracy – exists: the Soviet Union.

The Declaration should include, together with the fundamental human rights, also the most important human duties – at least those owed to one's country, people and State.

It should contain no provision directly or indirectly undermining the sovereignty and independence of nations and States. Only in these circumstances can the Declaration help to further the progress of democracy and effectively secure the human rights and the interests of all peace-loving peoples.

A great deal of what I have said on the draft Declaration applies equally to the draft Covenant on Human Rights which has been submitted by the Drafting Committee. Until we have reached agreement in principle on the fundamental human rights and their implementation, however, there is no point in discussing a draft Covenant.

As for the third document submitted to the Committee, namely, the Report on Implementation (methods for implementing the principles on human rights), it

would be still more premature to discuss means of applying appropriate standards to examine the draft plan in substance before agreement in principle has been reached on the definition of the fundamental human rights.

[13]

I consider that the Drafting Committee will be making a serious mistake and testifying to its own shortcomings if it fails to give due consideration to these observations and suggestions of the Soviet delegation.

E/CN.4/89

12 May 1948

**International Law Association
Brussels Conference, 1948
Human Rights Committee
Human Rights, the Charter of the
United Nations and the International Bill of the
Rights of Man
Preliminary Report by Professor H. Lauterpacht**

[Hersch Lauterpacht's report to the International Law Association is not included in this collection. The UN document is in fact a reprint of the original, which can be located at: Hersch Lauterpacht, "Human Rights, the Charter of the United Nations, and the International Bill of the Rights of Man", Report to the International Law Association, *Report of the Forty-Third Conference of the International Law Association, 1948*, London, pp. 80–138. The presentation of the report is also published as: "Human Rights", Statement at the Brussels Conference of the International Law Association, 1948, *Report of the Forty-Third Conference of the International Law Association, 1948*, pp. 29–44.]

E/CN.4/AC.1/SR.33

14 May 1948

***Summary Record of the Thirty-Third Meeting [of the Drafting
Committee, Second Session]***

Lake Success, New York, Friday, 14 May 1948,
at 10:30 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur and Vice-Chairman:* Mr. Charles Malik, Lebanon. *Members:* Mr. E. J. R. Heywood, Australia;

Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Mr. P. Ordonneau, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Representatives of Specialized Agencies*: Mr. O. F. Nolde, World Federation of United Nations Associations; Mr. P. Lebar, United Nations Educational, Scientific and Cultural Organization. *Consultants from Non-Governmental Organizations*: Miss Toni Sender, American Federation of Labor. *Secretariat*: Dr. J. P. Humphrey, Dr. E. Schwelb, Mr. John Male.

[2]

Continuation of the Discussion on the Covenant

Article 1 (*Documents E/CN.4/85, E/CN.4/AC.1/19, E/CN.4/82/Add.8*)

THE CHAIRMAN read the comments made by the Governments of the Netherlands, Brazil, the United Kingdom and the Union of South Africa on Article 1.

MR. ORDONNEAU (France) said that the Geneva text of Article 1 was not clear and was incomplete. It would be dangerous to allow it to be thought that the theory of human rights began with the drafting of the Covenant. Reference should be made in Article 1 to the Charter, which laid down certain broad principles, and to the Declaration, as in the French draft (document E/CN.4/82/Add.8).

MR. WILSON (United Kingdom) thought mention should be made of the Declaration and the Charter but in the Preamble rather than in Article 1. The last words of the Geneva text of Article 1 should be retained. They were taken from Article 28 of the Statutes of the International Court of Justice.⁷⁸ Many international lawyers believed they represented the same principles as *jus gentium*. In the Covenant international law was being developed and made more clear and precise and it should therefore be linked up with the “general principles of law recognized by civilized nations.” It would be unnecessary to amend “civilized nations” to “United Nations” until a change had been made in the Statutes of the International Court.

THE CHAIRMAN proposed that the word “principles” should be amended to read “rights and freedoms”, which was more concrete. The words “among the. . .” should be retained to make it clear that there were other rights and freedoms apart from those dealt with in the present Covenant, [3] and which might be embodied in another document in the future. The first Covenant should include only the basic rights and freedoms; this would allow as many States as possible to adhere to it. The French version was too broad.

⁷⁸ Article 38(1)(c) of the Statute of the International Court of Justice lists “the general principles of law recognized by civilized nations” as one of the sources of law to be applied by the Court.

MISS SENDER (American Federation of Labor) said the French text made it clear that the Covenant would be binding on all States which were bound by the Declaration and the Charter.

MR. WILSON (United Kingdom) said that when the Declaration and Covenant were presented to the General Assembly there would have to be a resolution approving the documents and requesting Member States to accede to them. Some statements made in the preamble and the first article might be embodied in that General Assembly Resolution. Therefore to avoid duplication, the question of what they should contain should not be definitely decided until later.

MR. ORDONNEAU (France) could accept a preamble containing the ideas expressed in the French text of Article 1, but added that there was no assurance that the General Assembly Resolution would include them. Even if they did appear in the Resolution they would not be made generally known, as only the Declaration and the Covenant would be published widely. The Preamble should therefore read: "The States parties hereto, being resolved to give effect to the general principles proclaimed in the United Nations Charter and specified in the International Declaration of Human Rights adopted on . . . have agreed on the following:" with Article 1 of the Geneva draft to follow.

MR. WILSON (United Kingdom) accepted the French proposal, reserving his right to reopen later if necessary the question of whether the ideas in the Preamble and Article 1 should be expressed elsewhere. He preferred the deletion of "among the" but supported the substitution of "rights and freedoms" for "principles".

[4]

It was agreed to leave open the whole question of the Preamble and Article 1 until the following meeting.

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E/CN.4/AC.1/SR.34

14 May 1948

Summary Record of the Thirty-Fourth Meeting [of the Drafting Committee, Second Session]

Lake Success, New York on Friday, 14 May 1948,
at 3:00 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Rapporteur:* Mr. Charles Malik, Lebanon; and Mr. Azkoul (later). *Members:* Mr. E. J. R. Heywood, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Mr. P. Ordonneau, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Representatives of*

Specialized Agencies: Mr. P. Lebar, United Nations Educational Scientific and Cultural Organization. *Consultants from Non-Governmental Organizations:* Miss T. Sender, American Federation of Labor; Mr. J. Botten, World Federation of Christian Trade Unions. *Secretariat:* Dr. J. P. Humphrey, Dr. E. Schwelb.

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[14]

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Discussion of the Draft Declaration on Human Rights

THE CHAIRMAN thought that the Committee might decide to consider those articles as accepted on which no comments have been made nor amendments submitted.

Secondly, she felt that the Committee should first consider the substantive articles beginning with Article 4 which practice had been applied during the discussion of the Covenant.

MR. PAVLOV (Union of Soviet Socialist Republics) drew the attention of the Committee to the statement of the USSR which had been circulated to the Committee. This statement applied to the Declaration as well as to the Covenant. He reserved the right to make further amendments for the improvement, if need be, of the Declaration.

[15]

MR. WILSON (United Kingdom) read the general comments of the United Kingdom on the Draft Declaration as contained in document E/CN.4/82/Add.1, page 2.

The Committee decided to discuss first the substantive articles of the Declaration and then proceed to a discussion of Articles 1, 2, and 3.

The meeting rose at 5:10.

E/CN.4/AC.1/37

17 May 1948

Australia: Drafting Amendments to Draft International Declaration on Human Rights (Document E/600)

Article 3(1)

Add "Everyone is entitled to these rights and freedoms as attributes of his personality".

Article 5

Second sentence – Delete the words “shall have the right” and insert “is entitled”.

Article 6

Line 1 – Delete the words “shall have” and insert “is entitled to”. At beginning of second sentence – Delete the words “shall be” and insert “is”.

Article 8

Replace by “Slavery is inconsistent with the dignity of man”.

Article 9

Alter to read “Everyone is entitled to protection under law from unreasonable interference with his reputation, his privacy, his family, his home, and correspondence”.

Article 10

- (1) Delete the words “there shall be” and insert “everyone is entitled to”.
- (2) Alter to read “everyone is entitled to leave his own country and, if he so desires, to acquire the nationality of any country willing to grant it”.

Article 13

- (1) Second sentence – Delete the words “shall have” and insert “are entitled to”.
- (2) Delete.

Article 14

Alter to read “Everyone has the right to own property in conformity with the laws of the State in which such property is located, and not to be arbitrarily deprived of it”.

[2]

Article 16

- (2) Delete “of like mind”.

Article 22

- (1) Delete the words “shall have” and insert “is entitled to”.

Article 24

(2) Alter to read “Women have the right to work with the same advantages as men and to receive equal pay for equal work”.

Article 26

(2) Delete the words “motherhood shall be granted” and insert “mothers are entitled to”.

Article 28

Replace the words following “fundamental freedoms” by “and to the development of tolerance and respect for and appreciation of the work of other nations or racial or religious groups everywhere”.

E/CN.4/AC.1/SR.35

17 May 1948

Original Text: French

Summary Record of the Thirty-Fifth Meeting [of the Drafting Committee, Second Session]

Lake Success, New York on Monday,
17 May 1948, at 11 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Vice-Chairman and Rapporteur:* Mr. Charles Malik. *Present:* Mr. E. J. R. Heyward, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Mr. R. Cassin, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Representative of Specialized Agency:* Miss T. Sender, American Federation of Labor. *Secretariat:* Dr. J. P. Humphrey, Mr. E. Lawson.

[2]

THE CHAIRMAN informed the Committee of the death of Lord Dukeston, representative of the United Kingdom on the Human Rights Commission, and moved that a minute of silence should be observed in honour of his memory. The Committee instructed the United Nations Secretariat to convey by telegram its condolences to the family of the deceased.

Examination of Article 4 of the International Declaration on Human Rights (documents E/CN.4/85, E/CN.4/82/Add.8, E/CN.4/82/Add.9, E/CN.4/AC.1/18, E/CN.4/AC.1/20)

THE CHAIRMAN proposed the appointment of a sub-committee to draft the articles accepted in principle by the Drafting Committee.

MR. CASSIN (France) thought that the Drafting Committee's most essential task was to shorten and clarify the Draft Declaration. He thought that article 4 should be merged with article 8 on slavery, to read as follows:

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

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

Mr. Cassin believed that the articles following article 4 should constitute a sort of explanation of the main ideas embodied in that article.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that article 4 did not take into account the fact that millions of people were dying of hunger, sickness and other scourges. The Committee should express its desire to make the right to life fully effective. Mr. Pavlov added that he would be prepared to support the French proposal to incorporate the article on slavery in article 4 on condition that slave-trade were condemned in all its forms.

[3]

MR. MALIK (Lebanon) supported the United States proposal suggesting that fundamental rights should be grouped together. He was in favour of shortening the declaration provided that the substance of each article was left intact.

Mr. Malik pointed out that the Lebanese proposal submitted in Geneva corresponded to the suggestion made by the Netherlands and Chilean delegations concerning the need to incorporate the principle of physical integrity in article 4.

MR. SANTA CRUZ (Chile) thought that the Declaration should be as short as possible. The Committee should, however, add some lines of explanation to the provision for the right to life. Mr. Santa Cruz wished the Committee to study the addition to article 4 proposed by the Chilean delegation in Geneva. The addition was as follows:

“Unborn children, incurables, the feeble-minded and the insane have the right to life.

“Everyone has the right to enjoy conditions of life compatible with human dignity and the normal development of his or her personality.

“Persons incapable of satisfying their own needs have the right to maintenance and support.”

MISS SENDER (American Federation of Labor) remarked that the article on slavery made no reference to forced labour. She proposed that a condemnation of forced labour should be embodied in article 4.

MR. WU (China) was in favour of the appointment of a sub-committee entrusted with the task of condensing the Declaration. He thought that article 4 should be as short and as simple as possible.

[4]

THE CHAIRMAN opened the discussion on the substance of article 4.

MR. MALIK (Lebanon) proposed the following version of article 4:

“Everyone has the right to life and to physical integrity from the moment of conception regardless of his or her physical or mental condition. Everyone has the right to liberty and personal safety.”

MR. SANTA CRUZ (Chile) supported the principle upheld by the Lebanese representative, but wished article 4 to include the principle of security.

MR. CASSIN (France) remarked that the conception of “personal safety” was not identical with that of “personal liberty”.

Mr. Cassin expressed his readiness to accept the Netherlands proposal to include the words “physical integrity” in article 4. He agreed with the substance of the Lebanese and Chilean proposals, but thought that the Declaration should only contain ideas acceptable to all the members.

MR. SANTA CRUZ (Chile) stated that in view of the fact that the International Covenant contained no articles dealing with the principle of security, he was obliged to insist on its inclusion in the Declaration.

THE CHAIRMAN, speaking as the representative of the United States of America, thought that the Declaration should be as short as possible. The United States delegation would agree to the inclusion of the words “physical integrity” in article 4, but would vote against all the other proposals.

[5]

THE CHAIRMAN asked for a vote on the question whether the words “from the moment of conception” should be added at the end of the sentence reading “Everyone has the right to life, to physical integrity, *etc.*”

MR. PAVLOV (Union of Soviet Socialist Republics) remarked that laws against abortion did not exist in all countries. He thought, on the other hand, that article 4 should contain a pronouncement against unemployment, famine, sickness and fascism, scourges which threatened millions of lives.

MR. MALIK (Lebanon) asked that reference should be made in the summary record of the meeting to the statements made by the representatives of China, the Union of Soviet Socialist Republics, and the United Kingdom in connection with article 4. Mr. Malik believed that while the delegations of those three countries wished to omit the phrase “from the moment of conception” in the interests of brevity, they considered that idea to be implied in the general terms of article 4.

MR. WU (China) stressed that the wording of article 4 did not imply but actually contained the idea expressed by the Lebanese representative.

MR. WILSON (United Kingdom) thought that the wording of article 4 could be understood to contain that idea but did not necessarily do so.

THE CHAIRMAN, speaking as the representative of the United States, stated that the terms of article 4 were sufficiently broad to comprise [6] certain ideas which a country might wish to adopt as general principles. She believed a concise and general wording to be the most desirable.

The proposal to include the words "from the moment of conception" was rejected by six votes to two.

The proposal to include the words "regardless of his or her physical or mental condition" was rejected by six votes to two.

MR. SANTA CRUZ (Chile) pointed out that paragraphs 2 and 3 of his proposal had not yet been examined by the Committee.

MR. MALIK (Lebanon) drew the Committee's attention to the fact that articles 25, 26 and 27 of the Declaration dealt with the economic rights of the individual.

MR. SANTA CRUZ (Chile) stated that the principles of the security of the individual should find expression in the definition of the right to life even if it already occurred in other articles of the Declaration.

MR. CASSIN (France) shared the view expressed by the Lebanese representative. He thought that articles 25, 26 and 27 could be drafted differently, but that the idea of security should not be expressed in article 4.

The inclusion of paragraphs 2 and 3 of the Chilean proposal in article 4 was rejected by three votes to one, with four abstentions.

MR. HEYWARD (Australia) thought that the meaning of the words "physical integrity" was not sufficiently clear.

MR. WU (China) was in favour of the words "personal safety".

[7]

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the words "personal safety" were more explicit and, therefore, more appropriate than the words "physical integrity".

MR. MALIK (Lebanon) pointed out that personal safety and physical integrity were two different conceptions. Article 4 should be worded so as to include both ideas.

MR. CASSIN (France) thought that "personal safety" meant the security under which an individual could live. He saw no objection to the inclusion of the words "physical integrity" in article 4. He pointed out that article 4 was a chapter heading and that the following articles were governed by it.

MR. SANTA CRUZ (Chile) was in favour of the insertion of the words "physical integrity".

MISS SENDER (American Federation of Labor) proposed replacing the text of article 4 by that adopted at the Bogotá Conference.⁷⁹

MR. WILSON (United Kingdom) pointed out that the ideas formulated at the Bogotá Conference were already contained in article 2 which had not yet come under discussion. He thought, therefore, that it was preferable to retain the text of article 4 as adopted in Geneva.

MR. MALIK (Lebanon) proposed adding the words “physical integrity” to the text of article 4.

The Committee decided against the inclusion of the words “physical integrity” in article 4 by four votes to four.

[8]

Article 4 as drafted at the Geneva conference was adopted by seven votes, with one abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to point out that the Russian text of article 4 seemed to be more broadly framed than the French and English texts.

Examination of Article 5

MR. CASSIN (France) stated that he was prepared to accept article 5 as it stood and would be unable to vote for the Mexican or Brazilian proposals (the latter affecting only the English text of the article).

MR. WILSON (United Kingdom) proposed the deletion of article 5, which he described as nothing but a list of methods for the preservation of liberty already contained in the International Covenant.

MR. WU (China) was in favour of the deletion of article 5.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the relationship between the Declaration and the Covenant should be clearly laid down. His opinion was that each article of the Covenant should have a counterpart in the Declaration. He thought that article 5 should be supplemented by paragraph 5 of article 9 of the Pact, which read as follows: “Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.” He considered that article 5 should be retained in the Declaration so as it gave it additional force.

⁷⁹ The American Declaration of the Rights and Duties of Man was adopted at the Ninth International Conference of American States in Bogotá, Colombia, on 2 May 1948. It was formally circulated within the United Nations as E/CN.4/122, issued on 10 June 1948, but by mid-May it was being referred to in the proceedings of the Second Session of the Drafting Committee, where it was described as the “Bogotá Declaration.” The first draft of the Declaration was published by the Inter-American Juridical Committee on 31 December 1945. It was submitted by Chile and published as an official United Nations document in early 1946 (E/CN.4/2) whereby it influenced the early discussions on the draft Universal Declaration of Human Rights.

[9]

THE CHAIRMAN, speaking as the representative of the United States, reserved her position with regard to the deletion of article 5. She felt that any decision on that point would depend on the final form which the Committee agreed to give to the Declaration.

Mrs. Roosevelt pointed out that if article 5 were to be retained, two amendments to its text were proposed in the recommendations submitted by the United States (document E/CN.4/AC.1/20). She thought that the drafting of that article should be entrusted to the Committee.

MR. SANTA CRUZ (Chile) stated that if article 5 were retained, he would propose to replace its present text by that adopted at the Bogotá Conference.

MR. HEYWARD (Australia) suggested that the Declaration should be submitted to the Human Rights Commission in two versions of different length. He did not think that the Geneva Declaration could be shortened without detriment to its substance. He proposed, therefore, that each article should be examined with a view to its forming part of a long Declaration, but that a short Declaration should be drafted at the same time.

He stressed that in drafting the Declaration it was essential to preserve its declaratory form.

The Committee decided to retain article 5 by five votes to two, with one abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the amendments he proposed issued directly from the terms of article 5.

[10]

MR. SANTA CRUZ (Chile) supported the USSR proposal. He pointed out that the wording proposed by the French representative was practically identical with the text adopted at the Bogotá Conference.

MR. CASSIN (France) did not think that the text of the Declaration should make provision for measures of implementation if the latter were not drafted concisely. He pointed out that France had voted in favour of the USSR amendment to article 9 of the Covenant, but stated that he would vote against the inclusion of the latter in the Declaration.

MR. WILSON (United Kingdom) shared the views of Mr. Cassin.

MR. SANTA CRUZ (Chile) pointed out that article 5 as adopted at the Bogotá Conference proclaimed merely that everyone had the right to humane treatment while under preventive arrest.

The Committee decided against the inclusion of the USSR amendment in article 5 by five votes to three.

MR. SANTA CRUZ (Chile) proposed that the phrase “. . . and the right to humane treatment while under detention” should be added at the end of article 5.

THE CHAIRMAN remarked that article 7 covered that particular point. She suggested that a sub-committee should draft articles 5, 6, and 7, keeping in view the

opinions expressed at the Bogotá Conference. She appointed a sub-committee composed of the representatives of Chile, the Union of Soviet Socialist Republics, China and the United States of America.

MR. WILSON (United Kingdom) wished the Sub-Committee also to bear in mind the fact that article 9 of the Covenant contained the general principle which article 5 of the Declaration was to embody. He recalled that article 13 of the Covenant had to do with the same principle.

The meeting rose at 1:15 p.m.

E/CN.4/AC.1/SR.36

17 May 1948

Summary Record of the Thirty-Sixth Meeting [of the Drafting Committee, Second Session]

Lake Success, New York on Monday,
17 May 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Vice-Chairman and Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. E. J. R. Heywood, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Prof. R. Cassin, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Representatives of Specialized Agencies:* Mr. Jenks, International Labour Organization; Mr. O. Stone, International Refugee Organization; Mr. P. Lebar, United Nations Educational, Scientific and Cultural Organization. *Consultants from Non-Governmental Organizations:* Miss T. Sender, American Federation of Labor; Dr. F. R. Bienenfeld, World Jewish Congress. *Secretariat:* Dr. J. P. Humphrey, Mr. E. Lawson.

[2]

THE CHAIRMAN read the text of a telegram addressed to Lady Dukeston expressing the Committee's condolence for the death of Lord Dukeston, whose loss was mourned by all who had collaborated with him in the work of the Human Rights Commission.

Consideration of articles 7 through 11 of the Draft International Declaration of Human Rights (E/CN.4/85)

THE CHAIRMAN suggested that the representative of the World Jewish Congress, who had requested permission to speak on article seven, should be invited to do so at that time, so that the sub-committee, to which the drafting of that article had been referred, might take his remarks into account.

DR. MALIK (Lebanon) heartily welcomed the opportunity to hear the views of the representative of the World Jewish Congress, who had made an important contribution to the work carried out in Geneva.

MR. BIENENFELD (World Jewish Congress) thanked the Committee for affording him the opportunity make a statement. He wished to refer to paragraph 2 of article seven, the deletion of which had been proposed by the representative of Brazil.

It was important that the paragraph should remain in the text of the article, for the principle of international law must be respected by all countries. It was this principle which was at the base of international trials of war criminals; deletion of the paragraph would prevent such trials in the future, and would be in disharmony with resolutions adopted by the General Assembly. He therefore appealed to the members of the Committee to leave the text of paragraph 2 intact.

[3]

Article 8

THE CHAIRMAN proposed the following drafting for article 8: "Everyone is entitled to freedom from slavery and servitude in any form. Their practice is a challenge to the conscience of the world."

MR. PAVLOV (Union of Soviet Socialist Republics) felt that it was not enough to state that slavery was inconsistent with the dignity of man, or was "a challenge to the conscience of the world"; the phrase "and shall be prohibited by law" should be included.

His delegation proposed the following draft for the article on slavery:

"Slavery shall be prohibited in any form, direct or indirect. Slave trade shall be prohibited and attempts to engage in slave trade shall be punishable by law."

THE CHAIRMAN thought that reference to prohibition by law would be inappropriate in a document such as the Declaration on Human Rights, because it concerned a method of enforcement.

Furthermore, in her opinion, reference to slave trade would be unnecessary if slavery as a whole were outlawed.

MR. CASSIN (France) agreed with the representative of the United States that the prohibition of slavery should be expressed as a general principle, without stating specific examples, many of which were already covered by existing international conventions.

However, he expressed agreement with the USSR representative as to the existence, at present, of slave trade, but thought that the text proposed by his delegation would be a suitable one on which to reach a [4] compromise agreement:

"Slavery, in all its forms, shall be prohibited. Its practice is a challenge to the conscience of the world."

MR. WILSON (United Kingdom) expressed his readiness to accept either the United States or the French text, but wondered as to the appropriateness of the phrase "its practice is a challenge to the conscience of the world" in the Declaration. That phrase constituted a commentary on the principle enunciated in the article and, whereas he agreed with the idea expressed, he thought that the inclusion of such commentary in one article might lead to the inclusion of similar commentaries in all the articles of the Declaration. He would therefore vote in favour of the proposed United States text, but with the omission of the last sentence.

MR. WU (China) agreed with the remarks of the United Kingdom representative. He suggested that the article should be worded as follows:

"Everyone is entitled to freedom from slavery or involuntary servitude."

MR. SANTA CRUZ (Chile) favoured the French text which, in his opinion, could serve as a compromise text. Although he agreed with the criticisms of the United Kingdom representative, he thought that, in view of the gravity of the matter and taking into consideration the remarks of both the USSR and French representatives concerning the existence of slavery at the present time, the last sentence should be retained.

[5]

THE CHAIRMAN stated that the United States delegation would support the text proposed by the Chinese representative, which she proposed should be put to the vote first, after which the USSR and French proposals would be voted upon.

The proposal of the Chinese representative was rejected by three votes to three, with one abstention.

The USSR proposal was rejected by four votes to one, with one abstention.

The first sentence of the French proposal, "Slavery in all its forms shall be prohibited," was adopted by five votes to one, with one abstention.

The second sentence of the French proposal, "Its practice is a challenge to the conscience of the world," was rejected by three votes to two, with two abstentions.

MR. SANTA CRUZ (Chile) thought that in view of the brevity of the article as adopted, it could easily be included in article 4, as suggested by the French delegation.

MR. PAVLOV (Union of Soviet Socialist Republics) disagreed, and observed that the inclusion of the sentence into article 4 would reduce the article dealing with the right to life to a mere prohibition of slavery. It would be more logical to leave article 4 as drafted, and include the statement on slavery under a separate article.

THE CHAIRMAN suggested placing the article on slavery immediately following article 4, thus changing its number from article 8 to article 5.

THE CHAIRMAN'S suggestion was unanimously adopted.

Article 9

MR. CASSIN (France) felt that the text proposed by his delegation for article 9 (document E/CN.4/82/Add.8) was preferable to the original Geneva text because it combined man's various attributes, his honour and reputation, [6] the right to privacy of family life and of correspondence in one whole. Moreover, he objected to the use in the French translation of the Geneva text of the word "abusif".

MR. HEYWOOD (Australia) thought that the French text was similar to the one proposed by the United States (document E/CN.4/AC.1/20) but he preferred the former because it contained a reference to protections by the law of the various rights mentioned, rather than a general reference to the fact that everyone was entitled to freedom from interference with those various rights.

MR. WU (China) favoured the draft proposed by the Netherlands delegation which emphasized the rights of the individual rather than stressing the lawfulness of those rights.

MR. WILSON (United Kingdom) thought that it would be more appropriate to include reference to family life in article 13, which dealt with that subject at greater length.

He drew the Committee's attention to the text proposed by his delegation, contained in document E/CN.4/82/Add.9.

MR. SANTA CRUZ (Chile) agreed that it would be preferable not to mix different concepts in the same article. He drew the Committee's attention to the Declaration adopted in Bogotá, where the honour and reputation of an individual, the inviolability of his domicile and the secrecy of his correspondence were dealt with in three paragraphs. He agreed with the representative of China that those concepts should be stressed as being the rights to which everyone was entitled.

THE CHAIRMAN proposed a rewording of the United States proposal, eliminating reference to "family".

MR. WILSON (United Kingdom) withdrew the United Kingdom proposal and expressed his support of the new United States text.

[7]

MR. SANTA CRUZ (Chile) said that he would be ready to support the United States text provided the word "unlawful" were included to qualify the word "interference," since interference could be unreasonable and yet fully in compliance with existing legislation.

MR. HEYWOOD (Australia) pointed out that the use of the words "protection under law from" instead of "freedom from" would meet the obligations expressed.

MR. CASSIN (France) favoured the Australian suggestion as "protection under law" was a wide concept which included both statute law and common law.

THE CHAIRMAN proposed that the article would be drafted as follows:

“Everyone is entitled to protection under the law from unreasonable inference with his reputation, family, home, or correspondence.”

The Chairman’s proposal was unanimously adopted.

Article 10

MR. WILSON (United Kingdom) suggested that the two paragraphs of the article should be considered separately.

With reference to paragraph 1, he proposed that everything up to the words “there shall be liberty” should be deleted.

THE CHAIRMAN thought the text should then be rephrased in accordance with the wording adopted for the preceding article, and should read: “Everyone is entitled to freedom of. . . etc.”

MR. SANTA CRUZ (Chile) said that since no limitations were stated in the corresponding article of the covenant, none should appear in the Declaration.

[8]

THE CHAIRMAN pointed out that it had not been finally decided whether the limitations in the covenant would be stated specifically in every article or expressed generally to cover all articles. She drew attention to the fact that the limitation contained in article 2 of the Declaration would apply to the rights expressed in article 10.

MR. CASSIN (France) felt that there was some danger in relying too greatly on one article to provide limitations for the whole Declaration.

Moreover, the more one concerned oneself with the rights of the individual, the more the rights and interests of society as a whole become apparent.

Recalling the sudden influx of a half million refugees into Europe during the Spanish Civil War, Mr. Cassin observed that, had the Government allowed those refugees to move about without restrictions, they might have caused themselves and the host country a great deal of damage by settling in already overcrowded areas. His country was among the most progressive in the world, he said, but in the interests of its own people it could not endorse freedom of movement without specifying certain restrictions under the law.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he would support paragraph 1 insofar as it corresponded to the parallel article in the Covenant. He thought, however, that the words “general law” were not clear and should be replaced by a more precise expression.

With respect to paragraph 2, he thought that an important omission had been made and suggested the addition of the phrase “in accordance with the established laws of that country” after the words “their own country.” Without that phrase, the second paragraph implied that individuals could leave their country at will,

forgetting duty to the fatherland. The war had produced numerous examples of the results of such negligence. It would be morally wrong and contrary to democratic ideals to encourage such disregard of duty. Therefore, the paragraph should be amended as he proposed.

[9]

MR. SANTA CRUZ (Chile) felt that the USSR representative had raised an interesting point in connection with the rights of individuals and society. He agreed that obligations of individuals toward their respective states were determined by the states themselves; but in view of the varying extent of national obligations, he opposed any general limitation in Article 10 of the right to free movement, and stated that he would only consider expressly defined limitations.

MR. AZKOUL (Lebanon) drew a distinction between the declaration, which laid down the absolute, positive principles on which the rights of man were based, and the convention, which indicated the limitations of those rights. He therefore suggested that the question of limitation should not be considered in connection with articles of the declaration.

THE CHAIRMAN, noting that the discussion had drifted to paragraph 2 of Article 10, reverted to paragraph 1. The United States amendment to omit the limitations in paragraph 1, being further removed from the Geneva text than the French proposal, was put to the vote first.

The Committee adopted the United States amendment by five votes to one with one abstention.

The Chairman then took up paragraph 2 to which, she said, the United States drafting amendment also applied. The Brazilian amendment raised no objections, but the Mexican amendment might be superfluous in view of the fact that paragraph 2 seemed to deal mostly with the acquisition of new nationality. The Chairman also pointed to a USSR amendment to that paragraph.

[10]

MR. CASSIN (France) stated that while the problem of free movement involved both emigration and immigration, the present article was only concerned with individuals' right to emigrate; that right might create a problem for the countries of emigration which, contrary to countries of immigration, might then have no control over the matter. He therefore felt that the Netherlands amendment to paragraph 2 constituted the most reasonable compromise between the rights of individuals to free movement and the right of states to impose certain obligations on their citizens. Consequently, he proposed that the limitation clause of paragraph 1 should be included in paragraph 2; should that proposal be rejected he would suggest a vote on the Netherlands amendment.

THE CHAIRMAN pointed out that over-all limitations of individuals' rights would be laid down in Article 2. As regards the present article, its purpose might be to cover cases similar to that of the Russian wives who were unable to join their English and American husbands abroad.

MR. WILSON (United Kingdom) agreed with the Chairman's remarks. He also supported the Lebanese representative's statement and felt that limitations in the declaration, beyond the general principles in Article 2, once started, would lead to an infinite number of restrictive provisions. The declaration should rather aim at the positive absolute of human rights. He further suggested that the text of the first part of paragraph 2 might be brought in line with Article 11 of the draft covenant, to read as follows: "the right to leave any country, including his own. . ."

[11]

MR. PAVLOV (Union of Soviet Socialist Republics) felt that his amendment to paragraph 1 – which corresponded to the Netherlands amendment to paragraph 2, both amendments setting certain limits to free emigration – was even more justified in the light of the United Kingdom suggestion since the departure of any foreigner from a given country always entailed some procedure. He strongly protested against reference to the case mentioned by the representative of the United States, stating that it was a completely domestic matter. He insisted that a vote should be taken on his amendment.

MR. SANTA CRUZ (Chile) felt that while not objecting to the French amendment, he would vote against it in view of consideration which had explained before [sic].

THE CHAIRMAN then proceeded to the vote on amendment to the first part of paragraph 2.

The USSR amendment was rejected by five votes to one, with one abstention.

THE CHAIRMAN stated that, as Representative of the United States, she would vote against the French amendment.

MR. WU (China) also said that he would vote against that amendment as being superfluous in view of the limitations contemplated in Article 2.

The French amendment was rejected by four votes to two, with one abstention.

The United States amendment was accepted by five votes to none, with two abstentions.

The amendment suggested by the United Kingdom representative was accepted by five votes to none, with one abstention.

[12]

MR. WILSON (United Kingdom), speaking on the second part of paragraph 2, felt that the text was not clear in its present form. If the intention was to lay down the right of individuals to immigrate, then the following clause might be included: "and

if they so desire, settle in any country willing to allow them to do so.” He thought that it was essentially a question of an individual’s right to divest himself of his nationality.

THE CHAIRMAN agreed, and recalled that the intention in Geneva had been to ensure individuals’ right to divest themselves of their nationality.

MR. CASSIN (France) agreed that the text as it stood might lead to dual citizenship.

MR. SANTA CRUZ (Chile) also thought that the article might raise difficulties and suggested that the matter of citizenship should be considered in a separate article, article 10 to deal thus only with the right of free movement.

MR. WILSON (United Kingdom) agreed with the representative of Chile, and pointed out that the question of citizenship could be taken up in connection with Article 15, dealing with nationality.

MR. BIENENFELD (World Jewish Congress) saw a misunderstanding with regard to that article which, unrelated to immigration, was only intended to provide emergency asylum to persecuted persons unable to obtain visas in time. He recalled that Lord Dukeston had also opposed that article on the grounds that it confused the concepts of immigration and asylum; it had consequently been proposed to add the [13] following sentence to the Geneva draft of Article 11: “Everybody has the right to seek and be granted temporary asylum for persecution until he himself, or an international agency working under the auspices of the United Nations, has found a new place of residence for him.” Thus it would be clear that the asylum granted was temporary and that the refugees would be taken care of in accordance with provisions in the IRO Constitution.

MR. WU (China) proposed that the word “granted” in the first sentence should be deleted because it constituted an imposition on governments. He also proposed the deletion of the second sentence of paragraph 2, which included a limitation clause.

MR. CASSIN (France), in the light of the remarks by the representatives of China and of the World Jewish Congress, felt that since it was unreasonable to expect individual countries to assume responsibility for refugees, it should be the duty of the United Nations to find asylum for refugees. To that end the United Nations could carry on negotiations with specialized agencies and individual states. Feeling that a universal declaration should include provisions not otherwise found in national constitutions, he disagreed with the Netherlands view on that question. He further noted that the points raised by the Brazilian and Chinese Governments would be met by the French alternative draft of that article (document E/CN.4/82/Add.8, – Article 10). However, he opposed deletion of the limitation clause.

[14]

MISS SENDER (American Federation of Labor), pointing out that the declaration had been inspired by Nazi persecutions, recalled that many refugees had perished because they had been returned to Germany by countries in which they had sought

refuge. Furthermore, provision for international action would not necessarily cover emergency cases. She therefore suggested that the text should be retained in its present form.

MR. WU (China) raised the question of whether, according to the French proposal, the United Nations Organization or its individual members would have to take action on behalf of the refugees.

MR. WILSON (United Kingdom) thought that further definition of “the right to asylum” was required in order to distinguish it from “the right to immigrate.”

With regard to the French suggestions, he thought that since countries would have to deal principally with cases arising at their frontiers, there would be no time for international consultation. His own government preferred deletion of the second sentence, and the following re-drafting of the first sentence: “Everyone shall have the right to seek, and *may* be granted *temporary* asylum, from political, racial and religious persecution.” In that way governments could not be attacked for granting asylum. He thought that the text suggested by the representative of the World Jewish Congress was too detailed and that the addition of the word “temporary” was sufficient.

MR. PAVLOV (Union of Soviet Socialist Republics) supported the French proposal, as well as the enumeration of types of persecution in the United Kingdom amendment which however, he felt, should also include scientific persecution.

[15]

He also supported the French representative’s proposal to retain the limitation clause, without which it might be possible for some governments to grant asylum to war criminals on the basis of the declaration. He stated that he would support both amendments, but agreed with the representative of China that the role of the United Nations in the matter had not been clearly defined.

MR. CASSIN (France), in reply to the United Kingdom representative, said that the declaration should be based on the rights of individuals and not states. While agreeing with the USSR representative that scientific persecution was a reality, he preferred reference to persecution in general. As regards the part to be played by the United Nations, he stated that it would be the duty of the Organization as such to guarantee that asylum granted by its Members to refugees would be temporary; knowing thus that they would not carry the burden alone, countries would hesitate less to grant asylum. MR. SANTA CRUZ (Chile) agreed with the representative of France and supported his proposals.

MR. AZKOUL (Lebanon) asked for clarification of the “right to seek refuge” in article 10 of the French text (E/CN.4/82/Add.8). Under that article, he said, rapid action could be taken if United Nations co-operation were provided not by agreement on each case, but after the refugee had been granted asylum; he was ready to accept such an interpretation. As regards the question of criminals, he pointed out

that the meaning of the word “persecution” would solve the difficulty since fugitive criminals were never considered victims of persecutions. He thought that enumeration of types of persecution should be avoided lest some types be inadvertently omitted. He concluded by saying that the Chinese proposal might be amended to include the words “temporary” and “the right to find asylum”.

[16]

MR. WU (China) accepted the United Kingdom formula “may be granted”. He opposed enumeration of types of persecution.

MR. CASSIN (France), in reply to the representative of China, said that the most important consideration was to induce Members of the United Nations to say from the outset that, in case of persecution, they would grant asylum to the refugees. He was against the inclusion of the word “temporary.”

THE CHAIRMAN proposed the formation of a working group to draft a new article 11.

THE CHAIRMAN’S proposal was accepted.

The meeting rose at 5:50 p.m.

E/CN.4/AC.1/39

18 May 1948

**Report of the Drafting Sub-Committee, Consisting of the
Representatives of China, France and the United Kingdom, on
Article 11 of the Draft International Declaration of Human Rights**

Everyone shall have the right to seek and may be granted asylum from persecution. The United Nations is bound to secure this asylum in agreement with Member States.

Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

E/CN.4/AC.1/SR.37

18 May 1948

Original Text: French

***Summary Record of the Thirty-Seventh Meeting
[of the Drafting Committee, Second Session]***

Held at Lake Success, New York on Tuesday,
18 May 1948, at 11 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America *Members:* Mr. E. J. R. Heywood, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Mr. R. Cassin, France;

*Mr. Azkoul, Lebanon; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Consultants from Non-Governmental Organizations*: Miss T. Sender, American Federation of Labor. *Secretariat*: Dr. J. P. Humphrey, Mr. E. Lawson.

[*] Alternate Representative

[2]

Examination of articles 11 and 12 of the Draft International Declaration on Human Rights

THE CHAIRMAN opened the discussion on article 12 of the Draft Declaration (document E/CN.4/85) and invited members to submit their comments. The article read as follows:

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

Speaking as the representative of the United States of America, she submitted to the Drafting Committee the re-draft of article 12 proposed by her delegation (document E/CN.4/AC.1/20), which, after the suppression of the words “in the world”, read:

“Everyone is entitled everywhere to the right to recognition as a person before the law.”

MR. PAVLOV (Union of Soviet Socialist Republics) remarked that the Draft Covenant contained an article dealing with the same point.

THE CHAIRMAN pointed out that article 15 of the Draft Covenant established that “No person shall be deprived of his juridical personality.”

MR. SANTA CRUZ (Chile) recalled that when the articles of the Draft Covenant had been discussed, his delegation had supported that text, although the United Kingdom and United States delegations had objected that the expressed “juridical personality” had no meaning in the law of their countries. In his country, as in many others, that expression meant the right of the individual to exercise certain rights and to incur certain obligations, for example, the right to be represented in law. The authors of the article had intended it to reaffirm the principle of non-discrimination, according to which every person must enjoy fundamental civil rights. Even if those rights were already defined elsewhere, it was desirable to reaffirm them in this context.

[3]

MR. CASSIN (France) stated that his delegation had submitted no amendment to the text of article 12 because it thought it essential to retain it in the Draft Declaration as it stood. The text had a double significance. On the one hand, the expression “a person before the law” laid down the principle that everyone had the right to enjoy fundamental civil rights. That provision was directed against the modern forms of

slavery which the Committee had condemned at its last meeting and which were twofold. For instance, there would have been no need to reaffirm that a human being could not constitute the property of another human being, had not certain heads of State, such as Hitler, sought in the last ten years to revive the ancient idea that an individual considered as a slave had no right to marry, to be a creditor or to own property.

In reply to the Chairman, who did not think that the word “everywhere” was of great importance, he would point out that it did have a bearing on fundamental civil rights. Here was a difficult problem, left unsolved by the declaration, namely, the status of individuals living on foreign soil. There was not a single country which did not discriminate to some extent between its own subjects and aliens. The rights of aliens in respect of the countries in which they lived should therefore be defined more closely. The Draft Declaration should guarantee them a minimum of fundamental rights.

MR. WILSON (United Kingdom), supporting a statement made by the United States representative, stressed that the phrase “fundamental civil rights” had no meaning in Anglo-Saxon legislation and that its inclusion in the article under discussion might cause some confusion.

MR. SANTA CRUZ (Chile) agreed with the point of view expressed by the French representative. He observed that the conception of fundamental civil rights was basically the same in all legislations. It provided for the right of the individual to marry, to make wills, to sign [4] leases, *etc.* The aim of the provision in question was to avoid the discrimination toward foreigners which might be exercised in certain countries. He did not see how it could call forth opposition and suggested it should be carefully studied before the Committee considered its suppression.

THE CHAIRMAN remarked that the difficulty had arisen because the American lawyers who had been consulted had been unable to agree on the exact meaning of the phrase “fundamental civil rights”. If that expression were adopted by the Committee, it would have no meaning in Anglo-Saxon law. For that reason, the United States delegation had formulated the proposal which she had read out at the beginning of the meeting.

MR. PAVLOV (Union of Soviet Socialist Republics) asked whether it would not be possible to adopt the formula used in the Covenant, where the USSR legislation corresponded to the conception embodied in French law. He had in mind political, economic and social rights, and thought the wording of the Declaration should correspond to the text of the Covenant in that respect. He proposed that the words “in accordance with the laws of the country” should be added to that formula.

THE CHAIRMAN, speaking as the representative of the United States, recalled that her delegation had pointed out at the time of the discussion of the Covenant that the

conception of “juridical personality” did not exist in United States legislation, and that it had decided to agree to the provisional inclusion of that phrase only on condition that legal experts would later come to an understanding on its exact meaning.

[5]

MR. SANTA CRUZ (Chile) observed that two distinct conceptions were involved: that of the juridical personality and that of fundamental civil rights.

The concept “juridical personality” contained in it recognition that a person had certain rights and obligations in accordance with the laws of his or her country, varying according to age, sex and other conditions.

The concept of fundamental civil rights referred to in the second part of the article was a different one. Its aim was to protect the individual from measures of discrimination and to ensure his or her enjoyment of fundamental rights.

It would be logical for the Committee to retain the first part of the sentence, but he urged that the second part of the sentence should in any case remain in the Draft Declaration; it had a wider scope and should contain a condemnation of possible discriminatory measures against aliens.

THE CHAIRMAN, speaking as the United States representative, insisted that an exact definition of fundamental civil rights should be formulated before her delegation was called upon to reach a decision.

MR. WU (China) submitted a draft of article 12 which, he believed, would receive the approval of all the members. The text was as follows:

“Every person has the right to recognition before and equal protection under the law.”

MR. SANTA CRUZ (Chile) pointed out that civil rights were a matter entirely distinct from political, economic and social rights. Such civil rights were moreover analogous in a number of countries, [6] including the United States of America, the United Kingdom, France and Chile. He thought that an equivalent term covering rights relating to marriage, wills, gifts, leases, sales, and the like, *i.e.* transactions between individuals in general, must exist in Anglo-Saxon legal language.

MR. WILSON (United Kingdom) wished to know whether the adjective “fundamental” added anything to the meaning of the article, and proposed its deletion.

MR. SANTA CRUZ (Chile) explained that the word was intended to single out the most important of the many civil rights which existed.

MR. CASSIN (France) agreed with the representative of Chile that the word “fundamental” should be retained, as it was impossible, in the present state of feeling, to impose on any Government the obligation to treat aliens on a footing of absolute equality with its own nationals.

The recent example of Hitler, who had shown it was possible to impose the concept that a whole class of individuals could be deprived of a large part of their

elementary civil rights, made it all the more essential that these fundamental rights should be guaranteed. That was quite a different matter from a mere denial of the juridical personality, which in fact amounted to telling the individual that he was non-existent.

THE CHAIRMAN, speaking as the United States representative, observed that in her country there were as many jurisdictions as there were States and that no federal authority was capable of compelling those States to alter their own laws.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that in the State of Georgia of the United States, a married woman had no legal existence apart from her husband's. He asked whether article 12 envisaged laws of that kind.

[7]

THE CHAIRMAN, speaking as the United States representative, repeated that her delegation could not agree to the reference to fundamental civil rights, since no exact definition of those rights existed in her country, where they varied from State to State.

[8]

MR. WU (China) withdrew his amendment.

MR. SANTA CRUZ (Chile), replying to a proposal by the Chairman, moved that a vote should be taken first on the deletion of the last part of article 12 (“...and to the enjoyment of fundamental civil rights”), as proposed by the United States amendment.

The amendment proposed by the United States delegation was adopted by three votes to two, with two abstentions.

MR. WILSON (United Kingdom) proposed a slight drafting change of the English text of the article, involving no change in the French text.

Article 12 was adopted in the following form:

“Everyone has everywhere the right to recognition as a person before the law.”

MR. CASSIN (France) read the new text of article 11 of the Draft Declaration as drawn up by a Drafting Sub-Committee composed of the representatives of China, France and the United Kingdom (document E/CN.4/AC.1/39):

“Everyone shall have the right to seek and may be granted asylum from persecution. The United Nations is bound to secure this asylum in agreement with Member States.

“Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.”

He would add that the wording had been inspired by the fact that it was impossible to recognize a right, in this case the right to asylum, if no one was bound to respect it. The United Nations should, therefore, conclude agreements to provide material assistance in those very varied cases where some countries might have to grant asylum but not be able to bear alone the resulting financial burden.

[9]

MR. WILSON (United Kingdom) asked that the words “shall have the right. . .” in the first sentence of the proposed text should be replaced by “has the right. . .”.

MR. CASSIN (France) agreed to this alteration on behalf of the Drafting Sub-Committee.

THE CHAIRMAN felt that the obligation for the United Nations to grant asylum to any persecuted person should be in the form of a resolution of the General Assembly and should not be embodied in the text of the Declaration.

MR. AZKOUL (Lebanon) could not accept the text of the Drafting Sub-Committee. The right to asylum should be stated clearly and explicitly. Moreover, any measures implementing the exercise of that right were out of place in the Declaration, and should be laid down in a Convention, one on nationality, for example.

He suggested the following wording for the first sentence:

“Everyone has the right to seek and to be granted asylum during persecution.”

MR. WU (China) agreed with Mr. Azkoul. The Declaration must not contain any implementing articles and the whole of it should be so worded as to be understood by the greatest possible number of people, more particularly by those not versed in the law.

MISS SENDER (American Federation of Labor) preferred the wording of Article 11 as drafted in Geneva.

Replying to the comments made by the Lebanese representative, MR. CASSIN (France) said the Committee should take into account the fact that all countries did not accept unconditionally the principle of the right to asylum. The article would therefore be quite ineffective if the United Nations failed to encourage States to grant asylum and to give them the necessary assistance. It was not stated which States had to grant asylum in a specified case. [10] The State nearest to the one where persecution had taken place might not have the necessary funds to take in those who were persecuted and, what was more, the influx of refugees might have a disturbing effect on the national life of that country.

To secure the General Assembly’s agreement to accept the new obligation to grant asylum, it had been necessary to make it clear that prosecutions genuinely arising from non-political crimes did not constitute persecution.

MR. AZKOUL (Lebanon) reaffirmed that the Declaration must proclaim the right to asylum, even though that right might not be universally recognized today. The United Nations must bear a share of the burden falling upon the countries granting asylum to persecuted persons, but that principle had to be established by means of a resolution of the General Assembly and not by a clause of the Declaration. Lastly, it was obvious that prosecutions arising out of a crime under common law did not constitute persecution.

MR. WILSON (United Kingdom) approved the use of the following expression in the first sentence: "Everyone. . . may be granted asylum." It had to be borne in mind that the obligation to grant asylum would not be assumed by all States.

THE CHAIRMAN asked for the first sentence to be amended as follows:

"Everyone has the right to seek and may be granted temporary asylum from persecution in other countries."

It was to be foreseen that victims of persecution would receive temporary asylum and that the country receiving them was not bound to guarantee them the right of permanent residence. Furthermore, cases of religious persecution had to be excepted by specifying that the article referred to persecutions in another country. As regards the obligations the United Nations might assume under that article, it should be remembered that it was unable to act rapidly; one should bear in mind the difficulties encountered in [11] connexion with the setting up of the International Refugee Organization, which was not a permanent body.

MR. HEYWARD (Australia) could not agree to article 11 containing implementation measures: the obligations to be entered into by the United Nations must be recorded in the text of a convention.

MR. AZKOUL (Lebanon) approved the action of the Drafting Sub-Committee in mentioning the obligations of the United Nations as regards the right to asylum. Otherwise, the first sentence would proclaim the right for all persecuted persons to seek asylum without really enabling them to find such an asylum.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that article 11 should specifically debar Fascists and Nazis from the right to find asylum, and proposed the following addition to the text: "in particular, the right of asylum shall not be granted to Fascists and Nazis prosecuted for their activities."

MR. CASSIN (France) asked for a separate vote to be taken on the three sentences composing the draft text of article 11, and then for a vote to be taken on the whole of that text.

MR. PAVLOV (Union of Soviet Socialist Republics) approved the request of the French representative and stressed the importance of the USSR amendment depriving Fascists and Nazis of the right to asylum.

[12]

THE CHAIRMAN accepted the procedure proposed by the French representative, which was in accordance with the Rules of Procedure.

MR. AZKOUL (Lebanon) proposed to vote first on the USSR amendment, and then on each of the sentences of the article, beginning with the last and proceeding in the reverse order, *i.e.* the third, then the second, and then the first.

THE CHAIRMAN accepted the proposal of the Lebanese representative.

MR. WILSON (United Kingdom) said that he would vote against the USSR amendment because Fascist and Nazi activities formed part of the "Acts contrary

to the purposes and principles of the United Nations” as specified in the text of the Drafting Sub-Committee.

The addition proposed by the USSR representative was rejected by four votes to one, with two abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) enquired whether the Committee accepted the interpretation of the United Kingdom representative and meant the activities of Fascists and Nazis to be excluded from the right to asylum as “Acts contrary to the purposes and principles of the United Nations.”

MR. SANTA CRUZ (Chile) said that was the way he interpreted the proposed text, which covered all acts contrary to the purposes and principles of the United Nations and not only those of Fascists and Nazis.

MR. CASSIN (France) said that he too interpreted the text in the same way as the United Kingdom representative.

[13]

The third sentence of article 11 was adopted by five votes to two.

The text being as follows: “Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.”

The second sentence: “The United Nations is bound to secure this asylum in agreement with member States”, was *not adopted*, the voting being *three votes for and three against*.

MR. AZKOUL (Lebanon) withdrew the amendment he had submitted to the first sentence of the article, as the discussion had shown that the Committee was not prepared to proclaim unconditionally the right to asylum. But he asked the United States representative to replace the expression “temporary” by the expression “during persecution”.

Speaking as the United States representative, the Chairman pointed out that, if persecution were to continue, the State granting asylum might wish to be released from its obligation.

MR. CASSIN (France) stressed again the importance of the sentence relating to the obligations of the United Nations, in the absence of which some States might be led to refuse that right of asylum.

Mr. Cassin thought there was no need to speak of “temporary asylum” or “asylum during persecution”, but he agreed to the insertion of the words “in other countries” proposed by the United States delegation.

Replying to a remark made by the United States representative, MR. AZKOUL (Lebanon) said there was no need to limit the period during which a State could grant asylum, because the obligation to grant such [14] asylum was not contained in the text on which the Committee was about to vote.

By five votes to none, with two abstentions, the Committee adopted the following draft of the first sentence:

“Everyone has the right to seek and may be granted asylum from persecution.”

By three votes to two, with one abstention, it rejected the addition to the first sentence of the expression “during persecution”, suggested by the Lebanese delegation.

With a vote of two for, two against, and three abstentions, it did not adopt the insertion into the first sentence of the word “temporary” which the United States delegation had proposed adding to the word “asylum”.

By six votes to none, with one abstention, it adopted the addition of the expression “in other countries” proposed by the United States delegation.

By six votes to none, with one abstention, the Committee adopted the whole of article 11 thus amended.

The meeting rose at 1:15 p.m.

E/CN.4/AC.1/SR.38

18 May 1948

Original Text: French

Summary Record of the Thirty-Eighth Meeting [of the Drafting Committee, Second Session]

Held at Lake Success, New York, on Tuesday,
18 May 1948, at 3 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Members:* Mr. E. J. R. Heywood, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Mr. R. Cassin, France; Mr. Azkoul*, Lebanon; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. Geoffrey Wilson, United Kingdom. *Consultants from non-governmental organizations:* Miss Toni Sender, American Federation of Labor (AF of L); Mr. Nolde, World Federation of United Nations Associations; Mr. van Istendael, International Federation of Christian Trade Unions. *Secretariat:* Dr. J. P. Humphrey, Mr. E. Lawson.

[*] Alternate

[2]

Continuation of the Discussion on the Draft International Declaration on Human Rights

Article 14

THE CHAIRMAN called the Committee’s attention to article 14 of the Draft International Declaration on Human Rights. She read the article and the comments made by the Governments of Brazil and the Union of South Africa.

MR. CASSIN (France) reminded the meeting that he had proposed another text for this article, which he considered better, *i.e.* “ownership of property is a right, its exercise shall be regulated by the laws of the land”.

MR. WILSON (United Kingdom) suggested simplifying the text by deleting the end of the first paragraph, which would then read “Everyone has the right to own property.”

MR. AZKOUL (Lebanon) supported the United Kingdom’s representative’s suggestion, which would remove any allusion to limitation of this right.

THE CHAIRMAN, speaking as the representative of the United States, declared herself in favour of retaining article 14; she proposed, however, to modify the second paragraph. She supported the comment made by the Brazilian Government.

MR. SANTA CRUZ (Chile) recalled the text of the draft adopted by the Inter-American Juridical Committee at the Bogotá Conference; “everyone has a right to own such private property as meets the essential needs of decent living, and helps to maintain the dignity of the individual and of the home.”

[3]

He thought that article 14 in its present form was wrong, because a right was not affirmed if it was stated at the same time that it could be suspended by law. The question to be decided was whether ownership of property was an essential and fundamental right. The idea of ownership of property was regarded from different angles in different countries; it was necessary to find a minimum common denominator or, if that proved impossible, to abandon the question altogether.

THE CHAIRMAN thought that the text submitted by the Chilean representative appeared to limit the ownership of property to the level necessary to satisfy essential needs. That raised a difficulty; who would define exactly these “essential needs”? She would prefer the text suggested by the United Kingdom representative.

MR. SANTA CRUZ (Chile) pointed out that the text drawn up at Bogotá did not limit the right to own property; it merely established to what extent it was to become an essential right, and each country would be free to determine reasonable limits in that connexion.

MR. WILSON (United Kingdom) agreed with the arguments put forward by the Chilean representative. As he had not before him a copy of the proposed text, he made reservations as to the wording, but accepted the principle, which appeared to him correct.

MR. CASSIN (France) pointed out that the text which would be adopted could only be the result of compromise. The members of the Committee were certainly in agreement on three points; (a) the natural inclination of everyone to possess material objects; this gave rise to [4] the statement: “Ownership of property is a right”; (b) the conception of the extent of the right to ownership of property: the formula suggested by the Chilean representative was likely to displease some countries; it was,

therefore, necessary to state that ownership of property should be subject to the legislation of each country; (c) it was impossible to state categorically that an individual was entitled to such and such compensation; it had simply to be said that he would not be deprived of his property by any arbitrary measures.

MR. SANTA CRUZ (Chile) regretted that he could not agree with the point of view put forward by the French representative. The purpose of the declaration, which was to establish essential rights, should not be forgotten. If States were granted the right to legislate on the matter, all that remained would be an abstract right.

He recalled that the French representative had asked for a formula based on a spirit of compromise. The easiest way would be to adopt a definition of the right to ownership of property and that provided by the text adopted at Bogotá seemed the most suitable.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with the French representative, that property should be subject to the laws of the land; he thought that this principle should be accepted by all. It seemed to him difficult to attempt to impose a system of property ownership, as each State might have a different conception of the matter. In Soviet countries common ownership was the basis of the regime, and such countries would be opposed to the adoption of any other system. He concluded that it was necessary to retain the idea that ownership applied alike to private ownership and common ownership, in conformity with the laws of the different States.

[5]

MR. WU (China) pointed out that divergences of opinion arose chiefly in the interpretation of the right to own property. He agreed with the French representative that the final text of article 14 could only be the result of a compromise. It would be wise to try to find a compromise formula acceptable to all. If it were not possible to arrive at complete agreement, he suggested that article 14 should be deleted *in toto*.

MR. SANTA CRUZ (Chile) said that his point of view had been interpreted in several different ways. He had not spoken in favour of any special system of ownership, but had simply said that the present text of the article established no such right. He thought that the conception held by the USSR fitted perfectly into the framework of the text which he proposed. He concluded that it was possible to establish that at least part of the property held should be held as of essential right.

THE CHAIRMAN summed up the discussion, pointing out that the Committee had before it four amendments. The first, submitted by China, suggesting the deletion of the entire article; the second, put forward by Chile, suggesting the adoption of the text drawn up at Bogotá by the Inter-American Juridical Committee; the third, submitted by the United Kingdom, suggesting the deletion of the end of the first paragraph; the fourth, proposed by the Union of Soviet Socialist Republics, suggesting the addition of the words "private or common" to qualify property.

THE CHAIRMAN put to the vote the Chinese amendment for the deletion of article 14.
[6]

The amendment was rejected four votes to two, with two abstentions.

The Chairman put to the vote the Chilean amendment.

The amendment was adopted by three votes to two, with three abstentions.

As the two other amendments were no longer relevant, the Chairman put to the vote the question of retaining the second paragraph of article 14.

The retention of the second paragraph was approved by seven votes to none, with one abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) asked if the text of article 14 referred to “private property” or “property.” He recalled that in the USSR private property was not the essential basis of “decent living” for individuals.

THE CHAIRMAN read the text which had been approved.

Following an exchange of views, in which the representatives of Chile, the Union of Soviet Socialist Republics and the United Kingdom took part, MR. WILSON (United Kingdom) suggested deletion of the word “private.”

The proposal was adopted.

THE CHAIRMAN suggested a modification in the text of the second paragraph.

MR. CASSIN (France) pointed out that the proposed text could not be translated into legal French, although there was no basic difference in meaning.

[7]

MR. HEYWOOD (Australia) suggested a new working of the text, consisting of the incorporation of the second paragraph in the first, which would then end with the words: “. . .and not be arbitrarily deprived of it.”

The proposal was adopted.

THE CHAIRMAN then stated that article 14 now consisted of a single paragraph, containing the text proposed by the Chilean representative, with the word “private” deleted, and concluding with the sentence suggested by the Australian representative.

Article 13

THE CHAIRMAN read the draft of article 13 and the various documents relating to it. As the representative of the United States, she thought that this article might well be suppressed, since all the rights set forth therein appeared in other parts of the Declaration.

MR. WILSON (United Kingdom) had no objection to the suppression of this article. He suggested in particular, that the first sentence should be suppressed, and he thought that the text suggested by the Economic and Social Council might be adopted. He recalled that suggested by the United Kingdom delegation:

“Marriage shall not be contracted before the age of puberty and without the full consent of both intending spouses.”

MR. CASSIN (France) did not think that this article was useless. He did not think it was possible to disregard human groups and to consider each person only as an individual. There was in the world an unanimous movement to give the institution of marriage its full character and dignity.

[8]

As regards freedom of consent, he thought that the form proposed by the United Kingdom representative might be improved. He recalled the text proposed by the French delegation:

“No marriage can be contracted except by a man and woman of marriageable age and with their full consent.”

MR. MALIK (Lebanon), Rapporteur, recalled that at Geneva, he had made certain reservations concerning this article. It had just been suggested that this article should be omitted entirely because the rights set forth therein were mentioned elsewhere in the Draft Declaration. He thought that this omission would be exceedingly regrettable.

The family was the cradle of all human rights and liberties. It was in the family that everyone learned to know his rights and duties and it would be inexplicable if everything were mentioned except the family's right to existence. The text of article 13 represented a bare minimum, and he suggested once again the amendment which he had already proposed at Geneva and which had been rejected because certain countries, such as Uruguay, objected to the name of the Creator being mentioned with a capital. He did not see how the adoption of that amendment could go against the doctrine of the separation of Church and State.

After all, he pointed out, the “Creator” was not necessarily God; in certain philosophies, it might be Nature. There was no theological implication. He saw no reason why the word “Nature” should not be used instead of the word “Creator”. The point on which he wished to insist was the fundamental and inalienable importance of the family.

[9]

He thought that the family was entitled to protection from the State and the law and he asked the Committee to consider his amendment and to adopt the text drawn up at Geneva.

MR. PAVLOV (Union of Soviet Socialist Republics) said that on fundamentals he was in agreement with the Lebanese representative. He pointed out that in the USSR the family was protected by law, but he thought the amendment proposed by Mr. Malik was pointless and might give rise to objection and complications.

As regards the second paragraph, he felt that it was unnecessary to bring any philosophical theories into the Declaration.

He suggested retaining the second part, emphasizing the equality of rights between man and woman after marriage. He proposed the following text:

“Men and women shall have the same right to contract marriage and shall have equal rights in their family life in conformity with the laws.

“The family deriving from the consent of both parties shall be protected by law.”

MR. WILSON (United Kingdom) sympathized with the Lebanese representative's point of view. He thought, however, that it was not appropriate to introduce at this point any comments, however relevant, on any given right. He suggested that the Lebanese representative might insert his amendment in the initial articles of the draft declaration which already contain certain philosophical considerations. In conclusion, he said he would vote against the Lebanese amendment and against the first sentence of Article 13.

[10]

Speaking as the representative of the United States of America, THE CHAIRMAN agreed with the representatives of the Lebanon and the United Kingdom. As far as the second paragraph was concerned, she proposed the following wording:

“Marriage and the family shall be protected by the law.”

The Chairman put the Lebanese amendment to the vote.

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

MR. MALIK (Lebanon), Rapporteur, recalled that the draft of the Inter-American Juridical Committee of the Bogotá conference contained the same idea.

He was entirely in agreement with the United Kingdom representative's suggestion provided that this fundamental conception of the family was inserted somewhere in the Draft Declaration.

MR. CASSIN (France) thought that the Lebanese representative was right and the subject of the family could not be passed over in silence. He said that the first articles of the Declaration were devoted entirely to the individual and article 13 was the first which connected up the human being with the family; in like manner, article 15 linked the individual to the nation, *etc.* In the circumstances, it was necessary to consider the relationship of the individual with the family.

Discussion of the First Sentence of Article 13

MR. CASSIN (France) was in favour of retaining the first sentence.

MR. PAVLOV (Union of Soviet Socialist Republics) thought there was no purpose in laying down that the family was based on marriage because it could hardly be based upon anything else.

[11]

MR. MALIK (Lebanon), Rapporteur, considered that a distinction should be made in the possible types of association. There could be family without the solemn ceremony of marriage.

MR. PAVLOV (Union of Soviet Socialist Republics) noted a contradiction in this because a marriage was possible even if it was not solemnized, and he thought that the family, that is to say, the children, should be protected in all cases.

THE CHAIRMAN put to the vote the question of whether or not the first sentence of article 13 should be retained.

The vote was taken.

There were three votes for, three against and two abstentions.

THE CHAIRMAN ruled that the first sentence was deleted, but the representatives of the United Kingdom, Lebanon and France opposed this interpretation.

After a short discussion, the question was again put to the vote at the suggestion of the Lebanese representative.

It was decided to delete the first sentence by four votes to three, with one abstention.

Second sentence

THE CHAIRMAN recalled the proposal submitted by the Commission on the Status of Women. As the representative of the United States of America, she wished to propose the following which appeared preferable to her:

[12]

“Men and women shall have the same rights to contract marriage in accordance with the law.”

MR. CASSIN (France) feared that by stressing equality of rights the fundamental point of freedom of consent was being overlooked. He recalled that France had proposed the following text which bore in mind the proposal of the International Alliance of Women:

“Men and women of the age of puberty shall have the same freedom to contract marriage in accordance with the law.”

THE CHAIRMAN thought that the wording proposed by the United States of America was wider.

MR. WILSON (United Kingdom) considered the point raised by the French representative was important and he recalled the amendment which he had already proposed:

“Marriage shall not be contracted before the age of puberty and without the full consent of both intending spouses.”

MR. SANTA CRUZ (Chile) was in favour of the amendment proposed by the United Kingdom representative which had the merit of covering the idea expressed by the French representative as well as laying down the equality of men and women in marriage. He thought that it should be established that men and women had the same fundamental right to dissolve marriage, although this was not recognized in all countries.

MR. MALIK (Lebanon), Rapporteur, noticed a difference between the text adopted at Geneva and the amendment proposed by the United Kingdom: the latter brought the question within the purview of the authorities, instead of emphasizing the fundamental right of men and women to contract marriage.

[13]

MR. VAN ISTENDAEL (International Federation of Christian Trade Unions) drew the Committee's attention to the controversy which the text proposed by the Commission on the Status of Women might raise. The dissolution of marriage was unacceptable to millions of Christians and the text proposed was consequently in contradiction to that belief. He thought that the principle of complete equality between men and women should be maintained and those who wished to interpret that principle as being applicable also to the dissolution of marriage could do so without thereby hurting the feelings of Christians.

THE CHAIRMAN put the text proposed by the Commission on the Status of Women to the vote.

The text was rejected by three votes to one, with two abstentions.

THE CHAIRMAN then put the following United States amendment to the vote:

“Men and women shall have equal rights as to marriage in accordance with the law.”

The United States amendment was adopted by five votes to none, with one abstention.

After a short discussion, the Chairman put the following United Kingdom amendment to the vote:

“Marriage shall not be contracted without the consent of the two parties and before the age of puberty.”

The United Kingdom text was adopted unanimously.

Paragraph 2

MR. WILSON (United Kingdom) considered that while the State could protect women, Society could not, and he proposed replacing the words “by the State and Society” by the words “by the law”.

[14]

MR. SANTA CRUZ (Chile) noted the difference between article 13 and article 26. Article 26 laid down the right of the family to social protection in the sense that the social legislation of the State should ensure the protection of the family. Article 13, however, laid down the moral and spiritual rights of the family; that was a wider conception and should be retained.

The Committee was drawing up a declaration and not a convention; it could, therefore, be stated that Society should protect the family and it would be for the State to promulgate the necessary laws.

MR. PAVLOV (Union of Soviet Socialist Republics) considered it better to speak of the State and Society, rather than of the law.

He proposed the following text:

“Marriage and the family as well as the equality of rights of the spouses in marriage shall be protected by the State and Society.”

THE CHAIRMAN remarked that the point raised by the USSR representative was already covered by the United States amendment.

MR. CASSIN (France) agreed with the representatives of Chile and the Union of Soviet Socialist Republics and considered that mention of the protection of the law alone would belittle the family and marriage. He also thought that the United States amendment already adopted made the amendment proposed by the USSR representative purposeless.

THE CHAIRMAN put the United Kingdom amendment to the vote.

[15]

The United Kingdom amendment was not accepted, by three votes to three, with one abstention.

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

Paragraph 2, as adopted at Geneva, was retained by three votes to one, with three abstentions.

The meeting rose at 5:50 p.m.

E/CN.4/AC.1/40

19 May 1948

Report of the Drafting Sub-Committee Consisting of the Representatives of Chile, China, United States of America, Union of Soviet Socialist Republics, on Articles 5, 6, 7 of the International Declaration on Human Rights (Document E/600)

No person may be arbitrarily deprived of his liberty. Arrest or detention may be allowed only in the cases, and according to procedures, established by pre-existing law.

Everyone who has been deprived of his liberty has the right to be promptly informed of the charges against him and to have the legality of his arrest or detention ascertained in a fair hearing before a court within the shortest possible time or to release.

Everyone is entitled to:

- (a) Freedom from torture or mutilation, or cruel or inhuman punishment or indignity;
- (b) The right to a fair hearing in conformity with law before an independent and impartial tribunal in the determination of his rights and obligations;
- (c) The right in all criminal cases to be presumed innocent until proved guilty, and to a public trial within a reasonable time in accordance with pre-existing law;
- (d) The right to compensation in respect of any unlawful arrest or deprivation of liberty.

E/CN.4/82/Add.11

19 May 1948

Comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of Implementation (Communication received from Sweden)

Stockholm, May 11, 1948

Sir,

I beg to advise that the Draft of International Bill of Human Rights referred to in your letter of January 9, 1948, No. SOA/17/1/01/JH, has been examined by the

Swedish Government. This examination has been of a preliminary nature. Its first object has been that of finding out to what extent Swedish law might be compatible with the Bill. The outcome of such an examination is presented below. The question of the implementation of the principles laid down in the Bill has not been the subject of any closer examination. The Swedish Government do therefore reserve their right to propose formal as well as material amendments to the Bill at such time as the Bill shall have been submitted to the General Assembly.

The principles laid down in the Draft of International Declaration on Human Rights are mostly identical with principles either expressly stated in the Swedish Constitution or otherwise embodied in Swedish law. From a Swedish point of view it would therefore be most gratifying if these principles were raised to the international level and fitted into the system of international law. It should be noted, however, that on certain points present Swedish law is not quite compatible with the Declaration. Thus with regard to Article 7(2) there is reason to point out that Swedish law is rigidly governed by the principle that no one shall be subject to punishment for an act that was not punishable at the time when committed. With regard to Article 14 it should be borne in mind that the right of aliens to acquire real property is restricted by Swedish law. Furthermore, a close examination of the extent to which the principle of equal opportunity to hold public office, as expressed in [2] Article 22, may be acknowledged by Swedish law reveals that, strictly speaking, said principle – otherwise established in Swedish law – does not apply to the posts of cabinet ministers, holders of such office according to an old provision of the Swedish Constitution being obliged to belong to the Swedish State Church. Also the principle laid down in Article 24(2) of the Declaration that women shall work with the same advantages as men is a basic rule which in Sweden may not have penetrated into all professions.

The question whether the Draft International Covenant on Human Rights is compatible with Swedish law requires a profound study, which it has not yet been possible to complete. As far as basic principles are concerned, it is however possible already at this time to state that the principles laid down in the Draft Covenant are essentially in agreement with deeply rooted Swedish rules of law. Comments on individual articles given below are merely intended to emphasize certain points of possible disagreement between Swedish law and said articles. It seems that these points may need some further explanation.

Article 6 of the Draft Covenant states that it shall be unlawful to subject any person to any form of medical or scientific experimentation against his will. According to Swedish law persons suspected of having been intoxicated while driving motor vehicles shall undergo blood tests regardless of whether they consent to it or not. Also in paternity cases the judge may order the mother to undergo blood

tests regardless of her consent. The Swedish Government take it that legal actions of this nature would not be inconsistent with the article just quoted.

According to Swedish law vagrants as well as persons neglecting their duty of maintenance imposed by law may be required to perform forced labour. Swedish law also states that persons belonging to said two categories as well as alcoholics may be detained against their will and confined to special institutions. Naturally actions of this nature are subject to legal control. Nevertheless, they may not be in full agreement with Articles 8 and 9 of the Draft Covenant. What has already been remarked about Article 7(2) of the Draft Declaration obviously applies also to Article 14 of the Draft Covenant. As regards the principle of freedom of religion as expressed in Article 16 of the Draft Covenant it should be observed that according to Swedish law any member of the Swedish State Church who wishes to relinquish his membership is legally unable to do so, unless he becomes a member of certain other congregations recognized by the Swedish State. It is thus legally impossible for a Swedish citizen to leave the Swedish State Church for the reason of [3] joining a religious group not recognized by the Swedish State or for that of remaining outside of any confessional organization. A new law liberalizing these provisions is however now being prepared.

The report of the Commission on Human Rights contains, in addition to the Bill, a number of suggestions relating to the implementation thereof. The Swedish Government hold the view that they could not examine these suggestions already at this time.

E/CN.4/AC.1/SR.39

19 May 1948

Original Text: French

***Summary Record of the Thirty-Ninth Meeting
[of the Drafting Committee, Second Session]***

Held at Lake Success, New York, on Wednesday,
19 May 1948, at 10:30 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Members:* Mr. Heywood, Australia; Mr. Santa Cruz, Chile; Mr. Wu, China; Professor Cassin, France; Mr. Azkoul, Lebanon; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom. *Non-Governmental Organizations:* Miss T. Sender, American Federation of Labor; Mr. A. J. van Istendael, International Federation of Christian Trade Unions; Mr. O. F. Nolde, World Federation of United Nations Associations. *Secretariat:* Professor Humphrey, Director, Division of Human Rights; Mr. Lawson, Division of Human Rights.

[2]

**1. Consideration of the Report of the Drafting Sub-Committee on
Articles 5, 6 and 7 of the Draft International Declaration on Human Rights
(document E/CN.4/AC.1/40)**

THE CHAIRMAN observed that the words “arrest or” at the beginning of the second sentence of the first paragraph should be deleted. She added that during the discussion in the Sub-Committee, the USSR representative had expressed the desire that sub-paragraph (c) of document E/CN.4/AC.1/40 should be supplemented by the addition of article 7, paragraph 2 of the Geneva text. Mr. Pavlov also wished to include in the Declaration the right of a person to receive all documents in a language familiar to him and to have the services of an interpreter, if the Court used a language he did not understand.

MR. CASSIN (France) considered that article 7, paragraph 2 would be more appropriate in the Declaration than in the Covenant. He added that provisions concerned with criminal law should be separated from civil provisions.

The idea of compensation for arbitrary arrest should be included in the Covenant but not in the Declaration.

MR. SANTA CRUZ (Chile) suggested that the Committee might revert to article 6 of the Declaration (document E/CN.4/AC.1/20) for the determination of civil rights and obligations, or else adopt the relevant text drawn up at the Bogotá Conference. He accepted the drafting of the first paragraph of the Sub-Committee’s report and agreed with Mr. Cassin on the necessity of separating criminal provisions from civil provisions.

MISS SENDER (American Federation of Labor) pointed out that the article submitted by the Sub-Committee made no reference to an accused person’s right to choose his representative. She also considered that sub-paragraph (c) should apply to political as well as to criminal cases.

[3]

MR. SANTA CRUZ (Chile) thought that Miss Sender’s interpretation of the word “criminal” was too narrow; it applied to political cases as well as to those of a strictly criminal nature.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed a number of additions and amendments to the text submitted by the Sub-Committee. In his view it was necessary:

1. To add the following phrase to the text of the article, in order to avoid possible discrimination: “All men are equal before the Court”;
2. To add paragraph 2 of article 7: “Nothing in this article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law

recognized by civilized nations.” The words “democratic countries” should be substituted for “civilized nations”;

3. To retain sub-paragraph (d) on the right to compensation in respect of any unlawful arrest or deprivation of liberty. He considered the question of compensation to be of primary importance, since it was a general principle that should be included in the Declaration;
4. To add a paragraph regarding the right “to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak”;
5. To state that “No person shall be imprisoned in consequence of mere inability to fulfil a contractual obligation.”

Mr. Pavlov also emphasized that judicial procedure must be based on democratic principles.

MR. WU (China) proposed that the Drafting Committee should adopt the provisions already initiated in the draft International Covenant regarding the choice of a qualified representative and the services of an interpreter to assist the accused if he could not understand or speak the language used by the Court.

[4]

He proposed that those two principles should be included as paragraphs (c) and (d). Paragraphs (c) and (d) of the article would thus become (e) and (f).

MR. SANTA CRUZ (Chile) thought that the text submitted by the Sub-Committee should be divided into two articles, the first concerning detention and the procedure relating thereto, and the second concerning judicial procedure proper.

MR. WILSON (United Kingdom) considered that in view of the obvious wish of several members of the Committee to amplify the text of the Declaration, the Committee could adopt the provisions of the Covenant; but he himself did not share that wish. The Declaration should only include general principles. He pointed out that the Commission on Human Rights had asked the Committee to draft the articles of the Declaration as concisely as possible.

He thought, therefore, that the article in question should contain only the following general principles:

1. No person may be arbitrarily arrested or detained.
2. Everyone shall have the right to a fair hearing.
3. Any accused person is presumed to be innocent until proved guilty.
4. Everyone shall have access to independent and impartial tribunals.
5. Criminal laws may not be retroactive.
6. No one shall be subjected to torture or inhuman treatment.

THE CHAIRMAN, speaking as representative of the United States, expressed her agreement with the United Kingdom representative. She was opposed to the inclusion of paragraph 2 of article 7, proposed by Mr. Cassin. On the other hand, she would accept the insertion of the paragraphs on presumption of innocence and the right of the accused to be defended by a representative of his own choice.

[5]

MR. CASSIN (France) agreed with the representative of Chile that the paragraphs on detention and trial must be examined separately. He also agreed with the United Kingdom representative that only the main general principles should be stated, without going into detail. In his opinion, however, the paragraph on war criminals did not constitute an implementation problem but was a fundamental principle of the community of nations.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the Declaration should be a separate document, independent of the Covenant, so that Governments might adhere either to the Declaration or to the Covenant without being obliged to adhere to both. Consequently, all the general principles should be included in both documents. He pointed out that the amendments and additions proposed by the USSR delegation consisted of general principles such as:

1. All persons shall be equal before the courts.
2. Judicial procedure shall be based on democratic principles.
3. Article 7, paragraph 2 concerning war criminals.
4. A person's right to be defended by a representative of his own choice, to have the services of an interpreter, to speak in his native language, to receive compensation for unlawful arrest.

With regard to imprisonment for breach of contractual obligations, he thought that although that provision was not, strictly speaking, a general principle, it would be useful to include it in the Declaration. He proposed that his amendment on the equality of persons before the courts should be inserted in the first paragraph of the article. The other amendments could be inserted in the second paragraph.

MR. WILSON (United Kingdom) observed that the USSR representative seemed to think that the Declaration and Covenant constituted two alternative documents; he also pointed out that the equality of persons [6] before the law was already included in article 3, paragraph 2.

In his opinion, the paragraph on war criminals should appear either in the Declaration or in the Covenant, but not in both documents. He agreed with the representatives of France and of Chile on the necessity of separating the paragraphs dealing with arrest and trial.

MR. SANTA CRUZ (Chile) considered that the concept of equality before the courts differed from that of equality before the law. He suggested that a vote should

first be taken on the first two paragraphs of the article and on the amendments dealing with imprisonment for breach of contractual obligations and compensation for unlawful arrest.

MR. AZKOUL (Lebanon) thought that the relation between the Covenant and the Declaration must be determined at once. The Declaration should be an expression of the human intellect inspired by the conscience of mankind; the Covenant, on the other hand, was determined not only by intellectual, but also by practical considerations. Consequently, the Declaration should be wider than the Covenant.

THE CHAIRMAN decided that the text submitted by the Sub-Committee and the various amendments would be voted on during the afternoon meeting.

2. Consideration of Article 15, Concerning Nationality (document E/CN.4/AC.1/20)

MR. WILSON (United Kingdom) suggested the following amendment to the first sentence of the article:

“Persons shall not be deprived of their nationality, which they have acquired at birth, unless possessing another nationality.”

He thought that the second sentence should be deleted in view of the decision taken by the Sub-Committee that obligations could not be imposed upon the United Nations in a similar case concerning the right to asylum.

[7]

THE CHAIRMAN, speaking as representative of the United States, suggested the deletion of article 15. She thought that the problem of stateless persons should be left to the Economic and Social Council.

MR. CASSIN (France) pointed out that the Geneva text had been approved by the French Government. He thought that the work of the Economic and Social Council on statelessness should not prevent the General Assembly from condemning it in principle. The purpose of article 15 was to express one of the general principles of mankind and to affirm that every human being should be a member of a national group. The United Nations should contribute to putting an end to statelessness by urging the necessary measures upon sovereign States. He pointed out that the responsibility of a community of nations in respect of statelessness was no novelty. The Nansen passports⁸⁰ introduced by the League of Nations proved that. Every person had a right to legal protection. He recalled that since the war, France had made it a strict rule not to declare forfeiture of nationality. It was the duty of the

⁸⁰ So-called “Nansen passports” were issued by the High Commissioner for Refugees, Fridtjof Nansen, who was named to the post by the League of Nations. They facilitated travel by stateless persons and refugees, initially for those fleeing the civil war in Russia and, over the years, in many other contexts. In 1938, Nansen received the Nobel Peace Prize for his pioneering work.

Commission on Human Rights to prepare the work of the General Assembly, with a view to granting everyone the right to nationality.

MR. PAVLOV (Union of Soviet Socialist Republics) asked the French representative whether he thought that every individual should be forced to choose his nationality if circumstances so required.

MR. CASSIN (France) replied that the solution of technical problems of nationality was not the Committee's present concern; however, unlimited freedom should not be granted to the individual. He considered that nationality could legitimately be imposed upon the individual to avoid confusion.

MR. PAVLOV (Union of Soviet Socialist Republics) asked who would be authorized to take measures imposing a nationality.

[8]

MR. CASSIN (France) replied that a solution could only be found through international agreements sponsored by the United Nations.

The Drafting Committee decided not to delete article 15, by three votes to three, with one abstention.

The Committee rejected the United Kingdom amendment to article 15 by four votes to two, with one abstention. (Amendment quoted above).

The Committee decided to retain the first sentence of article 15: "Everyone has the right to a nationality," by three votes to three, with one abstention.

MR. CASSIN (France) suggested that the second sentence of article 15 should be replaced by the following text: "It is the duty of the United Nations, as well as the States Members, to prevent statelessness."

The Committee rejected the amendment by four votes to two, with one abstention.

The Committee decided to delete the second sentence of article 15 by four votes to two with one abstention.

The Committee did not vote on the third sentence, which was rendered superfluous by the deletion of the second.

The meeting rose at 1 p.m.

E/CN.4/AC.1/SR.40

19 May 1948

Original Text: French

Summary Record of the Fortieth Meeting
[of the Drafting Committee, Second Session]

Held at Lake Success, New York, on Wednesday,
 19 May 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Vice-Chairman and Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. E. J. R. Heywood, Australia; Mr. H.

Santa Cruz, Chile; Mr. T. Y. Wu, China; Mr. René Cassin, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Consultants from Non-Governmental Organizations*: Miss Toni Sender, American Federation of Labor; Mr. Frederick Nolde, World Federation of United Nations Associations; Mr. van Istendael, International Federal of Christian Trade Unions. *Secretariat*: Dr. J. P. Humphrey, Mr. E. Lawson.

[2]

Draft International Declaration on Human Rights (Continuation of discussion)

Article 16

THE CHAIRMAN read the article and recalled that comments on it had been submitted by the Netherlands, Mexico and Brazil (document E/CN.4/85, pp. 31 and 32). The United States of America, preferring an explicit statement of the principle of freedom of religion, had presented an amendment (document E/CN.4/AC.1/20, page 7), but was prepared to support the Geneva text.

MR. CASSIN (France) pointed out that the text proposed by the French Government (document E/CN.4/82/Add.8) retained the Geneva draft for the first paragraph, with the following purely drafting amendment in the second paragraph: "Every person has the right, either alone or in association, to manifest his beliefs, subject to respect for public order, by teaching and practising them, and by worship and observance."

At the request of MR. SANTA CRUZ (Chile), THE CHAIRMAN read out the relevant text adopted for the draft Covenant. The Chairman added that the United States of America had proposed the following drafting amendment in accordance with the principles of the Geneva text: "Everyone is entitled to freedom of religion, conscience, and belief, including the right, either alone, or in community with other persons of like mind, to hold and manifest any religious or other belief, to change belief, and to practise any form of religious worship and observance." (document E/CN.4/AC.1/20, page 7).

MR. WILSON (United Kingdom) supported that text.

In reply to a question by MR. PAVLOV (Union of Soviet Socialist Republics), THE CHAIRMAN explained that the Geneva text pertained to freedom "of conscience and belief" only, while the United States proposal would specifically add to it freedom of religion.

[3]

MR. CASSIN (France) remarked that in French freedom of religion was already implied in the concept of "freedom of conscience and belief" of which the former,

although important, was only a part. However, he would not object to the addition of the word “religion”.

On the other hand, the expression “Everyone is entitled to . . .”, had no force when translated literally into French: (“Toute personne peut se prévaloir du droit à . . .”). It would be better to come straight to the point by saying “Everyone has the right to . . .”

THE CHAIRMAN thought that the English version might state: “Everyone has the right of freedom. . .”, which could then be rendered into French as follows: “Toute personne a la liberté de conscience, de religion, de pensée, . . .*etc.*”

MR. AZKOUL (Lebanon) thought that it would be well to add to the second paragraph another sentence on the right to convert other persons to one’s own belief.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that a formal declaration was not enough, and requested that the article should be drafted in more forceful terms, guaranteeing the freedom of conscience in the following manner:

“Every person shall have the right to freedom of thought and to freedom to practise religious observances in accordance with the laws of the country and the dictates of public morality”.

In order to avoid further discussion, MR. WU (China) proposed that the Committee should revert to the Geneva draft of article 16.

THE CHAIRMAN said that the United States of America was prepared to withdraw its amendment in favour of the Geneva draft, but pointed out that there was still the USSR amendment to be considered.

[4]

MR. CASSIN (France) also supported the Geneva text, subject to the following drafting amendment to the last sentence: “de manifester ses croyances par leur enseignement et leur pratique, et par le culte et l’accomplissement des rites”. The English version would read: “to manifest his belief in teaching, practice, worship and observance.”

THE CHAIRMAN put the following USSR amendment to the vote:

“Every person shall have the right to freedom of thought and freedom to practise religious observances in accordance with the laws of the country and the dictates of public morality”.

The USSR amendment was rejected by 4 votes to 1 with 2 abstentions.

THE CHAIRMAN then put the Geneva text to the vote together with the following amendment, proposed by the French representative: “to manifest his belief in teaching, practice, worship and observance.”

The amended text was adopted by 6 votes to none with 1 abstention.

Articles 5, 6 and 7

MR. SANTA CRUZ (Chile) proposed a new arrangement of the articles. The first article would begin with the two first paragraphs of the drafting sub-committee's report, followed by an amendment proposed by Chile: "No person shall be imprisoned merely on the grounds of inability to meet a contractual obligation." That text could also be replaced by article 10 of the draft Covenant.

The second amendment would serve to settle problems of arrest and detention. It read as follows:

"Everyone has the right to compensation in respect of any unlawful arrest or deprivation of liberty."

A second article would follow dealing with the legal procedure and the rights of the individual in case of accusation. The article would begin as follows:

"The rights and obligations of every person confronted with a criminal accusation must be determined or judged by independent and impartial tribunals."

At that point, the following USSR amendment might be [5] included:

"...tribunals which are governed by democratic principles."

The text would then continue:

"...impartial and independent tribunals, before which all persons are equal".

The next paragraph would define the judgment:

"Everyone accused of an offence must be judged within a reasonable time by courts established beforehand and in accordance with pre-existing laws in a public trial."

Certain concepts, taken from the last part of the sub-committee's report, would follow. The text might state: "In the judgments and decisions, everyone has the right to:" – followed by paragraphs (a), (b) and (c) of the sub-committee's report. A paragraph (d) would deal with the right of defence including the question of interpreters, as provided in the USSR proposal.

Finally, the Committee might express its views with regard to the USSR proposal to take up again article 7, paragraph 2, dealing with war criminals.

THE CHAIRMAN opened discussion on the Chilean proposals.

MR. WILSON (United Kingdom) thought that most of the United Kingdom amendments were met either by the sub-committee's proposals or by the Chilean amendments.

MR. CASSIN (France) thought that the Chilean suggestions were interesting. It would be necessary, however, to weigh the provisions carefully, in order to achieve the necessary conciseness and precision in drafting.

MR. PAVLOV (Union of Soviet Socialist Republics) would have liked to see some parts of his previously proposed amendments inserted in the sub-committee draft. He would agree to basing the discussion on the composite draft presented by Chile which he supported in principle, subject to a few amendments. He recalled that his proposal stated: "All persons are equal before the tribunals" and not: "before the law".

[6]

THE CHAIRMAN put to the vote first the United Kingdom amendment to replace the first two paragraphs of the sub-committee draft by the following sentence: "No one may be subjected to arbitrary arrest or detention."

The United Kingdom amendment was not adopted. Three votes were cast in favour of the amendment, and 3 against, with 1 abstention.

THE CHAIRMAN read the first paragraph of the sub-committee draft.

MR. HEYWARD (Australia) and MR. SANTA CRUZ (Chile) felt that the words "arrest" and "detention" should be retained. While arrests were made by legal authorities, detentions could be caused by anyone.

MR. CASSIN (France) considered the expression "can be authorized" to be inexact since arrest or detention could, in fact, occur without authorization. It would be simpler and better to use at that point the text of the draft declaration, article 5. The text would then read:

"No one may be arbitrarily deprived of his liberty. Arrest or detention may be allowed only according to pre-existing law and in accordance with due process."

On the suggestion of MR. PAVLOV (Union of Soviet Socialist Republics), the Chairman put the first sentence to the vote first:

"No one may be arbitrarily deprived of his liberty."

The text was adopted by 6 votes to none.

THE CHAIRMAN pointed out that the English text should begin with the words "No one" instead of the words "No person"; she then opened the discussion of Mr. Cassin's proposed text for the second sentence.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that the word "imprisonment" should be added to the words: "arrest" and "detention". In Russian, at any rate, the three words had different connotations.

[7]

MR. SANTA CRUZ (Chile) supported that suggestion. Arrest and detention were measures taken by authorities or tribunals during the period of inquiry, or during the trial, while imprisonment constituted a punishment. Moreover, the discussion had shown that it would be better not to enter into legalistic terminology. The representative of Chile consequently proposed a more general formula:

“No one may be arbitrarily deprived of his liberty, except in accordance with pre-existing law and in accordance with due process.”

MR. CASSIN (France) might accept the additional word: “imprisonment”. If, however, as the representative of Chile had proposed, a more general formula was to be accepted, it would be best to revert to the first sentence of article 5 of the Geneva text, which read:

“No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process.”

THE CHAIRMAN remarked that the first sentence of the sub-committee text had already been adopted. For the second sentence, Mr. Cassin’s proposed formulation might be accepted:

“Arrest or detention may be allowed only according to pre-existing law and in accordance with due process.”

MR. SANTA CRUZ (Chile) thought that imprisonment should be mentioned together with arrest and detention, as suggested by the USSR representative. But it would be simpler to adopt a formula avoiding legal definitions, and to state, for instance, after the principle was laid down:

“Deprivation of liberty is only allowed according to pre-existing laws and in accordance with due process.”

MR. WU (China) wondered if the discussion served any useful purpose. He proposed simply accepting the Geneva text and going on to the following articles. [8]

MR. WILSON (United Kingdom) agreed.

MR. PAVLOV (Union of Soviet Socialist Republics) would regret the adoption of such a solution, after a three day discussion during which improvements had been made. He proposed the insertion of the words: “arrest, detention, and imprisonment”.

MR. CASSIN (France) did not think the problem was very complicated. It could be solved by incorporating the word “imprisonment” in the sub-committee text. With regard to the remainder of the text, a more satisfactory French draft would be possible, but the present drafting was acceptable.

MR. AZKOUL (Lebanon) also proposed to use the three words “arrest, detention, and imprisonment”. Their meaning was undoubtedly very similar, but each however had an exact and different meaning. “Arrest”, for instance, was used more in an administrative sense; “detention” had, in some way, a political character (reference was often made to political detention); “imprisonment” was punishment for a crime or an infringement of the law. As the three words did not have exactly the same meaning, there was no disadvantage, and probably some advantage, in using all three.

THE CHAIRMAN said that the United States delegation did not object to the inclusion of the word “imprisonment” and would like to see the sentence adopted with the addition of that word.

MR. WU (China) would generally favour the sub-committee text, which contained the essential ideas expressed in articles 5, 6 and 7 of the Geneva text in abridged form. If the USSR representative insisted that the text should be replaced by his own draft, however, the Chinese delegation would agree.

THE CHAIRMAN pointed out that the various suggestions submitted had resulted in the following text:

[9]

“Arrest, detention or imprisonment may be allowed only according to pre-existing law and in accordance with due process.”

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he could not find what had been proposed by the sub-committee in that text.

MR. CASSIN (France) affirmed that all the essential ideas of the sub-committee had been faithfully interpreted.

THE CHAIRMAN stated that in order to reach an agreement on the different points of view expressed, it would be necessary to put both texts to the vote.

The text supported by Mr. Cassin was adopted by 3 votes to 2, with 2 abstentions.

The Committee passed to the examination of the second paragraph.

MR. CASSIN (France) asked that the difference between the two very distinct ideas evoked by the text should be clearly established.

There was first of all the question of the legality of arrest. But an arrest might be legal at the moment when it was made and become an abuse owing to prolongation of the detention. It was then that the necessity for trial within a reasonable time arose. To avoid any misunderstanding on that point, Mr. Cassin proposed the following text:

“. . . to immediate judicial determination the legality of any detention to which he may be subject and to trial within a reasonable time or to release.”

In other words, a distinction should be made between the necessity for controlling the legality of the measures for arrest, and the necessity for trial and verdict, within a reasonable period of time.

THE CHAIRMAN said that her delegation would favour the drafting sub-committee text, which was more in accordance with the national legislation of the United States. [10]

MR. SANTA CRUZ (Chile) supported Mr. Cassin's views.

THE CHAIRMAN thought that the text should first of all specify the principal fact, which was that any individual who was arrested should be promptly tried or freed; that should be followed by the idea of verifying the legality of the arrest.

MR. CASSIN (France) thought it was preferable to deal with the facts in their chronological order, as was done in the Geneva text.

THE CHAIRMAN remarked that that order was respected in the sub-committee text.

MR. WILSON (United Kingdom) stated that certain ambiguities would have been avoided by adopting the text he had proposed. He would take it up again in the plenary session of the Commission. He considered, however, the Geneva text would be preferable to that of the sub-committee for the reasons expressed by the representatives of France and Chile.

THE CHAIRMAN asked Mr. Cassin if he would be willing to accept the Geneva text in place of the one proposed by the sub-committee.

MR. CASSIN (France) replied in the affirmative with the reservation that one correct idea should be taken from the sub-committee text, that was, the obligation to notify the accused of the charges made against him. That idea had been omitted from the Geneva text, and it was necessary to correct that omission. Mr. Cassin added that he would be more willing to accept the proposed substitution if, in the English text, the words "a reasonable time" were replaced by "the shortest delay".

As a result of the various suggestions made, the Committee had before it the following text:

"Everyone who has been deprived of his liberty has the right to be promptly informed of the reasons for his detention [11] and to immediate judicial determination of the legality of any measures to which he may be subject and to trial within a reasonable time or to release."

MR. PAVLOV (Union of Soviet Socialist Republics) proposed that the part of the text on which there appeared to be general agreement should be put to the vote as had been done previously.

THE CHAIRMAN put the following sentence to the vote:

"Everyone who has been deprived of his liberty has the right to be promptly informed of the reasons for his detention."

The sentence was approved by 5 votes to none, with 2 abstentions.

With regard to the last part of the paragraph, the Chairman thought it might be preferable to return to the Geneva text.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that whatever text was adopted should contain sufficient guarantees with regard to the notification to the accused of the charges made against him, and the time within which he would be tried. Mr. Pavlov added that that period of time should not only be as short as possible, but he asked for measures which would make it possible to fix a date for the trial from the moment of the accused's detention.

According to THE CHAIRMAN, the Geneva text covered that requirement perfectly.

MR. SANTA CRUZ (Chile) wished to define the scope of the present discussion. What was in question was not, in his opinion, the time which the tribunal would require to judge a case, at the appropriate moment with complete independence, and within a period of time which, it was simply stated should be reasonable. What was in question was the duty of the authority, arresting an individual, to place him, without delay, at the disposal of the courts.

[12]

MR. HEYWARD (Australia) supported the Geneva text.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he would also return to the Geneva text, but that he wished to make it more specific. He expressed his thought by taking as an example a person suspected of stealing. Once that person was arrested, it would be necessary, first of all, to give a competent opinion on the legality of the arrest. But that was not sufficient; it would also be necessary for the arrested person to know the period of time within which he would be tried, as his detention could not be prolonged indefinitely merely on suspicion. That suspicion must be either specified or abandoned within a reasonable time.

MR. CASSIN (France) agreed that the idea expressed by the USSR representative was very interesting but he thought that the Committee should remain within certain limits. The best measures established by the Geneva text and by the sub-committee had been retained, but the boat must not be overloaded, as that would bring the risk of even those governments who had the greatest respect for individual liberty, rejecting the text finally drawn up.

The USSR representative's suggestion was rejected by 2 votes to 1, with 4 abstentions.

The next text put to the vote was taken from the Geneva draft, with the addition of the word "imprisonment", and the measures previously adopted with regard to the notification of the charges. The text read as follows:

"Everyone who has been deprived of his liberty has the right to be promptly informed of the charges made against him.

“Everyone placed under arrest, detention or imprisonment shall have the right to immediate judicial determination of the measures taken against him and to trial within a reasonable time or to release.”

Those paragraphs were adopted by 5 votes to none, with 2 abstentions.

[14]

THE CHAIRMAN requested the Committee to decide on various amendments, the first of which followed the old Geneva draft of the international covenant.

“No one shall be imprisoned or held in servitude merely on the grounds of inability to meet a contractual obligation.”

The amendment was adopted by 3 votes to 1, with 3 abstentions.

A second amendment, based on paragraph (d) of the last sub-paragraph of the Draft Committee’s proposals, was as follows:

“Everyone has a right to compensation in respect of any unlawful arrest or illegal deprivation of liberty.”

The amendment was adopted by 4 votes to 2, with 1 abstention.

The next item under consideration was an amendment submitted by the Chilean delegation, which did not appear in either the Sub-Committee or the Geneva text.

“The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals, before which tribunals all persons are equal.”

The USSR delegation submitted the following amendment to that text:

“The judicial procedure of each state must be established on democratic principles.”

MR. PAVLOV (Union of Soviet Socialist Republics) asked that a vote should first be taken on his amendment, with which everyone should be in agreement.

MR. WILSON (United Kingdom) stated that he would vote against the amendment because he feared that the expression “democratic principles” did not mean the same thing to him and to his USSR colleague.

The USSR amendment was rejected by 3 votes to 1, with 3 abstentions.

[15]

THE CHAIRMAN put to the vote the first part of the Chilean amendment which read:

“The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals. . .”

The text was adopted by 3 votes to none, with 4 abstentions.

THE CHAIRMAN put the last part of the Chilean amendment to the vote.
It read:

“...before which tribunals all persons are equal.”

The Chairman pointed out that the text fulfilled the aim of the USSR representative who favoured the following text: “All men are equal before the law.”

The end of the Chilean amendment was adopted by 3 votes to 1, with 3 abstentions.

THE CHAIRMAN called for discussion of the following Chilean proposal:

“Any person accused of an offence shall be tried within a reasonable time, in accordance with the law in force and in a public trial.”

MR. CASSIN (France) thought that the text should be limited to the passage providing for public trial, and that the reference to “reasonable time” might be omitted in the interest of brevity. It was already mentioned.

MR. SANTA CRUZ (Chile) replied that the provision previously adopted specified that any individual placed under arrest must be brought to trial within a reasonable time, while the text under discussion involved the statement that the trial of any accused person, whether under arrest or not, must take place within a reasonable time.

[16]

THE CHAIRMAN put the following amendment to the vote:

“Any person accused of an offence must be judged within a reasonable time by courts established beforehand and in accordance with the law in force at the time the offence was committed and in a public trial.”

The amendment was adopted 2 votes to 1, with 4 abstentions.

MR. CASSIN (France) said that he had not realized that the text contained the words “in accordance with the law in force at the time the offence was committed”. That clause honoured the principle of non-retroactivity of laws and, under those conditions, the representative of France agreed to have his vote added to those in favour of the text just approved.

THE CHAIRMAN then called for discussion of the next amendment, worded as follows:

“In judgments and rulings, everyone shall have the right:”

That text would be followed by the principles indicated in sub-paragraphs a), b), c) *etc.* of the Sub-Committee’s text.

MR. SANTA CRUZ (Chile) explained that some of the principles involved, for example the prohibition of torture and cruel or degrading treatment, applied not only to persons in custody but also to persons sentenced.

THE CHAIRMAN was of the opinion that, since the rest of the text related to trial procedure, the provision dealing with torture, mutilation, and cruel or degrading treatment should form a separate article. Moreover, that arrangement would give the text greater force.

[17]

MR. CASSIN (France) also believed that the provision should be placed at the end. The text under discussion involved trial procedure. Logically, the Committee should now consider the USSR amendment relating to war criminals which France supported. Actually that provision constituted an exception to the principle set forth in the paragraph which had just been adopted.

Next, the Committee should take up the problem of presumed innocence and only after that the question of torture and mutilation.

MR. SANTA CRUZ (Chile) had no objection to the proposal that the paragraph on torture, mutilation *etc.* should be placed in a separate article. He also agreed that the Soviet amendment should be voted upon immediately.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that his amendment was not a new text since it merely repeated paragraph 2 of Article 7 of the Geneva draft.

THE CHAIRMAN read the text of the USSR amendment, which was:

“Nothing in this Article shall prejudice the fair trial of any person for the commission of any act which, at the time it was committed was criminal according to the general principles of law recognized by civilized nations.”

MR. CASSIN (France) agreed in principle with the text but would prefer that it be clarified as follows: “This provision shall not prejudice. . .” Actually the provision of the text immediately preceding was involved.

THE CHAIRMAN recalled that the United States did not favour provisions of that kind. If, however, the Committee decided otherwise, the text might read:

[18]

“These shall not prejudice the trial and punishment of any person for the commission of any act. . .”

MR. PAVLOV (Union of Soviet Socialist Republics) felt that the word “these” lacked precision. He would prefer keeping the original text: “Nothing in this Article shall prejudice. . .” He would however accept: “The preceding provisions shall not prejudice. . .”

MR. CASSIN (France) accepted that wording.

THE CHAIRMAN put the following amendment to the vote:

“The preceding provisions shall not prejudice the trial and punishment of any person for the commission of any act, which at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.”

The amendment was adopted by 4 votes to 1, with 2 abstentions.

The Chairman read the following amendment:

“During the trial everyone is entitled, in all criminal cases, to a fair hearing and to be presumed innocent until proved guilty.”

The USSR had proposed an amendment as follows:

“... is entitled to have full knowledge of all documents before the court and shall have the right to address the court in his native language.”

The representative of China had introduced an amendment guaranteeing defence but had withdrawn it.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that it was not necessary to go into the details of defence since the forms might vary according to national legislation. What was necessary was to assure the guarantee of defence. Accordingly the USSR representative proposed the following:

[19]

“Every accused person is entitled to the right of defence. In case a person who does not know the language used by the court is prosecuted, the accused shall be entitled, through an interpreter, to be fully informed of the material in the case and to address the court in his own language.”

The idea had already been accepted when the covenant was discussed.

MR. CASSIN (France) observed that the statement “Pendant le jugement” might appear to limit the guarantees to the final procedure. It would be better for the French text to read: “Pendant toute la procédure”.

MR. WILSON (United Kingdom) accepted the USSR proposal in principle but thought it unnecessary to go into all the details. It would in any case be paradoxical for the declaration to be more detailed than the covenant. If the declaration must deal with the same ideas, it should at least repeat the terms of the covenant itself.

MR. WU (China) supported Mr. Wilson’s statement. The Geneva articles expressed the same principle and did it better than the proposed text. A declaration was not intended for the intellectual or the jurist but rather for the man in the street. The Chinese delegation would therefore vote against the amended article.

MR. WILSON (United Kingdom) stated that he would also vote against the amended article for the same reasons.

MR. HEYWARD (Australia) also felt that it would be better to retain the Geneva text.

THE CHAIRMAN was of the opinion that it would really be a pity merely to return to the original text after so long a debate.

[20]

MR. CASSIN (France) shared the misgivings expressed by his colleagues from China and the United Kingdom. The Committee, however, had accomplished useful work and should not lose hope. The representative of France proposed retention of

the first texts adopted by the Committee up to its consideration of questions of criminal procedure. From that point on, the Committee could retain the wording of Article 7 of the Geneva draft and improve it by making it shorter.

THE CHAIRMAN felt that it was better not to reconsider texts which had already been voted upon. She proposed that the discussion, which in any case was nearing its end, should be closed and that both the Geneva text and the text drawn up by the Drafting Committee should be sent to the full Commission.

MR. PAVLOV (Union of Soviet Socialist Republics) supported the Chairman's proposal. He urged the Committee not to lose courage and to continue the discussion.

MR. SANTA CRUZ (Chile) considered the text of the Sub-Committee as well as the Geneva text acceptable provided that the version which was adopted included the statement that an accused person was entitled to be heard in his native language and the presumption that an accused person was innocent until proved guilty.

THE CHAIRMAN thought that the two texts could be sent to the Commission together and proposed a vote on the following paragraph:

“Any person being tried is entitled to a fair hearing. In criminal cases, the person being tried must be presumed innocent until proved guilty.

“When a person who does not know the national law is prosecuted, he shall be entitled, through an interpreter, to be fully informed of the material of the case and to address the court in his own language.”

[21]

It was decided to vote first on the last sentence. The sentence was adopted by 3 votes to 1, with 3 abstentions. The entire paragraph was adopted by 3 votes to none, with 4 abstentions.

Before the entire text was voted upon, MR. CASSIN (France) asked that the Geneva text and the text drawn up by the Drafting Committee should be submitted to the Commission. Technically he had the impression that the Committee had not distorted the text entrusted to it. From the standpoint of the majority, there was still a great deal to be achieved. He hoped that the Commission would aid in the task.

MR. WILSON (United Kingdom) did not oppose either of the two and also recommended the submission of both. He, however, felt that the Drafting Committee must by a vote express its opinion on the text drawn up in the course of its discussion.

The entire text was rejected by 3 votes to 2 with 2 abstentions. By 4 votes to 1 with 2 abstentions, the Committee decided to transmit to the full Commission both the Geneva text and the text which had been rejected.

By 6 votes to none, with 1 abstention, it was also decided to submit the following text to the Commission:

“No one shall be subjected to torture, mutilation or to cruel or inhuman treatment or indignity.”

Articles 17 and 18

THE CHAIRMAN recalled that the Commission had decided not to draft a definitive text of the two articles until it was informed of the opinion of the Conference on Freedom of Information. That Conference had recommended that the two articles should be combined in a single article for which it had proposed a text. Since, however, it would be difficult for the Committee [22] to reach any decision without a rather long discussion, the Chairman suggested that the question should be referred to the Commission which could reach a decision on the basis of the suggestions presented by the Conference on Freedom of Information or otherwise.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he would not oppose that procedure provided the Commission was at the same time notified of the proposals on the same subject drawn up by his delegation.

The Committee voted unanimously to transmit all texts in connection with Articles 17 and 18 to the full Commission.

The meeting rose at 5:40 p.m.

E/CN.4/AC.1/41

20 May 1948

**United States: Amendment to Article 19 of the Draft
International Declaration on Human Rights (E/600)**

“Everyone is entitled to freedom of peaceful assembly and of association with others for the promotion, defence and protection of legitimate interests and purposes not inconsistent with this Declaration.”

E/CN.4/AC.1/SR.41

20 May 1948

Original Text: French

Summary Record of the Forty-First Meeting
[of the Drafting Committee, Second Session]

Held at Lake Success, New York, on Thursday,
20 May 1948, at 10:30 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Vice-Chairman and Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. Heywood, Australia; Mr. Santa Cruz, Chile; Mr. Wu, China; Mr. Cassin, France; Mr. Pavlov, Union of Soviet Socialist Republics.

Representative of Specialized Agency: Mr. Pierre Lebar, United Nations Educational, Scientific and Cultural Organization. *Consultants of Non-Governmental Organizations:* Miss Toni Sender, American Federation of Labor; Mr. Frederick Nolde, World Federation of United Nations Associations; Mr. van Istendael, World Federation of Christian Trade Unions. *Secretariat:* Mr. J. P. Humphrey; Mr. Lawson.

[2]

Draft of the Declaration on Human Rights (continuation of the discussion)

Article 19

THE CHAIRMAN read Article 19.

She suggested, on behalf of the United States delegation, that the words: “political, economic, religious, social, cultural, trade unions or any other” be replaced by the words: “for the promotion, defence and protection of purposes”.

MR. CASSIN (France) saw no objection to deleting the mention of the objections of the associations, especially as the words “trade unions” had already appeared in the part dealing with economic questions.

That did not, however, apply to the words “not inconsistent with this Declaration” as was proposed in the United States text on page 8 of document E/CN.4/AC.2/20.⁸¹ The democracies had been in a tragic position during the years before the war. In the name of freedom they had given all the arms to those very people who had wished to destroy it. France wanted to remain liberal, but she could not on that account guarantee the right of association to persons who wished to organize fascism or massacre.

He thought that the Geneva text was still the best.

MR. WU (China) supported the United States text contained in document E/CN.4/AC.1/20.

MR. SANTA CRUZ (Chile) recalled the fairly recent campaigns by the trade unions for the recognition of the right of union association, and said that the Economic and Social Council and the General Assembly had instructed the Commission on Human Rights to examine all the comments on that matter made by the World Federation of Trade Unions, the American Federation of Labor *etc.*, and to study how they could be written into the Declaration on Human Rights.

[3]

Under those circumstances he thought it useful to retain in Article 19 the catalogue of the political, economic, religious, social and cultural rights long recognized by the Constitutions of almost all the nations of the world, and, more recently, the right of trade union association.

⁸¹ The reference should be to E/CN.4/AC.1/20.

THE CHAIRMAN wondered whether the addition of the words “association. . . for the object of promotion, defence and protection of political aims. . .” would not answer the purpose.

MR. WILSON (United Kingdom) thought that all the texts submitted had the same end in view, and he would, therefore, vote for them in the order in which they were presented.

MR. AZKOUL (Lebanon) said that he would vote for the text which had just been submitted, although he would have preferred the words: “political, economic, religious, social, cultural, trade union or any other” to be deleted. Furthermore, he did not think the words “promotion, defence and protection” were necessary.

MR. CASSIN (France) stressed the importance of the Chilean representative’s statement. The old declaration on human rights in dealing with freedom of assembly had not had trade union organizations in view.

He wondered whether it would not be possible to leave out the catalogue, but to mention the right of trade union association. The text would then be as follows:

“Everyone has the right to freedom of peaceful assembly and to participate in local, national and international associations and trade union organizations whose purposes are not inconsistent with this Declaration.”

MR. AZKOUL (Lebanon) and MR. SANTA CRUZ (Chile) accepted that wording.
[4]

THE CHAIRMAN asked for the words “for the promotion, defence and protection of legitimate interests” to be added.

MR. CASSIN (France) approved of that idea.

MR. AZKOUL (Lebanon) thought the word “legitimate” vague and liable to be misinterpreted. If occasion arose, the State would have to judge what aims were legitimate. The phrase: “not inconsistent with this declaration” seemed to him to cover the idea behind the word “legitimate”.

After a remark by MR. CASSIN (France), THE CHAIRMAN said that the word “purposes” in the English text had not been translated into French but that the meaning of both texts was nevertheless the same.

MR. PAVLOV (Union of Soviet Socialist Republics) would have preferred the aims to have been listed, the list not being exclusive.

Special reservation should, however, be made in regard to fascist and Nazi gatherings.

THE CHAIRMAN thought it would be difficult to insert the idea mentioned by the representative of the Soviet Union since it was unquestionably included in the declaration and therefore did not need special mention.

She repeated the reasons given by Mr. Cassin and Mr. Santa Cruz, why the right of trade union association should be mentioned.

In answer to a question by the Chairman, MR. PAVLOV (Union of Soviet Socialist Republics) asked for a vote on his amendment, which was to add to the proposed text a sentence to the following effect:

“Freedom of assembly or association should not be granted to fascists or Nazis, or for any other propaganda based on racial or national hatred or religious enmity.”

The text was rejected by 6 votes to 1, with 1 abstention.

[5]

MR. CASSIN (France) explained that he had voted against the addition proposed by the representative of the Soviet Union as he thought that the words “not inconsistent with this Declaration” specifically excluded recognition of the right of assembly for the purpose of hate propaganda, and that there was, therefore, no need to repeat them.

MR. PAVLOV (Union of Soviet Socialist Republics) replied that his text was broader than Mr. Cassin’s interpretation of it. It was not merely a question of right of assembly and freedom of association, but of forbidding fascists and Nazis to carry on hate propaganda, for example, in democratic meetings.

THE CHAIRMAN put to the vote the following wording of Article 19:

“Everyone has the right to freedom of peaceful assembly and to participate in associations or organizations or local, national or international trade unions for the promotion, defence and protection of interests and aims not incompatible with this Declaration.”

The text was adopted by 6 votes to 1, with 1 abstention.

Article 20

THE CHAIRMAN read Article 20.

MR. WILSON (United Kingdom) objected to the inclusion of “or with the United Nations” and referred the members of the Committee to document E/CN.4/82/Add.9 which raised important questions and to the remarks of the delegation of the Union of South Africa (document E/CN.4/85, page 36). He preferred the text suggested by the French delegation, namely, “and in respect of human rights, the relevant organs of the United Nations”.

The question of petitions was closely linked with the implementation of the Declaration and that was why he suggested that no decision be taken until that problem had been solved.

[6]

THE CHAIRMAN supported that suggestion.

MR. SANTA CRUZ (Chile) pointed out that the right to petition dealt with in Article 20 did not only apply to human rights but to all rights, as was indicated in the comments by the Union of South Africa (document E/CN.4/85, page 36).

He then suggested adding at the end of Article 20 the following words taken from the Bogotá text: “. . .and the right to obtain prompt action thereon”.

The petitioner should know in fact that his request had been examined and be given a reply, whether favourable or not.

MISS SENDER (American Federation of Labor) thought especially that as the Declaration constituted an ideal, there was no need to fear providing for the right to petition, even if it was not yet applicable. Furthermore, the document under consideration included a recognition of other rights also not yet applied in some countries. Moreover, a certain number of communications, some of which were virtually petitions, had already been received by the United Nations.

MR. CASSIN (France) said that the observations of some Governments, particularly that of the United Kingdom, coincided with those of his Government. A distinction should be made between the right of petition within the domestic jurisdiction of a country and the right of petition to the United Nations. The Constitutions of almost every country in the world recognized the domestic right of petition unconditionally and without restrictions. But as far as the United Nations was concerned, as there was no question of sanctioning an ancient right, it should be clearly realized that a petition could only be serious in so far as the Organization was competent to deal with it.

[7]

THE CHAIRMAN, speaking as the United States representative, suggested that the words: “communicate with the United Nations” be used since the word “petition” might lead to misunderstandings.

The right to communicate with Governments should also be limited, and she proposed the following wording: “To petition the public authorities for redress of grievances.” Governments would be inclined to refuse to receive certain petitions, for example, from aliens in regard to elections.

MR. HEYWOOD (Australia) supported the French proposal and the Australian suggestion to reserve decision on that Article until the question of implementation was considered. Moreover, he preferred the word “petition” which was more precise to the expression “communicate with”.

MR. WU (China) approved of the Australian proposal. A very unfavourable impression would be created were the United Nations to decide that petitions could be sent to it without being in a position to take action on them.

It was decided by 6 votes to 1, with 1 abstention not to redraft Article 20 in final form until the Drafting Committee had considered the question of the implementation of the Declaration.

Articles 21 and 22

THE CHAIRMAN read Articles 21 and 22 as follows:

“Article 21

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

“Article 22

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

“2. Access to public employment shall not be a matter of privilege or favour.”

[8]

She suggested considering the two texts together. The United States delegation had suggested combining them (document E/CN.4/AC.1/20).

After a somewhat prolonged discussion, the Committee approved Articles 21 and 22 by 2 votes to none, with 5 abstentions.

THE CHAIRMAN read the text proposed by the United States delegation (document E/CN.4/AC.1/20, pages 8 and 9) and added that the words: “without discrimination” had only been deleted because that idea was already included in Article 3. The same consideration prompted the deletion of paragraph 2 of Article 22 which stated:

“Access to public employment shall not be a matter of privilege or favour.”

MR. SANTA CRUZ (Chile) read the Bogotá text:

“Every person having legal capacity is entitled to participate in the government of his country, directly or through his representative, and to take part in popular elections, which shall be by secret ballot, and shall be genuine, periodic, and free.”

MR. CASSIN (France) wished the new text to include the idea that a Government of a country must express the will of the people to which the State shall conform.

THE CHAIRMAN thought sub-paragraph (b) of her delegation’s text answered that proposal.

MR. WILSON (United Kingdom) preferred Article 21 of the Geneva text to sub-paragraph (b) of the United States text. It should be possible to incorporate it. If that were not done, he would vote against the United States text.

MR. WU (China) thought that the second sentence of Article 21 (text adopted at the second session of the Commission) was undesirable and should not be included. He suggested the following text:

[9]

“Everyone has the right to take an active part in the Government of his country, either directly or through representatives.”

MR. WILSON (United Kingdom) supported that proposal. He would vote for it but, if it was rejected, he would propose that the second sentence of Article 21 be retained. Moreover, the first paragraph of Article 22 should become the second sub-paragraph of Article 21.

MR. SANTA CRUZ (Chile) was in favour of retaining the text adopted at the second session of the Commission for the same reason as was Mr. Cassin. He suggested redrafting the first sentence of the article as follows:

“Everyone, without discrimination, has the right to take an effective part, either personally or through his representative, in the Government of his country.”

The second sentence would not be changed, while the first sub-paragraph of Article 22 would be deleted. He did not mind whether paragraph 2 of Article 22 were deleted or not.

MR. CASSIN (France) pointed out that, in France, taking part in public affairs did not mean the same as holding public office. If it was desired to incorporate this latter idea, it would have to be stated specifically.

He pointed out, in regard to the words “everyone, without discrimination,” that both the right to vote and the right to hold public office presupposed legal capacity. The expression: “Every person having legal capacity” used at Bogotá should be employed.

THE CHAIRMAN asked Mr. Cassin and Mr. Santa Cruz to confer, as rapidly as possible, with a view to preparing a text to be voted on.

[10]

MR. PAVLOV (Union of Soviet Socialist Republics) stressed the unsatisfactory character of Articles 21 and 22 of the draft adopted at the second session of the Commission. It was not sufficient to ask the French and Chilean representatives to submit a fresh text, if one remembered the comments on those two articles made by some countries such as the Union of South Africa, which wished some types of discrimination to be maintained by preventing certain categories of persons (illiterates) from taking part in elections, by excluding the coloured populations, as far as possible, from taking part in public affairs, or by making the access of public office conditional on ownership of a certain amount of property.

In order to ensure that suffrage should be universal, articles 21 and 22 should be redrafted so as to satisfy the following four democratic requirements:

1. The right to vote should not be conditional on the possession of property, residence, social origin, religion, race or political beliefs.
2. All electors to vote on an equal footing. No elector should have more or fewer votes than others.
3. An extremely important democratic principle. Suffrage should be direct. Every citizen should vote in person.

4. The fourth requirement, that of secret ballot, was already provided for in the draft under discussion.

Finally, rather than entrust the French and Chilean representatives with the preparation of a text which would not guarantee essential democratic requirements, it would be better to instruct a sub-committee to improve articles 21 and 22 radically.

THE CHAIRMAN said that she had simply asked Mr. Cassin and Mr. Santa Cruz, who had drawn up similar forms of words, to confer with the view to submitting one amendment. The appointment of a sub-committee for the sole purpose of redrafting articles 21 and 22 seemed useless.

[11]

MR. SANTA CRUZ (Chile) saw certain gaps in the present draft of the articles; other factors should be considered and the members should state their views before a new draft was made. Some representatives had pointed out that every Constitution laid down some limitations (age, convictions by the ordinary courts, criminal records, *etc.*). Moreover, Mr. Pavlov desired to include a provision prohibiting distinction on the ground of sex, race, social status, ownership of property, *etc.* Those two points should be allowed for and should be suitably incorporated in the text. Care should be taken to be sure that wording such as “having legal capacity” should not have the effect of sanctioning discrimination in the law.

Two concepts should be merged and clearly expressed, if necessary by an *ad hoc* sub-committee: (1) the first should have the effect of the words “everyone without discrimination as to race, sex, wealth, language, social origin *etc.* provided he is recognized as capable in law *etc.*”; (2) as the members were defining the essential elements of electoral law (free and fair elections of secret ballot *etc.*), the equality of suffrage stressed by the representative of the Soviet Union was not mentioned anywhere; that important point could be covered by the form: “everyone. . . has the right to take an effective part, on an equal footing in public affairs”.

MR. WILSON (United Kingdom) said that, with the exception of the representative of the Soviet Union, no one had raised any serious objection to the text adopted at the second session of the Commission. The only suggestion made had aimed at improving the form and not the substance. The wisest course would be to retain that text without trying to attain the highest degree of perfection, but to rely on the fact that articles 21 and 22 in their present wording had met with a great measure of agreement.

Every one of the articles of the declaration contained limitations but it was useless to catalogue them in the present document, the purpose of which was to establish principles.

[12]

Mr. Wilson agreed with his colleagues on the principle underlying the formula against discrimination on the grounds of sex, race, *etc.*; if however, that was stated in the articles under discussion it would have to be repeated in all the other articles. It would be more satisfactory to agree upon a general introductory article which would provide that such rights belong to everyone without distinction as to race, sex, *etc.*

THE CHAIRMAN proposed to put to the vote the question of whether the Committee wished to keep the text adopted at the second session of the Commission dividing the new article (as it had already agreed to combine articles 21 and 22) into paragraphs 1, 2 and 3.

MR. SANTA CRUZ (Chile) preferred the text adopted at the second session of the Commission to the other texts and merely wished to include two slight drafting amendments as follows:

1. "Everyone, without discrimination as to race, sex, language, creed or social class, possessing legal capacity. . ." It was necessary to set out the different forms of discrimination before mentioning legal capacity, in order to prevent the law itself from making some of those discriminations.
2. After the words: "to take an effective part" add: "on an equal footing."

MR. WILSON (United Kingdom) put forward an amendment to leave out from the text adopted at the second session of the Commission the words "without discrimination".

THE CHAIRMAN proposed that the second part of article 21 of the text adopted at the second session of the Commission should be amended as follows: "a Government conforming to the will of the people as manifested by elections which shall be free, fair and by secret ballot".

[13]

MR. AZKOUL (Lebanon) supported the amendment submitted by Mr. Wilson. He proposed as an amendment to Mr. Santa Cruz' second amendment a further amendment which he thought would express better what Mr. Santa Cruz probably wished to say. The text would read as follows: "Everyone has the right to take an effective part in the Government of his country and to participate on an equal footing in elections which shall be fair, universal, *etc.*"

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the United Kingdom amendment, which was farthest from the text and which proposed the redrafting of article 21 in a way which would not directly and unreservedly eliminate all discrimination, would allow the retention of dangerous discrimination, which were practised in certain countries, in the form in which they had been openly upheld by the Governments of those countries.

As advocated by Mr. Santa Cruz, the text should read as follows: "every one without discrimination as to sex, race, nationality, creed, education, residence,

social class or extent of wealth has a right to take an effective part in the Government of his country”.

MR. CASSIN (France) recalled that the French Government in its written comments, had proposed the following text, which was very close to that of the text adopted at the second session of the Commission (document E/CN.4/82/Add.8, page 5, article 19):

“Every citizen, without discrimination, has the right either personally or through his representative, to take part in the management of public affairs in his country.”

That formula was repeated in Mr. Wu’s proposal.

In regard to Mr. Wilson’s observations, he was inclined to leave out mention of legal capacity, which belonged to detailed regulation. [14] He could not, however, support the United Kingdom amendment, which proposed the omission of the words “without discrimination”.

He was willing to keep the text adopted at the second session of the Commission and to omit any catalogue qualifying the discrimination. A few points of detail might, however, be amended.

To facilitate the discussion, THE CHAIRMAN and MR. WILSON (United Kingdom) withdrew their respective amendments.

MR. SANTA CRUZ (Chile), while seeing no objection to the French proposal, remarked that the Constitution of Chile laid down a minimum age for eligibility to vote, and also for registration in the voting lists. The word “citizen” had a restricted meaning which would not extend to everybody.

It would be desirable to take into consideration the limitation imposed by the words “legal capacity,” which it was understood would no discrimination [sic], a word which would itself have to be defined by a suitable enumerative specification.

THE CHAIRMAN considered that the two proposals should be put to the vote: first, the Chinese amendment, to the following effect: “Everyone has the right to take an effective part in the Government of his country, either personally or through his representative”; second the Lebanese amendment to one of the two Chilean amendments; and last the two Chilean amendments.

MR. PAVLOV (Union of Soviet Socialist Republics) recalled his own amendment, which he said partly corresponded to Mr. Santa Cruz’ draft and would list more causes for discrimination.

He proposed adding to the second sentence of article 21 (text adopted at the second session of the Commission) after the words: “by elections which shall,” the words: “be universal, equal, direct, periodic, free, fair, and by secret ballot”.

[15]

MR. SANTA CRUZ (Chile) withdrew his second amendment, which proposed adding the words: “and on an equal footing.”

He accepted the introduction of the word “universal” qualifying the suffrage.

With regard to discrimination, he requested a vote first of all on the principle of no discrimination and then on each of the suggested grounds for discrimination in the list.

MR. AZKOUL (Lebanon) observed that his amendment on participation in elections on an equal footing was covered by Mr. Pavlov’s amendment and asked Mr. Pavlov whether he would accept a slightly different form, making no difference to the meaning, which would join the first sentence in article 21 to the second by the words: “. . .to take an effective part in the Government of his country and to participate in elections. . .” which would be followed by the list proposed by Mr. Pavlov.

MR. CASSIN (France) thought the difficulties could be met by voting first either on the deletion of the words “without discrimination” requested by Mr. Wilson, or on the addition of the qualifications suggested by Mr. Santa Cruz. If both amendments were rejected the text adopted at the second session of the Commission could be left.

Mr. Wu’s amendment to include the words “personally or by his representative” could also be voted upon.

MR. AZKOUL (Lebanon) did not press his suggestion.

THE CHAIRMAN put to the vote Mr. Wu’s amendment, by which the first sentence would be made to read: “Everyone has the right to take an effective part in the Government of his country, personally or through his representative.”

The amendment was rejected by 4 votes to 3.

[16]

THE CHAIRMAN put to the vote Mr. Pavlov’s amendment to Mr. Santa Cruz’ amendment, which would have made it read: “Everyone, without discrimination as to sex, race, nationality, creed, education, residence, social class, or extent of wealth, has a right to take an effective part in the Government of his country.”

The amendment was rejected by 4 votes to 1 with 2 abstentions.

THE CHAIRMAN put to the vote Mr. Santa Cruz’ amendment as follows: “Everyone, without discrimination on the grounds of sex, race, nationality, creed, education, residence or social class, enjoying legal capacity, has a right to take an effective part in the government of his country.”

MR. SANTA CRUZ (Chile) pointed out the desirability of finding a satisfactory English translation of the French expression “*capacité légale*”.

Mr. Santa Cruz’ amendment was adopted by 4 votes to 3.

THE CHAIRMAN put to the vote Mr. Pavlov’s amendment to the second sentence of article 21 (text adopted at the second session of the Commission), namely, the

addition after the words: “. . . by elections which shall. . .” of the following phrase: “be universal, equal, direct, periodic, free, fair and by secret ballot”.

*Mr. Pavlov's statement was rejected by 5 votes to ___.*⁸²

MR. CASSIN (France) said that he had been unable to vote for the amendment because of the one word “direct”, and asked for Mr. Pavlov's amendment, as rejected, to be put to the vote again but without the word “direct”.

The amendment was rejected by 4 votes to 3.

The whole of paragraph 1 of the new Article 21, as amended by the various votes, was adopted by 3 votes to 2, with 2 abstentions.

**Paragraphs 2 and 3 of Article 21 (Article 22 of the text adopted
at the second session of the Commission)**

At the request of MR. PAVLOV (Union of Soviet Socialist Republics), a discussion was opened on the meaning of the expression “of which he is a citizen or a national”.

MR. SANTA CRUZ (Chile) recalled that that point had been discussed at length by the Drafting Committee the previous year, and that the wording in question had been decided upon so as to take into consideration the position of federal republics.

MR. PAVLOV (Union of Soviet Socialist Republics) could not quite understand the meaning of a wording which would enable non-nationals of a country to hold important government posts. He would abstain from voting on that paragraph.

THE CHAIRMAN put to the vote paragraph 2 of article 21 as it appeared in paragraph 1 of Article 22 of the text adopted at the second session of the Commission: “Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.”

The paragraph was adopted by 5 votes to none, with 2 abstentions.

THE CHAIRMAN put to the vote paragraph 3 of Article 21 (Article 22, paragraph 2 of the text adopted at the second session of the Commission) as follows: “Access to public employment shall not be a matter of privilege or favour.”

The paragraph was adopted.

THE CHAIRMAN saw no need to take a vote on Article 21 as a whole. She suggested submitting the text proposed by the United States delegation to the Commission for its information.

The meeting rose at 1:15 p.m.

⁸² There is no figure in the original.

E/CN.4/AC.1/SR.42

20 May 1948

Original Text: French

***Summary Record of the Forty-Second Meeting
[of the Drafting Committee, Second Session]***

Held at Lake Success, New York, on Thursday,
20 May 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Vice-Chairman and Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. E. J. R. Heywood, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Prof. R. Cassin, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Consultants from non-governmental organizations:* Miss Toni Sender, American Federation of Labor; Mr. A. J. van Istendael, International Federation of Christian Trade Unions. *Secretariat:* Dr. J. P. Humphrey; Dr. E. Schwelb; Mr. Lawson.

[2]

MR. SANTA CRUZ (Chile) pointed out that the Spanish of the words “human rights” had been incorrectly translated in the documents already circulated in Spanish. It should be “Derechos del hombre”.

THE CHAIRMAN proposed that, in view of the short time left for the Committee to finish its work, the remaining Articles of the Draft Declaration should be submitted to the Commission on Human Rights, as contained in the Report of the Second Session of the Commission, (E/600) together with any amendments to any of these Articles submitted in writing at the current session of the Drafting Committee. The Committee could then devote its remaining meetings to the discussion of implementation.

MR. SANTA CRUZ (Chile) said that it would be better to finish the discussion of the Declaration, which was as important as implementation. The remaining Articles covered economic and social rights. These had not been included in the Covenant, which was an added reason for not overlooking them in the Declaration.

MR. HEYWARD (Australia) supported the Chairman’s proposal, pointing out that the experience of the Committee had been, that, after several hours of discussion, the text finally adopted did not differ greatly from that contained in the Report of the Second Session of the Commission on Human Rights.

MR. AZKOUL (Lebanon) said that the Rapporteur must have time to make his report to the Commission.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Committee should finish its work on the Declaration. It would be difficult for the Rapporteur to make a report unless he had the contents for such a report.

[3]

MR. SANTA CRUZ (Chile) said that the Commission should continue its work on the Declaration, and then refer to the Commission any Articles which the members had not had time to discuss, with the amendments proposed.

MR. WILSON (United Kingdom) said that he would have supported the proposal to continue discussion of the Declaration, if the remaining Articles had been non-controversial. As this was not the case, he considered it would be a waste of time to discuss the eight Articles dealing with economic and social rights. He supported the Chairman's proposal to refer to the third session of the Commission the text of the remaining Articles as given in the Report of the second session, together with any positive suggestion which any representative wished to make.

MR. WU (China) suggested that the Committee should have a general discussion on the economic and social rights, without considering formal amendments or adopting a final text.

MR. HEYWARD (Australia) said that the Committee should continue its work by discussing the remaining Articles individually and then refer to the Commission whatever Articles were left, with the amendments and suggestions submitted in writing.

The Committee decided, at the suggestion of Mr. Wilson (United Kingdom), to finish its consideration of the Covenant by examining Articles 24 and 25 as drafted by the Drafting Sub-Committee (document E/CN.4/AC.1/42), and then decide how to proceed, on the basis of the amount of time left.

...

E/CN.4/AC.1/SR.44

21 May 1948

***Summary Record of the Forty-Fourth Meeting
[of the Drafting Committee, Second Session]***

Held at Lake Success, New York, on Friday,

14 May 1948, at 2:30 p.m.⁸³

Chairman: Mrs. Franklin D. Roosevelt, United States of America; *Vice-Chairman and Rapporteur:* Dr. Charles Malik, Lebanon. *Members:* Mr. E. J. R. Heywood, Australia; Mr. H. Santa Cruz, Chile; Mr. T. Y. Wu, China; Prof. Cassin, France; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom. *Representatives of Specialized*

⁸³ According to document E/CN.4/AC.1/SR.44/Corr.1, the date of the forty-fourth meeting should read as follows: Friday, 21 May 1948, at 2:30 p.m.

Agencies: Mr. O. F. Nolde, World Federation of United Nations Associations; Mr. P. Lebar, United Nations Educational, Scientific and Cultural Organization. *Consultant from Non-Governmental Organization:* Miss Toni Sender, American Federation of Labor. *Secretariat:* Dr. J. P. Humphrey.

[2]

Continuation of Discussion of the Draft Report of the Drafting Committee to the Commission on Human Rights

On opening the Meeting, the Chairman asked whether there would be any objection to the inclusion of the last paragraph of document E/CN.4/AC.119 in the draft report. It would be included as an additional article proposed by the United States of America, with a note to the effect that no action had been taken upon it.

As there was no objection, the paragraph was so included.

In reply to an inquiry from MR. CASSIN (France) about a document containing supplementary articles proposed by his delegation, MR. HUMPHREY (Secretariat) said that the document would presently be produced.

Turning to Annex A of the draft report, THE CHAIRMAN pointed out that Articles 6–8, 21–22, 24–30, and 32–33 in the draft of the International Declaration of Human Rights should bear the notation, “Text originally proposed by the Commission on Human Rights” or “Geneva text”.

The Chairman also proposed the following amendments, which were agreed without discussion:-

Page 11: Substitution of the words “alternative texts” for the words “amendments and comments” and of the words “this purpose” for the word “consideration” in the Note preceding Article 23.

Page 11: Addition of the words “for Articles 23 and 24” after the heading “Alternative text suggested by the United States”.

Page 15: Addition in parenthesis of the words “First Session” after the heading “Text proposed by the Drafting Committee” under Article 31.

PROF. CASSIN (France) observed that the French translation of the draft report appeared defective in some minor respects. He must therefore make some reservation as to his acceptance of it in its present form.

[3]

MR. WU (China) had no amendments to offer to the draft report, but pointed out that his own draft on the Declaration, which was quite different, had not been discussed at all. He would like to have it included in the report.

THE CHAIRMAN said that the Chinese draft would go at the end of the report. She had been under the impression that its inclusion had already been decided. Speaking as representative of the United States, she expressed her delegation's great interest in the Chinese draft.

MR. PAVLOV (Union of Soviet Socialist Republics) remarked that he had understood that twenty-four hours would be allowed for presentation of amendments to a document. He had only just received the present document, and was not yet sure to what extent it reflected the Drafting Committee's work. He must therefore reserve his opinion upon it.

At first glance, he could not see his own views recorded in the report, nor all of the various rights which had been mentioned in the course of the discussions. He thought that they should have been included and that the USSR amendments should have been noted. The most substantial of those amendments concerned freedom of assembly and association, on which subject he had proposed that Fascist gatherings and associations should be forbidden.

He had understood that Article 15 was to be omitted altogether, but the original text remained in the draft report. There should be added to it an explanation that the right of nationality was to be defined according to the laws of the respective countries. With regard to the right of asylum, defined in Article 11, he had proposed that that right should be granted to persons persecuted because of their progressive viewpoint, but not to Fascist groups and individuals. That proposal should be stated.

[4]

Article 7 in the draft was a pale reflection of the original text, which should have been included as an alternative. The USSR delegation had made observations on that subject which were not recorded in the report.

MR. MALIK (Lebanon) Rapporteur, pointed out that the USSR representative had raised two different questions. Alternative texts had been included in the draft report when delegations had expressed a wish that they should be so included. If the USSR representative had specific alternative texts, which he wished to have included, and would submit them to the Rapporteur, they would be included.

With regard to views expressed in the course of debate, those were embodied in the Summary Records of the meetings, as was stated in paragraph 9, page 4, of the draft report. That was the same procedure as had been followed at Geneva.

In reply to an inquiry from THE CHAIRMAN, MR. PAVLOV (Union of Soviet Socialist Republics) said that he would submit specific alternative texts.

After some discussion as to whether the draft report included in full the compromise article proposed in substitution of Articles 6–8 (formerly of 5–7), Mr. Pavlov (Union of Soviet Socialist Republics) repeated his observation that he had not had

sufficient time to study the document and must therefore reserve his right to return to the subject.

THE CHAIRMAN explained that at the morning meeting, at which the Soviet representative had not been present, the Committee had agreed to complete work on the report at the afternoon meeting in order to enable the Secretariat to have the report ready for distribution to the Commission on Human Rights at the opening of its session on 24 May.

[5]

MR. MALIK (Lebanon) Rapporteur, pointed out that even after distribution of the report it would be possible for any representative to submit corrigenda and addenda.

PROF. CASSIN (France) stated that in order to facilitate the work of the Secretariat he would not request inclusion in the report of the French amendments to Articles 11, 12 and 15 but he reserved the right to bring the subject up for discussion in the Commission on Human Rights.

After some discussion of the revised text of paragraph 5 of the report of the Drafting Committee proposed by the representatives of Chile and China, it was agreed that the final drafting should be left to the Rapporteur.

Referring to the question of the designation of alternates raised in paragraph 5, MR. PAVLOV (Union of Soviet Socialist Republics) commented that, although he was listed in the report as an alternate, the Soviet Government had actually designated him as its representative at the forthcoming session of the Commission on Human Rights.

MR. MALIK (Lebanon) Rapporteur explained that the rules of procedure of the Economic and Social Council provided that an alternate could not be considered as a representative without confirmation by the Council.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that discussion of Article 3 of the Covenant which had been postponed until the question of implementation was considered had never actually taken place.

If Article 3 were considered by the Committee, the Soviet delegation would favour deletion of the text.

[6]

MR. MALIK (Lebanon) Rapporteur, explained that the opinion of the Soviet delegation would be noted in the summary record. The report was reserved for the inclusion of texts proposed as alternate drafts.

All articles which had not been discussed by the Drafting Committee would be listed.

After MR. MALIK (Lebanon) had expressed the Committee's appreciation of the Chairman's excellent direction of the work of the Drafting Committee, the second session was declared closed.

The meeting rose at 4 p.m.

E/CN.4/95

21 May 1948

Original Text: English/French

Report of the Drafting Committee to the Commission on Human Rights

1. The second session of the Drafting Committee of the Commission on Human Rights opened on Monday, 3 May 1948, at the Interim Headquarters of the United Nations, Lake Success, New York. The Drafting Committee held twenty-five plenary meetings and terminated its work on Friday, 21 May 1948.

2. The following Representatives from Member Nations on the Drafting Committee attended: *Chairman*: Mrs. Franklin D. Roosevelt (United States of America) Representative. *Vice-chairman and Rapporteur*: Dr. Charles Malik (Lebanon) Representative. *Members*: Mr. E. J. R. Heyward (Australia) Alternate; Mr. H. Santa Cruz (Chile) Representative; Dr. T. Y. Wu (China) Alternate; Prof. René Cassin (France) Representative; Mr. A. P. Pavlov (Union of Soviet Socialist Republics) Alternate; Mr. Geoffrey Wilson (United Kingdom) Alternate.

3. The following representatives of Specialized Agencies were also present at the session: Mr. Pierre Lebar, United Nations Educational, Scientific and Cultural Organization; Mr. Oliver Stone, International Refugee Organization; Mr. Wilfred Jenks and Mr. R. W. Cox, International Labour Organization.

[2]

4. The following consultants from non-governmental organizations were also present: *Category A*: Miss Toni Sender, American Federation of Labor; Mr. J. Botten, International Federation of Christian Trade Unions; Mr. Clark M. Eichelberger, World Federation of United Nations Associations. *Category B*: Dr. O. Frederick Nolde and Mr. S. Prentice, Jr., International Commission of the Churches on International Affairs; Mr. M. Moskowitz, Consultative Council of Jewish Organizations; Mr. A. Liverhant, Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations; Mrs. Frieda S. Lidicker, International Alliance of Women – Equal Rights, Equal Responsibilities; Prof. V. V. Pella, International Association of Penal Law and International Bureau for the Unification of Penal Law; Miss M. Strahler, International Committee of the Red Cross; Miss M. Burgess, International Federation of Business and Professional Women; Dr. Janet Robb, International Federation of University Women; Miss C. Schafer, International Union of Catholic Women's Leagues; Mrs. Lois Jessup, International Voluntary Service for Peace; Mrs. F. C. Sawyer, Liaison Committee of Women's International Organizations and Associated Countrywomen of the World; Mr. S. D. Wolkowicz and Dr. F. R. Bienenfeld, World Jewish Congress.

5. Having received communications from the Governments of France and Australia designating Mr. Ordonneau and Mr. Heyward as alternates for the [3] second session for Professor Cassin and Mr. Hood respectively, the Drafting Committee decided that in accordance with the Rules of Procedure of Functional Commissions of the Economic and Social Council Mr. Ordonneau and Mr. Heyward had the right to vote. Owing to the fact that Professor Cassin arrived on 10 May, before the termination of the session, he took his place in the Drafting Committee and voted. The Drafting Committee decided that this could not be considered as setting a precedent, and recommended that the Commission on Human Rights request the Economic and Social Council to reconsider the voting procedure established in the Rules of Procedure in regard to the voting rights of alternates.

Dr. Azkoul (Lebanon) attended diverse meetings of the Drafting Committee, but did not vote, as alternate for Dr. Charles Malik. Mr. James P. Hendrick participated without vote in one meeting of the Drafting Committee as alternate for Mrs. Franklin D. Roosevelt.

6. Professor John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. John Male and Mr. Edward Lawson acted as Secretaries of the Committee.

7. The Drafting Committee adopted the Provisional Agenda (E/CN.4/AC.1/16) as its Agenda. The Committee discussed the Draft International Covenant on Human Rights first and then the Draft International Declaration on Human Rights, but it did not have the time to discuss the question of implementation.

8. The Drafting Committee took into account, in the course of its work, (a) the observations, suggestions, and proposals of governments on the draft of an International Declaration on Human Rights and the draft of an International Covenant on Human Rights prepared by the Commission on Human Rights at its second session (documents E/CN.4/82/Rev.1 and E/CN.4/82/Add.1 to 10); (b) the opinion of the United Nations Conference on Freedom of Information on Articles 17 and 18 of the Draft International Declaration on Human Rights and Article 17 of the Draft International Covenant on Human Rights (document E/CN.4/84); and (c) the suggestions made by the Commission on the Status of Women regarding the Draft International Declaration on Human Rights (document E/CN.4/81); but did not have the time to consider the instructions of the Economic and Social Council regarding implementation (Resolution 116(VI)F).

9. The expression of the views of the members of the Drafting Committee is embodied in the summary records of meetings of the Committee (E/CN.4/AC.1/SR.20 to 44).

[4]

10. On the basis of its deliberations, as recorded in the summary records, the Drafting Committee prepared and forwarded to the Commission on Human Rights a

redraft of the Draft International Declaration on Human Rights, appended to this Report as Annex A; and a redraft of the Draft International Covenant on Human Rights, appended to this Report as Annex B.

[5]

Annex A

Draft International Declaration on Human Rights

Article 1

(The Drafting Committee did not have the time to consider this Article)

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

Article 2

(The Drafting Committee did not have time to consider this Article)

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

Article 3

(The Drafting Committee did not have time to consider this Article)

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

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

Article 4

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

Article 5 (formerly Article 8)

Slavery is prohibited in all its forms.

Article 6 (formerly Article 5)

(Geneva text)

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

Article 7 (formerly Article 6)

(Geneva text)

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

[6]

Article 8 (formerly Article 7)

(Geneva text)

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

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

(*Note 1:* The Drafting Committee drafted the following article, in substitution of Articles 6, 7 and 8 above, and although it was rejected by a vote of 2 for, 3 against and 2 abstentions by the members of the Committee, it was decided to forward it nevertheless to the full Commission. The text of this alternative article reads as follows:

1. No one may be arbitrarily deprived of his liberty. Arrest, detention or imprisonment may be allowed only according to pre-existing law and in accordance with due process.
2. Everyone who has been deprived of his liberty has the right to be promptly informed of the reasons for his detention. Everyone placed under arrest, detention or imprisonment shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.
3. No one shall be imprisoned merely on the grounds of inability to meet a contractual obligation.
4. Everyone has the right to compensation in respect of any unlawful arrest or deprivation of liberty.
5. The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals, before which tribunals all persons are equal.
6. Everyone accused of an offence must be judged within a reasonable time by courts established beforehand and in accordance with pre-existing laws in a public trial. The foregoing provision shall not prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

[7]

During the trial, everyone is entitled to:

- (a) the right to a fair hearing;
- (b) the right, in all criminal cases, to be presumed innocent until proved guilty; and
- (c) the right of defence. When any person who does not know the national language is prosecuted, he shall be assured full knowledge of all the material in the case through an interpreter and shall also have the right to address the court in his native language.)

(Separate Article)

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

(Note 2: The representative of the Soviet Union proposed the addition of the following to the second sentence of the first paragraph of Article 8, after the word “trial” (unofficial translation):

“subject to exceptions prescribed by law in order to guarantee to the accused person the right of defence.”)

Article 9

Everyone is entitled to protection under the law from unreasonable interference with reputation, family, home or correspondence.

Article 10

1. Everyone is entitled to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own.

Article 11

1. Everyone has the right to seek and may be granted, in other countries, asylum from persecution.
2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

(*Note:* The representative of the Soviet Union proposed that the following text be substituted for the above text of Article 11 (unofficial translation):

“The right of asylum shall be granted to everyone persecuted because of his activity in defence of democratic interests, because of his activity in the field of science, or because of his participation in the struggle for national liberty.”)

Article 12

Everyone has everywhere the right to recognition as a person before the law.
[8]

Article 13

1. Men and women shall have equal rights as to marriage in accordance with the law. Marriage may not be contracted without the full consent of both intending spouses and before the age of puberty.
2. Marriage and the family shall be protected by the State and Society.

Article 14

Everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Article 15

Everyone has the right to a nationality.

(*Note:* The representative of the Soviet Union proposed the addition of the following text after the first sentence of Article 15 (unofficial translation):

“The cases and the procedure of depriving a person of his nationality must be determined by national legislation.”)

Article 16

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

2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in teaching, practice, worship and observance.

(*Note:* The representative of the Soviet Union proposed to replace Article 16 by the following text (unofficial translation):

“Every person shall have the right to freedom of thought and freedom to practise religious observances in accordance with the laws of the country and the dictates of public morality”.)

Articles 17 and 18

I. Text submitted by the United Nations Conference on Freedom of Information

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

II. Text submitted by the Union of Soviet Socialist Republics

1. In accordance with the principles of democracy and in the interests of strengthening international co-operation and world peace, every person shall be guaranteed by law the right to the free expression of his opinions and, in particular, to freedom of speech and of the press, freedom of assembly and freedom of artistic representation. The use of freedom of speech and of the press for the purposes of propagating Fascism and aggression or of inciting to war between nations shall not be tolerated.

[9]

2. In order to ensure the right of the free expression of opinion for large sections of the peoples and for their organizations, State assistance and co-operation shall be given in providing the material resources (premises, printing presses, paper, and the like) necessary for the publication of democratic organs of the press.

Article 19

Everyone has the right to freedom of peaceful assembly and to participate in local, national, international and trade union associations for the promotion, defence and protection of purposes and interests not inconsistent with this Declaration.

(*Note:* The representative of the Soviet Union proposed that the following be substituted for the text of Article 19 (unofficial translation):

“In the interest of democracy the freedom of assembly of public demonstration, of procession and of organization, of voluntary associations and unions and other organizations having a Nazi, fascist or anti-democratic character, as well as their activity in whatever form shall be forbidden under penalty of the law.”)

Article 20

(*Note:* The Drafting Committee decided not to consider the following Geneva text until articles on implementation had been drafted: Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.)

Articles 21 and 22

(Geneva Text)

1. Everyone without discrimination on grounds of race, sex, languages, religious belief or social origin and not under any legal disability has the right to take an effective part in the Government of his country. The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.
2. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.
3. Access to public employment shall not be a matter of privilege or favour.

Alternative text suggested by the United States

Everyone is entitled to:

- (a) the right to take an effective part in the government of the State of which he is a national, including the right to participate in free and fair elections held periodically by secret ballot, and including opportunity to hold office and to engage in public employment; and

- (b) the right to a government which conforms to the will of the people, [10] with full freedom for minority opinion to persist and, if such is the people's will, to become the effective majority.

(*Note:* The Drafting Committee, not having had time to consider the following articles – 23 to 33 inclusive – in detail, decided to transmit them to the Commission on Human Rights in the form as drafted by the Commission in Geneva, together with such alternative tests as members of the Drafting Committee expressly proposed for this purpose).

Article 23

(Geneva text)

1. Everyone has the right to work.
2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.
3. The State is bound to take all necessary steps to prevent unemployment.

Alternative text suggested by France

Everyone has the right to work.

States are bound to take such measures as may be within their power to prevent unemployment and to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

Every worker has the right to receive pay which shall be commensurate with his ability and skill and which shall secure for himself and his family a full, decent and dignified life. He also has the right to fair and satisfactory working conditions. He shall be free to join trade unions for the protection of his interests.

Women shall work with the same advantages as men and receive equal pay for equal work.

Alternative text suggested by the United Kingdom

Everyone has the right to work or maintenance.

Alternative text suggested by the United States for Articles 23 and 24

Everyone is entitled to the right to work under fair and just conditions, to choose a vocation freely, and to join trade unions of his own choice for the protection of his interests in securing a fair standard of living for himself and his family.

Article 24

(Geneva text)

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

2. Women shall work with the same advantages as men and receive equal pay for equal work.

(Note: see alternative texts suggested for Article 23 above.)

[11]

Article 25

(Geneva text)

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

Alternative text suggested by France

Everyone has a right to social security.

The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against various social risks. In particular, the individual shall be guaranteed against the consequences of unemployment, disability, old age, and the loss of livelihood in circumstances beyond his control.

Mothers and children shall be granted special care and assistance.

Everyone without distinction as to economic or social conditions has the right to protection of his health by all the appropriate means relating to food, clothing, housing and medical care to as great an extent as the resources of the State or community permit.

It is the duty of the State and the community to take all adequate health and social measures to meet the responsibilities incumbent upon them.

Alternative text suggested by the United States for Articles 25 and 26

Everyone has the right to a standard of living necessary for health and general wellbeing, including social security and the opportunity to obtain adequate food, clothing, housing and medical care.

Article 26

(Geneva text)

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

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

(Note: See alternative texts suggested for Article 25 above.)

Article 27

(Geneva text)

Everyone has the right to education. Fundamental education shall be free and compulsory. There shall be equal access for higher education as can be provided by the State or community on the basis of merit and without distinction [12] as to race, sex, language, religion, social standing, financial means or political affiliation.

Alternative text submitted by France

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

Alternative text submitted by the United States

Everyone is entitled to the right to free fundamental education and to equal access on the basis of merit to higher education.

Article 28

(Geneva text)

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

Alternative text submitted by France

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

Article 29

(Geneva text)

1. Everyone has the right to rest and leisure.
2. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Alternative text submitted by France

Everyone has a right to rest and leisure.

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

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

[13]

Article 30

(Geneva text)

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

Alternative text submitted by France

Authors of creative works and inventors shall retain, apart from financial rights, a moral right over their work or discovery, which shall remain extant after the financial rights have expired.

Article 31*Text proposed by the Drafting Committee (first session)*

In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic,

linguistic or religious minorities shall have the right, as far as compatible with public order, to establish and maintain schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State.

*Text proposed by the Sub-Commission on the Prevention of Discrimination
and the Protection of Minorities*

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

Alternative text submitted by France

In States inhabited by well-defined ethnic, linguistic or religious groups which are distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, and in conformity with the degree of legislative unity in the State, to establish and maintain their schools and cultural or religious institutions and to use their own language and script.

Alternative text submitted by the United Kingdom

Minorities shall be entitled to preserve their culture, religion and language.

Alternative text submitted by the United States
(In lieu of Articles 29 and 30, and also of Article 31)

[14]

Everyone is entitled to obtain rest and leisure, to participate in the customs and the cultural life of the community and of groups in the community, to enjoy the arts, and to share in the benefits that result from scientific discoveries.

(Additional Article submitted by France)

It is the duty of every State to establish an efficient judicial and administrative system to prevent, punish and remedy any violation of the principles stated in the present Declaration.

The United Nations, recognizing the necessity for establishing an international court of appeal, recommends the adoption of all the international conventions aimed at the full implementation of the provisions of the Charter and of the present Declaration

and, with the assistance of Member States, will take all the necessary measures to safeguard these rights and freedoms throughout the world.

Article 32

(Geneva text)

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.

Alternative text submitted by France

In all States no laws on human rights shall be considered equitable unless they are in conformity with the purposes and principles laid down in the Charter.

Article 33

(Geneva text)

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed to the destruction of any of the rights and freedoms prescribed herein.

Alternative text submitted by France

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

(*Note:* The Drafting Committee decided to transmit to the Commission on Human Rights the Draft International Declaration on Human Rights, submitted by the representative of China, which follows:

Article I

Every person has the right to life.

Article II

Every person has the right to freedom of conscience and belief, to freedom of assembly and of association, and to freedom of information, speech and expression.

[15]

Article III

Every person has the right to a decent living; to work and leisure, to health, education, economic and social security.

Article IV

Every person has the right to take part in the affairs of his government directly or through his representatives.

Article V

Every person has the right to equal protection under law.

Article VI

Every person has the right to seek asylum from persecution.

Article VII

No person shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article VIII

No person shall be subjected to arbitrary arrest or detention.

Article IX

No person shall be held in slavery or involuntary servitude or be subjected to torture or to cruel or inhuman punishment or indignity.

Article X

Every person is entitled to the human rights and fundamental freedoms set forth in this declaration without distinction as to race, sex, language or religion. The exercise of these rights requires recognition of the rights of others and the just requirements of the community in which he resides.

...

E/CN.4/99

24 May 1948

India and the United Kingdom: Proposed Amendments to the Draft Declaration on Human Rights

Geneva Text as Amended by Drafting
Committee E/CN.4/95

Proposed Text

Article 1

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

Substitute: All people, men and women, are born free and equal in dignity and rights. They are endowed by nature with reason and conscience and should act towards one another in the spirit of brotherhood.

Article 2

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

Substitute: The exercise of the rights and freedoms set forth in this Declaration shall be subject only to such restrictions as are necessary to secure due regard for the rights of others and the welfare and security of all.

Article 3

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

No amendment

[2]

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

Substitute: 2. All are equal before the law regardless of office or status and are entitled to equal protection of the law against any arbitrary discrimination.

Article 4

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

No amendment

Article 5

Slavery is prohibited in all its forms.

Substitute: No one shall be held in slavery or involuntary servitude.

Geneva Text as Amended by Drafting
Committee E/CN.4/95

Proposed Text

Article 6

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

Substitute: No one shall be subjected to arbitrary arrest or detention.

Article 7

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

Substitute: Everyone, in the determination of his rights and obligations or of any criminal charge against him, is entitled to a fair hearing by an impartial tribunal.

[3]

Article 8

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

Substitute: 1. No one shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed.

2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

2. *Omit*

Geneva Text as Amended by Drafting
Committee E/CN.4/95

Proposed Text

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

3. *No amendment*

Article 9

Everyone is entitled to protection under the law from unreasonable interference with reputation, family, home or correspondence.

Substitute: Everyone is entitled to protection from unreasonable interference with his reputation, family, home or correspondence.

Article 10

1. Everyone is entitled to freedom of movement and residence within the borders of each State.

No amendment

2. Everyone has the right to leave any country, including his own.

[4]

Article 11

1. Everyone has the right to seek and may be granted, in other countries, asylum from persecution.

No amendment

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 12

Everyone has everywhere the right to recognition as a person before the law.

Omit

Article 13

1. Men and women shall have equal rights as to marriage in accordance with the law.

Substitute: 1. Men and women are entitled to equal rights as to marriage.

Marriage may not be contracted without the full consent of both intending spouses and before the age of puberty.

2. *Omit*

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

Article 14

Everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Substitute: Everyone is entitled to protection from unreasonable interference with his property.

(*Note:* This could be combined with Article 9).

Geneva Text as Amended by Drafting
Committee E/CN.4/95

Proposed Text

Article 15

Everyone has the right to a nationality.

Substitute: No one shall be arbitrarily
deprived of his nationality.

Article 16

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

Substitute: 1. Everyone has the right to
freedom of religion, conscience and belief.

2. Every person has the right, either alone or in
community with other persons of like mind
and in public or private, to manifest his beliefs
in teaching, practice, worship and observance.
[5]

2. *No amendment*

Articles 17 and 18

Everyone shall have the right to freedom of
thought and expression; this right shall
include freedom to hold opinions without
interference and to seek, receive and impart
information and ideas by any means and
regardless of frontiers.

No amendment

Article 19

Everyone has the right to freedom of
peaceful assembly and to participate in local,
national, International and trade union
associations for the promotion, defence and
protection of purposes and interests not
inconsistent with this Declaration.

Substitute: Everyone has the right to freedom
of assembly and association for the
promotion, defence and protection of
purposes and interests not inconsistent with
this Declaration.

Article 20

Everyone has the right, either individually, or
in association with others, to petition or to
communicate with the public authorities of
the State of which he is a national or in which
he resides, or with the United Nations.

Defer for consideration after decision on
implementation.

Articles 21 and 22

1. Everyone without discrimination on
grounds of race, sex, language, religious
belief or social origin, and not under any legal
disability, has the right to take an effective part
in the government of his country. The State
shall conform to the will of the people as
manifested by elections which shall be
periodic, free, fair and by secret ballot.
[6]

Substitute: Everyone has the right to take part
in the government of his country directly or
through his freely chosen representative.

Geneva Text as Amended by Drafting Committee E/CN.4/95

Proposed Text

2. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national. *2. Omit*
3. Access to public employment shall not be a matter of privilege or favour. *3. Omit*

Article 23

1. Everyone has the right to work. *Substitute:* 1. Everyone has the right to work under just and favourable conditions.
2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work. *2. Omit*
3. The State is bound to take all necessary steps to prevent unemployment. *3. Omit*

Article 24

1. Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions and to join a trade union for the protection of his interests in securing a decent standard of living for himself and his family. *Substitute for Articles 24–26:* Everyone has the right to a standard of living adequate for health and wellbeing, including security in the event of unemployment, disability, old age or other lack of livelihood in circumstances beyond his control.
2. Women shall work with the same advantages as men and receive equal pay for equal work. *2. Omit*

Article 25

Everyone without distinction as to economic and social conditions has the right to preservation of his health through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide. *Omit*

[7]

The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

Article 26

1. Everyone has the right to social security. *Omit*
The State has a duty to maintain or ensure the

Geneva Text as Amended by Drafting
Committee E/CN.4/95

Proposed Text

maintenance of comprehensive measures for the security of the individual against the consequences of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.

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

Article 27

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

Substitute for Articles 27–28: Everyone has the right to education.

Article 28

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

Omit

[8]

Article 29

1. Everyone has the right to rest and leisure.
2. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

1. *No amendment*

2. *Omit*

Article 30

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

No amendment

Article 31

(Text proposed by the Sub-Commission on

Omit

Geneva Text as Amended by Drafting
Committee E/CN.4/95

Proposed Text

the Prevention of Discrimination and the
Protection of Minorities).

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

Article 32

All laws in any State shall be in conformity *Omit*
with the purposes and principles of the
United Nations as embodied in the Charter,
insofar as they deal with human rights.

[9]

Article 33

Nothing in this Declaration shall be *Omit*
considered to recognize the right of any State
or person to engage in any activity aimed to
the destruction of any of the rights and
freedoms prescribed herein.

E/CN.4/97

25 May 1948

Original Text: French

French Amendment to the Draft International Declaration on Human Rights

Article 11 of the Drafting Committee's draft

At the end of paragraph 1 add the following sentence:

“The United Nations, acting in agreement with Member States is bound to secure this
asylum.”

E/CN.4/98
26 May 1948

**Draft Resolution Submitted by the Representative
of the United Kingdom**

Recommends that the General Assembly adopt, in the form of a Declaration, a statement of Human Rights and Fundamental Freedoms which States should do their utmost to realize through teaching and education and measures for the progressive development of the social and economic wellbeing of mankind.

E/CN.4/SR.46
24 May 1948⁸⁴

Summary Record of the Forty-Sixth Meeting
[of the Commission on Human Rights]

Lake Success, New York on Monday, 24 May 1948,
at 11.00 a.m.

Present: Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Santa Cruz, Chile; Mr. Wu, China; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Inter-governmental organizations:* Mr. Stone, Preparatory Commission of the International Refugee Organization; Mr. Howell, World Health Organization. [2] *Non-governmental organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations; Mr. Goldsmith, Agudas Israel World Organization Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Burgess, International Federation of Business and Professional Women; Miss Robb, Liaison Committee of Women's International Organizations; Mr. Bienenfeld, World Jewish Congress. *Secretariat:* Mr. Laugier, Assistant Secretary-General in charge of Social Affairs; Professor Humphrey, Director, Human Rights Division

[3]

⁸⁴ This is the date of the meeting. The document was issued on 27 May 1948.

Adoption of the Agenda (document E/CN.4/88)

The agenda was adopted by 9 votes to none, with no abstentions

Election of Officers

MR. WILSON (United Kingdom) proposed the re-election of the representatives who had served as officers of the Commission during the first year. He suggested that the office of Second Vice-Chairman might be created.

MR. WU (China) proposed the election of Professor Cassin (France) as Second Vice-Chairman.

MR. MALIK (Lebanon) seconded Mr. Wu's proposal.

Mrs. Roosevelt (United States of America) was re-elected Chairman by ten votes to none, with no abstentions.

Mr. Wu (China) was re-elected First Vice-Chairman by nine votes to none, with no abstentions.

Professor Cassin (France) was elected Second Vice-Chairman by nine votes to none, with no abstentions.

Mr. Malik (Lebanon) was re-elected Rapporteur by nine votes to none, with no abstentions.

THE CHAIRMAN read a telegram which had been received from the President of a Conference of a hundred international non-governmental organizations being held in Geneva, wishing the Commission success in its work, and requested the Secretariat to send a message of thanks on behalf of the Commission.

She pointed out that the Commission had only one more month in which to finish the initial stage of its work – the preparation of an International Bill of Human Rights. It had been decided that both a Declaration and a Covenant should be drafted, and it was hoped that agreement would be reached on the question of implementation. The Commission had a mandate from the Economic and Social [4] Council which it could, and should, carry out. Good progress had been made at the second session of the Commission at Geneva. Some of the articles of the Declaration and the Covenant had been criticized as too long, but they might be compared to architects' drawings from which the building could be constructed.

With regard to the method of work, she did not advocate the system which had been successfully followed at Geneva of splitting into three working groups. She thought it would be preferable to discuss the Declaration, Covenant and implementation in plenary meeting, in whatever order the Commission might decide, and suggested allotting one week to each subject. She warned the Commission that that procedure would allow little time for the discussion of each individual article, and expressed the view that there should be full discussion of the question of implementation, which had hitherto been somewhat neglected. If necessary, small sub-committees could be appointed to consider individual articles, but that had not

proved very successful in the Drafting Committee. She asked the members of the Commission to submit in writing before the end of the day any amendments to the first ten articles of whichever part of the Bill of Rights it was decided to discuss first.

She suggested that, as the Commission would not have time to consider drafting points in detail, a small committee should be established, consisting of Professor Cassin (France), who would have responsibility for the French text, and Mr. Wilson (United Kingdom) who would have responsibility for the English.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to make a special statement before the Commission discussed its method of work. The Governments of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic had [5] requested him to inform the Commission on Human Rights that on 8 May 1948, the United States Embassy in Moscow had notified the Government of the USSR of its refusal to issue visas for entry into the United States to the representatives of these Governments on the Commission, unless they completed a special type of questionnaire. This questionnaire was discriminatory in character, as it was required only of nationals of the USSR, the Ukrainian SSR, the Byelorussian SSR and certain countries of Eastern Europe. The action of the United States Embassy violated articles 11, 12 and 13 of the agreement between the United Nations and the United States Government. The provisions of that agreement applied irrespective of the relations existing between the United States of America and other States Members of the United Nations. The regulations concerning the entry of foreigners into the United States should not apply to representatives attending United Nations meetings.

Only two days before the beginning of the session, after repeated requests by the USSR Ministry of Foreign Affairs and a protest from the Secretary-General of the United Nations, the United States Embassy in Moscow had stated that visas would be issued to the two representatives, as an exception. That qualification presumably meant that the Embassy reserved the right to continue such discriminatory practices in the future.

The Governments of the Byelorussian SSR and the Ukrainian SSR had instructed him to make a formal protest to the Commission on Human Rights against the violation by the United States Government of its treaty obligations towards the United Nations. The Government of the USSR associated itself with that protest and called the attention of the Commission on Human Rights to the situation.

In view of the fact that the two representatives could not reach New York before Wednesday, 26 May at the earliest, he proposed that the Commission should postpone its work until their arrival.

[6]

THE CHAIRMAN, speaking as representative of the United States of America, expressed regret that the two representatives had been delayed and said that

arrangements had been made that United Nations officials would receive visas without delay. She explained that United States officials in the USSR were required to fill up forms discriminatory in character and requesting information concerning their political affiliations and various other matters. This had caused considerable delay in granting visas. Accordingly the United States Embassy in Moscow had applied the same treatment to persons entering the United States. The State Department had however informed the Embassy that United Nations representatives were in a special category, and the visas had then been issued immediately.

She suggested that the Commission should not begin its work by consideration of the Report of the Drafting Committee, but should take up other items on its Agenda.

MR. VILFAN (Yugoslavia) associated himself with the remarks of the USSR representative. He added that a Yugoslav representative had been asked to follow the same procedure; a protest had been addressed to the Secretary-General and he had promised that such an incident would not occur again.

The point at issue was not the relations between the United States and the USSR, but the relations between the United States [7] and the United Nations. It would be highly detrimental to the work of the United Nations if a representative could be prevented from attending a meeting merely because he was *persona non grata* with the United States Government. He supported the proposal that the meeting should be adjourned until the arrival of the Byelorussian and Ukrainian representatives.

MR. PAVLOV (Union of Soviet Socialist Republics) took note of the statement of the United States representative that such incidents would not be repeated in the future. He objected categorically to any attempt to put the matter on a basis of retaliation. Had the persons involved been Embassy officials, the action of the United States Embassy in Moscow would have been correct, but discrimination against the Byelorussian and Ukrainian representatives to the Commission was contrary to the principles of the United Nations.

Questions of a technical nature concerning questionnaires etc. need not be discussed; on the other hand, the Commission should consider what action should be taken when United Nations representatives were prevented from attending a session of a United Nations organ owing to arbitrary action by the United States authorities. The fundamental consideration was the need to promote respect for the United Nations throughout the world.

THE CHAIRMAN agreed with the USSR and Yugoslav representatives that United Nations representatives should never be delayed in attending sessions of United Nations organs. Her remarks had merely been an attempt to explain how the situation had come about. The incident was regrettable and she hoped it would never recur.

[8]

MR. LEBEAU (Belgium) asked in what way the Commission's work would be affected by a few days' delay.

THE CHAIRMAN stated that MR. CASSIN (France) would be obliged to leave on 14 June; she hoped to accomplish as much as possible before that date in order to have the benefit of his valuable knowledge and experience.

MR. CASSIN (France) had understood the USSR representative's proposal to be that the Commission should postpone consideration of the most important questions on its agenda, not that it should suspend the session entirely. He hoped there would be no objection to discussing, for example, the general plan of work, while awaiting the arrival of the Byelorussian and Ukrainian representatives.

MR. WU (China) did not consider that it was for the Commission to decide to postpone the session until the two representatives arrived. He would, however, suggest that the next meeting should not be held until the afternoon of 26 May, on the grounds that members would thus have ample time to examine the various documents.

MR. PAVLOV (Union of Soviet Socialist Republics), replying to the French proposal, stressed that it was not within the power of the Commission to deprive the representatives of any States of the possibility of participating in any decisions taken. While, therefore, he agreed that the Commission could begin the discussion of items of secondary importance on the agenda, he would consider any decision taken in the absence of the two representatives illegal. It would be preferable to follow the suggestion of the Chinese representative, and adjourn until the afternoon of 26 May.

Furthermore, he wished to emphasize that the Commission could not pass over his protest in silence, but was morally obliged to express an opinion on the matter.

[9]

MRS. MEHTA (India) thought that the important issue raised by the USSR representative should be decided forthwith, so that there would be no reason to reopen the discussion at the next meeting.

MR. PAVLOV (Union of Soviet Socialist Republics) suggested that the representatives of the Ukrainian and the Byelorussian Soviet Socialist Republics should be temporarily replaced by alternates, with the right to vote, so that the Commission could proceed with its work on 26 May, even if the representatives had not arrived.

MR. HUMPHREY (Secretariat) pointed out that rule 11 of the rules of procedure of functional commissions of the Economic and Social Council allowed an alternate to serve in place of a member throughout any given session, with the right to vote. There was no rule which would apply to a provisional alternate. According to rule 61, however, the rules of procedure could be temporarily suspended by the Commission provided it was not inconsistent with any applicable decisions of the Economic and Social Council.

MR. WILSON (United Kingdom) thought the Chinese proposal should be adopted by the Commission, on the understanding that if the two representatives had still not arrived on the afternoon of 26 May, their alternates would, by virtue of rule 61, be allowed to vote.

There being no objection, THE CHAIRMAN put the Chinese proposal to the vote on that understanding.

The Commission adopted the Chinese proposal by ten votes to one, with one abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) drew attention to the fact that the adoption of the Chinese proposal did not dispose of the request he had made for an expression of opinion by the Commission with regard to his protest. So far only the United States representative had spoken on the subject, and he must urge other members to give their views.

[10]

MR. HOOD (Australia) stated that he had not spoken on the substance of the USSR protest, as he had considered that, in view of the circumstances and of the explanation given by the United States representative, there would be no advantage in having a debate on the subject in the Commission. There were two aspects to the matter: the actual circumstances by which the representatives had been delayed, and the reason for those circumstances. While the Commission could not and should not concern itself with the question of differences between two Member States represented on the Commission, it should concern itself with the reasons for the non-arrival of two of its members. He had thought, therefore, that in supporting the proposal to postpone its work, the Commission was expressing a *de facto* opinion on the circumstances of the case. He himself had voted for the proposal in that sense.

MR. WILSON (United Kingdom) expressed full agreement with the representative of Australia. The matter had been brought unexpectedly to the notice of the Commission which had had no opportunity to ascertain the full facts of the case. The Commission had only to decide on the conduct of its own work; if a discussion of the USSR protest was necessary there were other channels through which it could be more appropriately carried out.

MR. PAVLOV (Union of Soviet Socialist Republics) urged that the question was one of principle, and was not confined to the one concrete case to which he had drawn attention. If representatives of United Nations organs were to be refused admission to the United States because of differences between their Governments, and the United States Government, such a case might recur again and again. He would therefore like the Commission to state that it was postponing the meeting, not for any technical reasons, but because certain representatives had been prevented from attending, and that it considered that the refusal to grant visas to those

representatives constituted a violation of the agreement between the United States and the United Nations.

[11]

THE CHAIRMAN pointed out that it was usual, when members of a Commission arrived late, to consider that a quorum was sufficient to start work. The fact, therefore, that it had been decided by a vote to postpone meeting until the members in question arrived was enough to show the opinion of the Commission. Members had all agreed that representatives of United Nations organs should not be delayed in any way; that fact was understood and accepted.

MR. VILFAN (Yugoslavia) could not agree with the Chairman that the question was already settled. He had voted against the Chinese proposal, as he considered an important question of principle was involved. Only two months previously the Yugoslav representative on the Social Commission had had similar treatment from the United States authorities, and it had then been stated that such a thing would not happen again. Members were already in possession of all the facts concerning the case in question, and it was essential that the Commission should state its views by a special vote.

The matter could not be regarded as a simple case of retaliation; it was a question of the treatment given to Members of the United Nations, and there was a danger that that organization was being considered as a dependent of the United States. He therefore wholeheartedly supported the proposal of the USSR representative, and urged that the Commission must face the question.

MR. LEBEAU (Belgium) associated himself with the statements of the Chairman and the representatives of the United Kingdom and Australia. The practical question of procedure had been settled by the decision to postpone meeting until 26 May, when, the alternates would be allowed to vote if the absent members had not arrived. The question of the implementation of certain agreements was not within the terms of reference of the Commission.

[12]

At the same time, he agreed that the facts were serious, as they indicated that the statutes of the United Nations were not being fully applied. Such cases might recur. He would suggest, therefore, that, if the USSR representative agreed, the Chairman might act as spokesman of the Commission in drawing the attention of the United States authorities to the incident, and suggesting that specific instructions should be sent to United States embassies with regard to the right of entry of United Nations representatives.

MR. CASSIN (France) declared that the question of principle had been clearly settled by the vote, since postponement would not have been decided upon had it not been agreed that the two representatives had been delayed by abnormal circumstances.

He agreed to a certain extent with the suggestion of the Belgian representative, but he did not think the Commission had any right to ask the Chairman to make representations to the United States Government. The Chairman should discuss the matter with the Secretary-General of the United Nations, who could approach the right authorities in the name of the United Nations.

MRS. MEHTA (India), while deploring the unfortunate incident, thought that in view of the explanation and assurances given by the Chairman there was no need to discuss it further. If the USSR representative was not satisfied, he should raise the question in the General Assembly rather than the Commission.

THE CHAIRMAN expressed her willingness that the Secretary-General should be informed of the sense of the meeting and the substance of the discussion.

[13]

MR. MORA (Uruguay) wished to associate his delegation with the expressions of regret that the two representatives had been delayed. He considered, however, that in referring the matter to the Secretary-General, the Commission should not limit itself to the case of representatives proceeding to the United Nations; the Secretary-General should be asked to consider the question of all Governments which placed obstacles in the way of the free movement of people all over the world. That involved the question of human rights, and as such was the task of the Commission.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed as a compromise the adoption of the following proposal:

“The Commission on Human Rights asks the Chairman to draw the attention of the Secretary-General of the United Nations to the fact that the representatives of the Ukrainian and Byelorussian Soviet Socialist Republics could not arrive in time for the third session of the Commission on Human Rights, for reasons independent of their will and in violation of the agreement adopted by the General Assembly on 31 October 1947⁸⁵ and calls the attention of the Secretary-General to the necessity of taking measures to prevent a repetition of such incidents in the future.”

Such a formula could have a general meaning, as it would be applicable in whatever State a session might take place.

THE CHAIRMAN stated that she would gladly convey the sense of the meeting to the Director of the Division of Human Rights, and ask him to refer the matter to the Secretary-General. She asked whether the USSR representative would draft his proposal in that sense, since it would be better if the case were reported by a person who had no immediate interest in the matter.

⁸⁵ General Assembly Resolution 99(I) of 14 December 1946 authorized the Secretary-General to negotiate a headquarters agreement with the United States. The Agreement Between the United Nations and the United States of America regarding the Headquarters of the United Nations was reached on 26 June 1947. By Resolution 169(II) of 31 October 1947, the General Assembly approved the Agreement and authorized the Secretary-General to bring it into force.

[14]

MR. PAVLOV (Union of Soviet Socialist Republics) agreed to amend his proposal so that it began: "The Commission draws the attention of the Secretary-General"

In the absence of any objections, the Chairman declared the USSR proposal adopted as amended.

The meeting rose at 1 p.m.

E/CN.4/SR.47

24 May 1948⁸⁶

Summary Record of the Forty-Seventh Meeting
[of the Commission on Human Rights]

Lake Success, New York on Monday, 24 May 1948,
 at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Santa Cruz, Chile; Mr. Chang, China; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Non-governmental organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations [2] Mr. Goldsmith, Agudas Israel World Organization Co-ordinating Board of Jewish Organizations; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Burgess, International Federation of Business and Professional Women; Miss Robb, Liaison Committee of Women's International Organizations; Mr. Bienenfeld, World Jewish Congress. *Inter-governmental organizations:* Mr. Stone, Preparatory Commission of the International Refugee Organization. *Secretariat:* Mr. Laugier, Assistant Secretary-General in charge of Social Affairs; Mr. Humphrey, Director, Human Rights Division.

THE CHAIRMAN proposed that the Commission should define its working procedure.

MR. CASSIN (France) thought the Commission should begin by dealing with the Declaration which was the first document on which agreement could be reached: the drafting of that document was moreover, the first task assigned to the Commission by the Economic and Social Council. The Commission should then examine the implementation of the Covenant for the twofold reason that only the broad aspects

⁸⁶ This is the date of the meeting. The document was issued on 1 June 1948.

of that matter had been discussed at the Geneva session, and because the Economic and Social Council had stressed the need for drafting precise texts on that subject. To gain time, a drafting sub-committee could be asked to do the preliminary work while a plenary session of the Commission discussed the Covenant which had already been carefully examined by the Drafting Committee.

MR. PAVLOV (Union of Soviet Socialist Republics) thought the Commission should first of all discuss in detail the general questions connected with the contents of the Declaration and of the Covenant, and the relationship between the two. In order to simplify the work, the [3] Commission should then proceed to make a simultaneous study of the articles that were to be found in both the Declaration and the Covenant. To expedite matters, the Secretariat could prepare a table of those articles. Thirdly, the Commission would discuss the remaining articles in both documents and would then, following the French representative's proposal, finish the examination of the articles of the Declaration before proceeding to an examination of the Covenant.

Consequently, it was essential to begin by a general discussion on the contents of the Declaration and Covenant, then to consider the general principles embodied in those documents and finally to study the question of their implementation.

THE CHAIRMAN supported the USSR representative's proposal to ask the Secretariat to draw up an analytical report showing the articles to be found in both the Declaration and the Covenant, as well as the views of the various delegations on those articles. She pointed out that any general discussion should be short and reminded the Commission that, whatever the method of work adopted, it was necessary to reserve a considerable place for the problem of implementation.

MR. WILSON (United Kingdom) supported the proposal of the French representative. The USSR proposal was tempting but gave rise to difficulties. The Commission had always examined the two documents separately, and changing methods at the session might lead to confusion. Moreover, the aims of the Declaration and of the Covenant were different, and each of those two documents was a unit that had to be examined as a whole. He hoped the Commission would avoid useless general discussion as the views of various delegations were already known. One question, however, did call for a general discussion: The aims of the Declaration and of the Covenant, and, consequently, the final drafting of those [4] documents.

MR. CASSIN (France) thought the USSR proposal had logical advantages, but it was necessary to remember that the question of implementation had already been delayed. The USSR proposal could, however, be taken into account during the examination of the articles of the Declaration. Some of those were also to be found

in the Covenant, and the Commission would be called upon to display method and self-restraint in drafting such articles more briefly and, perhaps, in deciding not to draft them in their final form.

MR. LOPEZ (Philippines) did not see how the Commission could examine the question of implementation before completing the examination of the Covenant. He thought such a method was illogical.

MR. CASSIN (France) said that the draft prepared by the Drafting Committee would give the Commission a sufficiently clear idea of the Covenant to enable it to study its implementation.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed the need for a preliminary exchange of views on the Declaration and the Covenant in order to clarify the relationship between the two. That work had not been done yet. No logical reasons had yet been put forward to explain why certain articles were to be found in the Declaration and not in the Covenant. The Commission should then discuss the articles dealing with the same subject in the Declaration and in the Covenant. The Commission would thus gain valuable time. Thirdly, it could discuss separately those parts of the Declaration and Covenant which were different. Such a discussion would not take much time because the articles in question were mainly formal. As regards implementation, he agreed with the Philippines representative. It was necessary to decide first what was to [5] be implemented and then only to discuss implementation itself. Implementation, therefore, came fourth.

THE CHAIRMAN proposed putting to the vote the proposal of the French representative and then the proposal of the USSR representative.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the Commission should not vote on the matter because of the absence of the Byelorussian and Ukrainian representatives. He recalled that it had been decided at a previous meeting not to settle important questions before the arrival of those representatives.

MR. VILFAN (Yugoslavia) supported the USSR representative and pointed out that it was not merely a question of the formal participation of those representatives in the vote but also of their participation in the discussion. The Commission could not estimate in advance the value of the contribution they might make to the debate.

THE CHAIRMAN said the Commission might consider giving those representatives the right to register their vote with the Secretariat on their arrival. Personally, she felt that the decision in question, which concerned the Commission's method of work, was of secondary importance, and that since the necessary quorum existed a vote could be taken in the absence of those representatives.

MR. LEBEAU (Belgium) stressed that the decision the Commission had adopted at its previous meeting related only to essential questions, that is to say, to the examination of the texts of the Declaration and the Covenant. He thought that the question in hand was of secondary importance and could be settled immediately. He was in favour of the French proposal as supported by the representative of the United Kingdom.

MR. LOUTFI (Egypt) supported the proposal of the Belgian [6] representative.

MRS. MEHTA (India) felt that the Declaration should be discussed first and the implementation later; she supported the French proposal for setting up a sub-committee to do the preliminary work on that question. There already existed a draft of the Covenant and the Commission would be able to judge approximately which provisions would have to be implemented. She did not think the question of the method of work was sufficiently important to be postponed until the arrival of the two absent representatives.

THE CHAIRMAN put to the vote the question of whether the Commission wished to vote immediately on the method of work.

The Commission decided to proceed to a vote by eight votes to two, with one abstention.

THE CHAIRMAN put to the vote the working procedure proposed by the French representative.

That procedure was adopted by nine votes to two.

MR. PAVLOV (Union of Soviet Socialist Republics) suggested making it possible for the representatives of the Byelorussian SSR and the Ukrainian SSR to register their votes upon their arrival.

THE CHAIRMAN put to the vote the proposal of the USSR representative.

The USSR proposal was adopted by four votes to two, with five abstentions.

THE CHAIRMAN pointed out that that decision would also apply to representatives of delegations which were represented at the meeting only by alternates without a vote.

Examination of item 9 of the agenda concerning the role of the information [7] groups and the local human rights committees.

THE CHAIRMAN observed that there were two resolutions on the subject: one adopted by the Economic and Social Council and the other by the last session of the Commission.

The United States maintained contact with two hundred such groups to which it communicated all the relevant United Nations documents. Regular meetings were organized with those groups, and the latest had been held on 4 March 1948. The

discussion had dealt with civil rights, economic rights, the Covenant and freedom of information.

MR. CASSIN (France) said France had not yet set up an official information group on human rights and was waiting for the outcome of the present exchange of views. France had, however, set up a temporary group, the Consultative Committee on Human Rights, which included representatives of the League for the Rights of Man, professors, writers, outstanding persons in parliament circles and other persons with the requisite specialized knowledge. The French Government wanted to hear the views of other delegations on two or three important points. In particular, France would like to know whether the groups should be organized as private organizations with Government support, or as official or semi-official organization. Both courses presented certain advantages: private groups would enjoy greater freedom of expression, while semi-official offices would be entitled not only to receive information from the Commission on Human Rights but also to inform the Commission on trends of public opinion in various countries and even on how human rights were being respected.

The French representative would appreciate more detailed information regarding the activities of such groups in Turkey, the Dominican Republic, Haiti, the Netherlands or El Salvador.

MR. HOOD (Australia) said that question should be examined at the end of the session when the final draft of the Covenant would already be before the Commission. In the meantime, the Secretariat could prepare a working paper on information groups and their functions to be used at a later stage.

THE CHAIRMAN accepted that proposal.

MISS SENDER (American Federation of Labor) said that the setting up of such groups had been recommended by the Economic and Social Council not only in connexion with the implementation but also with the drawing up of the Covenant. She regretted more countries had not set up such groups to express the views of public opinion on human rights.

Following upon a proposal by the Chairman, the Commission decided that amendments of substance to the first ten articles should be submitted in writing to the Secretariat as soon as possible, so that they could be distributed before the discussion on the Declaration.

The Commission also decided to set up a small drafting sub-committee, composed of the representatives of France and the United Kingdom to supervise the incorporation of the necessary changes of style in the Declaration and the Covenant in the two working languages. The same task would be entrusted to Russian, Spanish and Chinese speaking representatives in respect of the translations of the two documents into their own languages.

The meeting rose at 4:30 p.m.

E/CN.4/SR.48

26 May 1948⁸⁷

Original Text: French

Summary Record of the Forty-Eighth Meeting
[of the Commission on Human Rights]

Lake Success, New York on Wednesday,

26 May 1948, at 2:45 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Vice-Chairman:* Mr. R. Cassin, France. *Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. P.C. Chang, China; Mr. Loutfi, Egypt; Mrs. Mehta, India; Mr. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Representatives of Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization; Mr. Howell, World Health Organization. *Consultants from Non-Governmental Organizations:* Miss Toni Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations; Mr. Goldsmith, Agudas Israel World Organization Co-ordinating Board of Jewish Organizations; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Burgess, International Federation of Business and Professional Women; Miss Robb, Liaison Committee of Women's International Organizations; Mr. Bienenfeld, World Jewish Congress. [2] *Observers representing an inter-Governmental Organization:* Mr. Stone, Preparatory Commission of the International Refugee Organization (IRO). *Secretariat:* Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission

THE CHAIRMAN welcomed the representatives of the Byelorussian Soviet Socialist Republic and of the Ukrainian Soviet Socialist Republic and again expressed her regret for the circumstances which had delayed them.

She then announced that General Romulo, the representative of the Philippines, had been obliged to return to his country owing to the death of his mother. Doubtless, the members of the Commission would wish to join her in expressing their sympathy to General Romulo in his bereavement.

The Commission asked Mr. Humphrey (Secretariat) to send a telegram of condolence to General Romulo on its behalf.

THE CHAIRMAN was happy to welcome Mr. Lopez, who had been appointed by the Philippines Government to take the place of General Romulo on the Commission.

⁸⁷ This is the date of the meeting. The document was issued on 4 June 1948.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) said that he had learned that day of the letter sent by the Secretary-General to the permanent delegate of the Ukrainian SSR to the United Nations informing him that the Commission on Human Rights had decided not to embark upon the decisive stage of its work before the arrival of himself and Mr. Stepanenko.

Mr. Klekovkin saw evidence in that decision of the desire of the members of the Commission to stand by their Byelorussian and Ukrainian colleagues when an attempt had been made to subject them to discrimination and he thanked them for their effective and justified gesture.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) associated himself wholeheartedly with the remarks of the representative of the Ukrainian SSR, especially with regard to the conclusion to be drawn from the Secretary-General's statement.

[3]

THE CHAIRMAN recalled that at its previous meeting the Commission had decided to reserve the right of the representatives of China, the Ukrainian SSR and the Byelorussian SSR, all three of whom were absent, to vote on the method of work suggested by the French representative. It had been made clear at that time that the Commission would take a second vote if the three representatives' votes should change the result.

THE CHAIRMAN stressed that the Economic and Social Council had instructed the Commission on Human Rights to submit to it, in final form, a draft International Declaration, a draft Covenant and provisions for their implementation, and asked the members of the Commission whether they thought they would be able to fulfil the task imposed upon them by the Council at the present session.

The Commission decided that it would fulfil that task.

THE CHAIRMAN then asked for the views of members of the Commission on the basic objective at which the proposed Declaration should aim. Such an expression of views could only serve to facilitate the actual drafting.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) said that it would be difficult for him to take part in the discussion of the report of the Drafting Committee, which contained the texts of the draft Declaration and the Draft Covenant, as the Russian translation of that document had not yet been distributed.

Moreover, he wished to repeat what he had often said in the course, of the second session of the Commission on Human Rights: in his opinion, the actual drafting should be preceded by a general discussion which would define the Commission's aims and enable it to settle points of [4] secondary importance

without delay, while important matters of principle would be given the place due to them.

Consideration of the Report of the Drafting Committee (document E/CN.4/95)

THE CHAIRMAN observed that the preliminary texts, which had been drafted at the Commission's second session, had already been transmitted to the Governments concerned. At the sixth session, the Economic and Social Council had asked the Commission on Human Rights to revise those texts in the light of the comments submitted by Governments and, especially, to draft the provisions for their implementation in proper form. Therefore, the Commission should complete the drafting work which had been begun, keeping in mind the directives it had received from the Economic and Social Council.

MR. AZKOUL (Lebanon), Rapporteur, explained that the French translation of the Drafting Committee's report was not ready on time owing to certain technical difficulties.

On the other hand, the Rapporteur and the Secretariat had done their best to include certain suggestions made by the USSR representative in the report. Unfortunately, it had not been possible to include all of them as they had not all been drawn up in one or other of the working languages.

Mr. Azkoul then indicated a few minor changes which should be made in the document:

On page 9, articles 21 and 22, deletion of the words "Geneva text", as the words "without discrimination on grounds of race, sex, languages, religious belief or social origin" had been added to the original text;

On page 14, the word "Note" to be centred so as to indicate that the note concerned the whole of the draft Declaration submitted by the [5] representative of China, and not article 33;

Finally, on page 21, deletion of the last two paragraphs as well as of the explanatory note, as they already appeared in article 9 of the draft Covenant.

Mr. Azkoul announced that the Russian translation of the Drafting Committee report would be ready shortly.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) pointed out that the Russian language delegations were constantly hampered in their work because of failure to observe the rules of procedure relating to the translation of documents into the five official languages.

THE CHAIRMAN pointed out that the Commission had not yet reached the stage of detailed discussion of the Drafting Committee's report. She hoped that it would be

possible to distribute the different texts before the general discussion on the basic aim of the Declaration on Human Rights was concluded.

Speaking as the representative of the United States of America, the Chairman stated that in the opinion of her delegation the Declaration should serve two purposes:

1. To establish basic standards which would guide the United Nations in the realization, within the meaning of the Charter, of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all;
2. To serve as a guide and inspiration to individuals and groups throughout the world in their efforts to promote respect for human rights. The Declaration should not be in any sense a legislative document. The General Assembly was not a legislative body. The manner in which the United Nations could and would wish to undertake the task of promoting [6] and encouraging respect for human rights and fundamental freedoms remained in large measure to be determined. Further, it was clear that the Declaration, as envisaged, did not create legal remedies or procedures to ensure respect for the rights and freedoms it proposed to the world; that ideal would have to be achieved by further steps taken in accordance with international and domestic law. The Declaration would have moral, not mandatory, force.

It was quite otherwise with the Covenant, which bound the parties loyally. The Covenant was therefore the document which should contain measures of implementation.

The United States representative stated in conclusion that she could not better express her delegation's view of the nature and purpose of the Declaration than by quoting the words of Abraham Lincoln on the United States Declaration of Independence, and especially the following:-

“They (the authors of the Declaration) did not mean to assert the obvious untruth that all men were then actually enjoying that equality, or yet that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as soon as circumstances should permit.”

MR. CASSIN (France) shared the view of the United States delegation that the Declaration should be drafted on broad lines. It was quite clear that the Declaration should bear above all an explanatory character. Human rights had existed before the United Nations Charter and did not exist any less since. It would therefore be useful for the Commission to list those rights which it considered to be the most essential attributes of every human being without distinction.

[7]

The Declaration should, further, fulfil the functions of a guide. Some of these rights had grown out of national constitutions and belonged to the traditions of peoples. Others had grown only within the last fifty years. Finally, some rights had not yet been recognized at the international level, and it was especially with regard to them that the Declaration should act as a guide.

In its examination of fundamental human rights, the Commission should: 1) state the right in question, i.e. provide a concise definition of it; 2) name those to whom that right was due; 3) assure its enforcement, and 4) go on to the limitations upon it. A list of rights and the designation of those to whom they were due was properly a part of the Declaration. Definition of the scope of those rights, however, must be incorporated in the Covenant, a separate document which would have to fulfil a much more detailed and precise legal function.

Among traditional rights were those connected with the ideas of freedom, physical freedom, freedom of opinion and of association. A preliminary instrument might define their scope and specify the means by which they could be applied. It was not certain, however, that certain economic and social rights, which ought to be mentioned in the proposed International Covenant, could be included in that preliminary instrument. Such rights would require longer study, being more difficult to define by their very nature. Moreover, certain specialized agencies might have to be consulted with regard to them. Decisions of a legal nature, which were more easily taken on the national plane, might cause difficulties on the international plane. That was all the more true when the recognized possessor of a right was a collective body such as the United Nations.

There were two conflicting views about the legal force of the Declaration. Some saw the Declaration purely as a document interpreting [8] the Charter and therefore vested with the same mandatory force as the Charter itself. Others saw it as a purely formal document, giving expression to a hope of a rather limited moral influence, and of no legal value until its principles had been embodied in one or several covenants.

The French delegation did not share either of those too strict and simple views. The French Government believed that the Declaration, which would in a sense be an explanation of human rights in existence before the Charter, rights which it was incumbent upon the Members of the United Nations to protect in accordance with the Charter, should to a certain extent bear an assertive character. Even in the absence of any Covenant, therefore, the principal organs of the United Nations would, in the opinion of the French delegation, be entitled to take cognizance of the fact if any State violated human rights. Moreover, there was legal precedent to support that opinion, as appeared when the General Assembly decided that the Indian complaint against the Union of South Africa was within its competence.

The Declaration should not, however, be of a purely assertive character. It should be a guide and, by that function, introduce new conceptions. In so far as it assumed the role of a guide, it would be required to make a distinction between those obligations which applied to the United Nations as a whole and those which applied to each particular nation.

The United Nations Organization was subject to the obligations imposed by the General Assembly's resolutions. In respect of the United Nations as a whole, therefore, the mandatory force of the proposed Declaration would derive from the resolution the General Assembly might adopt on it.

[9]

In respect of individual States, the new concepts which the Declaration would contain, such as the right of nationality or the right of asylum, would have only the value of a recommendation like the resolutions of the General Assembly.

The French delegation, then, envisaged the Declaration as a document shorter than the Covenant, without the legal value of a convention, but which would have the function of keeping the fullest possible list of human rights in everybody's mind. That list would have to contain not only those rights presently recognized, but also those which the Commission thought should be recognized. The Declaration would specify those to whom such rights were due and would refrain from setting strict limits to the scope and application of those rights. It would be left to the Covenant more precisely to define the scope and the methods of application of human rights, both on the national and on the international plane.

By expressing the general opinion of the Members of the United Nations on the protection of human rights in the Declaration, the Commission would create a framework for the provisions of the Covenant designed to defend those rights and to ensure that future generations would enjoy them.

MR. AZKOUL (Lebanon), Rapporteur, stated that it was necessary to consider the difference between the Declaration and the Covenant in order to give those two documents their final shape. The Declaration would proclaim and list those rights which human reason at the present stage of development of society considered inseparable from the conception of the human person. The Covenant, on the other hand, was the product of the will of States, and its provisions would be determined less by reason than by practical considerations.

[10]

An essential difference between the two documents became apparent when the obligations involved were considered. In that respect, Mr. Azkoul supported Mr. Cassin's analysis of the mandatory force of the Declaration.

The Declaration, which summarized the rights considered essential to ensure the dignity of the human person, would thus merely indicate the general principles by

which those rights were determined. In the case of certain new rights, which had not yet become traditional, however, the Declaration should specify those to whom such rights were due, and the Commission would have to exercise care not to frame it in the form of a convention.

The Covenant, on the other hand, would contain only those principles expressed in the Declaration which the Commission considered the signatory States to be willing to apply, and would be binding upon those States.

MR. WILSON (United Kingdom) agreed with the representatives of the United States, France and Lebanon. The United Kingdom delegation was of the opinion that the draft Declaration and draft Covenant should be submitted to the General Assembly accompanied by a resolution proposing its adoption and summing up the opinions of its authors.

Mr. Wilson submitted the following resolution to the Commission:

“The Commission on Human Rights

Recommends that the General Assembly adopt, in the form of a Declaration, a statement of Human Rights and Fundamental Freedoms which States should do their utmost to realize through teaching and education and measures for the progressive development of the social and economic wellbeing of mankind.”

THE CHAIRMAN stated that the United Kingdom draft resolution would be discussed as soon as it was distributed to the members of the Commission.

[11]

She then asked for the views of the Commission on the manner in which it would consider the Declaration. If the Commission decided to leave the preamble until later, it could first go on to a general discussion of the articles and entrust a drafting sub-committee with the working out of the final text of those articles.

MR. WILSON (United Kingdom) agreed that consideration of the preamble of the Declaration should be postponed. He considered that the Commission should begin by examining the articles in numerical order.

With regard to the proposal that the articles should be referred to a drafting sub-committee, he did not think that that was a very practical solution. It was difficult to agree on a precise text, even when there was agreement on the principles which the articles should contain.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the general discussion on the relationship between the Declaration and the Covenant – which he had requested at the previous meeting and in which the Commission had refused to engage before considering the Declaration and the Covenant themselves – had actually been opened during the present meeting. That discussion had developed on the question of the form of those two documents. Mr. Pavlov considered that it was very difficult to separate the questions of substance from those of mere form.

He therefore reserved the right, after receiving the Russian translation of the Drafting Committee's report, to explain the USSR delegation's point of view on questions of form as well as of substance which went beyond the framework of the discussion of specific articles. He then recalled that at its previous meeting the Commission had decided to permit the representative of the Ukrainian SSR and of the [12] Byelorussian SSR to record their votes on the Commission's method of work. He considered that those representatives should be invited to state their views on the question; the discussion which would follow might induce the Commission to modify the decision it had taken (see document E/CN.4/SR.47).

THE CHAIRMAN said that there could be no question of the whole Commission considering the working procedure anew. She invited the representatives of the Ukrainian SSR and of the Byelorussian SSR to express their views on the proposal made by the representative of France at the preceding meeting.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) said that like the USSR representative he considered a general discussion of the Declaration and of the Covenant, as well as of the relationship between them, to be absolutely necessary. The Commission should then examine the Declaration article by article, discussing at the same time those which were contained in both the Declaration and the Covenant.

Mr. Stepanenko stressed that such a procedure would have the advantage of saving the Commission's time and of facilitating the determination of the relationship between the Declaration and the Covenant.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) stated that his delegation's point of view had not changed since the Commission's second session. Now, as then, his delegation considered that the Commission should concentrate its efforts on the Declaration and decide questions of principle of tremendous importance for the progress of mankind, which had suffered too much from the effects of fascism and was thirsting for peace.

Like the representative of Lebanon, Mr. Klekovkin thought that the Declaration constituted the basis on which the principles to be included [13] in the Covenant could be developed. The Covenant should contain such of the rights included in the Declaration as, in the Commission's judgment, should be vested with legal force. The articles which would appear in both the Declaration and the Covenant should be considered simultaneously. With regard to the implementation of the Declaration and of the Covenant, it was obvious that the Commission could only consider the question after establishing what should be implemented and after determining the binding force of each of the two documents.

As to the way in which the Commission should consider the Declaration, the representative of the Ukrainian SSR felt that it would be premature to decide that the preamble would be considered at the end or that the articles would be examined one by one in numerical order. Discussion of the preamble could lead to the solution of

several questions which certain articles raised; moreover, it might prove useful to group some articles of substance under one heading.

Mr. Klekovkin said that he had made these few observations without having studied the documents prepared by the Drafting Committee. He could only express an opinion after having examined them. He drew the Commission's attention to the fact that it had arrived at the final drafting stage of the Declaration and of the Covenant and that therefore it should not proceed too hastily.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that representatives who had not been present at the meeting of 24 May should be informed about the proposal which he himself had made during that meeting.

At the invitation of the Chairman, Mr. Pavlov gave an outline of his proposal (see document E/CN.4/SR.47), according to which the Commission should at first have a general discussion; then discuss the articles contained in both the Declaration and the Covenant; then discuss separately, [14] the articles contained in one or other of the two documents; and finally consider the question of implementation. He pointed out that his proposal did not seriously differ from the French proposal.

At the Chairman's request MR. HUMPHREY (Secretariat) explained that under the terms of rule 31 of the rules of procedure English and French were the working languages of the Economic and Social Council. Rule 38 of the rules of procedure provided that all resolutions, recommendations and other official decisions of the Council should be communicated in the official languages. Those provisions applied to all the bodies of the Council.

Consequently, the delegations were entitled to request the translation into the official languages of the report of the Drafting Committee, since it was an "official decision" of that body. With regard to working documents, such as draft resolutions submitted by the various delegations, the Secretariat could just distribute them in English and French, but it had assured the Russian-speaking delegations that it would do its utmost to let them have those documents in Russian.

MR. MORA (Uruguay) would not insist on a Spanish translation of all the Commission's documents, but he reserved the right to ask for it in certain cases.

MR. CHANG (China) said that his delegation also reserved the right to ask for a Chinese translation of any resolution, recommendation or official decision if it considered that it needed that translation for the discussion.

He then asked whether "implementation" in the French proposal applied to the Covenant as well as to the Declaration.

[15]

THE CHAIRMAN recalled that the Commission had made certain suggestions concerning implementation at its second session. These suggestions had been submitted to the Economic and Social Council, which, by its resolution 116F(VI), had

invited the Commission on Human Rights to submit final recommendations on the question so that the draft articles dealing with implementation could be submitted to the Member Governments as soon as possible. It was because of the urgency of that question that the French representative had proposed that the Commission should consider the question of implementation immediately after examining the Declaration and before considering the Covenant.

MR. PAVLOV (Union of Soviet Socialist Republics) said that in his opinion the expression "Declaration on Human Rights" used in resolution 116 F (VI) unquestionably meant the Declaration and the Covenant. Therefore, the question of implementation should be considered at the very end. He asked the French representative whether he insisted on the working procedure which he had proposed.

MR. CASSIN (France) gave an affirmative reply. He recalled that the Commission was far behind in its work on implementation. He pointed out that under the terms of his proposal the Commission was not called upon to take a definite decision on implementation at the beginning. It should proceed with a general discussion which would enable a sub-committee to draft the articles dealing with that question. Mr. Cassin added that if the Commission had been beginning its work, it would have been more logical to adopt the procedure suggested by the USSR representative; the Commission had in fact followed that order during its first two sessions. The Commission was now in the final stage of its work, however, and it should consider the question of implementation without delay.

[16]

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) supported the procedure proposed by the USSR representative. In his opinion implementation could not be discussed before the Covenant. If the Commission adopted a different method of work, it might later find it impossible to follow it.

THE CHAIRMAN invited the representatives of China, of the Byelorussian SSR and of the Ukrainian SSR to vote on the proposal made by the French representative of the meeting of 24 May 1948.

Two representatives voted against the French proposal. The third abstained.

THE CHAIRMAN announced that the record of the vote on the French proposal taken at the meeting of 24 May 1948 would be changed to read:

The working procedure proposed by the French representative was adopted by nine votes to four, with one abstention.

She then asked the members of the Commission whether they wished to examine the Declaration article by article at the meeting to be held next afternoon.

A decision to that effect was adopted by ten votes, with four abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) explained that he had abstained from voting because he was not certain that the general discussion would necessarily be concluded during the morning meeting.

The meeting rose at 5:00 p.m.

E/CN.4/100

27 May 1948

Trade Union Rights (Freedom of Association)

Memorandum by the Secretary-General

In documents E/CN.4/23, E/CN.4/31 and E/CN.4/23/Add.1, the proceedings of the Economic and Social Council and of the General Assembly concerning the question of Trade Union Rights (Freedom of Association) have been described and an analysis of the decisions taken has been presented to the Commission on Human Rights. Detailed information on the action taken by the International Labour Organization and by Non-Government Organizations in category A (World Federation of Trade Unions and the American Federation of Labor) has also been given.

From the Economic and Social Council resolutions 52(IV) and 84(V) and from resolution 128(II) of the General Assembly, the Commission on Human Rights will note that it has been asked to devote attention to two aspects of the question, namely, to deal

1. with the substance, and
2. with the machinery.

1. Questions of Substance

In resolution 52(IV) (Annex A of E/CN.4/31) the Commission on Human Rights has been requested to “consider those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights”.

In its resolution 84(V) (Annex B of E/CN.4/31) the Economic and Social Council has stated that it “awaits also the report which it will receive in due course from the Commission on Human Rights on those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights”.

The Commission on Human Rights may therefore wish to decide whether to comply with these requests by either simply inserting appropriate provisions on

Freedom of Association (Trade Union Rights) in the draft International Bill of Human Rights which it will in due course submit to [2] the Council, or else to present to the Council a special report on this question.

The General Assembly in its resolution 128(II) approved the two resolutions of the Council and decided to transmit the report of the International Labour Organization to the Commission on Human Rights with the same objects as those stated in resolution 52(IV) of the Economic and Social Council, namely, that the Commission on Human Rights may consider those aspects of the subject which might appropriately form part of the Bill or Declaration on Human Rights.

...

E/CN.4/102

27 May 1948

China: Amendments to the Draft International Declaration on Human Rights

Drafting Committee Text (E/CN.4/95)

Proposed Amendments

Whereas the peoples of the United Nations have reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person, and in the equal right of men and women;

The General Assembly resolves to state in a solemn declaration the essential rights and fundamental freedoms of the human being
And adopts the following Declaration:

Article 1

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

Wording to be decided by the Commission.

Article 2

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

Substitute for Articles 2 and 3: Everyone is entitled to the human rights and fundamental freedoms set forth in this Declaration without distinction as to race, sex, language or religion. The exercise of these rights requires recognition of the rights of others and the just requirements of the community in which he resides.

[2]

Article 3

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

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

Article 4

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

Substitute: Everyone has the right to life.

Article 5

Slavery is prohibited in all its forms.

Substitute for Articles 5 and 8: No one shall be held in slavery or involuntary servitude or be subjected to torture or to cruel or inhuman punishment or indignity.

Article 6

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

Substitute: No one shall be subjected to arbitrary arrest or detention.

[3]

Article 7

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

Everyone has the right to equal protection under law.

Article 8

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for a crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

[4]

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

Article 9

Everyone is entitled to protection under the law from unreasonable interference with reputation, family, home or correspondence.

Substitute: No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article 10

1. Everyone is entitled to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Omit

Article 11

1. Everyone has the right to seek and may be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Substitute: Everyone has the right to seek and be granted asylum from persecution.

Article 12

Everyone has everywhere the right to recognition as a person before the law. *Omit*

Article 13

1. Men and women shall have equal rights as to marriage in accordance with the law. *Omit*

Marriage may not be contracted without the full consent of both intending spouses and before the age of puberty.

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

[5]

Article 14

Everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Article 15

Everyone has the right to a nationality.

Article 16

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

2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in teaching, practice, worship and observance.

Substitute for Article 16, 17, 18 and 19:

Everyone has the right to freedom of conscience and belief, to freedom of assembly and of association, and to freedom of information, speech and expression.

Articles 17 and 18

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

Article 19

Everyone has the right to freedom of peaceful assembly and to participate in local, national, International and trade union associations for the promotion, defence and protection of purposes and interests not inconsistent with this Declaration.

[6]

Article 20

Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.

Article 21 and 22

1. Everyone without discrimination on grounds of race, sex, language, religious belief or social origin and not under any legal disability has the right to take an effective part in the Government of his country. The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.

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

3. Access to public employment shall not be a matter of privilege or favour.

Substitute: Everyone has the right to take part in the affairs of his government directly or through his representatives.

Article 23

1. Everyone has the right to work.

2. The State has a duty to take such measures as may be within the power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

3. The State is bound to take all necessary steps to prevent unemployment.

Substitute for Articles 23, 24, 25, 26, 27, 28 and 29: Everyone has the right to a decent living; to work and leisure, to health, education, economic and social security.

[7]

Article 24

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

2. Women shall work with the same advantages as men and receive equal pay for equal work.

Article 25

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

Article 26

1. Everyone has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequence of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.
2. Motherhood shall be granted special care and assistance. Children are similarly entitled to special care and assistance.

[8]

Article 27

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

(for Articles 27–29 see substitution against Article 23 on page 6).

Article 28

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

Article 29

1. Everyone has the right to rest and leisure.
2. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Article 30

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

Article 31

(Text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities). *Omit*

[9]

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

Article 32

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights. *Omit*

Article 33

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed to the destruction of any of the rights and freedoms prescribed herein. *Omit*

(The Articles are to be arranged in the order as appeared in document E/CN.4/AC.1/18, Draft International Declaration on Human Rights, submitted by the Delegation of

China, to the second session of the Drafting Committee of the Commission on Human Rights).

E/CN.4/103

27 May 1948

Original Text: French

**Belgium: Amendment to Article 13 of the
Draft Declaration of Human Rights
(Document E/CN.4/95)**

The Drafting Committee's text should be replaced by the following:

1. Every person has the right to contract marriage and to establish a family.
2. The family, based on marriage, is the fundamental unit of society. Since on these grounds it has certain inalienable and indefeasible rights, it shall be protected by society and the State.

E/CN.4/104

27 May 1948

**Synopsis of the Texts of the Draft Declaration on Human Rights
and the Draft International Covenant on Human Rights
as Contained in the Report of the Second Session
of the Drafting Committee (E/CN.4/95)
(Prepared by the Secretary-General)**

[Part I of this document reproduces in tabular form the draft declaration and the draft covenant adopted by the Drafting Committee. Part II lists provisions of the draft covenant that are without any counterpart in the draft declaration. It is a working paper prepared by the Secretariat based upon materials in other documents prepared for the convenience of those who were working on the draft covenant, and is omitted from this compilation.]

E/CN.4/SR.49
27 May 1948⁸⁸

Summary Record of the Forty-Ninth Meeting
[of the Commission on Human Rights]

Lake Success, New York on Thursday,
 27 May 1948, at 11.00 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Lebeau, Belgium; Mr. Santa Cruz, Chile; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Representatives of Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Observer from inter-governmental Organization:* Mr. Howell, World Health Organization. [2] *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations; Mr. Goldsmith, Agudas Israel World Organization Co-ordinating Board of Jewish Organizations; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Robb, Liaison Committee of Women's International Organization; Mr. Bienenfeld, World Jewish Congress. *Secretariat:* Mr. Laugier, Assistant Secretary-General in charge of Social Affairs; Professor Humphrey, Director, Human Rights Division

[3]

MR. PELT (Secretariat) expressed the hope that a statement regarding the documents situation would remove some of the misunderstandings which had arisen.

His department's budget was based on average workloads, spread evenly over the year. Peak loads were sometimes inevitable and provision had been made for them in two ways. If the peak load could be foreseen in good time, temporary staff was engaged. If the peak load arrived suddenly, as when a Commission requested a night meeting, there was some provision in the budget for that. The budget provided only for occasional peak loads, however, and since the middle of January peak loads had been almost routine. As a result, the mimeographing service was in permanent need of more staff, and not a single week had passed without the present staff working overtime. The translation service was in a similar situation. That was why it had been necessary some two weeks ago to cancel all meetings for a few days, and that was why the Secretariat sometimes had to ask Commissions and Committees to wait a few days for documents.

⁸⁸ This is the date of the meeting. The document was issued on 2 June 1948.

As things stood, there was a risk of the budget provision for overtime and temporary assistance being exhausted long before the end of the year. Nor was it only a question of money. There was also the health of the staff to be considered. Many categories of the staff had been doing more overtime than was good for them, and overdue leave ran into hundreds of thousands of man-hours. In fact, the Secretariat had reached the extreme limit of working capacity, and the only way to cope with the problem was to spread out the work. It would be recalled that the Advisory Committee on Administrative and Budgetary Questions had criticized the Secretariat for not keeping the work on an even keel.

[4]

That was the general picture. As to the particular difficulties of the Commission on Human Rights, Mr. Pelt understood that complaints had been made that summary record writers were not always available. The reason was simple. The budget approved by the last General Assembly had provided for enough summary record writers to serve six meetings a day. For several weeks past there had been many more than six meetings a day and consequently some meetings had not been covered. In such cases, the Secretary-General's instructions were that the committee secretary should furnish a short, comprehensive report.

With regard to translations it was true that rule 30 of the rules of procedure said that "a translation of the whole or part of any summary record into any of the other official languages shall be furnished if requested by any member." It was difficult, however, to equate that right to translations into terms of time and money. For one thing, it was almost impossible correctly to estimate how much translation would be required. For another, the last General Assembly had been in a mood of economy. In that connexion the General Assembly had endorsed the Advisory Committee's view that, while the Secretariat should take the lead in urging economy, it could not be expected to succeed without the cooperation of delegations, who were asked to keep their demands to a minimum.

Mr. Pelt concluded by stating that he was not suggesting either an increase in the budget or a decrease in the workload. He was only asking the Commission to abide by the assumptions on which the budget had been drawn up and, especially, to reduce peak loads.

MR. SANTA CRUZ (Chile) expressed satisfaction at Mr. Pelt's statement. It was well known how the General Assembly had cut the budget, [5] and it was his opinion that serious mistakes had been made then. He had only two questions to ask Mr. Pelt. The first was whether summary records could be made as complete as possible and circulated as soon as possible. It was obvious that the fullest records

possible were desirable in the drafting of an instrument like the Covenant on Human Rights.

His second question was whether the Commission could be provided with working documents in the two working languages at the time when they were needed. The Latin-American delegations rarely made use of their right to have documents translated into Spanish, but there were some of them who knew only one of the two working languages. When they came to final drafting, it was essential to have the documents in a language that could be completely understood.

MR. PELT (Secretariat) referred back to his statement that the department was staffed to provide summary record writers for only six meetings a day. That day there were thirteen. In such cases, he could only follow the Secretary-General's instructions and select the meetings to be covered. His answer to the representative of Chile must therefore be that in normal circumstances the Secretariat would provide the service required, but that in abnormal circumstances he could make no promise.

With regard to translations his answer must be similar. In normal circumstances the required service would be provided. If, however, the Security Council, for example, should suddenly require an unusually large volume of translation, he could not guarantee the required service to all the Commissions and Committees. The ultimate solution was to even [6] out the work. The staff should not be based on peak loads.

MR. SANTA CRUZ (Chile) said he had had no doubt that the Secretariat was doing its best. He only wished to have the facts. If the members of the Commission should find that in those conditions they could not properly fulfil their task, he would ask them to bear Mr. Pelt's statement in mind and perhaps induce the next Assembly to reconsider the situation.

Consideration of Report of the Drafting Committee (Document E/CN.4/95)

THE CHAIRMAN asked for general statements on the report of the Drafting Committee.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that so far there had been discussion only of the formal interrelation between the Declaration and the Covenant on Human Rights. There was also a question of principle to be considered, and in that respect the Charter should be the Commission's guide. The preamble to the Charter reaffirmed faith in "fundamental human rights" and in the "equal rights of men and women" and promised "to promote social progress and better standards of life in larger freedom". Article 13 of the Charter required the General Assembly to initiate studies which would assist "in the realization of

human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.”

Mr. Pavlov recalled his own statement in the Drafting Committee on 4 May when he had listed three basic requirements which the Declaration and Covenant must fulfil. They were:

[7]

1. A guarantee of human rights without distinction of race, nationality, religion or sex and in accordance with the principles of national sovereignty and political independence.
2. Implementation of those rights with due regard to the economic, social and other peculiarities of each country.
3. A definition not only of rights but also of the obligations of citizens to their respective States.

Those three requirements were in full accord with the Charter. In the course of the discussion on the inter-relation between the Declaration and the Covenant it had been said that the Declaration should be of a general character, the question of implementation being left to the Covenant. He could not agree that the Declaration should be confined to pious wishes. If the members of the Commission were serious, they could not oppose the Declaration to the Covenant.

The representative of France had mentioned three points which every article should contain. They were:

1. A definition of the right.
2. A statement as to who gave the right and how it was to be implemented.
3. A statement of the necessary limitations in the interests of democratic government and of society as a whole.

Those principles must apply both to the Declaration and to the Covenant, although there might be some difference in the degree of elaboration in the two instruments.

The United Kingdom representative had said the day before that the Declaration's main importance would be as an educational instrument. Education was important, of course, but the Commission had not met to prepare only an educational document. The Declaration must be a [8] recommendation, eventually endorsed by the General Assembly, to all the Members of the United Nations. It should not be a mere listing of pious hopes and of educational aims for adolescents.

There was one important aspect of the Declaration and Covenant which should not be overlooked. That was that their texts should be acceptable to Members of the United Nations with differing economic systems. In illustration he would cite the

two questions of the right to property and the right to work. In the draft Declaration it was stated that arbitrary deprivation of property was inadmissible. The USSR Constitution recognized the right to private property, resulting from individual labour and not from the exploitation of others. But besides private property there was another system of property, and that was socialist and collective property.

It would be possible to prove that private property had acted as a brake on progress and ensured the continuance of extremes of poverty and wealth. It would be possible also to prove the superiority of a property regime where the land belonged to the peasants and the factories to the workers. If, therefore, any statement about private property was to be put in an international document, mention must also be made of the other form of property. The Geneva draft had said correctly that property regimes were determined by the laws of the individual countries. That was an expression of the equality of the two systems. The Drafting Committee had deviated from that line, however. The Declaration should state that every man could have property, alone or collectively.

Representatives should not ask the impossible of each other. The USSR could never agree that only private property could be guaranteed. With regard to the right to work, in the USSR, this right was real and tangible, guaranteed by the Socialist system, by control of [9] production, and by the elimination of economic crises. A generation had grown up in his country which did not know what unemployment meant. To that generation a declaration of a right to work sounded like an old-fashioned manifestation of an ancient system.

It would be incorrect for him to ask the United States representative to undertake to eliminate unemployment in the United States. The economic system in the United States made that impossible. In capitalistic states, not counting the Far East, there were some twenty to thirty millions in a state of want who formed a regular army of unemployment. He could, however, ask that something concrete should be done. Instead of merely making a general statement about the right to work, the relevant article should list measures to be taken to ensure that right. The representatives of the old and of the new democracies held very different views on those two questions. But they could come to some understanding.

Mr. Pavlov pointed out that there were two further questions, democracy and fascism and Nazism, which should be considered. He regretted that every reference to democracy had been eliminated from the draft International Declaration on Human Rights. That was a serious omission; mention of the principles of democracy and of the struggle against fascism and nazism should be included in both the Declaration and the Covenant.

The Commission was bound to take a definite stand in favour of democracy and outline realistic measures against fascism. The Drafting Committee seemed to be afraid of the word democracy. The United Kingdom representative had opposed the

mention of democratic fundamentals on the ground that the word democracy could be interpreted in various ways. Such an attitude must be considered erroneous. During the war there seemed to be no doubt concerning the concepts of democracy [10] and those of fascism and nazism. The United States, the United Kingdom and the USSR declaration regarding Italy made on 1 November 1943 had clearly stated that “Allied policy towards Italy must be based upon the fundamental principle that fascism and all its evil influences and emanations shall be utterly destroyed”, that “all fascist and pro-fascist elements shall be removed from the administration and from the institutions and organizations of a public character,” and that “fascist chiefs shall be arrested and handed over to justice”. The same declaration had also provided that “freedom of speech, religious worship, political belief and of the press and public meetings shall be restored in full measure to the Italian people”.⁸⁹ Similar terms had been used in the Yalta Declaration of 11 February 1945⁹⁰ which proclaimed the purpose “to destroy German militarism and nazism” and to “wipe out the Nazi Party, Nazi laws, organizations and institutions, remove all Nazi and militarist influences from public office and from the cultural and economic life of the German people”. In its section on liberated Europe, the Yalta Declaration had stressed that the last vestiges of nazism and fascism must be destroyed and that democratic institutions should be created. The Potsdam Agreement of 5 August 1945 had clearly indicated that all discrimination on grounds of race, creed or political opinion should be abolished.⁹¹

Thus it was evident that international instruments contained abundant references to democracy, and anti-democratic movements. It was difficult to understand why the Drafting Committee had not seen fit to retain them. Contrary to the opinion of some members, a definition of democracy and of fascism was not difficult. Democracy could be defined as the power of the people to participate in their government and carry out its functions, while fascism meant dictatorship, imperialistic in its [11] foreign policy and reactionary in its domestic policy. During the war no definition of those terms had been required. The USSR had offered

⁸⁹ The “Declaration Regarding Italy” was adopted by the United States, the United Kingdom and the Soviet Union at the Moscow Conference held in October 1943. It was terminated by the Treaty of Peace with Italy of 10 February 1947.

⁹⁰ Roosevelt, Churchill and Stalin adopted the Declaration at the close of the Yalta Conference (also known as the Crimea Conference) that took place from 4 to 11 February 1945 in the Livadia Palace.

⁹¹ Truman, Churchill (followed by Clement Attlee after the British election) and Stalin met in Potsdam, on the outskirts of Berlin, in July 1945. The Agreement called for the establishment of a Council of Foreign Ministers and tasked the Council with preparing the Peace Treaties for Finland, Hungary, Romania and Bulgaria; set out the political and economic principles governing the treatment of Germany during its control by the allies; outlined the reparations claimed from Germany (but not Austria); ordered the dismantlement of the German army and transfer of territories; committed to bringing war criminals to justice; recognized the Provisional Government in Poland and permitted Poles who served in the British Army to return to Poland; called for the transfer of Germans from Czechoslovakia, Hungary and Poland to Germany; required the immediate removal of allied troops from Tehran, Iran and resolved other matters concerning post-war order. The matter of former Italian colonies was decided at the Paris Peace Conference in 1947.

assistance to the European democracies, and taken upon itself a noble liberating mission without asking for definitions. At that time all the Allies had known what they were fighting for. What had united the nations during the war might unite them also at present if there existed a genuine desire for agreement. However, the Drafting Committee had not shown such a desire.

The representative of the USSR did not find the draft Declaration satisfactory. It did not contain a reference to fascism and nazism as most odious phenomena, and made only one passing mention of democracy. No provisions were made to ensure racial and religious equality and protection against discrimination. He contrasted the situation of such minorities as the Negroes in the United States and the Indians in the Union of South Africa, with that existing in the USSR where all citizens enjoyed absolute equality, where sixty nationalities lived side by side in peace and where discriminatory propaganda was punishable by law. The Drafting Committee had excluded such items from its consideration. The same applied to a number of other articles of the draft Declaration such as those dealing with the right to use one's own language in court or in education and the equality of men and women in public life. The greatest weakness of the draft Declaration was its purely theoretical character and the lack of any reference to the steps which should be taken to implement its provisions.

The same remark might be made about the article dealing with a person's right to leave his country. That article seemed to imply that an emigrating person had no duty towards his nation; it could even be interpreted as an encouragement to anti-patriotic steps. The fact that [12] the individual had obligations was mentioned only in passing in article 2.

Mr. Pavlov considered that the Drafting Committee had improved the Geneva document only very slightly and that the present draft hardly represented a step forward. The draft Declaration would certainly have gained if the USSR proposals concerning slave traffic, illegal arrest, equality before the courts, equality of the sexes and of coloured peoples, had not been rejected. It was also regrettable that the article on freedom of expression and of the right of asylum had not been accepted in the form suggested by the USSR delegation, namely, that freedom of expression could not be used to propagate fascist theories and hostility among nations and that the right of asylum should be limited to liberals.

In conclusion Mr. Pavlov stated that the objective of the draft Declaration should be the improvement of the living conditions of millions of people, the elimination of discrimination and the safeguarding of democratic principles. In addition to proclaiming those objectives the Declaration should also state the means for their implementation. More important than the mere fact of collaboration in drafting the document was a genuine desire for cooperation in putting its principles into practice.

THE CHAIRMAN announced that three more speakers were scheduled to make statements in the general discussion. She suggested that those statements should be made at the end of the afternoon meeting.

MR. VILFAN (Yugoslavia) declared that instead of making a general statement he would limit himself to commenting in detail during the discussion of the declaration paragraph by paragraph.

[13]

MR. SANTA CRUZ (Chile) and MR. MALIK (Lebanon) said they would like to speak prior to the detailed consideration of the draft Declaration.

THE CHAIRMAN pointed out that if general statements were to be made at the afternoon meeting the Commission would have to vote whether it wished to rescind its decision adopted at the previous meeting, that the general statements should be confined to the morning meeting.

The Commission rescinded its decision. It was also decided that the time for the statements would not exceed one hour.

The meeting rose at 1:15 p.m.

E/CN.4/SR.50

27 May 1948⁹²

Summary Record of the Fiftieth Meeting **[of the Commission on Human Rights]**

Lake Success, New York on Thursday,
27 May 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Santa Cruz, Chile; Mr. Chang, China; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Representatives of Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Observers from Inter-governmental Organizations:* Mr. Stone, Preparatory Commission of the International Refugee Organization; Mr. Howell, World Health Organization. [2] *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade

⁹² This is the date of the meeting. The document was issued on 4 June 1948.

Unions; Miss Stuart, World Federation of United Nations Associations; Mr. Goldsmith, Agudas Israel World Organization Co-ordinating Board of Jewish Organizations; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Robb, Liaison Committee of Women's International Organization; Mr. Bienenfeld, World Jewish Congress. *Secretariat*: Professor Humphrey, Director, Human Rights Division; Mr. E. Lawson, Secretary of the Commission

[3]

MR. MALIK (Lebanon), on a point of order, asked whether copies of the statement made at the previous meeting by the USSR representative could be distributed.

MR. PAVLOV (Union of Soviet Socialist Republics), after thanking the Lebanese representative for his interest, stated that he would be pleased to make the full text available for reproduction. He drew the attention of the Commission to document E/CN.4/AC.1/29, which contained the text of a statement he had made in the Drafting Committee on 4 May. Many of the arguments he had put forward in his speech at the previous meeting of the Commission were repetitions of the earlier statement.

Continuation of the General Discussion on the Purpose of the Declaration

MR. MALIK (Lebanon) commended the sound procedure of the USSR representative in taking the Charter as the point of departure for his speech.

Human rights and fundamental freedoms were mentioned seven times in the Charter. The first mention was in the Preamble, where the determination to reaffirm faith in human rights was second only to the determination to avert future wars. Article 1 declared the promotion, and encouragement of respect for human rights and fundamental freedoms to be one of the purposes of the United Nations, and placed it on an equal footing with the work of the Economic and Social Council. The structure of Article 13 should be especially noted, in that it emphasized the equal importance of the promotion of international activities in the economic and social field, and assistance in the realization of human rights and fundamental freedoms. Article 55, which dealt with the conditions of wellbeing necessary for peace and security, singled out the question of human rights for mention in a separate category. Here the mandatory character of the Article should be noted. States were obliged to [4] see that human rights were not only promoted but observed. In Article 62 the promotion of human rights was mentioned as one of the possible functions of the Economic and Social Council; therein lay the point of departure for the work of the Commission on Human Rights as a subsidiary body of the Economic and Social Council. Article 68 was among the most important in the field of human rights, since it expressly ordered the establishment

of a commission for the promotion of human rights. Finally, Chapter XII gave as one of the objectives of the trusteeship system the encouragement of respect for human rights and fundamental freedoms for all.

Four conclusions could be drawn from a study of the Charter: first, that the promotion of respect for human rights was second only to the maintenance of peace and security. The violation of human rights was one of the causes of war, and, if the first aim of the United Nations was to be attained, the observance of human rights must be guaranteed. Secondly, the Commission on Human Rights was in the unique position of being the only Commission mentioned by name in the Charter. Thirdly, the function of the Commission was the promotion of human rights, and since it could not promote what was still vague and undefined, the first task of the Commission must be a precise definition of those rights. It could be said that the Commission was called upon to finish the work initiated by the Charter, in giving content and meaning to the phrase "the dignity and worth of the human person". In the fourth place, since it had been decided at San Francisco that an elaboration of human rights, which had been urged by many delegations, was too large a task to be attempted at that time, the Commission was virtually a prolongation of the San Francisco Conference and its work a completion of the Charter itself. Those facts should be borne in mind, since the Commission was apt to be regarded as just another organ of the United Nations, it was, in fact, more fundamental than any other body of the Economic and Social Council, and almost as fundamental as any of the principal organs of the United Nations.

[5]

Mr. Malik urged the Commission to bear those facts in mind when preparing the Declaration and the Covenant of Human Rights. The Commission should moreover consider whether the resolution of the General Assembly giving effect to the Declaration and Covenant could be given greater weight and importance than ordinary General Assembly resolutions. The Bill of Rights might become a supplement to the Charter at the first international conference where the question of the revision of the Charter was considered. The Declaration was not a simple resolution of the General Assembly; but a continuation of the Charter and must have the dignity of the Charter.

Mr. Malik declared that he would not go into details on the substance of the draft Declaration, but would speak on various points as they arose in discussions at future meetings. He had, however, a few comments to make on the statement by the USSR representative at the previous meeting.

A study of Russian literature had shown him that the USSR had two positive messages for the world: hatred of inequality and discrimination on any ground whatever, and insistence on the importance of social and economic factors in human life. Although those two great challenges were real, and appreciated by the rest of

the world, the Commission should take a more comprehensive outlook and should try to harmonize those ideas with some of the older elements in human culture. It was easy to fall into the error of over-simplification, and to consider that such things as non-discrimination and universal employment, guaranteed by the State, represented the most important factors in human life. For his part, Mr. Malik thought that the most fundamental human rights and freedoms were spiritual, intellectual and moral; he would not be satisfied with mere social security and lack of discrimination except as means to a higher end, namely, the freedom of spirit. The various contributions in the field of human rights made by the diverse cultures in the world must [6] be taken into account, and the crucial part of the Commission's task would be the determination of the hierarchy of values.

MR. SANTA CRUZ (Chile) said that, with regard to the draft Declaration, the Chilean delegation had made certain reservations from time to time in the Drafting Committee, and would recall them as the items in question arose.

He shared the opinion of various delegations that the Declaration should as far as possible be brief, so as to be easily understandable to the common man. However, since the draft Covenant did not cover all phases of human rights, it was necessary to draw up a more comprehensive Declaration.

Mr. Santa Cruz urged that the Preamble must be studied before the concrete provisions could be considered. It was essential to define the relations of the individual to the State, for the conception of human rights was not the same in all States, and without such a definition misunderstandings were bound to occur.

The delegation of Chile believed that both the Declaration and the Covenant must be inspired by the principles of the Charter. It had been recognized at San Francisco, when the horrors of war and totalitarianism were still fresh in the memory of the world, that if the causes of war were to be eliminated the sovereignty of States must be limited by considerations of international solidarity and co-operation, and the economic level of the peoples of the world must be raised. The Chilean delegation had made it clear in the Drafting Committee that it could not support a Declaration that did not embody those principles. Economic and social rights must find their place in the Declaration; the right to work, the right to an equitable salary, the right to health, education and social security, and to the benefits of culture and scientific progress must not be omitted. Mr. Santa Cruz urged the importance of taking into account the ideals which had inspired the French revolution.

[7]

Another point that had been upheld by the delegation of Chile was that the preservation of democracy was a fundamental duty in the organization of a peaceful world. Human rights and fundamental freedoms must be so defined as to make the rights of the individual compatible with the idea of democracy. Mr. Santa Cruz

hoped that the Declaration would embody a conception of democracy based on respect for human rights and the dignity and worth of the human person, and that there would be provisions against the abuse of such rights.

**Consideration of Draft International Declaration on Human Rights,
Submitted by the Drafting Committee
(Annex A of document E/CN.4/95)**

THE CHAIRMAN, speaking as the representative of the United States of America, stated that her delegation had examined the various amendments to the draft Declaration. The draft submitted jointly by the Indian and United Kingdom delegations (document E/CN.4/99) appeared to condense effectively the articles of the draft declaration while retaining the basic principles of the text adopted at the second session of the Commission. The United States delegation, therefore, associated itself with that draft, and recommended it for the consideration of other delegations. Speaking as Chairman, she asked members to submit any amendments to articles 1 to 15 by the end of the day, and to the remainder of the articles not later than 1 June.

MR. CHANG (China) drew attention to the shorter draft Declaration submitted by his delegation, and contained in Annex A of the report of the Drafting Committee. The Commission was dealing with one of the most serious questions before the United Nations and the whole world. The principal aim of the Declaration was to call the attention of the world to certain fundamental human rights, with a view to educational advancement. The term "education" was here used in the broad sense of how to improve the quality of life. The Declaration should be as simple as possible and in a form [8] which was easy to grasp. He urged those members of the Commission who had not served on the Drafting Committee to examine carefully the Chinese Draft.

MRS. MEHTA (India), introducing the draft Declaration submitted jointly by her delegation and that of the United Kingdom (document E/CN.4/99), explained that the draft Declaration of the Drafting Committee had been criticized as being too long, and containing several irrelevant matters. The Declaration, which laid down general principles, must be as precise as possible if it was to be understood by the common man.

It had been decided at the second session of the Commission to draft both a Declaration and a Covenant. The Declaration was not a legal document, but one which would be effective through its moral force and the support of world opinion. If the Declaration was to reach and be understood by every member of the public, the shortcomings of the draft Declaration before the Commission, its length and its inclusion of various unnecessary details must be removed. The clauses of

implementation would be more appropriate in the Covenant. The Declaration aimed at defining the rights of individuals, not the rights of States. It must have human appeal, and should not be too condensed or too terse. She thought the Chinese draft was too terse. The French draft, on the other hand, while having a human appeal, went into too many details.

MR. WILSON (United Kingdom) associated himself wholeheartedly with the statement of the Indian representative. If the Declaration was to reach the greatest possible number of people, it was essential for it to be expressed in the simplest terms.

The members of the Drafting Committee had impressed him as being in substantial agreement on the general principles of the Declaration. The Chinese draft had had a good effect on the work of the Committee, by illustrating how concisely it was possible to enumerate principles upon which all were in fundamental agreement.

[9]

Mr. Wilson now asked the Commission to consider the draft submitted by the Indian and United Kingdom delegations as an attempt to find the middle road between the text adopted at the second session of the Commission and the very concise Chinese draft.

Article 1

MRS. LEDON (Vice-Chairman of the Commission on the Status of Women) stated that at its session in January 1948, the Commission on the Status of Women had decided unanimously to request the Economic and Social Council to refer to the Commission on Human Rights the following amendments to Article 1 of the draft Declaration:

The words "all people" should be substituted for "all men", and "in a spirit of brotherhood" for "like brothers".

While her Commission realized that the term "all men" had a general sense, there was a certain ambiguity in it and it would be better to use the more precise term, which, moreover, figured in the Charter.

THE CHAIRMAN speaking as the representative of the United States of America, supported the retention of the text as adopted at the second session of the Commission with the minor drafting changes in the India-United Kingdom text, namely "all people, men and women" in place of "all men", and "in the spirit of brotherhood" in place of "like brothers". In supporting those drafting changes, the United Kingdom delegation was expressing the principle of equality for men and women, and its conviction that discrimination against women had no place in the laws of any State. She wished to make it clear, however, that equality did not mean

identical treatment for men and women in all matters; there were certain cases, as for example the case of maternity benefits, where differential treatment was essential.

MR. SANTA CRUZ (Chile) supported the suggestion made by the representative of the Commission on the Status of Women.

[10]

He questioned the correctness of the conclusion drawn in Article 1, that men should act towards one another in a spirit of brotherhood because they were endowed by nature with reason and conscience, and thought the statement was open to controversy.

MR. CASSIN (France) said that the French delegation had been conscious of the criticism which might be levelled at the words “all men” and had therefore used the expression “all members of the human family” in its draft of Article 1. That expression was all-inclusive and had the further advantage of stressing the inherent equality of human beings, a concept which had recently been attacked by Hitler and his ideological disciples.

The idea of the solidarity of men should be made explicit in the Article to convince the peoples of the world that the United Nations firmly believed in their essential brotherhood.

Although he could support the text prepared by the representatives of India and the United Kingdom which was, in his opinion, an improvement over the draft of Article 1 adopted at the second session of the Commission, he wished to have the French text of Article 1 put to the vote.

MR. LEBEAU (Belgium) supported the French draft of Article 1, which, for reasons of common language and common juridical experience and tradition reflected his delegation’s views better than either the Drafting Committee’s text or that submitted by the United Kingdom and Indian representatives. Without wishing to minimize the effort expended in drafting them, he felt that those texts presented various difficulties; the expression “all people, men and women” used in the Indian-United Kingdom text would sound absurd if translated into French (“tous les hommes, hommes et femmes”); furthermore, he felt that in trying to stress the idea of equality, the result was quite the opposite and created the impression of discrimination. The words “all men” used in the Drafting Committee’s text were preferable in his opinion, for that formula had been used in countless declarations in the [11] past. In the Charter, “human” rights, not rights of “men and women”, was used. He thought that a compromise could be reached if Article 1 were to start with the words “all human beings”.

MRS. MEHTA (India) pointed out that the text as presented by her delegation and that of the United Kingdom was essentially the same as that transmitted by the

Economic and Social Council. She wished, however, to hear the opinion of the representative of the Commission on the Status of Women.

MRS. LEDON (Vice-Chairman of the Commission on the Status of Women) thought that the terminology suggested by the Belgian representative covered the idea which the Commission on the Status of Women was anxious to see expressed in Article 1 of the Declaration.

MR. LOUTFI (Egypt) said that he would support the French text of Article 1, but wondered whether the French representative would agree to the deletion of the sentence "They remain so by virtue of the laws".

MR. CASSIN (France) agreed to this deletion.

MR. CHANG (China) amended the text submitted by the representatives of the United Kingdom and India by deleting the full stop after the first sentence and the words "They are endowed by nature with reason and conscience".

The import of that sentence was controversial and its deletion would clarify and shorten the text.

MRS. MEHTA (India) and MR. WILSON (United Kingdom) agreed to the deletion proposed by the Chinese representative.

MR. SANTA CRUZ (Chile) said that he favoured the text proposed by the French representative. It omitted the controversial statements to which he had expressed objection, it appealed to the [12] more concrete principle of the brotherhood of men, and it fulfilled the wishes of the Commission on the Status of Women, with which he fully sympathized. Should the French text be rejected, he would then vote for the text as amended by the Chinese representative, but he pointed out that Professor Cassin himself had originally drafted Article 1, and since he had deemed it necessary to improve upon that draft, he should receive the support of the Commission.

MR. MALIK (Lebanon) expressed surprise at the proposal to delete "nature, conscience and reason". He deplored the tendency to disregard such important concepts, which had originally appeared in both the French and United Kingdom texts.

The first Article of the Declaration on Human Rights should state those characteristics of human beings which distinguished them from animals, that is, reason and conscience. Without reason, the very work they were engaged in would be impossible; what, then, more "reasonable" than the explicit mention of the factor which constituted the basis of their work, in the very first article? He would plead with the members of the Commission to reconsider the matter, and, if necessary, he would even propose the postponement of the consideration of this all-important article until such time as their respective Governments had sent fresh instructions.

MR. WILSON (United Kingdom) agreed that men were endowed by nature with reason and conscience, but thought that it was self-evident. Nevertheless, some people seemed to doubt the truth of that statement and, since in his opinion it was not a matter that could be decided by a vote, he was prepared to accept its deletion.

MR. LEBEAU (Belgium) stated, in reply to the representative of Lebanon, that a Declaration on Human Rights need not begin with a definition of what constituted human beings.

MR. SANTA CRUZ (Chile) denied ever having doubted the fact that human beings were endowed with reason and conscience, but thought that the feeling of brotherhood was not necessarily connected with either.

MRS. MEHTA (India) declared that she had agreed to the deletion proposed by the representative of China for the same reasons as the United Kingdom representative and agreed with the representative of Belgium that the statement was not really essential in a document such as the Declaration.

MR. MALIK (Lebanon) said that he respected the points of view of the representatives of the United Kingdom, India and Belgium who did not object to the deletion of the statement because, in their opinion, its truth was so self-evident that it did not need to be emphasized.

However, he felt that the Commission should mention somewhere in the Declaration, perhaps in the Preamble, the qualities which essentially characterized man, since man and his rights were the Commission's main concern.

The representatives of France, the United Kingdom, the United States of America and China agreed with the suggestion of Mr. Malik concerning the inclusion of those concepts in the Preamble. The representative of Belgium stated that he agreed in principle, but would wish to be able to see the text before giving his final opinion.

MR. LOPEZ (Philippines) was strongly opposed to the deletion of the sentence "They are endowed by nature with reason and conscience" from the text submitted by the representatives of India and the United Kingdom, and proposed that the text originally drafted should be put to the vote.

MR. PAVLOV (Union of Soviet Socialist Republics) said that there would be difficulties in translating the expression "all people, men and women" into Russian, as in that language women were automatically included in the notion of "people".

[14]

Regarding the concern felt by the representative of Lebanon lest the Declaration remain without "reason" and without "a conscience", he thought that a solution could be found in the formula "They are endowed with reason and conscience", without mentioning the agent, with respect to which legitimate doubts had been expressed.

However, viewed in the light of present realities, the text of Article 1 appeared wholly misleading. Events happening every day served to convince one that there were people who had neither conscience nor reason, and who were acting towards one another not in a human fashion, let alone in a spirit of brotherhood.

He did not object to general statements, but he thought they were deceptive and could only cause false illusions; the ideal of brotherhood was very praiseworthy, but it was not a legal concept, and no one would ever be liable to prosecution for failure to act “in a spirit of brotherhood.”

The French text, in his opinion, contained even more faults and he would find himself obliged to abstain from voting on Article 1.

The French text for Article 1, as amended by the Egyptian representative, was rejected by seven votes to five, with three abstentions.

After a brief procedural discussion it was decided to put the Chinese representative’s amendment of the text submitted by the delegations of India and the United Kingdom to the vote in separate parts.

The first sentence was adopted by eleven votes to none, with four abstentions.

[15]

The deletion of the first full stop and of the subsequent words up to and including the word “conscience” was rejected by six votes to five, with six abstentions.

The last sentence was adopted by thirteen votes to none, with three abstentions.

The article as a whole was adopted by eleven votes to none, with six abstentions.

[16]

Article 2

THE CHAIRMAN, speaking on behalf of the United States delegation, expressed support for the draft submitted by the United Kingdom and India in preference to the draft adopted at the Second Session of the Commission. It was not desirable, in her opinion, to refer to duties which man owed to society if those duties were left undefined, and it would be more precise to mention restrictions arising from the necessity of achieving the welfare and security of all. She objected to the French text on the same grounds.

MR. CASSIN (France) suggested reversing the order of the two sentences in the text presented by the Drafting Committee. He urged the retention of the words “Just laws” in preference to “just requirements” and thought that the reference to the democratic State was also of great importance.

MR. SANTA CRUZ (Chile) thought both the Drafting Committee's text and that of France were unacceptable because of the difficulty of determining exactly what were the just laws or just requirements of a democratic State. He recalled the remarks he had made previously concerning the necessity of defining the relations between the individual and the State, and the worth of the former in relationship to the latter. Until a definition on which all could agree could be arrived at, it was dangerous to use words which meant completely different things to the representatives present, and which could lead to the severest restrictions on the rights of the individual on the part of some States.

He supported the text submitted by the United Kingdom and Indian representatives because it defined the restrictions of the rights of the individual in terms of the welfare and security of all. It also avoided the philosophic consideration which claimed that society enabled the individual to develop his spirit, mind and body in wider freedom; this, in his view, was a highly controversial statement.

[17]

MR. CHANG (China) drew the Commission's attention to the Chinese draft of Article 2, which condensed Articles 2 and 3 of the Drafting Committee's text in one paragraph. If the Commission desired to arrive at a brief text for the Declaration, he would suggest using the second sentence of that paragraph for Article 2. However, in his opinion, it would be preferable to place the Article on the restrictions of the rights of the individual at the very end of the Declaration, for it was not logical to proclaim the restrictions before the rights themselves had not been stated.

MR. WILSON (United Kingdom) agreed with the representative of Chile and with the Chinese representative's plea for brevity. However, the Chinese draft had the disadvantage of being insufficiently specific and he would prefer the phrase "restrictions necessary to secure due regard, etc." to "recognition of the rights of others".

MR. PAVLOV (Union of Soviet Socialist Republics) requested further time to enable members of the Commission to give due consideration to all the drafts submitted to them. He also felt in sympathy with the French representative's wish to see a reference to the "democratic State" in the article.

MR. CHANG (China) once more stressed the fact that the Declaration which the Commission was drafting was intended to be read and understood by large masses of people, and should therefore be as brief and intelligible as possible. He urged the members of the Commission to give consideration to the draft submitted by his delegation, appearing on pages 14 and 15 of document E/CN.4/95.

MRS. LEDON (Commission on the Status of Women) thanked the Commission for the amendment it had adopted to Article 1, which, although slightly different from

the one proposed by the Commission on the Status of Women, was in conformity with its wishes.

The meeting rose at 5:50 p.m.

E/CN.4/SR.51

28 May 1948⁹³

Summary Record of the Fifty-First Meeting
[of the Commission on Human Rights]

Lake Success, New York on Friday,
 28 May 1948 at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Vice-Chairman:* Mr. Chang Wu, China; Mr. René Cassin, France. *Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Santa Cruz, Chile; Mr. Omar Loutfi, Egypt; Mrs. Mehta, India; Mr. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Representatives of Specialized Agencies:* Mr. R.W. Cox, International Labour Organization. *Consultants from Non-Governmental Organizations:* Miss Toni Sender, American Federation of Labor; Mr. A.J. van Istendael. *Secretariat:* Mr. J. Humphrey, Director, Human Rights Division; Mr. E. Lawson, Secretary of the Commission

[2]

Consideration of Article 2 of the Declaration
(documents E/CN.4/95, E/CN.4/99, E/CN.4/102, E/600)

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that a comparison of the Geneva text of Article 2 of the Declaration with the amendments to it proposed by the Chinese delegation and by the Indian and United Kingdom delegations would reveal that the amendments not only failed to improve the text, but were actually inferior to it.

In spite of some rather serious deficiencies, Article 2 as given in the report of the second session of the Commission on Human Rights preserved the idea of the just requirements of the democratic State. Those words were left out of the Chinese amendment and of the Indian and United Kingdom amendment. He wondered what the reasons for their deletion might be. The representative of Chile had stated during

⁹³ This is the date of the meeting. The document was issued on 9 June 1948.

the previous meeting that the word “democracy” ought to be eliminated because it had not been clearly defined. The Commission would be running counter to the purposes for which it had been set up if it deleted all mention of democracy in the Declaration. He would vote against any amendment deleting the word.

MR. SANTA CRUZ (Chile) denied having said that the concept of democracy had not been clearly defined. He had defined what he personally meant by the word; but different ideas of democracy had been expressed in the Commission. If the meaning of the word were not defined, Article 2 might lead to abuses. The notion of the just requirements of the democratic State varied from country to country. For example, Marxism aimed at the creation of a classless society in which the State as such no longer existed. This definition of its aims showed that its highest stage had not yet been achieved in countries like the USSR, where a powerful State existed. According to the Marxist theory, the USSR was [3] in the intermediate stage of the dictatorship of the proletariat. The organs of information, culture and the arts were controlled by the Party because the revolutionary conscience was the sole source of law. The USSR Government considered that even in that intermediate stage, it represented a democratic State. But he, for his part, could not imagine that dictatorship, even if temporary, could exist side by side with democracy. The Commission was faced with two different concepts of human rights, as had been clearly demonstrated in connexion with the question of the right of emigration. It was therefore only logical to define the notion of democracy.

MR. LEBEAU (Belgium) explained that in his country the word “democracy” was rarely used except in the expression “democratic freedoms.” Those freedoms were so deeply rooted in the Belgian national conscience that there was no need to speak of them except when they were endangered as, for example, by foreign occupation. Consequently he thought such a formula would not serve any useful purpose, since democracy was one of the fundamental institutions of his people and since it had, during recent decades, come to have different meanings in different countries. Mr. Lebeau would vote for the French amendment which he preferred to the Drafting Committee’s text, because it spoke firstly of man’s duties towards society and secondly of the free development of his personality.

MRS. MEHTA (India) considered the Indian and United Kingdom amendment accurate and concise. The words “democratic State” had been avoided as they covered different concepts. Moreover, there seemed no need to say that man had duties towards society since a declaration of rights, not duties, was being drafted.
[4]

MR. VILFAN (Yugoslavia) pointed to a contradiction in the arguments advanced by those who favoured the Indian and United Kingdom amendment. Article 2 was intended to define the limitations to human rights. Those who supported the amendment feared that the limitations might be interpreted differently and that the

word “democracy” might lead to abuses. He felt on the contrary that the wording suggested in the amendment was far more restrictive than the former article 2. According to the amendment, each State would be entitled to limit human rights to the extent to which it considered them contrary to the interests of society and the State. Such a wording would leave the door open for independent decisions.

Referring to the observations made by the Belgian representative, he stressed that democratic freedoms were at present still threatened by the remnants of fascism. It was therefore important to mention them; and the Belgian representative’s argument could be turned against him.

The Drafting Committee’s text was preferable to the French draft amendment. The Declaration dealt with human rights, not duties. He would therefore vote against both the French amendment and the Indian and United Kingdom amendment.

MR. MORA (Uruguay) supported the Indian and United Kingdom amendment. There were certain dangers in the text suggested by the Drafting Committee and by the French amendment, for it involved three categories of limitations: the rights of others, the rights of the State, and the rights of society. A distinction between the State and society might lead to abuses since the State acted only in the name of society; it was better to delete all mention of intervention by the State.

[5]

MR. AZKOUL (Lebanon) observed that the first three articles of the Declaration laid the foundation for the rights subsequently enumerated; for that reason it was permissible to mention in them the duties of the individual. In the first article, the Commission had stated the basis for human rights; the second article should include the bases for the limitation of those rights. He therefore accepted the first part of the French amendment.

In the second part of the amendment the word “State” was open to question. All countries did not consider the State as a desirable entity in itself, with rights that might conflict with the rights of the individual. Whatever opinion the various members of the Commission might hold on the subject the word “State” should be deleted, since it stood for an idea on which all did not agree. On the other hand the words “the welfare and security of all” were acceptable to everybody. He agreed with the representative of Chile that the word “democracy” should not be used. He would be willing to speak of the rights of a democratic State if those rights had been previously defined by an international instrument, but that had not been done.

He therefore proposed that the first part of the French amendment should be combined with the second part of the Indian and United Kingdom amendment beginning with the words “subject only . . .”

MR. CHANG (China) suggested that his amendment should be changed to read as follows: “The exercise of these rights requires recognition of the rights of others

and the welfare of all.” Welfare included the idea of security: and recognition of the rights of all included the idea of democracy. He stressed the value of the voluntary element in the word “recognition”. Emphasis should be placed not on restraining people, but on educating them. The purpose of all social and political [6] education was the voluntary recognition of the rights of others. The Commission’s ideal should not be the imposition of restrictions but rather the voluntary recognition by all of the rights of others. That was the ideal which the Declaration should express.

MR. WILSON (United Kingdom) remarked that while the Chinese representative’s proposal was in many ways a generous one it did contain some dangers too. The limitations provided for in the Indian and United Kingdom amendment included those voluntarily accepted, but in any form of human society it was imperative that the State should impose certain limitations in the interest of all. The word “recognition” merely expressed an ideal and was inadequate to ensure the fulfilment of the Commission’s task.

MR. HOOD (Australia) observed that the purpose of article 2 was to emphasize the fact that every right carried with it obligations. That idea was expressed in the text prepared at the second session at Geneva and, more specifically, in the French amendment, but it was not clearly expressed in the Indian and United Kingdom amendment. If there should in fact be very definite limitations on the exercise of human rights, a clear statement to that effect should be made. He favoured the text prepared at the second session at Geneva and the French draft, and the two might be combined and improved to read as follows: “In the exercise of his rights everyone is limited by the rights of others and by his duties to the democratic society which enables him freely to develop his spirit.” He was opposed to the words “democratic State” but preferred to keep the word “democratic” in connexion with “society”. [7]

MR. PAVLOV (Union of Soviet Socialist Republics) began by remarking that the notions of the State and of democratic society were embodied in the documents signed during the war. No difficulties had then appeared, because the conception of democracy provided a common basis for every interpretation; there was thus no reason for rejecting it today.

The idea contained in the United Kingdom proposal erred in being too vague. Who was to define the “security” and the “welfare” of all? If the Commission were to consider such difficulties of definition, many other articles of the Convention would have to be dismissed.

He had been challenged to speak of democracy, and he accepted the challenge. In his view, a democracy was a State in which all citizens had an equal right to participate in the activities of the Government. That principle was common to all democracies. Other features common to all democratic States and institutions

were the fact that officials were elected and could be superseded, the opportunity given to the masses to participate in government, the obligation for a minority to submit to the majority of the people, and accessibility to all offices of State.

The idea of democracy was linked even by its etymology with that of the people and the power of the people. It had been conceived in antiquity; but the Greeks had not placed power effectively in the hands of the people, whom they regarded as consisting of none but free-born Greek citizens. Hence the majority of the population, being composed of foreigners living in Greece or else of slaves, had no powers. By "free people" the Greeks meant the aristocracy, and their "democratic" State was governed by slave-owners.

In a modern democracy, the State was not a power imposed on society by force. It was a product of the society which had given it birth. The State had unfortunately in certain cases detached itself from the society from which it had sprung, and had come to dominate and oppress that society; the police State, in fact, came into being, and was supported by the class which controlled its economy.

[8]

The State was not eternal; it would cease to exist as soon as class distinctions disappeared. It was necessary to preserve it for the time being in order to protect collective property and to defend the people against its external enemies (in particular foreign spies and saboteurs). Thus certain measures, such as restrictions on freedom of movement, were in the USSR only a defensive reaction of the Soviet people. The State also took charge of the organization of economic and cultural activities. If the Soviet Union had had no enemies, the State would have already ceased to exist, but she was surrounded by them and was therefore forced to take steps to defend herself.

The advantage of the Soviet conception of the State was that it was democratic in a new sense of the word. It was supported by the immense majority of the people and was bound up with the defence of fundamental human rights. That was true democracy: the right to participate in government. That right existed in theory in many States, but was not exercised in fact.

Quoting figures to show the extent to which the peoples of the Soviet Union participated in government, he said 101,717,000 electors had registered in the last national elections. Out of that number, 101,450,000 had voted, i.e. a proportion of 99.7%. The candidates on the Governmental Communist list had received 100 million votes, i.e. 99.18%. There had been 819,000 adverse votes, i.e. 0.1%. In the local elections there had been 100,630,000 voters and the opposition amounted to only 818,000 votes, i.e. 0.18%.

Soviet popular democracy was thus based on unity. The same characteristic was found in certain States of Eastern Europe. That unity had also been demonstrated by the Soviet people during the war; they had defended their system of Government when they might have abandoned it; they had stood firm when they might have

deserted. The heroism and the spirit of sacrifice of the Russian people had shown how much they valued the system. It was therefore a real democracy.

It had been claimed that the Soviet system was not a hundred per cent democratic because it had only one party. Since when was the existence of a number of parties the criterion of democracy? Such a variety of parties merely signifies [9] the existence of a class war: there were landowners' parties, middle class parties, peasants' and workers' parties, the last two being often separated by divergent interests.

In the Soviet Union there was neither a middle class nor a landowning class, and the fundamental interests of the peasants and the workers were identical. Was it suggested that there should be a number of parties in the USSR? In that case a middle class and a landowning class would have to be introduced there. But the Soviet people could well dispense with such exploiting classes. They did not want them.

Thus the moral unity of society under the Soviet regime had proved itself in the test of war and had subsequently been confirmed by the elections. Millions of people participated in the activities of the central Government and the local governments. The single party adequately defended the interests of the people and the rights of man.

The Soviet Union did not repudiate the progressive elements in the bourgeois or capitalist democracies. The capitalist system was obviously an advance on the feudal system; it was obviously more tolerable than the Hitlerian State, the symbol of the totalitarian State. Under the capitalist system government was carried on not by the people, but by a minority, by the Rockefellers and the Morgans. Frequently trusts and monopolies were the masters. That was not democracy; capitalism rejected democracy and replaced it by an oligarchy.

He did not wish to criticize American democracy, since it had many features in common with Soviet democracy. The discussion had been caused by the remarks made by certain delegates. He observed that the struggle against Fascism had not been delayed until a definition of it was found, and for comparable reasons the representative of the USSR opposed the deletion of all mention of democracy in article 2.

MR. CASSIN (France) pointed out that the French text fulfilled certain requirements not covered by the United Kingdom-Indian proposal. In fact, it was a combination of three different texts:

[10]

1. The text describing society's duty towards the individual;
2. The text defining the fundamental duties of man;
3. Finally, the text according to which everyone is limited in the exercise of his rights by the rights of others.

Those three elements had reappeared during the discussion. The Indian and United Kingdom proposal, however, did not refer to the relations between man and society or to their mutual duties.

The second part of the French text was a compromise; that was why it retained the idea of the democratic State, which was much less important than that of democracy itself. The State was, in fact, a perishable product of society, but it had to be maintained, for it centralized the legislative power.

Government of the people, by the people, for the people: he could see no reason for abandoning that conception of democracy. In his view the criterion of democracy in any nation was the extent to which human rights were really respected. A State which did not respect them was not democratic, even though it claimed to be so; hence the supreme importance of the word, which must be retained.

If the text proposed by his delegation were not adopted, he would vote in favour of the text proposed by the representative of Australia.

THE CHAIRMAN appointed a drafting committee, composed of the representatives of Australia, China, France, India, Lebanon and the United Kingdom, to consider the various proposals before the Commission and submit two texts, one containing and the other omitting the notion of the democratic State. If the Committee could not reach agreement, it would at least suggest the order in which the various proposals should be put to the vote.

MR. LOPEZ (Philippines) had been deeply interested in the lengthy discussion of the Soviet Union representative, but he did not think it served any useful purpose at the present stage of the discussion. His delegation [11] had voted in favour of the Geneva text and was not afraid of the word democracy. Such fears would not exist had not the representative of the Soviet Union been given the opportunity to appear as the sole champion of democracy.

The conceptions embodied in the Draft Declaration were all abstract ones, and if one of them were to be discarded for that reason, then they would all have to be discarded. He for his part would vote in favour of the text proposed by the Australian representative.

MR. AZKOUL (Lebanon) thought the USSR representative was confusing the sphere of action with that of thought. The members of the Commission were not on a battlefield; their sole duty was to draw up a declaration.

He agreed with Mr. Cassin's conception of democracy. If the representative of the Soviet Union insisted on drawing a distinction between capitalist and communist, majority and minority democracies, then there would be no other solution but to define in the Declaration what kind of democracy was meant.

MR. SANTA CRUZ (Chile) disclaimed any wish to criticize Soviet democracy; he had confined himself to pointing out certain differences. The speech of the USSR representative, which had criticized other forms of democracy, had merely confirmed those differences. In this connection, he would recall that twenty-one nations meeting at Bogotá had adopted a resolution condemning Communism as anti-democratic.

MR. PAVLOV (Union of Soviet Socialist Republics) considered that the discussion should cover all possible forms of democracy. Those democracies lived together and could continue to live together in peace. If that conception was maintained in the Declaration, none of those forms need be excluded. The essential point in his opinion was respect for the will of the people. That principle had been recognized in the Atlantic Charter.

[12]

The representative of the USSR concluded by appealing to all the members to cooperate, and stated that he would like to have an immediate vote on the various proposals. He would vote in favour of the text proposed by the French delegation and the Geneva text.

MR. CASSIN (France) recalled that there were three different ideas in connection with article 2:

1. To mention the democratic State;
2. To make no mention either of the State or of democracy;
3. To mention democratic society.

He thought, therefore, that the Drafting Committee should submit three texts instead of two.

The meeting rose at 12:55 p.m.

E/CN.4/SR.52

28 May 1948⁹⁴

Original Text: French

Summary Record of the Fifty-Second Meeting
[of the Commission on Human Rights]

Lake Success, New York on Friday,
28 May 1948 at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Santa Cruz, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Mora, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the

⁹⁴ This is the date of the meeting. The document was issued on 8 June 1948.

Status of Women. *Representatives of Specialized Agencies*: Mr. R. W. Cox, International Labour Organization. *Non-Governmental Organizations*: Miss Toni Sender, American Federation of Labor; Mr. van Istendael. *Secretariat*: Mr. J. Humphrey, Director, Human Rights Division; Mr. E. Lawson, Secretary of the Commission

[2]

**Continuation of the Consideration of the Draft International
Declaration on Human Rights
(Document E/CN.4/95 Annex A)**

Article 2

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

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

The suggestion of MR. SANTA CRUZ (Chile) that paragraph 1 as drafted by the Sub-Committee should be voted in two parts was accepted. After an exchange of views, it was decided that the two paragraphs would be put to the vote in the order in which they appeared in the Subcommittee's text.

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

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

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

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

[3]

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

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

Article 3, paragraph 1

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

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

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

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

He called attention to the dangers inherent in the Chilean amendment; it would oblige States to give equal rights to persons of different sexes or religions, which was frequently neither possible nor desirable, and consequently work against the very ideal which it pursued. Moreover, it was unlikely that Governments would accept the paragraph thus amended. He urged [4] the Commission not to attempt too much and not to interfere with either international law or accepted distinctions among groups of human beings.

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

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

MR. PAVLOV (Union of Soviet Socialist Republics) supported the remarks of the United Kingdom representative. If any fundamental human rights and freedoms had

been left out of the Declaration, they should be named and discussed; if none had been, the Chilean amendment was unnecessary.

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

MR. WILSON (United Kingdom) and THE CHAIRMAN felt that the new amendment might lead to even greater confusion. The Commission had already, as was its duty, defined in the Declaration rights and freedoms not expressly [5] mentioned in the Charter. The proposed amendment represented a step backward.

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

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

The Commission discussed briefly the meaning of the term “*soslovie*” for which no exact English equivalent could be found.

MR. WILSON (United Kingdom) supported by the Chairman, suggested that the word “property” might be omitted, leaving the word “status”, which would then be all-inclusive.

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

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

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

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

[6]

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

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

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

MR. AZKOUL (Lebanon) said that, on the understanding that the Commission accepted the Chinese representative’s interpretation, he would withdraw his amendment.

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

Article 3, paragraph 2

THE CHAIRMAN recalled that there was a United Kingdom and Indian amendment and a French amendment to paragraph 2 (documents E/CN.4/99 and E/CN.4/82/Add.3). All those delegations had stressed equality before the law and the need of equal protection against arbitrary discrimination; the French amendment also included protection against the incitement to such discrimination. Those three points would be put to the vote separately. Speaking as the representative of the United States, she said that her delegation preferred the simpler wording contained in document E/CN.4/95.

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

[7]

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

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

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

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

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

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

MR. WILSON (United Kingdom) and MRS. MEHTA (India) accepted the Lebanese amendment. The word “All” with which the sentence began was sufficiently comprehensive.

THE CHAIRMAN pointed out that in voting for the first sentence of the French amendment the Commission would be voting on form rather than on substance as the Lebanese amendment had eliminated the substantial [8] difference between the French and the United Kingdom and Indian amendments.

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

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

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

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

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

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

[9]

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

MR. CHANG (China) proposed to incorporate the Philippine suggestion in the article so that the phrase would read “without and against any discrimination”. The word “discrimination” did not apply to useful distinction.

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

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

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

THE CHAIRMAN thought that the word “discrimination” required an adjective since it meant merely “distinction” and did not necessarily have invidious implications.

MR. WILSON (United Kingdom) said that his delegation could not accept the deletion of the word “arbitrary”, which would result in a statement contrary to the established practices and even to the constitutions of many countries. The phrase “against any discrimination” would imply that States had the duty to pass laws forbidding discrimination of any sort. But in certain circumstances discrimination was not reprehensible. For [10] example, in many countries the Prime Minister was chosen because he was the leader of a particular political party; yet surely there should be no law against discrimination on grounds of political opinion in such a case. Mr. Wilson therefore urged that the sentence should be made clear by the retention of the adjective “arbitrary” or, as an alternative, he proposed that the sentence should end after the words “protection of the law” in the second line.

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

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

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

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

THE CHAIRMAN speaking as the United States representative thought the difficulty lay in the differences of opinion concerning the meaning of the word “discrimination”. The adjective “arbitrary” would make clear what was intended. [11] She did not, however, oppose the French suggestion.

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

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

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

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

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

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

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

MR. CASSIN (France) suggested that the words “in violation of the principles of this Declaration” would be broader than his original suggestion [12] and would rest the doubts expressed by some representatives.

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

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

MR. WILSON (United Kingdom) observed that the “without distinction” of paragraph 1 covers all fundamental rights of which the right to equal protection of the law was merely the first.

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

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

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

THE CHAIRMAN put to the vote the proposal to add “without and” before the word “against” in the second line. The proposal was adopted by ten votes to four with two abstentions.

THE CHAIRMAN put to the vote the proposal to delete the word “arbitrary”.
[13]

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

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

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

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

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

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

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

MR. WILSON (United Kingdom) expressed his delegation’s objections to the words “against any incitement to discrimination”. In the United Kingdom where human rights had certainly been respected as much as [14] in any country, there had

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

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

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

MR. CASSIN (France) strongly favoured the inclusion of the phrase in question.
[15]

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

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

In reply to a point raised by MR. PAVLOV (Union of Soviet Socialist Republics), MR. WILSON (United Kingdom) agreed that Sir Oswald Mosley⁹⁵ of the United Kingdom was guilty of anti-Semitic propaganda. He stressed however that he had

⁹⁵ Oswald Ernald Mosley (1896–1980) was a Member of Parliament in the United Kingdom who founded the British Union of Fascists.

not intended to say that there was no incitement to discrimination in his country, but rather to show that the United Kingdom could best deal with such a situation in its own way. Mr. Wilson asked the exact meaning of the phrase “equal protection of the law”. Did it mean that there should be laws which should be applied equally or did it mean that all were equally entitled to whatever protection the law might provide? In the latter case his objections would be largely resolved.

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

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

[16]

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

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

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

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

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

MR. VILFAN (Yugoslavia) particularly cherished the tradition of free speech; but as one who had been unfortunate enough to live under the fascist regime in Italy where discrimination was practised, he felt that incitement to discrimination should be explicitly forbidden.

[17]

MR. AZKOUL (Lebanon) proposed the addition of the word “systematic” before the word “incitement”.

THE CHAIRMAN put to the vote the Lebanese proposal.

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

At the request of MR. LEBEAU (Belgium), the Chairman put to the vote the first part of the deletion proposed by the Chinese representative. The proposal to delete “or against any incitement to discrimination” was rejected by eight votes to seven, with one abstention. Referring to the last part of his proposal, namely, the deletion of the words “in violation of this Declaration”, MR. CHANG (China) pointed out that the comma should be omitted as it affected the meaning of the text. Without the comma the phrase would apply only to the last part of the sentence and would be acceptable.

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

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

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

The meeting rose at 6:20 p.m.

E/CN.4/SR.53

1 June 1948⁹⁶

Summary Record of the Fifty-Third Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday,
 27 May 1948, at 2:30 p.m.⁹⁷

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Specialized Agencies:* Mr. Cox, International Labour Organization; Mr. Lebar, United

⁹⁶ This is the date of the meeting. The document was issued on 4 June 1948.

⁹⁷ The date was changed to 1 June 1948 at 10:45 a.m. by E/CN.4/SR.53/Corr.1 of 11 June 1948.

Nations Educational Scientific and Cultural Organization. [2] *Non-governmental Organizations*: Miss Sender, American Federation of Labor; Mr. van Istendael. *Secretariat*: Mr. J. Humphrey, Director, Human Rights Division; Mr. E. Lawson, Secretary of the Commission.

MR. QUIJANO (Panama) explained the reasons which had prevented him from taking a more active part in the debate. He had been informed of his assignment only on the very eve of the Commission's convening, and thought, therefore, that the observations of one who had not followed the work through its various stages could not be as effective as the opinions expressed by those members who were more familiar with the subject at hand.

Another obstacle was his lack of fluency in the two working languages and the scarcity of documents in Spanish. He had not requested more ample documentation in his language, keeping in mind the difficulties mentioned by the Director of the Division of Human Rights; and had used his vote trying to express his Government's wishes.

He did, however, regret not having intervened in the discussion of the second paragraph of article 3, when it was decided to delete the word "arbitrary", without which the paragraph lost much of its force for the reasons ably expressed by the French representative and the Chairman.

Consideration of the Draft Declaration of Human Rights

Article 4

MR. LEBEAU (Belgium) questioned the necessity of saying that every individual had the right to life, as in his opinion the Declaration applied only to those who were already alive.

In reply to MR. CASSIN (France), who pointed out that at a time when millions of people had been deprived of their life it was important that the Commission should raise its voice in defence and emphasis of that right, Mr. Lebeau said that in that case the wording should be [3] "has the right to protection of his life". If the article were to be put to the vote in its present form, he would have to abstain from voting.

MR. PAVLOV (Union of Soviet Socialist Republics) thought the remarks of the Belgian representative were logical, but since no other wording had been suggested, the article would have to remain in its present form. He recalled that during the discussion on this article in the Drafting Committee he had pointed out that it lacked concreteness and was divorced from actual realities since millions of people were still dying of starvation, succumbing to epidemics and being exterminated in wars.

MR. LEBEAU (Belgium) requested that the article should be voted upon in sections.

THE CHAIRMAN agreed and put to the vote the phrase: "Everyone has the right to life".

It was adopted by fourteen votes to none, with one abstention. The phrase "everyone has the right to liberty and security of person" was adopted by fifteen votes to none.

Article 5

MR. CHANG (China) drew attention to the Chinese draft for article 5, the first part of which was the same as that used in the United Kingdom and Indian draft. For the present, he thought discussion ought to be limited to article 5, leaving the question of merging articles 5 and 8 to a later stage.

MISS SENDER (American Federation of Labor) thought the text presented jointly by the representatives of United Kingdom and India, and the Chinese text, constituted an improvement over the Drafting Committee's text which excluded the notion of compulsory or forced labour. Both the concept of slavery and that of forced labour or involuntary servitude should be covered by the Declaration.

[4]

THE CHAIRMAN, speaking on behalf of the United States delegation, supported the joint United Kingdom and India text as it expressed the thought in terms of a right instead of a prohibition. She thought the expression "involuntary servitude" was appropriate; it expressed the idea of freedom from peonage or forced or compulsory labour.

MR. CASSIN (France) observed that the French text was much wider in scope than the others, for in saying that "slavery in all its forms" would be prohibited all the possible manifestations of slavery would have been covered; whereas forced labour was only one form of slavery, and the article would not be effective against traffic in women and children. It was better not to attempt to enumerate the various forms of slavery for in mentioning some there was danger of forgetting others.

MR. PAVLOV (Union of Soviet Socialist Republics) recalled that during the deliberations in the Drafting Committee he had proposed two amendments: The inclusion of the words "and slave trade" after the word "slavery", and the addition of a second sentence reading "All attempts at the establishment or retention of slavery or slave trade should be prohibited under threat of punishment by law".

THE CHAIRMAN and the representative of India believed the addition of the words "and slave trade" to be unnecessary as in their opinion the word slavery included slave trade. They felt that the sentence proposed by the USSR representative would

be inappropriate in the Declaration, which was a statement of human rights, but could perhaps be considered for inclusion in the Covenant.

MR. CASSIN (France) supported the first amendment proposed by the USSR representative and said that if it were adopted he would not ask for a vote on the first sentence of the French text.

[5]

Although he agreed that slavery and slave trade should be prohibited, he considered the inclusion of the clause on punishment inappropriate in the Declaration for then similar penal clauses would have to be included in every article to cover cases of violation.

The first USSR amendment was rejected by nine votes to six.

The second USSR amendment was rejected by ten votes to four.

The joint United Kingdom and Indian text was adopted by nine votes to three with three abstentions.

MR. CASSIN (France) expressed his Government's desire to see a particularly strong condemnation of slavery included in the Declaration and requested that the last sentence of the French text should be put to the vote.

MR. FONTAINA (Uruguay) stated that he agreed on the substance of the French text but felt that juridical considerations should be left out of the Declaration as they merely served to limit the principle to which they applied.

THE CHAIRMAN agreed with the views expressed by the representative of Uruguay.

The last sentence of the French text, "Their practice is a challenge to the conscience of the world", was rejected by seven votes to two with six abstentions.

Article 3, paragraph 2

THE CHAIRMAN drew the attention of the Commission to the following new draft of article 3, paragraph 2, which had been prepared by the small drafting group set up for that purpose at the previous meeting:

"All are equal before the law and are entitled to equal protection of the law without any discrimination, and against any discrimination in violation of this Declaration or incitement to such discrimination."

[6]

MR. HOOD (Australia) objected that there was over-elaboration of the wording at the expense of clarity, and that the word "discrimination" had been used with two different shades of meaning. He proposed that the word "distinction" should be

substituted for the first use of the word “discrimination”, so that the wording would then be “. . . without distinction, against any discrimination . . .”

MR. CHANG (China) explained that the small drafting group had not been particularly satisfied with the final wording; the text had, however, the advantage of being in conformity with the decisions taken by the Commission at the previous meeting, and could therefore be adopted without the Commission reconsidering the votes already taken.

MR. WILSON (United Kingdom) stated that he, as a member of the drafting group, was bound by the text it had produced. He reminded the Commission that he had opposed the inclusion of the clause “against discrimination and against incitement”; since, however, the Commission had decided in favour of its inclusion, the present draft represented the most satisfactory one within that decision. He proposed therefore, that the second part of the paragraph should be put to the vote first. He was willing to accept the Australian amendment.

MR. CASSIN (France) also declared his readiness to accept the Australian amendment, provided the Chinese representative had no objection to it. From the point of view of style, he found it an improvement.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) averred that, in spite of the long discussion of article 3 at the previous meeting, when decisions had been taken concerning its contents, the text now proposed represented something quite different. In his opinion it would be incorrect to reconsider the decisions already taken, and therefore the only part of the draft open to discussion was the phrase “in violation of this Declaration”, which had not been agreed upon at the earlier meeting.

[7]

MR. WILSON (United Kingdom) assured the Byelorussian representative that he was not proposing the reconsideration of the paragraph; he had merely suggested that a vote should be taken first upon that part of the paragraph which had not been decided upon earlier.

THE CHAIRMAN stated that, as the Australian amendment was only a minor drafting change, it could be accepted without reconsidering earlier votes.

MR. PAVLOV (Union of Soviet Socialist Republics) protested that the drafting group had gone beyond its terms of reference, which had been to decide where the phrase “in violation of this Declaration” was to appear in the paragraph.

The Australian amendment only made the position more complicated, since the Commission had decided upon the word “discrimination”.

THE CHAIRMAN pointed out that the drafting group had not exceeded its mandate, since the new draft contained no substantive changes from the decisions which had been taken at the previous meeting.

MR. CHANG (China) recalled that by the two votes taken at the previous meeting, the Commission had decided that the phrase “without and against any discrimination” was to be included, and that mention was to be made of incitement to discrimination. The only question not decided had been the position of the phrase concerning the principles of the Declaration, the inclusion of which had been suggested by the representative of France. The drafting group had decided, with the agreement of the French representative, that the phrase “in violation of this Declaration” should qualify the phrase “against any discrimination” and not the phrase “without any discrimination”.

[8]

Mr. Chang contended that in making that decision, the drafting group had in no way overstepped its terms of reference. If, however, any members felt that an unwarranted liberty had been taken with the wording, the Commission could revert to the original text, in which case the Chinese delegation would abandon the compromise text and urge, as before, a shorter paragraph, ending with the words “and against any discrimination”.

With regard to the Australian amendment, its acceptance would necessitate a reconsideration of the votes taken at the previous meeting.

MR. CASSIN (France) confirmed the statement of the Chinese representative. The drafting group had carried out its mandate in strict observance of the instructions of the Commission, and had unanimously decided that the qualifications “in violation of this Declaration” could only be placed after the phrase “against any discrimination”. The Australian amendment seemed to him to be chiefly a question of style, to avoid the repetition of the word “discrimination”.

THE CHAIRMAN ruled that the text submitted by the drafting group embodied the meaning of the votes taken previously, and that the Australian proposal was simply an amendment to the wording of the text of the drafting group, the acceptance of which would not necessitate any reconsideration of those votes.

[9]

MR. PAVLOV (Union of Soviet Socialist Republics) objected to that ruling as incorrect. The Chairman declared herself willing to have the ruling put to a vote.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) could not agree that the Australian amendment was merely a question of form; as far as the Russian translation was concerned, it certainly changed the substance of the article. He was opposed to any reconsideration of the votes already taken, and thought a vote should be taken upon the text prepared by the drafting group.

THE CHAIRMAN proposed that since it was obvious that there would be no agreement at the present stage, the only procedure was for the drafting group, together with the representatives of Australia and the Byelorussian Soviet

Socialist Republic, to discuss the text again, and present alternative formulas for the Commission to vote upon.

MR. CHANG (China) supported that proposal.

MR. WILSON (United Kingdom), while not opposing the suggestion, asked whether the drafting group was to consider itself bound by the actual words decided in the votes at the earlier meeting. He had thought the group was well within its mandate if it changed certain words or expressions merely as a matter of style.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) could not agree with the United Kingdom representative that style only was involved. The Australian amendment of “distinction” for “discrimination” was an alteration of substance. The word “discrimination” had already been adopted at the previous meeting, and must be retained.

[10]

MR. LOPEZ (Philippines) considered the text produced by the drafting group was in conformity with the votes taken at the previous meeting. The Australian amendment, however, was an amendment of substance, and could not be accepted unless the Commission decided to reconsider the votes.

If the article were to be returned to the drafting group, however, he would ask them to consider the omission of the clause “in violation of this Declaration”. There might be certain rights protected by national laws which found no place in the Declaration, and the clause in question would have the effect of limiting the scope of the principle embodied in the article.

MR. CASSIN (France) stated that there was no difference of substance between the words “distinction” and “discrimination” in French. For his part, he preferred the word “discrimination”, but he had used the word “distinction” in his translation of the text submitted by the drafting group because that word was found in all the official translations of “discrimination”.

MR. HOOD (Australia) declared that in the circumstances he was willing to withdraw his amendment, which he had put forward only in the interest of clarity.

THE CHAIRMAN asked the drafting group to take into account the fact that the word “distinction” was used throughout the Charter, and that the use of the word “discrimination” would constitute an important change.

Since the Australian representative had withdrawn his amendment, he would not need to take part in the discussions of the drafting group which would now be composed of the representatives of China, France, the United Kingdom, the Byelorussian Soviet Socialist Republic and the Philippines.

The meeting rose at 1 p.m.

E/CN.4/SR.54**1 June 1948⁹⁸**

Summary Record of the Fifty-Fourth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday,
 1 June 1948, at 2:30 p.m.

Chairman: Mrs. F. D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Azkoul, Lebanon; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Mora, Venezuela, Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women; Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. [2] *Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael; Mr. Goldsmith, Agudas Israel World Organization; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Burgess, Business and Professional Women Liaison Committee of Women's International Organizations; Mr. Bienenfeld, World Jewish Congress.

**Continuation of Consideration of Draft International Declaration
 on Human Rights (document E/CN.4/95)**

Article 3

MR. CHANG (China) reported that the drafting sub-committee appointed at the fifty-third meeting had agreed on the text of paragraph 2, Article 3 as originally amended. The Philippine representative had accepted the view of the French representative that the words "in violation" should be retained. The English and the Russian texts would contain the word "discrimination", while the French text would use "distinction", since the words in question were so used in the United Nations Charter.

THE CHAIRMAN suggested that the second part of the paragraph should be voted first.

MR. WILSON (United Kingdom) wished that the paragraph should be voted on in two parts and supported the Chairman's view that the second part i.e. "against any discrimination in violation of the Declaration or incitement to such discrimination" should be put to the vote first.

⁹⁸ This is the date of the meeting. The document was issued on 10 June 1948.

THE CHAIRMAN put the second part of paragraph 2, of Article 3 to the vote.
[3]

The second part of paragraph 2 of Article 3, was adopted by eleven votes to none, with five abstentions.

MR. WILSON (United Kingdom) regretted that he felt obliged to vote against paragraph 2 as a whole although he was in agreement with the principle expressed in the first part. However, he considered that the expression “equal protection against any discrimination” was ambiguous and the words “without any discrimination” were unnecessary. The Declaration should merely state general principles and not elaborate them. In its present form the paragraph was weaker than the original.

MR. LEBEAU (Belgium) was opposed to the present text of the paragraph which he considered confused both verbally and in the ideas which it wished to convey. A simple declaration which would be clearly understood was preferable to a detailed and involved statement.

THE CHAIRMAN put the whole of paragraph 2, of Article 3 to the vote.

Paragraph 2 was adopted by a vote of nine votes to six, with one abstention.

The Chairman put the whole of Article 3 to the vote.

Article 3 was adopted by nine votes to five, with two abstentions.

Article 6

THE CHAIRMAN outlined the background of Article 6. The text adopted at the second session of the Commission contained 4 main elements: 1) no arrest or detention except in cases prescribed by law and, 2) after due process; 3) immediate judicial determination of the legality of detention; 4) trial within reasonable time or release.

The minority text contained in the report of the Drafting Committee included four additional elements: 5) arrest or detention must be in accordance [4] with pre-existing law; 6) the person arrested or detained must be informed of the reasons for his detention; 7) there must be no imprisonment for inability to fulfil contractual obligations; 8) there must be compensation for false arrest.

Some members had felt that eight separate provisions were too many and consequently the Drafting Committee’s article had been rejected. Article 6 represented the view of the majority of the Drafting Committee on what should be said about arrest.

The Commission had at present before it the proposal of the Chinese, Indian and the United Kingdom delegations that the article should simply state “no one should be subjected to arbitrary arrest or detention”. (E/CN.4/99 and E/CN.4/102).

Speaking as the representative of the United States of America, the Chairman favoured the proposed text. She suggested that the Chinese, Indian and the United Kingdom amendment should be voted first as furthest removed from the original draft. If the text were rejected, she would make a further suggestion as to the order of considering the various points in the Drafting Committee and Geneva texts.

MRS. MEHTA (India) pointed out that the Declaration should lay down principles and not become involved in details. It should be couched in as simple language as possible. The proposed amendment possessed that quality.

MR. MALIK (Lebanon) favoured the text of the amendment. It was short and concise but contained all the essential elements. Detailed elaboration was more appropriate in the Covenant than in the Declaration. In addition the second part of Article 3 which had just been adopted implied the details contained in Article 6.

[5]

MR. PAVLOV (Union of Soviet Socialist Republics) felt that simplicity might be carried to extremes and opposed the amendment as oversimplified. The amendment must be considered a very general statement which contained no effective guarantees against arbitrary arrest. He referred to Article 6 in the minority report which had been voted twelve times and rejected only in the thirteenth vote by the narrow margin of three to two.

Thus it could not be considered a true reflection of the majority decision. Both the text adopted at the second session of the Commission and that adopted by the Drafting Committee were better than the proposed amendment.

MR. WILSON (United Kingdom) pointed out that what was needed was not a longer or a shorter text. The length should be determined by the substance. The Declaration should state the principle involved but should not deal with its application. The USSR representative had correctly recalled what had happened in the Drafting Committee. There was always substantial agreement when a vote was taken on principles but disagreements immediately appeared when details were discussed.

Mr. Wilson was not opposed to the details but he felt that a selection must be made of what should be included in the Declaration. Since the Declaration was to be an important basis for teaching education and propaganda, it should be as simple as possible. He favoured the amendment as being less complicated than the original article.

MR. LOUTFI (Egypt) recalled that the United Nations Charter contained a guarantee of personal safety. Agreement on detailed provisions was difficult. The text of the relevant article in the communication from the French Government (document E/CN.4/82/Add.8) seemed clearer than the proposed substitute. He wished to know whether the United Kingdom representative would accept the first sentence of the French text.

[6]

MR. WILSON (United Kingdom) would not vote against the French text but preferred the China-India-United Kingdom substitute as being more precise.

THE CHAIRMAN considered that in substance the proposed substitute and the French text meant the same.

MR. CASSIN (France) expressed the view that the Drafting Committee's text could form part of the Covenant but not of the Declaration. The text adopted at the second session of the Commission represented a happy medium and he was prepared to vote for it. Acceptance of the Egyptian suggestion would make it easier for him to vote for the China-India-United Kingdom substitute.

MR. LARRAIN (Chile) favoured the text adopted at the second session of the Commission, which covered all principles and ideas which should be stated. He merely wished to substitute "immediately" for "within a reasonable time".

MRS. MEHTA (India) pointed out that the proposed substitute was identical with the language used in Article 9 of the Covenant and that consequently it should be also accepted for the Declaration.

THE CHAIRMAN said she would put the text to the vote in the following order: first the China-India-United Kingdom substitute as furthest removed from the original, and then the first sentence of the text adopted at the second session of the Commission.

The China-India-United Kingdom text was adopted by ten votes to four with two abstentions.

[7]

MR. PAVLOV (Union of Soviet Socialist Republics) wished to draw the Commission's attention to the fact that, apart from arbitrary arrest mentioned in the adopted article there were other violations which had to be considered. They were contained in the minority report which included the following provisions: Every person has the right to be promptly informed of the reasons for his detention; the right to judicial determination whether his detention was legal or illegal, and the right to be tried before a court.

No person should be in prison for inability to meet a contractual obligation. In case of illegal arrest an innocent person must be compensated. The Commission should vote those provisions one by one, but it could not reject them without previous examination.

THE CHAIRMAN stated that the Commission had given the Article careful consideration. It did not seem possible to reopen discussion of an article which had been adopted. She assured the USSR representative that his remarks would be included in the summary record.

MR. PAVLOV (Union of Soviet Socialist Republics) considered the Chairman's statement a violation of the rules of procedure.

In order to ascertain the sentiment of the Commission members concerning her ruling the Chairman put the question of whether the Commission wished to proceed with a discussion of Article 7 or consider the USSR representative's suggestion, to a vote.

The Commission decided by ten votes to four with one abstention to consider Article 7.

Article 7

MR. CHANG (China) accepted the India-United Kingdom text (E/CN.4/99) but suggested that it should be changed as follows: "Everyone in the determination of any criminal charge against him and of his rights and obligations [8] is entitled . . ." He explained that he suggested the change because the text adopted at the second session of the Commission followed that order.

MR. CASSIN (France) was ready to accept the India-United Kingdom text but considered that the present position of the Article in question between two articles dealing with penal law was not appropriate. The important word in the Article was "tribunal". If the text was made shorter it should also be made stronger and the idea of access to the tribunal must be emphasized.

MR. WILSON (United Kingdom) was ready to accept the Chinese representative's suggestion concerning the transposition of the clauses. He agreed with the French representative that the Article might be inserted in a more appropriate place but felt that it was necessary to decide first what articles should be included and the question of order might be settled later.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) found the India-United Kingdom amendment unsatisfactory. The draft adopted at the second session of the Commission mentioned the right to the aid of a qualified representative in court. The amendment did not mention the right to trial in one's native language. Such an omission must be regarded as discrimination and many countries practised such discrimination against members of minority groups.

MR. PAVLOV (Union of Soviet Socialist Republics) referred the Commission to the text submitted by the Union of Soviet Socialist Republics delegation and contained on page 29 of document E/CN.4/95. He pointed out that the India-United Kingdom amendment made no reference to the important principle that all persons were equal before the courts, that judges should be independent, that legal procedure should be based on [9] democratic principles, that trials should be public and that an accused person was entitled to defence in his native language. He proposed the entire text as a separate amendment to Article 7.

MR. CASSIN (France) requested that the USSR amendment should be voted in parts. He would be ready to accept only the first sentence.

THE CHAIRMAN pointed out that Article 3, paragraph 2 had stated “all are equal before the law” which seemed synonymous with equality before the courts. Considering that the India-United Kingdom text was farthest removed she suggested that it should be voted first.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed that his proposal was farthest removed because it stated general principles, whereas the India-United Kingdom text was specific. Equality before the law and equality before the courts were not synonymous. He could quote many examples, to show that coloured and white people were in theory equal before the law but that such was certainly not the practice of the courts. The Commission might not agree to those proposals of democratic guarantees but it should not distort them. Mr. Pavlov insisted that his proposal should be put to the vote.

In order to determine which text was farthest removed from the Geneva text the Chairman read the USSR proposal and the India-United Kingdom substitute.

MR. MALIK (Lebanon) favoured the India-United Kingdom text but felt that the USSR proposal contained a very valuable element, i.e., equality before the law.

MR. WILSON (United Kingdom) felt that the Chinese-Indian-United Kingdom draft, being the shortest, was farthest removed from the Geneva [10] text. As regards the first sentence of the USSR amendment to Article 13 of the Covenant, in the United Kingdom the concept of equality before tribunals was included in the principle of equality before the law. He therefore opposed the USSR proposal as repetitious of previously stated principles.

MR. CHANG (China) also felt that the principles of equality before the law and before the tribunal were the same.

MRS. MEHTA (India) observed that the Chinese-Indian-United Kingdom draft was simpler and covered all provisions of the USSR amendment. In India the two above-mentioned concepts were also synonymous; for countries where that was not so, the words “fair hearing” and “impartial tribunals” should cover the first sentence of the USSR amendment.

THE CHAIRMAN agreed with the Indian representative’s remarks.

MR. PAVLOV (Union of Soviet Socialist Republics), replying to the preceding speakers, noted that, in colonial history the principle of equality before the law had not always implied equality before the tribunals. With reference to the remarks by the Indian representative, he stated that the USSR text was more definite and concrete, leaving no room for different interpretations to which the Chinese-Indian-United Kingdom draft might give rise. He would welcome a sentence by sentence vote which would clearly show the Commission’s views on the various provisions of his proposal.

MR. LEBEAU (Belgium), while not opposing the USSR proposal in principle, would vote against it as inappropriate for a Declaration.

MR. FONTAINA (Uruguay) stated that he did not oppose the principle of the USSR proposal, but would vote against it as inappropriate in the [11] Declaration. He would abstain on paragraph 2 of that proposal in view of the fact that the problem concerned did not exist in his country.

THE CHAIRMAN noted that while there was general agreement with the principle of the USSR proposal, the feeling was that its detailed provisions belonged to the Covenant.

After further discussion of the procedure to be followed, the Chairman, at the request of the USSR representative, put the latter's amendment to the vote sentence by sentence. (E/CN.4/95, page 29).

Paragraph 1. sentence 1 was rejected by eight votes to six with one abstention.

Paragraph 1. sentence 2 was rejected by seven votes to four with four abstentions.

Paragraph 1. sentence 3 was rejected by nine votes to four with three abstentions.

Paragraph 1. sentence 4 was rejected by six votes to four with five abstentions.

Paragraph 2 was rejected by six votes to five with four abstentions.

MR. CASSIN (France) appealing for the greatest possible measure of agreement on the text, urged the Commission to accept the following amendment:

“Everyone is entitled in *full equality* to a fair hearing by an *independent* and *impartial* tribunal in the determination of his rights . . .”

MR. WILSON (United Kingdom) was not opposed to the addition of the words “independent and”, but felt that the expression: “in full equality” was repetitious, and therefore inadvisable.

MR. CHANG (China) shared the United Kingdom representative's opinion.
[12]

MRS. MEHTA (India) also felt that the French amendment was covered by the original Chinese-Indian-United Kingdom text. Moreover, the addition of the word “independent” would only require further explanations in the Covenant.

MR. LARRAIN (Chile) stated that he would vote for the French amendment with the understanding that the words “in full equality” included the question of language to which his delegation had attached great importance ever since the second session of the Commission.

THE CHAIRMAN put to the vote the French amendment to the Chinese-Indian-United Kingdom draft.

The addition of the words “in full equality” was accepted by seven votes to six with four abstentions.

The addition of the words “independent and” was accepted by eight votes to two with six abstentions.

THE CHAIRMAN put to the vote the Chinese-Indian-United Kingdom draft, as amended by the representative of France.

The Chinese-Indian-United Kingdom draft, as amended, was adopted by thirteen votes to none, with four abstentions.

Article 8

MR. CASSIN (France), upon a suggestion by the Chairman with regard to the voting procedure, pointed out that the India-United Kingdom text, while farthest removed from the text adopted at the second session of the Commission, could not be put to the vote first in view of the fact that it omitted several fundamental principles contained in the other drafts. He therefore felt that the Commission should either amplify the India-United Kingdom draft, or shorten the draft adopted at its second session.

[13]

MR. LOUTFI (Egypt) would support the United Kingdom draft provided it was made to include the last part of paragraph 1 of the text adopted at the second session of the Commission, which contained an important corollary to the principle of non-retroactivity of law. He also thought the Article should include the principle that a person must be presumed to be innocent until proved guilty.

THE CHAIRMAN proposed that a drafting group should be set up to reformulate Article 8, paragraphs 1 and 2. Paragraph 3 could be put to the vote at once.

MR. BIENENFELD (World Jewish Congress) spoke in favour of retention of Article 8, paragraph 2, of the draft adopted at the second session of the Commission. Omission of that paragraph would be contrary to the principles of the Hague Convention of 1907⁹⁹ as well as the principles established by the International Military Tribunals at the Nuremberg Trials. Those principles protected the law of humanity against violation by national laws (as had happened in the case of Nazi Germany). Omission of that paragraph would constitute a step back in international law.

MR. WILSON (United Kingdom) agreed with a suggestion by the representative of Lebanon to vote, paragraph by paragraph on Article 8 of the Drafting Committee's text, and explained the reasons for omitting some principles from his amendment. The first sentence of the text adopted at the second session had been deleted in view of the fact that the presumption of a defendant's innocence was frequently shifted during a trial. The second sentence had been omitted, its principle being covered by the preceding Article. With regard to the last principle of paragraph 1, he explained that

⁹⁹ The Regulations annexed to the fourth Hague Convention of 1907 govern the laws and customs of war. They were relied upon by the International Military Tribunal which said "the rules of land warfare expressed in this Convention are declaratory of existing international law" (*France et al. v. Goering et al.*, (1948) 22 IMT 44, at 581.

it was sometimes unwise, as in the case of people engaging in the black market, to permit offenders to weigh the pre-established penalty against the [14] profits they hoped to make. The question of penalty was not a fundamental human right and should be considered on a different basis. He pointed out that the last part of paragraph 1 proposed by the United Kingdom included national as well as international law.

MR. HOOD (Australia) did not think that the United Kingdom draft of paragraph 1 covered the provisions of paragraph 2 of the Geneva text which, he felt, should be retained so as to avoid any lacunas in the Declaration. It might be better, however, to consider later whether that provision might not be included elsewhere, possibly in the limitation clause of Article 2.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the first sentence of paragraph 1 of the text adopted at the second session contained the important principle of innocence until proved guilty, which represented great progress from the inquisitorial trial concepts of the Middle Ages to which Nazi Germany had reverted. If established, the drafting group should take that point into consideration. With reference to paragraph 2, he stated that he had always opposed the expression: "principles of law recognized by civilized nations" which implied the condescending attitude of colonial powers toward their colonial peoples. The Commission should rather use the word "democratic countries". He supported an immediate vote on paragraph 3.

MR. CHANG (China) noted general agreement on the clear and simple drafting of paragraph 3. As regards the other paragraphs, disagreement might arise, not on the principles involved, but with regard to their appropriateness in the present context. He favoured retention of the first sentence of paragraph 1, deletion of the second sentence, and would abstain from voting on the third and fourth sentences. Paragraph 2 could be deleted, and paragraph 3 maintained.

[15]

MR. LEBEAU (Belgium) agreed with the representative of France. The full text of paragraph 1 should be retained in view of the importance of the principles contained. All the important principles cited by the French representative were contained in the French draft (E/CN.4/82/Add.8). He shared the view of the representative of the World Jewish Congress with respect to paragraph 2, the importance of which his delegation had stressed already at the second session. While supporting paragraph 3, he suggested that the wording might be rearranged in a more logical sequence: "No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment."

MR. VILFAN (Yugoslavia) also favoured retention of paragraph 2, pointing out that the defence at the Nuremberg Trials had based itself on the non-retroactivity of penal law. Moreover, several German war criminals had been acquitted on the basis of legalistic interpretation of the principle of non-retroactivity of laws, as could be

seen from the Official Transcript of 19 February 1948 of the American Military Tribunal in Nuremberg, (0930–1630), pp. 10440 and 10438.¹⁰⁰ Consequently, it was most important to retain paragraph 2, and he thought, in that connection, that some of the conclusions reached at the Nuremberg Trials (see document E/CN.4/W.19) could well be included in the present Declaration.

After a brief exchange of views on a suggestion by THE CHAIRMAN to proceed to a vote on the principles contained in Article 8 for the drafting sub-committee's guidance, MR. PAVLOV (Union of Soviet Socialist Republics) proposed that the Commission should not commit itself as yet, but rather appoint a drafting sub-committee for a reformulation of that Article. The sub-committee could take full account of the views expressed in the Commission.

[16]

MR. CASSIN (France) suggested that the following concepts should be considered in connection with Article 8: innocence until proven guilty, public trial, guarantees of defence (independent tribunals could be omitted in view of the preceding provisions), non-retroactivity of laws and punishment, and the non-applicability of those rights to war-criminals for which the USSR amendment could be considered.

THE CHAIRMAN then put to the vote Article 8, paragraph 3, with the amendment proposed by the representative of Belgium.

Paragraph 3 with the proposed amendment was adopted unanimously.

THE CHAIRMAN then appointed a sub-committee, consisting of the representatives of the United Kingdom, India, France, China, and Yugoslavia, to compose a new draft of Article 8, paragraphs 1 and 2.

The meeting rose at 5:45 p.m.

E/CN.4/105

2 June 1948

Lebanon: Amendment to Article 13 of the International Declaration on Human Rights (Document E/CN.4/95)

Add the following to the text of Article 13 as drafted by the Drafting Committee:

¹⁰⁰ The reference is to the judgment of the American Military Tribunal in the case of *List et al.*, (1950) 11 TWC 1230, known as the "The Hostage Case". The discussion of non-retroactivity (see pp. 1238–1240) is consistent with the view taken by the International Military Tribunal and can in no way be described as "legalistic interpretation". Vilfan was probably upset about other portions of the judgment that do not attribute combatant status to anti-Nazi partisans operating in Yugoslavia (*ibid.*, pp. 1243–1246), and that recognize the lawfulness of reprisals and hostage-taking under certain circumstances in dealing with guerilla warfare.

“The family deriving from marriage is the natural and fundamental group unit of society. It is endowed by the creator with inalienable rights antecedent to all positive law and as such shall be protected by the State and society.”

[The document also contains the French text of the amendment.]

E/CN.4/109

2 June 1948

**First Report of the Sub-Committee Consisting of the
Representatives of China, France, India, United Kingdom and
Yugoslavia on Article 8 of the Draft Declaration on Human Rights**

Article 8

1. Everyone is presumed to be innocent until proved guilty according to law (in a public trial at which he has had all guarantees necessary for his defence).

2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

E/CN.4/SR.55

2 June 1948¹⁰¹

Original Text: French

***Summary Record of the Fifty-Fifth Meeting [of the Commission
on Human Rights]***

Held at Lake Success, New York, on Wednesday,
2 June 1948, at 11 a.m.

Chairman: Mrs. F. D. Roosevelt, United States of America. *Vice-Chairman:* Mr. P. C. Chang Wu, China; Mr. R. Cassin, France. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. O. Loutfi, Egypt; Mrs. H. Mehta, India; Mr. M. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Specialized Agencies:* Mr. R. W. Cox, International Labour Organization (ILO); Mr. Lebar, United Nations Educational, Scientific and Cultural Organization

¹⁰¹ This is the date of the meeting. The document was issued on 15 June 1948.

(UNESCO). [2] *Non-governmental Organizations*: Miss Toni Sender, American Federation of Labor (AF of L); Mr. van Istendael, International Federation of Christian Trade Unions (IFCTU). *Secretariat*: Mr. J. Humphrey, Director, Division of Human Rights; Mr. E. Lawson, Secretary of the Commission.

**Continuation of the Consideration of the Report of the Drafting
Committee to the Commission on Human Rights (Document E/CN.4/95);
Consideration of the Articles of the Declaration and the Amendments
Presented by Various Delegations (Documents E/CN.4/82/Add.8;
E/CN.4/99; E/CN.4/102)**

Article 9

THE CHAIRMAN read the Drafting Committee's text and the variants submitted by the delegations of China, France, and India and the United Kingdom.

MR. CASSIN (France) said the French delegation was in full agreement with the Drafting Committee's text and consequently would withdraw its own text (document E/CN.4/88/Add.8, paragraph 8).

Speaking as representative of the United States of America, the Chairman said she supported the United Kingdom-India text; she did not consider it necessary to specify the legal nature of protection, since equal protection under the law was already guaranteed to all by article 3, which had been adopted.

MR. WILSON (United Kingdom) observed that apart from the point made by the Chairman, protection could be granted by other means beside the purely legal; hence the specification "under the law" was not merely unnecessary, but undesirable.

MR. CHANG (China) drew attention to the negative form in which article 9 was worded in the text proposed by his delegation. The wording [3] "No one shall be subjected to unreasonable interference . . ." affirmed implicitly everyone's right to protection under the law and avoided the ambiguity which might arise as a result of the deletion of the words "under the law" from the Drafting Committee's text.

He thought, moreover, that the order of presentation of the provisions was more logical in his delegation's text beginning as it did with interference with the individual and from there going on to cover interference with his family, home, correspondence and reputation.

MR. VILFAN (Yugoslavia) preferred the Drafting Committee's text. The provisions of article 3 were not applicable to the cases covered by article 9; paragraph 2 of article 3 provided for the protection of the law against arbitrary discrimination, whereas article 9 dealt with the protection of the individual, his family and home, and it was important that such values should be protected by law.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with Mr. Vilfan that the provisions of article 3 were not sufficient to cover cases under article 9. Furthermore, he felt it was indispensable to ensure recourse to legal protection in cases of unreasonable interference in order to avoid possible recourse to protection outside the law. Deletion of the words “under the law” might allow of too wide or arbitrary an interpretation of the rights guaranteed under article 9.

He could not, therefore, accept the amendment proposed by the delegations of India and the United Kingdom, and would vote for the text drafted in Geneva, which had been respected by the Drafting Committee.

MRS. MEHTA (India) pointed out that the Commission had not deemed it necessary to specify in article 4, which guaranteed to everyone the right to life, liberty and security of person, that these rights would enjoy the protection of the law, which was self-evident. What was true [4] of one article was true of the others, and the Commission should try to achieve a certain uniformity of presentation in its drafting of the Declaration. However, if the majority of the Commission thought that the United Kingdom and Indian draft was not entirely satisfactory, the Indian delegation would be ready to support the Chinese draft.

MR. WILSON (United Kingdom) said his delegation also accepted the Chinese text and would withdraw its own proposal.

THE CHAIRMAN put to the vote the Chinese draft of article 9 of the Draft Declaration.

Draft article 9 proposed by China was adopted by 9 votes to 3, with 4 abstentions.

[5]

Article 10

THE CHAIRMAN read out the drafts of article 10 proposed by the Drafting Committee and by the French delegation.

Replying to a question of the USSR representative, MR. CASSIN (France) pointed out that his delegation’s draft followed very closely the wording of the text, drawn up at Geneva. The difference, marked by punctuation, was that in the French text the words: “Subject to any general law not contrary to the purposes and principles of the United Nations Charter adopted for specific reasons of security or in the general interest” applied not only to movement within the borders of a given country, but also to the right to leave that country.

The text suggested by the Drafting Committee narrowed the scope of the original Geneva text, for it retained neither the reservation “Subject to any general law etc.” nor the provision on the right to acquire a nationality. As regards that right, the French delegation felt it was not directly connected with the problem of movement, and agreed to delete from its text all the part relating to nationality. It could not,

however, ignore the very serious difference between the two texts as regards the general powers of governments to control movement, even movement from one country to another.

Some representatives had argued that article 2 restricted human rights within the framework of the general wellbeing and just requirements of the democratic State, and that this restriction applied to rights in general.

If the Commission agreed that the provisions of article 10 fully safeguarded the general prerogatives of the community and of the State (even if the article did not make any specific reservations to that effect), then, and then only would the French delegation vote for the Drafting Committee's text, interpreted in accordance with article 2.

[6]

MRS. MEHTA (India) said that article 10 aimed at establishing the principle of freedom of movement, which, like freedom of speech, freedom of meeting, etc., was a fundamental human right. The Drafting Committee had not deemed it necessary to restrict that freedom as it was already subject to the general limitation contained in article 2, and as it was for the Covenant to specify what definite measures should limit that right in certain cases. The right to a nationality was covered by article 15. Measures relating to the acquisition of a new nationality should come under article 15 rather than article 10. The Indian delegation would vote for the text proposed by the Drafting Committee.

THE CHAIRMAN said article 2 was clearly worded and afforded adequate safeguard for the State rights mentioned by the French representative. If each article of the Declaration were to contain reservations for every possible case, the document would become unnecessarily long.

MR. LEBEAU (Belgium) said his delegation would stand by the original text drafted at Geneva. It contained the reservation concerning any general law, but, unlike the French proposal, did not extend it to the right to leave a country. Moreover, the original text contained the provision for the right to a nationality, which the French representative had renounced on behalf of his delegation. Owing to those two appreciable differences between the Geneva and the French texts, he asked for a vote to be taken on both.

THE CHAIRMAN put to the vote the text proposed by the French delegation.

The text of the French delegation was rejected by 9 votes to 6 with 2 abstentions.

[7]

THE CHAIRMAN then put to the vote the original Geneva text formally submitted by the Belgian representative.

The text was rejected by 11 votes to 2, with 4 abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) said in explanation of his vote that he had been in favour of the French text, which his delegation considered as the best draft for article 10, but since that text had been rejected, he had voted for the Geneva text, which he thought acceptable, though not as satisfactory.

The only text remaining before the Commission was that submitted by the Drafting Committee. The USSR delegation would vote in its favour only if the following two amendments were accepted:

- (1) The words “in accordance with the laws of that country” to be added at the end of the first paragraph:
- (2) The words “in accordance with the procedure established by law” to be inserted at the beginning of the second paragraph.

The USSR delegation thought it natural that every sovereign State should have the right to establish whatever rules it considered necessary to regulate movement on its territory and across its borders. Recognition of that right was based on respect for the principle of national sovereignty embodied in the United Nations Charter.

Besides rights, people had certain obligations which they had to fulfil. That was a fact which article 10 could not leave out of account; to encourage tendencies towards total independence at the cost of the common good would be to distort the normal relations between the citizen and the State. The responsibility of ensuring collective security borne by the State gave it the right to impose certain restrictions on liberty of movement. That was true of all countries and not merely of the USSR, as had been implied in certain quarters.

To sum up, the USSR delegation was of the opinion that article 10 should recognize the sovereignty of States in accordance with the principles of the [8] Charter, establish the obligations of citizens as opposed to their rights, and formulate the principle of liberty of movement on those lines.

THE CHAIRMAN pointed out to the USSR representative that article 10 did not deal with immigration. As for general reservations in respect of legislation, the Commission had only just formally rejected the two texts containing those reservations. She feared that to vote on the USSR amendments would mean reconsidering a decision already taken.

MR. WILSON (United Kingdom) wished to know whether, under the terms of the amendments to paragraph 2 of article 10 proposed by the USSR representative, an individual would automatically receive permission to leave his country if he conformed to the procedure established by law, or whether it was left to the discretion of the authorities to grant such permission.

MR. PAVLOV (Union of Soviet Socialist Republics) replied that permission to leave any given country would be granted in accordance with the legislation in force in that country.

MR. LEBEAU (Belgium) stated he would be unable to vote for the USSR amendments, since he believed they deprived the two provisions of article 10 of part of their meaning. He would therefore vote in favour of the text submitted by the Drafting Committee subject to the same reservation as Mr. Cassin's, i.e. provided it was clearly understood that the article would be interpreted in the light of article 2.

MR. LOPEZ (Philippines) stated he had voted in favour of the text [9] proposed by the French delegation and later in favour of the Geneva text. He would vote against the text submitted by the Drafting Committee because the liberty of movement and residence guaranteed under article 10 should be specifically subjected to the laws of the State. The general limitation embodied in article 2, concerning the just requirements of a democratic society, seemed to his Government insufficient in that particular case and should be repeated in article 10.

MR. LARRAIN (Chile) stated that his delegation's position was well known and perfectly clear: it thought the Declaration should proclaim the fundamental human rights in forceful terms, and that article 10 embodied one of those rights. It could not therefore agree to the inclusion of any limitations to that right.

It had been stated that the provisions of article 10, unless accompanied by certain reservations, would encroach upon the sovereignty of States. He would observe in that connection that while the Charter recognized the principle of national sovereignty, it subordinated that principle to superior interests such as the maintenance of peace and international co-operation founded on friendly relations among nations.

The Chilean delegation realized that owing to circumstances of a temporary nature, it might sometimes be necessary to impose certain limitations, but such limitations should not be set forth in the Declaration, which was designed to proclaim the principles of human rights and to preserve their full force and philosophical significance. Moreover, article 2 contained a general limitation applicable to the body of rights proclaimed in the other articles of the Declaration.

The Chilean delegation would therefore support the Drafting Committee's text, which was the product of long and thorough discussion by that Committee.

[10]

MR. LOUTFI (Egypt) announced that his delegation was in favour of the text submitted by the Drafting Committee subject to the reservations outlined by the French and Belgian representatives.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) emphasized that the Declaration on Human Rights would have to be equally valid for all States Members of the United Nations, not just for some of them, and he appealed to the members of the Commission to draw up article 10 in a way acceptable to all.

For his part, the Byelorussian delegation would not be able to accept the Drafting Committee's text because it considered that text to be inconsistent with the Charter. While the Charter stated explicitly that the United Nations were not authorized to intervene in matters essentially without the domestic jurisdiction of any State, article 10, by acknowledging without reservation the right of individuals to move freely and to leave their own country, would impair the national sovereignty of States, in whose interests it might be to control the movement of their citizens and traffic in and out of the country.

He wished to point out that the only citizens of the Byelorussian SSR who had left their country or who wished to do so were those who had collaborated with Nazi Germany and who were attempting thus to escape from the punishment they deserved. The adoption of article 10 as drawn up by the Drafting Committee would enable such traitors to go unpunished and to continue their nefarious activities both against their own country and against the United Nations. He supported the two amendments proposed by the representative of the USSR, which clearly stated that the movements of citizens inside a country as well as into and out of that country were regulated by the legislation of each State.

[11]

THE CHAIRMAN reiterated that article 10 did not deal with the question of immigration, which was necessarily subject to the national legislation of each State.

Speaking as the representative of the United States of America, Mrs. Roosevelt stated that while it was true that the Charter prohibited the United Nations from interfering in the internal affairs of States, it was none the less true that one of the essential aims of the Charter was to develop and encourage respect for the rights of man and his fundamental liberties. It was for the United Nations to proclaim the principles which they believed would ensure that respect.

It was quite possible that certain persons wished to leave their country to escape the punishment that awaited them, but before they were deprived of their freedom of movement they must be proved to be traitors. Many people who were not traitors to their country preferred to live in another country than their own; their right freely to leave their country should be guaranteed.

MR. HOOD (Australia) fully concurred in the remarks of the Chilean representative. He pointed out that the Declaration which the Commission would adopt should lay down the essential rights and fundamental liberties of man in general terms, and it should not include provisions regulating the relations between the individual and the State. Freedom of movement was unquestionably one of the fundamental rights of man, and it should form the subject of a statement of principle. To subject it to reservations would be to deprive the Declaration of all its force. His delegation would vote for the text drawn up by the Drafting Committee.

MR. CASSIN (France) announced that he would vote against the amendments proposed by the USSR representative, as he was satisfied with the Drafting Committee's text, interpreted in accordance with article 2. [12] He wished to point out that the question of emigration should be dealt with on a much wider plane. When the United Nations made a practical study of the problems of emigration and immigration, it would have to take account on the one hand of the relations between the individual and the State, and on the other of the relations between the individual and the community of States which constituted society.

THE CHAIRMAN put to the vote the two amendments to article 10 proposed by the representative of the USSR.

The Commission rejected the first amendment by 11 votes to 5, and the second amendment by 12 votes to 4.

THE CHAIRMAN then put to the vote the text of article 10 drawn up by the Drafting Committee.

The draft of article 10 drawn up by the Drafting Committee was adopted by 11 votes to 1, with 4 abstentions.

[13]

Article 8

THE CHAIRMAN read the draft of article 8 prepared by the Sub-Committee set up for the purpose on the previous day, the text of which had just been distributed:

“1. Everyone is presumed to be innocent until proved guilty according to law (in a public trial at which he has had all guarantees necessary for his defence).

“2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.”

MR. CHANG (China) explained on behalf of the Sub-Committee that the phrase “in a public trial at which he has had all guarantees necessary for his defence” had been placed in brackets to indicate that there had been a difference of opinion on the subject in the Sub-Committee. The Sub-Committee reached a unanimous decision with regard to the first part of paragraph 1 only. He therefore suggested that first the clause in brackets be put to the vote.

MR. WILSON (United Kingdom) pointed out a divergence between the English and the French texts of article 8. The English text read: “Everyone is presumed to be innocent . . .” while the French text read: “*Toute personne accusée est présumée innocente . . .*” The French representative had insisted that the word “*accusée*” should appear in the French text.

Mr. Wilson observed that although the two texts were not quite identical, they had exactly the same meaning.

MR. CASSIN (France) explained that he had wished to make it clear that they were treating of criminal law. He considered the word “*accusée*” to be absolutely indispensable.

[14]

MR. WILSON (United Kingdom), supported by the representative of the United States of America, suggested, in order to obtain complete agreement in the French and English texts, that the latter should read: “Everyone charged with a penal offence is presumed to be innocent . . .”

MR. FONTAINA (Uruguay) remarked that the Spanish text of the analogous article approved by the Inter-American Conference at Bogotá corresponded exactly with the formula proposed by the United Kingdom representative.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that although the principle of the publicity of judicial proceedings was a progressive and democratic principle, it was not always possible to put it into practice. In fact there were cases where in the interests of public morals or national security it was necessary to administer justice *in camera*. It should therefore be stated that exceptions would be made to the principle of public trial in the cases prescribed by the law.

Moreover, in its present form paragraph 1 of article 8 implied that the accused would be entitled to the guarantees necessary for his defence only when his trial was public. It was essential to state unequivocally that the accused had that right in any case, whether his trial was public or *in camera*. The part of the sentence in parentheses should specify that the trial would be public except in cases proscribed by law and that steps would be taken to ensure that the accused was given all guarantees necessary for his defence.

MR. VILFAN (Yugoslavia) explained that in the opinion of the Sub-Committee the reservations contained in article 2 of the Declaration would cover cases in which justice could not be administered publicly. All the members of the Sub-Committee had agreed that in certain circumstances trial *in camera* was essential.

[15]

MR. MALIK (Lebanon), Rapporteur, suggested an explicit enumeration of cases, prescribed by law, in which it could not be guaranteed that the hearings would be public.

MR. WILSON (United Kingdom) recalled that under article 7 of the Declaration everyone would be “entitled to a fair hearing of his case”; that included the guarantees necessary for his defence. If there were no such guarantees, the case would not be conducted fairly. He was therefore opposed to the insertion in article 8 of the part of the sentence in parentheses.

As regards the suggestions of the USSR and Lebanese representatives, Mr. Wilson observed that the Commission had several times decided that the Declaration should not list exceptions to the principles it set forth. That decision should be followed in connection with article 8.

MR. LOUTFI (Egypt) supported Mr. Wilson. He thought that if the Commission decided to keep the part of the sentence in parentheses, the word "public" should be deleted, for by retaining it, the Commission would be endorsing a principle contrary to the codes of several countries.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed the importance of the principle of public hearings, which would afford the accused a greater guarantee of fair treatment through the force of public opinion.

MR. CASSIN (France) admitted that the Sub-Committee's text was ambiguous in regard to the right of the accused to the guarantees necessary for his defence. From the text, it did seem that the accused would have a right to those guarantees only if his trial was public. The text might be modified as follows:

"Everyone charged with a penal offence is presumed to [16] be innocent until his guilt has been legally proved at a public trial. He shall have the right in every case to all guarantees necessary for his defence."

He pointed out moreover that there were two tendencies in the Commission; one towards shortening the text of the articles of the Declaration as much as possible, even at the cost of an occasional small sacrifice of principle; the other toward adding details which, in general, would be more appropriate in the Covenant that the Commission was planning to draw up. He thought the Sub-Committee's formula the golden mean between the two tendencies. Article 8 laid down the principle of public hearings; article 2 covered cases *in camera*.

The French delegation did not think the words in parentheses superfluous. There had unfortunately been so many abuses under criminal law that it would be wrong not to specify that the accused had a right to the guarantees necessary for his defence.

THE CHAIRMAN put to the vote the retention or deletion of the part of the sentence in parentheses.

It was decided by eight votes to six, with two abstentions, to delete the part of the sentence in parentheses from the first paragraph of article 8.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed the necessity of making paragraph 1 of article 8 more complete, and formally proposed the following amendment which took into account the suggestion of the Lebanese representative: to add at the end of the paragraph: "in a public trial subject to exceptions prescribed by law in the interests of public morals or [17] national security and under conditions which ensure him in every case the guarantees necessary for his defence."

MR. CASSIN (France) proposed that the USSR amendment should be changed to read as follows: “. . . in a trial at which he will have all the guarantees necessary for his defence. The trial shall be public, subject to exceptions made in the interests of public morals or national security.”

THE CHAIRMAN asked the representatives of France, Lebanon, and the USSR to prepare for the afternoon meeting a joint text, in both working languages, for the first paragraph of article 8.

The meeting rose at 1:15 p.m.

E/CN.4/SR.56

2 June 1948¹⁰²

Summary Record of the Fifty-Sixth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday,
2 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Vice-Chairman:* Mr. P. C. Chang, China. *Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. Hood, Australia; Mr. R. Lebeau, Belgium; Mr. A. S. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. O. Loutfi, Egypt; Mr. R. Cassin, France; Mrs. H. Mehta, India; Mr. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. R. Fontaina, Uruguay; Mr. Mora, Venezuela; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Representatives of Specialized Agencies:* Mr. R. W. Cox, International Labour Organization; Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Consultants from Non-Governmental Organizations:* Miss Toni Sender, American Federation of Labor; Mr. A. J. van Istendael, International Federation of Christian Trade Unions; Mr. Bienenfeld, World Jewish Congress. [2] *Secretariat:* Mr. J. Humphrey, Director of the Human Rights Division; Mr. E. Lawson, Secretary of the Commission.

Continuation of the Discussion of the Draft Declaration of Human Rights (Document E/CN.4/95)

Article 8, paragraph 1

THE CHAIRMAN read out the following text prepared by the drafting sub-committee:

“Everyone charged with a penal offence is presumed to be innocent until proved guilty in a trial at which he will have had all the guarantees necessary to his defence. Trials shall be public subject to exceptions made in the interests of public morals or security.”

¹⁰² This is the date of the meeting. The document was issued on 4 June 1948.

Speaking as the representative of the United States, she suggested that the second part of the second sentence beginning with the word “subject” should be deleted. It was unwise to enumerate exceptions, for there were cases not covered by the interests of morality or security which should not be heard in public trials. Moreover, justifiable exceptions could be made under article 2 of the Declaration.

MR. CHANG (China) proposed to replace the sub-committee’s text by the following:

“Everyone charged with a penal offence is presumed to be innocent until proved guilty according to law.”

The phrase “according to law” had been inadvertently omitted in the English translation.

MR. WILSON (United Kingdom) supported the Chinese amendment.

The Chinese amendment was rejected by a vote of seven to six, with two abstentions.

[3]

THE CHAIRMAN then suggested that the paragraph should be voted in four parts. A vote was first taken on the first part of the first sentence ending with the words “according to law” which had been inserted after the word “guilty”.

The first part of the first sentence was unanimously adopted.

A vote was next taken on the second part of the first sentence beginning with the words “in a trial” to the end of the sentence.

The second part of the first sentence was adopted by a vote of ten to three, with three abstentions.

The Commission proceeded to vote on the first part of the second sentence: “Trials shall be public.”

The first part of the second sentence was adopted by a vote of ten to one, with five abstentions.

A vote was then taken on the remainder of the second sentence beginning with the words “subject to exceptions.”

The second part of the second sentence was rejected by a vote of seven to four, with five abstentions.

After a brief exchange of views concerning an improvement in the drafting, it was decided to maintain the second sentence in the form in which it has been adopted.

Paragraph 1 of article 8 was adopted as amended by a vote of seven to four with five abstentions.

Article 8, paragraph 2

THE CHAIRMAN read out the text of paragraph 2 prepared by the drafting sub-committee, as follows:

[4]

“No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.”

MR. LOUTFI (Egypt) felt that reference should be made to the principle of retroactivity by the addition of the following clause:

“nor shall he be liable to any greater punishment than that prescribed for the offence by the law in force at the time it was committed.”

However, he agreed not to press his suggestion in the form of an amendment.

MR. LEBEAU (Belgium) wished to amend the sub-committee’s text by inserting the words “the general principles of” before “international law”. His amendment was intended to broaden the concept of international law to include unwritten as well as written law. He pointed out that the general principles of international law were invoked at the Nuremberg and Tokyo trials. The simple phrase “international law” might be interpreted to mean only written law laid down in conventions.

MR. CASSIN (France) supported the Belgian amendment. The principles of international law could be derived from various sources such as national conventions, the application of national law by national tribunals and special circumstances. The Nuremberg and Tokyo tribunals were instituted by the victors in the last war to repress attempted violations of international law, Mr. Cassin emphasized the importance of preserving those elements of law [5] which were common to the law of most nations, and therefore favoured the broader formulation suggested by the representative of Belgium.

MR. WILSON (United Kingdom) thought that reference to the general principles of international law was too vague and could hardly be said to constitute a less ambiguous formulation than the term “international law”. The general principles of English law were very different from English law itself; the same was true of most other nations. He therefore preferred to retain the term used in the sub-committee’s text.

In the light of the remarks made by the representative of the United Kingdom, MR. LEBEAU (Belgium) expressed readiness to modify his amendment in conformity with the wording of the original Geneva text. It would then read: “the general principles of law recognized by civilized nations”.

MR. PAVLOV (Union of Soviet Socialist Republics) objected to restoring that unhappy formulation which seemed to distinguish between civilized and uncivilized nations. Deletion of that wording had been a positive achievement of the drafting committee.

On the other hand, if the position taken by the representative of the United Kingdom could be interpreted to mean that he considered that the principle of punishing fascists and nazis for war crimes had been made part of international law by the very fact that the Nuremberg trials had been held, Mr. Pavlov might vote in favour of paragraph 2 in its original form.

[6]

MR. WILSON (United Kingdom) tended to favour reverting to the Geneva text, as suggested by the representative of Belgium. He was strengthened in that view by the fact that Article 38 of the Statute of the International Court of Justice included as one of the criteria of international law the general principles of law recognized by civilized nations. The USSR which was a signatory of that Statute, as well as of the Charter, should logically favour that wording. However, international law as defined in the Statute was not confined to written instruments. It was based on international conventions, international custom, recognized principles, judicial decisions and the teachings of the most highly qualified publicists of the various nations. In view of the fact that the Belgian representative had proposed a much narrower definition, and provided the term were interpreted as defined in the Statute of the international Court, Mr. Wilson would vote to retain it.

THE CHAIRMAN, speaking as the representative of the United States, recalled that the Geneva text cast doubt upon the validity of the Nuremberg judgment. She supported retention of the broader term “international law”.

MR. LOUTFI (Egypt) recalled that, during the second part of the first session of the General Assembly, the Legal Committee had proposed that in the light of the Nuremberg trials, the International Penal Code of Law should be revised to cover war criminals.

MR. LEBEAU (Belgium) stressed that the term should be interpreted in accordance with the provisions of Article 38 of the Statute of the international Court and withdrew his amendment.

[7]

MR. PAVLOV (Union of Soviet Socialist Republics), while he thought that the Commission could improve the definition given in the Statute, was ready to accept the sub-committee’s text.

Paragraph 2 of article 8 was adopted by a vote of twelve to none, with three abstentions.

Article 8, as a whole, was adopted.

Article 11 (documents E/CN.4/104, E/CN.4/102, E/CN.4/99, E/CN.4/97)

MISS SENDER (American Federation of Labor) felt that the wording proposed by the drafting group was highly unsatisfactory.

The permissive character of the phrase “may be granted asylum” deprived the article of any real value. Both article 11 of the Geneva Draft and the French proposal were more acceptable. The right to asylum from persecution was a natural corollary to the right to hold or change one’s beliefs, which was mentioned more than once in the draft Declaration. The USSR proposal was too limited in scope, for persons could be persecuted for philosophical as well as for political reasons.

MR. BIENENFELD (World Jewish Congress) stated that the right to asylum was implicit in the concept of the right to life.

In demanding the right to asylum, refugees were not asking for permanent homes but for temporary safety from persecution. The Governments of the United Kingdom, the United States, France and the USSR had been generous in providing homes for many Jewish refugees before and during the last war. For that reason, it was difficult to believe that their representatives in the Commission would oppose the inclusion of the right to asylum.

In order to meet the objections expressed by the United Kingdom and French representatives, he suggested that an explanatory sentence should be included in the article, to the effect that [8] the obligation of the United Nations or of any Member State was to secure the right to asylum and that the limitations of that obligation would be laid down in conventions established under the auspices of the United Nations. The Economic and Social Council had already recognized the importance of this principle in instructing the Commission to collect documentation on the subject of the right to asylum. The right had been observed in Europe in the Middle Ages and was being observed now in the Mohammedan countries. The Bill of Human Rights would mean little to those who most eagerly awaited it, if the right to asylum, in principle, was not included.

MR. CASSIN (France) agreed with the importance of the principle and pointed out that it had been written into the constitutions of most countries. However, experience had shown that there were great difficulties to its implementation. The Geneva text was impractical because it did not solve the problem of who would be responsible for ensuring that the right to asylum would be granted. The responsibility rested with the whole world and not just with the State which happened to be in close geographical proximity to another in which persecution was being

practised. It would be useless merely to state the principle, however magnificent; the practical question of responsibility would have to be worked out in a series of agreements between the United Nations and Member States.

In reply to the Chairman, DR. CHANG (China) agreed to amend his proposal to read as follows:

“Everyone has a right to seek and shall be granted temporary asylum from persecution in other countries.”

[9]

In connection with the remarks of the representative of the Jewish World Congress, the Chairman drew attention to the difficulties which had had to be faced in Congress and because of existing laws, before the Nazi-persecuted Jews had been allowed to enter the United States.

It did not seem possible to include the French proposal, particularly as the Council had asked the Commission to make a study on the right to asylum. In view of that study, she would prefer to adopt the more general principle incorporated in the amended Chinese proposal, with the deletion of the second paragraph.

MR. LEBEAU (Belgium) supported the French proposal because it introduced the idea of international responsibility with respect to the right to asylum. He also agreed to the deletion of the second paragraph.

MR. AZKOUL (Lebanon) also supported the French proposal, on the grounds that it proclaimed the right to asylum and at the same time safeguarded the interests of States who would have to receive refugees. Should the French proposal not be accepted, he would vote for the amended Chinese text. He objected to the word “temporary”, however, and felt that a sentence should be added to the effect that the period of asylum would have to last as long as there was still threat of persecution.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) was unable to accept the drafting group’s proposal for article 11 because of the deletion of the second paragraph. The people of Byelorussia had suffered greatly during the war and its horrors were still fresh in their minds. In Minsk,¹⁰³ the Germans had established a ghetto where Byelorussian Jews and those of Western European countries had been subject to torture. Bearing that in [10] mind, he could not accept a text which would grant to war criminals the right to asylum.

¹⁰³ After the Minsk ghetto was established on 20 July 1941, Jews (and non-Jews who had married Jews) were transferred there from Dzerzhinsk, Chervan and Slutsk. The ghetto was enclosed by barbed wire. Those living in the ghettos were subject to surveillance, curfews from 10 p.m. to 5 a.m., insufficient food and water, forced labour (for men), and poor living conditions. Each adult was allocated 1.5 metres of living space, which aggravated the spread of disease. Although the Minsk ghetto was closed on 21 October 1943, the remaining 2,000 captives were killed at Maly Trostinec.

MR. VILFAN (Yugoslavia) said that he would vote for the USSR proposal because its terms were similar to those of Article 31 of the Constitution of the Federated People's Republic of Yugoslavia. That Article had been drafted as a result of the Yugoslav peoples' experience during the war. The second paragraph of the Geneva text of article 11 met his point of view to a certain extent, but because of the experience of the war the right to asylum could not be allowed to be too freely interpreted. One of the most famous Yugoslav war criminals was wandering freely around Europe at this moment.

MR. LOPEZ (Philippines) supported the view that the right to seek asylum had to be balanced by the right to be granted it. He was in favour of stating the broad principle set forth in the amended Chinese proposal, leaving the future implementation of it to the appropriate United Nations organ.

MR. WILSON (United Kingdom) was not in favour of the USSR proposal because of its restrictive character, while the French proposal might prejudice the results of the study on the right to asylum. He had been impressed with the arguments against the text proposed by the drafting group, but pointed out that one of the most jealously guarded rights of a State was the right to prevent foreigners from crossing its border. He proposed that a small drafting committee should be appointed to find a formula which would be acceptable to all.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) asked the Chinese representative if the Chinese people would be prepared to grant asylum to Japanese war criminals. In his opinion, the attempt to word the Declaration in the most general terms would make for unsatisfactory results. The proposals which had been made were [11] similar to the declarations on Justice which had appeared in the nineteenth century and which had failed, perhaps because of their too general character. It was impossible to avoid reference to activities against the United Nations and against democracy.

MR. PAVLOV (Union of Soviet Socialist Republics) emphasized the impossibility of granting the right to asylum to war criminals. The United Kingdom representative could suggest further categories of persons which should be included, but the USSR proposal would have to be taken as a basis for agreement. In respect to the drafting group's proposal, he remarked that the right to seek asylum was meaningless without the right to be granted it.

DR. CHANG (China) said that the question of Japanese war criminals in China did not arise, because article 11 dealt with refugees from persecution. The Commission was attempting to draft a declaration of aspirations and therefore no qualifications should be introduced into the text.

THE CHAIRMAN was even more convinced of the fact that the Declaration should be made up of general principles. Anything more complicated would have to be determined by international agreement, in the form of extradition or asylum

conventions, or by the appropriate United Nations organ. She called for a vote on the USSR proposal. It was rejected by nine votes to four with two abstentions.

MR. CASSIN (France) urged the adoption of his proposal and expressed the hope that the Commission on Human Rights would not be more timid than the Council which, at least, had instructed the former to study the question of the right to asylum.
[12]

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

MR. PAVLOV (Union of Soviet Socialist Republics) announced that he would vote for the retention of the second paragraph of article 11, although it was not entirely acceptable to him, because without it the article would have no value whatsoever.

The motion to delete the second paragraph was defeated by eight votes to eight.

Appointment of Sub-Committees

The following sub-committees were appointed:

Sub-Committee on article 11: France, United Kingdom, China, India, United States of America.

...

The meeting rose at 5:20 p.m.

E/CN.4/82/Add.12

3 June 1948

Corrigendum to Comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of Implementation

Communication Received from New Zealand

[2]

The New Zealand Government have given careful consideration to the proposals of the Commission for an international bill of human rights, which proposals, in their opinion, form a satisfactory basis for the consideration of further action. The New Zealand Government desire, however, to stress the intrinsic complexity and difficulty of any attempt to formulate, in an international treaty, definitions of human rights and fundamental freedoms to be secured by states to individuals within their

respective jurisdictions. It is true that members of United Nations have combined in the Charter to “reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations, large and small” and have thereby, and in the other relevant provisions of the Charter, established the basis for the development of international action in this field. But the states concerned have achieved varying stages of economic and social development; their economic and social structures do not conform to a single pattern, the historical conditions from which they draw their philosophical ideas are not uniform. In these circumstances, however desirable may be the early conclusion of an agreement or agreements on human rights, it is essential that sufficient time should be allowed for each government to consider the views and comments of other governments, for differing viewpoints to be reconciled, and for the greatest possible measure of agreement to be achieved. Some delay would be preferable to the over-hasty adoption of texts which any considerable number of states might, upon reflection, be unwilling to ratify.

The New Zealand Government are not convinced of the wisdom of insisting that final consideration of the proposals made by the Human Rights Commission should be completed at the next regular session of the General Assembly. If the comments of governments and the discussions in the third session of the Commission and in the seventh session of the Economic and Social Council do not reveal a wide measure of agreement, an opportunity should be given to governments to reconsider their views in the light of the varying positions taken by governments. The short intervals between the meetings of the Commission, the Economic and Social Council and the General Assembly may not be adequate for such reconsideration.

The comments of the New Zealand Government now forwarded must not be taken as representing their final views. It has, in fact, been found necessary to record express reservations of the position of the New Zealand Government on certain articles proposed for inclusion in the Covenant on Human Rights until their scope and proper interpretation is clarified.

[3]

The present comments are put forward in a spirit of constructive criticism in an endeavour to assist the appropriate organs of the United Nations in arriving at a wide measure of agreement. The New Zealand Government hope that other members of the United Nations will approach the proposals in a similar manner and they must reserve the right to reconsider their views in the light of the comments and views of other governments.

[Comments regarding the Covenant are omitted.]

...

[4]

The Declaration

A clear distinction must be drawn between the purpose of the Covenant and the purpose of the Declaration. The Covenant is a document which will impose far-reaching obligations on acceding states and which accordingly demands detailed and precise drafting appropriate to a legal document. There are obvious advantages, however, in stating, in simple language and as briefly as is consistent with the avoidance of ambiguity, the essence of each human right and fundamental freedom. In the opinion of the New Zealand Government, this should be the aim and the purpose of the Declaration. The rights and freedoms so stated should be progressively elaborated and defined in detail in a form suitable for an international treaty. Certain of the rights and freedoms will no doubt be dealt with in this way in the Covenant presently under consideration. Others should in time be dealt with in further covenants. Others again may demand elaboration and implementation through the medium of some other type of international action. The Declaration should, however, state the philosophical basis of human rights and fundamental freedoms, define the essence of each and state, in a form comprehensible to the peoples of the world, the objectives of the United Nations in the field of human rights and fundamental freedoms.

Two comments follow from this appreciation of the purpose of the Declaration. The first is that the Declaration cannot in itself impose any legal obligation on states or call for any measures of implementation, although it may, with reference to the rights and freedoms not dealt with in detail in the Covenant, provide a guide to the interpretation of the relevant provisions of the United Nations Charter.

The second comment is that the Commission's draft of the Declaration is unnecessarily long and confused in language, being both declaratory and mandatory and frequently passing from statements of principle to points of detail without, however, achieving a definition which could found a legal obligation.

The New Zealand Government have endeavoured, in the time available, to redraft the Declaration in the light of the foregoing assumptions of its proper purpose. A redraft is attached hereto as Annex C. In advancing this redraft, the New Zealand Government desire to stress that it is intended to indicate the lines along which, in their opinion, a shorter and more consistent Declaration might be framed and not as a final statement of their views on the proper content of the Declaration. In these circumstances, it is not desired to offer detailed comments on the Declaration at this stage.

...

[10]

[Annexes A and B concern the Covenant and are omitted.]

[24]

Annex “C”**Revision of Draft International Declaration on Human Rights
Prepared by Human Rights Commission*****Article 1***

1. All men are born free, equal in dignity and rights as human beings, endowed with reason and conscience, and bound in duty to one another as brothers.

2. All men are members of communities and as such have the duty to respect the rights of their fellow men equally with their own.

3. The just claims of the state, which all men are under a duty to accept, must not prejudice the respect of man's right to freedom and equality before the law and the safeguard of human rights, which are primary and abiding conditions of all just government.

Article 2

Everyone is entitled to the rights set forth in this Declaration without distinction, whether on grounds of nationality, race, colour, sex, language, religion, political or other opinion, property status, social origin or otherwise.

Article 3

Everyone has the right to equal treatment under the law and to recognition everywhere in the world as a person before the law.

Article 4

Everyone has the right to life, liberty and security of person and to protection by law of his life, liberty, personal security, property, reputation, privacy, home and correspondence, subject to deprivation only in cases prescribed by law and after due process.

Article 5

Everyone has a right to the protection of the state of which he is a national or of the United Nations.

Article 6

Everyone has the right to move and choose his place of residence within the borders of each state, to leave his own or any other country, and to acquire the nationality of any other country willing to grant it.

Article 7

Men and women have the same right to contract marriage in accordance with the formalities required by the law.

[25]

Article 8

Everyone has the right to own property in accordance with the law of the state in which such property is located.

Article 9

Everyone is entitled to freedom of belief, thought and expression, to freedom to seek and receive information and the opinion of others wherever situated, and to access to all publicly available sources of information, opinion and knowledge.

Article 10

Everyone is entitled to freedom of association, including freedom to join trade unions.

Article 11

Everyone has the right, either individually or in association with others, to petition or to communicate with the government of the state of which he is a national, or in which he resides, and to petition or to communicate with the United Nations.

Article 12

Everyone has the right to take an effective part in the government of his country and the right to a free vote in the election of representative organs of government.

Article 13

Everyone is entitled to equal opportunity to engage in public employment and to hold public office in the state of which he is a citizen or a national.

Article 14

Everyone has the right to work and to receive fair and reasonable payment therefor.

Article 15

Everyone has the right to health and, therefore, to the benefits of the highest standard of food, clothing, housing and medical care which the resources of the state or community can provide.

Article 16

Everyone has the right to social security in respect of sickness, disability, unemployment, widowhood, motherhood, childhood and old age to the extent to which the resources of the state or community can provide it.

[26]

Article 17

1. Everyone has the right to education.
2. Education should, so far as possible, be free and universal. Access to higher education should be provided on the basis of merit.

Article 18

Everyone has the right to rest and leisure to be ensured through the limitation of working hours and provision of paid vacations.

Article 19

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

Article 20

Everyone has the right to use the language and participate in the cultural life of the ethnic, linguistic or religious group to which he belongs.

E/CN.4/108

3 June 1948

**Lebanon: Suggested Amendment to Article 16 of the Draft
International Declaration on Human Rights (E/CN.4/95)**

Article 16

Everyone has the right (is entitled) to freedom of religion, conscience and belief; this right includes freedom to change his religion or belief, and freedom, either alone or in community with other persons of like mind and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

E/CN.4/110

3 June 1948

**Second Report of the Sub-Committee Consisting of the
Representatives of China, France, India, United Kingdom and
Yugoslavia on Article 8 of the Draft International Declaration
on Human Rights**

Article 8

1. Everyone charged with a penal offence is presumed to be innocent until legally proved guilty in a trial at which he will have had all the guarantees necessary to his defence. Trials shall be public subject to exceptions made in the interests of public morals or security.

E/CN.4/SR.57

3 June 1948¹⁰⁴

Summary Record of the Fifty-Seventh Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Thursday,
3 June 1948, at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian

¹⁰⁴ This is the date of the meeting. The document was issued on 7 June 1948.

Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. R. Fontaina, Uruguay; Mr. Mora, Venezuela; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women; Miss Kenyon, Commission on the Status of Women. *Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization; Mr. Cox, International Labour Organization. *Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions.

[2]

Article 11 – Continuation of consideration.

THE CHAIRMAN pointed out that the drafting sub-committee had prepared the two following versions of article 11, paragraph 1, which differed only slightly from each other.

1. “Everyone has the right to seek and be granted in other countries asylum from persecution as humanity requires.”
2. “Everyone has the right to seek and be granted in other countries such asylum from persecution as humanity requires.”

In reply to a question by the representative of Yugoslavia, she explained that the drafting sub-committee, in re-drafting paragraph 1, had felt that the addition of the qualification: “as humanity requires” might obviate the need for paragraph 2 which had already been adopted by the Commission. The Commission would have to decide that question after a vote on paragraph 1.

MR. VILFAN (Yugoslavia) thought that such procedure might set a dangerous precedent.

MR. CASSIN (France) pointed to some errors in the arrangement of the versions of the re-drafted paragraph 1.

MR. PAVLOV (Union of Soviet Socialist Republics) noted two important changes in the drafting sub-committee’s versions of paragraph 1: (1) the optional character of granting asylum, as laid down by the Drafting Committee, had been changed to what seemed an obligation on the part of governments to grant asylum, and (2) the qualification “as humanity requires” added a new element which had not previously been discussed by the Commission.

The Committee should consider the two new elements separately. He felt that the qualification clause was vague and its addition to the paragraph would require further qualifications such as “the requirements of democracy and progress.”

[3]

THE CHAIRMAN explained that the expression “as humanity requires” had been chosen by the drafting sub-committee for its all-inclusiveness.

As regards paragraph 2, she specified that there was no question of reconsidering that paragraph, but only deciding, in the light of the new draft of paragraph 1, whether it was still necessary.

MR. MALIK (Lebanon) wished to know whether there was any difference of substance between the two proposed versions of paragraph 1. If not, then he would prefer the better style of the second version. The phrase: “as humanity requires” seemed very broad and vague; he therefore suggested that a separate vote should be taken on that qualification clause which he would rather see deleted and replaced by the previously rejected French proposal to entrust the United Nations with the problem of asylum. He was prepared, if in order, to propose reconsideration of that proposal.

MR. CASSIN (France) would support the first part of the newly proposed paragraph 1, (without the qualification clause) in the hope that the United Nations would find a just solution to the problem.

MR. WILSON (United Kingdom) observed that the discussion had shown the extreme complexity of the entire article. Control over immigration was one of the most jealously guarded rights of sovereign states. On the other hand, every person had the right to escape and seek asylum from persecution. The drafting sub-committee had attempted to reconcile those two conflicting rights by adding a qualification clause which set the dictates of humanity as a standard for granting asylum. The two proposed versions differed only in style. He suggested that the Commission should defer consideration of the need for paragraph 2 until paragraph 1 had been discussed.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic), referring to the Chairman’s remarks, felt that the vague qualification clause was no [4] substitute for paragraph 2. He recalled, in that connection, that the defence at the Nuremberg Trials had invoked the “law of humanity” in order to mitigate the punishment of war criminals; nevertheless, the Military Tribunal had pronounced, and humanity had approved, a just sentence for those war criminals. While recognizing the right of asylum also laid down in article 104 of the Constitution of the Byelorussian Soviet Socialist Republic he noted that such a right could not apply to fascists and other criminals against humanity. Consequently the article needed specific provision excluding war criminals from the right of asylum.

MR. LEBEAU (Belgium) shared the Lebanese representative’s regrets at the previous rejection of the French amendment. He wished to show that to an uninitiated reader, contrary to the United Kingdom representative’s view of the matter, there was a substantial difference between the two alternative versions of paragraph 1. In the French text, the first version implied granting of asylum subject to the

humanitarian considerations of the country concerned, while the second version laid down the general philosophical concept of asylum. He favoured the first version with the following amendment:

“Everyone has the right to seek and be granted in other countries asylum from persecution.”

MR. LARRAIN (Chile) agreed with the Belgian representative. He would support the Lebanese proposal for re-opening consideration of the French proposal which provided an effective method of dealing with the problem.

MR. CHANG (China), agreeing with the Belgian representative's interpretation of the two versions, noted the importance of a clear and unambiguous text on the matter. It was true that the first version gave the country of immigration certain control over the granting of asylum.

The original Chinese amendment had included that right of states to control immigration. He supported the French proposal which had been rejected in view [5] of the fact that a similar question was under consideration by the Council.

Should it be impossible to revert to that proposal, the Commission might go on record as considering that a United Nations organ should deal with that problem. He agreed with the representative of Lebanon regarding the vagueness of the qualification clause which could not be a compromise between the rights of states granting, and persons seeking, asylum. The Commission should state clearly and frankly whether or not countries had control over the granting of asylum. If no qualification clause was included, the question might arise whether countries were obliged to grant asylum whenever asked for it. There were two possibilities, the Commission could either accept the first version without the qualification clause, and in that case it would be well to revert to the French proposal or at least go on record that the French proposal constituted the most desirable solution to the problem; or the Commission should clearly leave it to countries to decide whether they would grant asylum. The first alternative should be put to the vote first as being furthest removed from the Drafting Committee's text.

THE CHAIRMAN, referring to the Chinese representative's remarks, explained that the Commission's action with regard to the French proposal had been based on the fact that the Council had called for a separate study of the question of nationality which would probably include the problem of asylum. She also pointed out that the qualification clause had been introduced by the drafting sub-committee partly because the Chinese representative had indicated the danger of an unqualified right of persons to seek and be granted asylum. Such a provision might keep many countries unable to make such a commitment from ratifying the Convention.

MR. MALIK (Lebanon) also agreed with the Belgian representative's interpretation of the meaning of the two versions. He would support reconsideration of the French proposal.

[6]

MRS. MEHTA (India) stated that she had not supported the French text in view of the fact that the United Nations could be instrumental in providing permanent asylum only. It was a human right, however, to seek and be granted temporary asylum from persecution. That right was not covered in the French proposal.

THE CHAIRMAN recalled that the original United States proposal had provided the right to seek temporary asylum. Without the word "temporary" the right to be granted asylum might come into conflict with the immigration laws of various countries. The problem of permanent asylum might be studied under the above-mentioned Council Resolution; reference to the United Nations, however, as proposed in the French amendment, might raise difficulties.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that a return to the French proposal would raise once more the question of the exact role of the United Nations in the matter. Since the United Nations had no common territory on which to provide asylum, such asylum would have to be granted on the territory of Member States; that, however, would constitute an interference in the domestic affairs of the country concerned.

On the other hand, the United Nations were not authorized under the Charter to make recommendations to Member countries on the matter of asylum. He therefore agreed with the Chairman's view on the French proposal.

As regards the two drafting sub-committee versions of paragraph 1, he felt that the two texts had different implications; while the first version seemed to refer to the type of asylum required by humanitarian standards, the second version apparently laid down the demand of humanity as one of the bases for granting asylum. The latter version, he felt, should be amplified by further considerations.

[7]

THE CHAIRMAN recalled that the question of asylum had been raised at the Commission's second meeting. As was evident from the summary record the point then considered had been whether the right to asylum should be included in the Declaration or in a special convention.

In reply to the questions of the Indian and USSR representatives MR. CASSIN (France) explained that at its previous meeting the Commission had not voted on the text submitted by the French Government, but on his own amendment which contained the provision "the United Nations acting in agreement with Member Governments". What he had meant was that the United Nations should take

preliminary steps and provide to Member States material aid to facilitate their acceptance of persons seeking asylum. He wished to make it clear that he had never implied that the United Nations could interfere in the internal affairs of States; he merely considered that an agreement on the whole problem should be reached at the earliest possible time and that the question should not be treated solely on an emergency basis. He had never intended that nations' rights should be infringed upon in any way.

With regard to the USSR representative's remark about the treatment of political refugees in France, Mr. Cassin pointed out that the fact that thousands of them chose to remain in France and make it their adopted country was sufficient proof of the treatment they had received.

MR. FONTAINA (Uruguay) wished that some misconceptions should be clarified. The task of the Commission consisted in drafting principles. The question of implementation would be considered by the Commission during the discussion of the Covenant. The Commission's sole concern at the present time was to lay down the principle that a person persecuted for political reasons had a right to asylum. The determination of how asylum should be granted belonged to the Covenant.

[8]

The representative of Uruguay referred to the Declaration on Human Rights adopted at Bogotá to show how the problem of asylum for political refugees was treated on a regional basis. He considered that the necessary mechanism should be provided by the United Nations and consequently would favour reconsideration of the French proposal. He reiterated that it was essential to separate a statement of principle from its implementation.

MR. LOPEZ (Philippines) felt that the significance of the paragraph in question should be considered in practical terms. Some representatives had stressed that the right of asylum should be granted only to the persecuted persons who were deemed desirable from the point of view of the recipient state.

An inhabitant of Latvia or Estonia who did not agree with the Soviet regime and therefore was in danger of persecution might seek asylum in Sweden or the United States of America. On the other hand, a person with Communist sympathies in Greece or some other country who was threatened with persecution might seek asylum in the Ukrainian SSR or in Yugoslavia. The right of asylum would thus be available in different countries for exactly the opposite reasons.

Mr. Lopez quoted those theoretical examples to show that it would be inadvisable to try to specify the persons who were entitled to asylum. The paragraph should guarantee the right of asylum in the broadest possible terms. Consequently he would favour an article free from the limitations implied by the phrase "as humanity requires". He would vote for the original Chinese amendment.

MR. QUIJANO (Panama) considered that the principles should be clearly and precisely stated. If the Commission were unable to agree on a precise formulation it would be advisable to re-examine the French amendment.

[9]

MR. PAVLOV (Union of Soviet Socialist Republics) was not clear on the exact meaning of the two versions of paragraph 1. He wished to know whether the first version referred to the kind of asylum and the second to the reasons for or conditions under which it should be granted. He considered that a specific reference should be made to defence of democracy, scientific activity and participation in the struggle for national liberty. In connection with the Philippine representative's remarks he enquired whether Japanese and Nazis would be granted asylum in the Philippines or in some other country. He also stressed that the USSR did not persecute its citizens for not agreeing with the Government. They were liable to punishment for treason and similar crimes.

MR. LOPEZ (Philippines) said in reply to the USSR representative that no Japanese or Nazi war criminal would be granted asylum in the Philippines. He would be arrested, tried and probably put to death.

MR. MALIK (Lebanon) formally moved that the French proposal "The United Nations in agreement with Member Governments" should be resubmitted for consideration.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) recalled that at its previous meeting the Commission had adopted paragraph 2 of article 11, which contained the very important principle that prosecution arising from acts contrary to the propositions and principles of the United Nations did not constitute persecution. The term "humanity" introduced by the drafting group was very broad and vague. It should be remembered that during the Nuremberg Trials clemency for war criminals had been asked for in the name of humanity. The United Nations, which was based on the defeat of fascism and nazism, should also be mentioned in paragraph 1 and no possibility whatsoever for the escape of war criminals should be implied.

In Mr. Klekovkin's opinion the drafting group had not fulfilled its task and the Commission must redraft the paragraph.

[10]

After an exchange of views between MR. WILSON (United Kingdom), and MR. CHANG (China) on the order in which the vote should proceed, MR. PAVLOV (Union of Soviet Socialist Republics) expressed the opinion that both alternative texts of the amendment were equally removed from the original. He stated that the text he had previously suggested was furthest removed. The final version of the USSR amendment was as follows: "Everyone has the right to seek and be granted in other countries asylum from persecution as required by humanity, defence of

democratic interests, activity in the field of science, and participation in the struggle for national liberty". He requested that his amendment should be voted first.

THE CHAIRMAN put the USSR amendment to the vote by a show of hands.

The USSR amendment was rejected by four votes to eleven, with two abstentions.

THE CHAIRMAN wished to know how the Commission would like to vote. She considered that the deletion of the words "as humanity requires" should be voted first.

MR. PAVLOV (Union of Soviet Socialist Republics) maintained that the version had included the words "as humanity requires" and since his amendment had been rejected there was no need for another vote.

THE CHAIRMAN said she had understood that only the additions to the paragraph had been rejected. In order to ascertain the members' opinion on whether the Commission still had before it the whole of the original text, she put the question to the vote.

The Commission decided by ten votes to four, with one abstention, that a vote on the original text should be taken.

The Commission decided by fourteen votes to one, with two abstentions to delete the words "as humanity requires".

[11]

In answer to a question by MR. FONTAINA (Uruguay), THE CHAIRMAN recalled that the French proposal had been resubmitted by the Lebanese representative, and put it to the vote.

The resubmission of the French proposal was rejected by seven votes to eight, with one abstention.

MR. HOOD (Australia) suggested that paragraph 1 should be voted in parts.

MR. LOPEZ (Philippines) opposed that suggestion and MR. MALIK (Lebanon) considered that instead of dividing the paragraph mechanically its two notions, that of seeking and that of being granted asylum, should be voted separately.

After a short discussion in which MR. CASSIN (France), MR. CHANG (China), MR. HOOD (Australia) and MR. WILSON (United Kingdom) took part, THE CHAIRMAN put the amended version of paragraph 1, article 11 to the vote.

The Commission adopted by twelve votes to one with four abstentions, the following version of paragraph 1: "Everyone has the right to seek and be granted in other countries asylum from persecution".

The meeting rose at 1:20 p.m.

E/CN.4/SR.58

3 June 1948¹⁰⁵

Original Text: French

Summary Record of the Fifty-Eighth Meeting
[of the Commission on Human Rights]

Lake Success, New York on Thursday,

3 June 1948 at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. C. Malik
Members: Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. R. Cassin, France; Mrs. Mehta, India; Mr. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. R. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Specialized Agencies:* Mr. Cox, International Labour Organization. [2] *Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Burgess, International Federation of Business and Professional Women; Miss Robb, Liaison Committee of Women's International Organizations; Miss Shaffer, International Union of Catholic Women's Leagues. *Secretariat:* Mr. J. Humphrey, Director of the Human Rights Division; Mr. E. Lawson, Secretary of the Commission.

**Continuation of the Examination of the Report of the Drafting
 Committee to the Commission on Human Rights
 (Document E/CN.4/95)**

Article 12

THE CHAIRMAN read out the text of Article 12 proposed by the Drafting Committee (document E/CN.4/95) and the alternative version proposed by the French delegation (E/CN.4/82/Add.8). She recalled that the United Kingdom, Indian and Chinese delegations thought it better to omit any such provision from the Declaration.

Speaking as representative of the United States of America, the Chairman stated that her delegation would vote against Article 12 because its wording was ambiguous. The provisions of Article 3 were sufficient to ensure the enjoyment of the rights that Article 12 was intended to declare if Article 12 was designed to go beyond those provisions, its ambiguity became obvious, and it had no place in a Declaration which should set forth clearly determined rights.

¹⁰⁵ This is the date of the meeting. The document was issued on 16 June 1948.

MR. CASSIN (France) recalled that the text adopted at the second session of the Commission had consisted of two parts: the first, which had been retained by the Drafting Committee, concerned juridical personality and was designed to supplement Article 5 on slavery; the second ensured the enjoyment of fundamental civil rights by everyone.

[3]

To affirm that an individual was a person before the law, was to declare that he had rights and duties. Such a declaration might seem unnecessary if the most recent history did not offer an example of forms of slavery under which juridical personality had been withdrawn from certain individuals. He instanced the Hitler regime under which several hundred thousand human beings had been arbitrarily deprived of their juridical personality. The United Nations should not ignore such a state of affairs, a recurrence of which was to be feared by the whole civilized world; the Declaration on Human Rights must be based on reality.

Mr. Cassin pointed out the difficulty of translating the term “*droits civils fondamentaux*” into English. The corresponding expression in English meant human rights as a whole – the fundamental liberties. In French law, and generally in all legislation based on Roman Law, “*droits civils fondamentaux*” were understood as all the rights protected by laws governing private relations. He therefore suggested that “*droits civils fondamentaux*” should be translated by “fundamental rights in domestic relations”. Such a translation would not be literal, but it would be accurate.

In the present state of the world it was inevitable that States should distinguish between their own nationals and foreigners. A large proportion of such distinctions was of a permanent nature. There could be no question of issuing directives to sovereign States; but there were degrees between absolute equality and the denial of all rights, and it was the United Nations’ duty to ensure not only that all human beings had juridical personality, but also that they should be guaranteed certain elementary rights indispensable to their wellbeing and to their dignity.

The recognition of everyone as a person before the law was the first and most important step. Nevertheless, the French delegation favoured restoration of the second part of the text adopted at the second session of the Commission, since it established a general principle ensuring a minimum of indispensable fundamental rights to everyone.

[4]

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with the French representative. He also pointed out that apart from attempts against whole groups, such as those against the Jews in Germany, account must be taken of the fact that some civil legislation still contained restrictive provisions regarding juridical personality of individuals. Thus, in certain cases, a wife had no juridical personality

independent from that of her husband. It was the Commission's duty to combat all discrimination, including discrimination based on sex, which was still prevalent in several countries, and he did not see why it should reject an article that could not fail to be of value from that point of view. In his opinion Article 3 was not an adequate substitute for Article 12; the first established the equality of all before the law, the second would ensure the effective enjoyment of rights thus recognized. The difference was important; the two articles were complementary, not mutually exclusive.

Speaking as representative of the United States, THE CHAIRMAN observed that in her country the practice of certain professions by foreigners was prohibited. She asked Mr. Cassin whether, under the terms of the article he advocated such prohibition would be equivalent to a denial of juridical personality.

MR. CASSIN (France) repeated that "*droits civils fondamentaux*" meant the most elementary rights which could not be denied to any human being, the "*jus gentium*" of Roman Law. As early as the Middle Ages, canon law had recognized that all men possessed a minimum of rights. That was the minimum envisaged by Article 12, which could not impair the sovereignty of any State conscious of its responsibilities in respect of foreigners residing in its territory.

[5]

MR. HOOD (Australia) remarked that Article 15 of the Covenant contained provisions similar to those of the article under consideration. Moreover, those provisions were not fully covered by Article 3 of the Declaration, which, in a way, was only the application of the general principle stated in Article 12. Hence the Australian delegation was not only in favour of the Drafting Committee's text, but in view of the importance it attached to those provisions, it felt that they should be given a more prominent place in the Declaration.

THE CHAIRMAN recalled that despite the long discussions that had taken place on the subject when the Draft Covenant was being considered the Drafting Committee had not found a satisfactory translation of the term "*personnalité juridique*", for which there was no equivalent in Anglo-Saxon law. The Committee had therefore agreed on the term "juridical personality" subject to a better formula being found.

MR. FONTAINA (Uruguay) confirmed that the concept of juridical personality was to be found in the Constitutions of several Latin American States. Moreover, the terms of Article 17 of the Declaration on Human Rights, drafted by the Inter-American Conference at Bogotá, corresponded with the proposed text of Article 12.

The article should certainly be retained; the difficulty was how to express the idea in a way that would be clear to the English speaking countries. He thought that the Commission should not be afraid to make an innovation by employing a term that would certainly be established by usage if the legal concept it expressed was recognized.

MR. WILSON (United Kingdom) announced that his delegation would vote against the retention of Article 12. The United Kingdom delegation considered that such significance as the proposed text of the article had in Anglo-Saxon law was already covered by the provisions of Article 3. [6] However, if the Commission felt that Article 12 should be retained because of the corresponding Article 15 of the Covenant, it would be advisable to see that Article 12 of the Declaration was drafted in the same terms as Article 15 of the Covenant, in order to avoid any possible misunderstanding.

MR. CASSIN (France) pointed out that there was no need to make Article 12 conform to the text of Article 15 of the Covenant, since the latter had been evolved from the Draft Article 12 of the Declaration submitted by the French delegation at Lake Success in June 1947 and adopted in its entirety after long discussion at the second session. It was a return to that original draft that the French delegation was proposing.

Without having taken part in the final drafting of the Covenant, he thought he was right in saying that Article 15 related to condemnation to civil death, which should have no further place in criminal law. Article 12 of the Declaration was designed to have a wider scope, proclaiming that every human being possessed juridical personality from the time of birth.

Article 12 was also intended to ensure to everyone the enjoyment of certain fundamental rights not expressly mentioned in other articles of the Declaration, such as contractual capacity. He urged the Commission to remember, when taking decisions, that its work should not be purely theoretical; it had to combat facts that were still fresh in every memory.

THE CHAIRMAN, speaking as representative of the United States of America, said that the meaning of Article 12 in its present form was not sufficiently precise in Anglo-Saxon law for her delegation to accept it.

She asked the Commission to decide by vote whether the article should be retained.

It was decided to retain Article 12 by eleven votes to five.

[7]

On the Chairman's suggestion, MR. CASSIN (France) agreed to amend the term "*droits civils fondamentaux*" to read "*droits privés fondamentaux*", if "fundamental private rights" seemed more acceptable to the English speaking delegations.

MR. LEBEAU (Belgium) was unable to believe that Anglo-Saxon legal terminology could not express the Roman concept of "civil rights".

MR. WILSON (United Kingdom) stated that Anglo-Saxon law distinguished between different rights but did not group them in separate categories.

MR. CHANG (China) stated that the law of his country, too, did not clearly define the concept.

MR. LOUTFI (Egypt) suggested that the Commission should refer to Article 17 of the Bogotá Declaration.

Speaking as the representative of the United States of America, THE CHAIRMAN observed that translation difficulties connected with the Bogotá Declaration had not yet been completely overcome.

She asked Mr. Cassin to define what he considered to be the difference between juridical personality and the enjoyment of fundamental civil rights.

MR. CASSIN (France) replied that it was possible to deprive an individual of some of his fundamental civil rights while recognizing his juridical personality; that had occurred at the beginning of the Nazi regime in Germany. Speaking figuratively, juridical personality was the vessel and fundamental civil rights were its contents. After the individual's right to recognition of his juridical personality had [8] been affirmed he should be assured of full enjoyment of his fundamental civil rights. The Declaration defined some of these rights, but since it did not expressly establish certain others, such as contractual capacity, a separate article should state them in general terms.

However, in order not to delay the Commission's work on so important a matter, he would not press for retention of the second part of his proposal and he hoped that the Commission would be able to reach agreement on the first part. He reserved his Government's position.

THE CHAIRMAN put to the vote the first part of the French proposal, which was as follows:

“Everyone has the right, everywhere in the world, to be recognized as a legal person”.

The text was adopted by twelve votes, with four abstentions.

[9]

Article 13

THE CHAIRMAN read out the text of Article 13 proposed by the Drafting Committee and the amendments submitted by the United Kingdom and Indian delegations (document E/CN.4/99), the Belgian delegation (document 3/CN.4/103) and the Lebanese delegation (document E/CN.4/105). She recalled that the Chinese delegation would prefer not to include such a provision in the Declaration. Speaking as representative of the United States of America, the Chairman stated that her delegation was strongly in favour of adopting the text submitted by the United Kingdom and Indian delegations, which she understood to cover not only the right to contract marriage but also the right to dissolve it.

However, if the Commission thought it necessary to supplement that text, the United States delegation suggested the following compromise based on both the Lebanese and Belgian proposals (documents E/CN.4/105 and E/CN.4/103) and corresponding with the text of the Bogotá Declaration:

“Men and women are entitled to equal rights as to marriage. The family deriving from marriage is the natural and fundamental group unit of society and is entitled to protection”.

MRS. LEDON, Vice-Chairman of the Commission on the Status of Women, recalled that, at its session in January 1948, that Commission had studied the article of the Declaration relating to marriage and had submitted the following amendment to the Commission on Human Rights, through the Economic and Social Council:

“Men and women shall have equal rights: to contract or: dissolve marriage in accordance with the law.”

[10]

The Commission on the Status of Woman was aware that a certain section of public opinion had protested against that text on religious grounds, which the Commission understood and respected. But since the Commission had been appointed to safeguard their rights and protect the interests of woman throughout the world, it had been obliged to take account, not only of the views of groups that did not recognize divorce, but also of the existing situation in countries where, divorce being legally recognized, the relevant legislation usually placed women at a disadvantage.

The Commission on the Status of Woman had not thought that the text it advocated would be against the religious principles of certain groups, since even religious doctrine provided for the dissolution of marriage in certain cases, although extensive restrictions were applied.

The Commission had been guided above all by concern at existing conditions, under which inequalities were too often sanctioned to the detriment of women and the family. In many countries grounds for divorce for men differed from those for women. In many cases the law denied a woman the most elementary right to express her opinion, to take her own decisions or sometimes even to receive alimony for herself and for her children. It was the duty of the Commission on Human Rights to examine every aspect of the problem and to find a just and humane solution. The Declaration must plainly state the principle of equality of men and women in marriage.

The Commission on the Status of Women would willingly accept any draft that was better than the one it had proposed, provided that it took account of women's moral and material interests, which had to be guaranteed and protected.

[11]

MR. LEBEAU (Belgium) recalled that the purpose of his delegation's amendment was to state in the first paragraph of Article 13, that the object of marriage was to establish a family and, in the second paragraph, that the family was the fundamental unit of society and therefore had a right to be protected by society and the State.

The Belgian delegation had felt that the reference to the age and consent of intending spouses was unnecessary, since those matters were governed by civil law and were not basic principles that should be included in a Declaration on Human Rights.

He found the compromise text proposed by the United States delegation satisfactory and if it was acceptable to all, his delegation was prepared to withdraw its amendment.

MR. MALIK (Lebanon), Rapporteur, also said that he would withdraw his amendment if the Commission reached agreement on the compromise text proposed by the United States representative. He pressed for retention of the words "the natural and fundamental group unit of society" which were the most essential part of his amendment.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) stressed that the purpose of Article 13 should be to grant women rights equal to those of men and observed that all the texts suggested so far, including that proposed by the Drafting Committee, which his delegation preferred failed to answer that purpose.

The joint United Kingdom and Indian draft was incomplete, since it saw men and women had equal rights as to marriage but did not specify that such equality of rights held good throughout the period of marriage. He recalled the efforts made by Mrs. Uralova [12] (Byelorussian SSR) and Mrs. Begtrup (Denmark), the representatives of the Commission on the Status of Women to the Economic and Social Council, to guarantee to women the same rights as men not only to contract but also to dissolve the marriage ties.

In his country women enjoyed absolute equality of rights as to marriage. A more formal and explicit wording of Article 13 might lead all States to adopt an attitude towards women similar to that of the Byelorussian SSR.

MR. WILSON (United Kingdom) pointed out an error in translation. It appeared that in the Russian text the words "as to marriage", which comprised all questions pertaining to marriage, such as the right to contract marriage, relations between spouses during marriage and the dissolution of marriage, had been translated by an expression signifying only the right to contract marriage. That error should be corrected.

MR. LOUTFI (Egypt) said that the delicate nature of the question under discussion might make it preferable merely to state the principle without going into details. He would therefore vote for the Indian and United Kingdom proposal.

However, the Egyptian delegation would be prepared to accept the compromise text if the words “deriving from marriage” were deleted; it felt that protection should not be withheld from families not deriving from marriage.

MR. LARRAIN (Chile) supported that suggestion.

MR. MALIK (Lebanon), Rapporteur, regretted that he could not agree to the deletion suggested by the Egyptian representative. He pointed out that his amendment did not automatically withhold [13] protection from children born out of wedlock. It must be recognized, however, that illegitimate births were the exception; the family usually derived from marriage and was entitled to protection for that reason.

MR. LEBEAU (Belgium) agreed with the Lebanese representative. He emphasized that declaring the family deriving from marriage to be the natural and fundamental group unit of society did not make it impossible for certain countries to enact civil legislation favourable to children born out of wedlock.

He pointed out that the French text, in which the words “deriving from marriage” were placed between two commas, gave less cause than the English version for such fears as those expressed by the Egyptian and Chilean representatives. He therefore suggested that the same punctuation should be adopted for both texts.

MR. FONTAINA (Uruguay) agreed with the Egyptian representative. He also proposed the deletion of the word “natural”, since the essential point was to state that the family was the fundamental group unit of society and that it was the cell around which the State was formed; the way in which the family was constituted was of secondary importance.

If the Commission made that change, and the one suggested by the Egyptian representative, the Uruguayan delegation would vote in favour of the compromise text.

MRS. MEHTA (India) confirmed that the amendment proposed by her delegation and that of the United Kingdom embraced all questions pertaining to marriage. However, if there were any doubts, regarding that interpretation, the Indian delegation would accept [14] the compromise text with the amendments suggested by the Egyptian and Uruguayan representatives.

She felt that the age and consent of intending spouses were details that should not be included in the Declaration on Human Rights. She also thought that the Declaration should give no definition of the family. However, if the Commission thought it necessary to adopt a provision for the protection of the family, the idea to be kept in view was that the family, whether deriving from marriage or not, was entitled to protection.

MR. CASSIN (France) suggested the following wording, which took account of the various views expressed:

- 1) Everyone of marriageable age shall have the right to marry, provided that it is with his or her full consent, and to establish a family.
- 2) Men and women shall have equal rights as to marriage.
- 3) The family is the natural and fundamental group unit of society and is entitled to protection.

MR. PAVLOV (Union of Soviet Socialist Republics) favoured the text of the first paragraph proposed by the Drafting Committee.

He felt that it was essential to retain the words “in accordance with law” in the first sentence, and to retain the second sentence relating to the consent of intending spouses; those were very important factors which must not be overlooked.

He recalled that the second paragraph of Article 13 had been discussed by the Drafting Committee at length, and that his delegation had given strong support to the just claims of the Commission on the Status of Women. Taking those claims into account, he proposed:

[15]

- 1) to amend the wording of the paragraph as follows:

“The State and society must protect marriage and the family and ensure equality between men and women in marriage”.

- 2) to add a third paragraph, as follows:

“Men and women shall have equal rights as to dissolution of marriage.”

Regarding the reference to the Creator, which the Lebanese representative seemed willing to drop, he recalled that the Drafting Committee had decided, after a long debate, not to mention the Creator in a civil document, as in most cases the State was separated from the Church. That decision should be adhered to.

Lastly, he pointed out that both the compromise text and the various proposed amendments contained philosophical or legal definitions of the family, which were perhaps excellent, but would be more appropriate in a treatise on sociology than in a Declaration on Human Rights of wide practical scope. At all events, there could be no question of distinguishing between families that derived from marriage and those that did not. The Drafting Committee had rightly decided not to retain these points in Article 13, and there again its decision should be respected.

MR. WILSON (United Kingdom) pointed out that while the Commission had learned to be in full agreement on the text proposed by his delegation and that of India, disagreement had arisen as soon as they deviated from that text. That was because marriage was so closely bound to religion, traditions and culture that as soon as one tried to give a philosophical definition of marriage and the family,

opinions were bound to differ. In such matters, the views of the majority could not be imposed on the minority.

[16]

The United Kingdom delegation felt it was better to keep to a declaration of the equal rights of men and women as to marriage, without giving any definition of marriage and the family, especially as Article 9 provided for the protection of the family. His delegation would therefore vote against any amendment designed to provide any definition of those concepts. He wished to state that although he agreed on the principle of the full consent of intending spouses, his delegation considered that it should not be written into the Declaration.

MR. FONTAINA (Uruguay) said that after the explanations given by the United Kingdom and Indian representatives he was prepared to accept the text proposed by their delegations.

MR. VAN ISTENDAEL (International Federation of Christian Trade Unions) said that as the Declaration on Human Rights was a statement of general principles and should be a moral guide for the nations, it was imperative that it should contain no principle that might offend the conscience of a large number of people. If the Declaration proclaimed the right to dissolve marriage, it would be unacceptable to hundreds of millions of Christians in countries that were Members of the United Nations.

The equality of men and women before the law and before the Courts was already adequately stated in various articles of the Declaration. The International Federation of Christian Trade Unions asked the Commission to proclaim the equality of men and women as to marriage, without specially mentioning one aspect of that equality.

The Drafting Committee had recognized that it was necessary to state the right of the family to be protected. The rights of social, political and other groups had been repeatedly recognized; Article 14 [17] should proclaim the indefeasible rights of the family, especially the right to protection by the State and by society.

MRS. SCHAEFER (International Union of Catholic Women's Leagues) pointed out that her organization comprised 36 million women divided among 120 associations in 60 countries.

The Union of Catholic Women's Leagues thought that the purpose of Article 13 was to define the family and to guarantee freedom of consent and equality in marriage to intending spouses. The principle of the dissolution of marriage offended Christian conscience, and the Union of Catholic Women's Leagues protested against the mention in a Declaration on Human Rights which should establish an ideal acceptable to all, of a right which was repudiated by a large section of world opinion.

MR. CHANG (China) stated his delegation would vote in favour of the most concise text, namely, that proposed by the delegations of India and the United Kingdom.

MR. DE QUIJANO (Panama) said that in his country men and women were absolutely equal in marriage. Consequently, the delegation of Panama would vote for the Indian and United Kingdom text, which established that principle most concisely.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) proposed the appointment of a sub-committee to draft a single text on which the Commission could vote at its next meeting.

THE CHAIRMAN put the Ukrainian proposal to the vote.

The Ukrainian proposal to appoint a sub-committee was rejected by nine votes to four, with three abstentions.

[18]

MR. VILFAN (Yugoslavia) said he could not express any opinion on a new proposal put forward at the present meeting. He asked that the examination of Article 13 should be postponed until the next meeting, so that the various proposals submitted during the debate could be more thoroughly considered.

MR. PAVLOV (Union of Soviet Socialist Republics) reminded the Commission that under Article 52 of the Rules of Procedure of the Economic and Social Council's Functional Commissions, resolutions, motions and amendments of a substantive character should, if so requested by any member, be deferred until the next meeting on a following day. He supported the request of the Yugoslav representative.

MR. CHANG (China) formally proposed the adjournment of the discussion.

THE CHAIRMAN asked the Secretariat to submit suggestions in the order in which the various proposals and amendments relating to Article 13 should be put to the vote.

The meeting rose at 5:35 p.m.

E/CN.4/106

4 June 1948

Order of Voting on Proposals and Amendments Concerning Article 13 of the Declaration Memorandum by the Secretary-General

The Secretariat has been asked to suggest the order in which the various proposals and amendments relating to Article 13 of the Draft Declaration should be voted on. The rule of procedure governing this question is rule 54 which reads as follows:

Rule 54

If two or more proposals relating to the same question, or if one or more amendments are moved to a proposal, the Commission shall first vote on the most far-reaching proposal or amendment, and then on the next most far-reaching proposal or amendment, and so on, until either all the proposals and amendments have been put to the vote, or one or more of them has been adopted, which in the opinion of the Commission makes voting on the remaining proposals and amendments unnecessary.

In applying this rule the Secretariat has followed the generally accepted rule that the phrase “most far-reaching proposal or amendment” involves a comparison with the original text before the Committee, namely, the text of the Drafting Committee. In other words, the term “most far-reaching” as used in this rule has essentially the same meaning as the term “furthest removed in substance from the original proposal” which is used in the Council Rule 62 and the General Assembly Rule 82. (This is shown by the discussion in the Council Committee on Procedure in document E/AC.2/8, page 2, and by the French text of Rule 54).

In applying this standard in this particular case it is necessary to determine which of the various proposals and amendments would change the original text most. The Secretariat feels that it is impossible to avoid a certain amount of arbitrariness in making this choice. Moreover it is [2] also felt that it is undesirable in connection with this procedural question to attempt to decide which of the ideas are most fundamental or would have the greatest effect. Consequently, the Secretariat has analysed the proposals and amendments in terms of the component ideas without attempting to evaluate the scope or effect of the particular ideas. On this basis the text which would delete or add the largest number of expressly formulated ideas in relation to the original text would be the furthest removed in substance.

In accordance with this analysis the order of voting would then be as follows:

1. *Proposals submitted by India and the United Kingdom:*

Men and women are entitled to equal rights as to marriage. This proposal is the furthest removed from the text of the Drafting Committee because there are four ideas in the latter text which are now expressly included in the India-United Kingdom proposal in accordance with the law, full consent of both intending spouses, age of puberty, protection by State and Society.

2. *Amendment submitted by the representative of Egypt to the United States proposal, which is to delete the words “deriving from marriage”.*

This amendment should be voted on before the United States proposal for two reasons: in the first place, it is an amendment to the United States of America proposal. Secondly, it is further removed from the text of the Drafting Committee

than the United States text because it would give protection even to family groups which do not derive from marriage.

3. *Proposal submitted by the United States*

Men and women are entitled to equal rights as to marriage.

The family deriving from marriage is the natural and fundamental group unit of society and shall be entitled to protection.

This proposal is not as far removed as the India-United Kingdom proposal because it deletes only three ideas mentioned in the text of the Drafting Committee in accordance with the law, consent of both intending spouses, age of puberty. On the other hand, it adds one idea which is not in the text of the Drafting Committee, namely that the family deriving from marriage is the natural and fundamental unit of society.

4. *Proposal submitted by the Representative of the Soviet Socialist Republic which is:*

- (a) to insert the phrase “and the equality of men and women in the marriage” after the word “family” in the second paragraph [3] of the text presented by the Drafting Committee;
- (b) to add a new paragraph to the text of the Drafting Committee reading as follows: “Both men and women shall have equal rights to dissolve marriage”.

This proposal is not so far removed from the text of the Drafting Committee because it adds only two new ideas not contained in the latter text, viz. the equality of men and women during marriage, and the express mention of dissolution of marriage.

5. *Proposal submitted by the Representative of France, which is:*

1. Every man and woman of the age of puberty has an equal right to contract marriage provided that this be with his or her full consent and to found a family.
2. Every man and woman has equal rights as to marriage.
3. The family, which is the natural and fundamental group unit of society is entitled to protection.

This proposal seems to be the nearest to the text of the Drafting Committee because it introduces only one new idea, viz. the idea that the family is the natural and fundamental unit of society.

The Secretariat has not included the proposals of Belgium and the Lebanon in the list because it understands that both of these proposals were withdrawn by their sponsors in favour of the United States text.

E/CN.4/107

4 June 1948

Draft International Declaration on Human Rights

Article 14

*Report of the Sub-Committee Consisting of France, United States of America,
United Kingdom, Union of Soviet Socialist Republics*

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

E/CN.4/SR.59

4 June 1948¹⁰⁶

Summary Record of the Fifty-Ninth Meeting [of the Commission on Human Rights]

Held at Lake Success, New York, on Friday,
4 June 1948, at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood (Australia); Mr. Lebeau (Belgium); Mr. Stepanenko (Byelorussian Soviet Socialist Republic); Mr. Chang (China); Mr. Loutfi (Egypt); Mr. Cassin (France); Mrs. Mehta (India); Mr. Quijano (Panama); Mr. Lopez (Philippines); Mr. Klekovkin (Ukrainian Soviet Socialist Republic); Mr. Pavlov (Union of Soviet Socialist Republics); Mr. Wilson (United Kingdom); Mr. Fontaina (Uruguay); Mr. Vilfan (Yugoslavia). *Also Present:* Mrs. Ledon (Commission on the Status of Women). *Representatives of Specialized Agencies:* Mr. Cox (International Labour Organization); Mr. Stone (International Refugee Organization); Mr. Lebar (United Nations Educational, Scientific and Cultural Organization). [2] *Consultants from Non-Governmental Organizations:* Miss Sender (American Federation of Labor); Mr. van Istendael (International Federation of Christian Trade Unions); Miss Stuart (World Federation of United Nations Associations); Mr. Nolde (Commission of the Churches on International Affairs); Mr. Brotman (Coordinating Board of Jewish Organizations); Miss Strahler (International Committee of the Red Cross); Miss Burgess (International Federation of Business and Professional Women); Miss Robb (Liaison Committee of Women's International Organizations); Miss Schaefer (International Union of Catholic Women's Leagues); Mr. Bienenfeld (World Jewish Congress). *Secretariat:* Mr. Humphrey (Director of the Human Rights Division); Mr. Lawson (Secretary of the Commission)

¹⁰⁶ This is the date of the meeting. The document was issued on 10 June 1948.

**Continuation of the Discussion on the Draft Declaration
of Human Rights (document E/CN.4/95)**

Article 14

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

MR. CASSIN (France) pointed out that the various texts submitted could be roughly divided into two categories. The drafting committee had defined the fundamental right to own property with certain limitations (document E/CN.4/95). On the other hand, the Chinese, United Kingdom and French texts tended to circumvent a precise statement of the problem by setting forth the incontrovertible fact that no one could be arbitrarily deprived of the right to own property. As the representative of the USSR had pointed out, every government in every country could accept the definition in the light of its own laws regulating the right. Any attempt to reach a more definite statement must involve amendments giving rise to [3] debate. The text proposed by the French delegation merely constituted an amendment to the form of the original Geneva draft. Mr. Cassin reserved the right to submit a substantive amendment after a vote had been taken on the other texts.

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

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

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

In reply to a question from Mr. Pavlov, (Union of Soviet Socialist Republics), MR. WILSON (United Kingdom) explained that the joint United [4] Kingdom-Indian

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

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

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

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

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

THE CHAIRMAN proposed that a drafting committee, composed of representatives of the United Kingdom, France, the Union of Soviet Socialist [5] Republics and the United States, should work out an acceptable text for article 14.

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

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

MR. PAVLOV (Union of Soviet Socialist Republics) and MR. STEPANENKO (Byelorussian Soviet Socialist Republic) supported the Chairman’s proposal for a

drafting committee to reconcile the various drafts. Mr. Pavlov would be willing to accept the United Kingdom text as a substitute for the second part of the Geneva text, provided the word “unreasonable” were changed to “illegal”.

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

Article 14 was referred to the Drafting Committee.

Article 15

[6]

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

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

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

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

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

[7]

The principle of international protection for stateless people was accepted by the United Nations when it created the International Refugee Organization, and therefore the Declaration on Human Rights should contain a statement recognizing the fundamental need of protection of thousands of people who were stateless either in

law or in fact. Such a statement in the Declaration would not necessarily impose any specific resulting obligation on the United Nations itself, but would leave it free to entrust that task to a specialized agency.

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

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

MR. LOUTFI (Egypt) said the question of nationality was a very complicated one which could only be settled by conventions between States. The India-United Kingdom amendment referred to one phase of the question only, that of the arbitrary deprivation of nationality. He could not support the amendment to that proposal suggested by the representative of [8] Uruguay as it would raise too many difficulties. The second sentence of the Geneva text, beginning, "All persons who do not enjoy. . ." should be retained.

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

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

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

The Economic and Social Council had already recognized its duty in that field and had set up an organization for the protection of stateless people. The Commission would be taking a backward step if it neglected that work. He considered that the question of the change of nationality raised by the representative of Lebanon had to a great extent been settled by Article 9 of the Geneva draft. The French Government had not submitted any amendments to that Article and would not object if the Commission added [9] the text of Article 9 to that of Article 15. The India-United Kingdom text covered a very small part of the whole problem, and referred only briefly to the arbitrary deprivation of nationality. Mr. Cassin emphasized the hardships suffered by a woman who lost her own nationality through marriage with a citizen of a foreign state but did not acquire that of her husband. He pointed out that the French Government was attempting, through legislation, to keep such marriages from becoming the cause of statelessness.

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

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

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

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

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

[10]

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

States should not arbitrarily refuse to grant their protection to people who were their citizens. That was the essence of the very complicated and technical matter under consideration, and it was for that reason that the delegation of India and of the United Kingdom felt that the statement contained in their amendment was as far as

the Commission could go in a declaration of general principles which were to be of significance for a long time to come.

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

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

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

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

MR. WILSON (United Kingdom) was unable to accept the amendment proposed by the USSR representative for the reason that it was possible for a state to pass laws laying down, for instance, that persons belonging [11] to a certain race or political party should be deprived of their nationality. That would be perfectly legal but entirely arbitrary. He would have to insist on the retention of the word "arbitrary", and would vote against the amendment suggested by the USSR representative.

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

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

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

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

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

[12]

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

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

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

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

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

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

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

Article 15, as amended, was adopted.

The meeting rose at 1:25 p.m.

E/CN.4/SR.60

4 June 1948¹⁰⁷

Original Text: French

Summary Record of the Sixtieth Meeting
[of the Commission on Human Rights]

Lake Success, New York on Friday, 4 June 1948, at 3 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Steyaert, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. de J. Quijano,¹⁰⁸ Panama; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United

¹⁰⁷ This was the date of the meeting. The document was issued on 23 June 1948.

¹⁰⁸ Pursuant to E/CN.4/SR.60/Corr.1 of 28 July 1948, the words “Mr. Lopez, Philippines” are to be added after “Mr. de Quijano, Panama”.

Kingdom; Mr. R. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Specialized Agencies:* Mr. Cox, International Labour Organization; Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. [2] *Observers from Inter-Governmental Organizations:* Mr. Stone, Preparatory Commission of the International Refugee Organization. *Consultants from Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations; Mr. Goldsmith and Mr. Lewin, Agudas Israel World Organization; Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Schaefer, International Union of Catholic Women's Leagues; Miss Robb, Liaison Committee of Women's International Organizations. *Secretariat:* Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

**Continuation of the Discussion of Article 15 of the Draft Declaration
on Human Rights (documents E/CN.4/95, E/CN.4/99, E/CN.4/102)**

Article 15 (continued)

MR. CASSIN (France) pointed out that the Commission had adopted the Indian and United Kingdom amendment to article 15, but had not yet taken any decision on the text adopted during the session at Geneva, re-submitted by the Drafting Committee and taken up again in the French amendment, namely the sentence: "Everyone has the right to a nationality." He did not wish to question the Commission's decision on the Indian and United Kingdom amendment, but thought that article 15 of the Drafting Committee's text should be put to the vote before the next article was discussed.

MR. WILSON (United Kingdom), supported by MR. LEBEAU (Belgium), explained that the Indian and United Kingdom amendment [3] was intended to replace the Drafting Committee's text. Consequently, he could see no need for a further vote.

THE CHAIRMAN stated that the Indian and United Kingdom amendment had, in fact, been intended to replace article 15, so that the Commission had disposed of that article. However, if the French representative thought that, owing to a misunderstanding, the Commission had not taken a decision on part of the French amendment, he was entitled to propose formally that the sentence be inserted in the text adopted for article 15.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the procedure suggested by the Chairman might create a dangerous precedent. The Commission could not reconsider a decision that had already been voted on. But as there had been a misunderstanding and some members had voted for the United Kingdom amendment as an addition, while others thought it was intended to replace the Drafting Committee's text, he proposed that the Indian and United Kingdom amendment should be put to the vote again, as a substitute for the Drafting Committee's text.

That was the only proper procedure, as there had been some confusion regarding the amendment.

MR. MALIK (Lebanon) (Rapporteur) supported the French representative's view. From the point of view of procedure, the United Kingdom and Belgian representatives were right, but it would be regrettable if the Commission were prevented from expressing its opinion on a question of substance for purely procedural reasons. The Indian and United Kingdom amendment would not be incompatible with the text that the French representative wished to insert, since the one dealt with arbitrary deprivation of nationality [4] and the other with everyone's right to a nationality.

MR. CHANG (China) did not oppose the French representative's request for a vote, but feared that the inclusion of the words he proposed would amount to a repetition.

MRS. MEHTA (India) pointed out that declaration of the right to nationality had been intentionally omitted from the Indian and United Kingdom amendment. It was, in fact, difficult to decide whether that right was fundamental. For example, if a person fled from his country and sought asylum in another, thus losing his nationality, had he the right to claim the nationality of the country that sheltered him? That was a debatable point. She thought that the fundamental right was the right not to be deprived of nationality. She would therefore vote against the inclusion of the words proposed by the French representative.

MR. CASSIN (France) recalled that the Commission had discussed certain parts of article 15 at the previous meeting, but had taken no decision on the article as a whole. It was for a vote on the article as a whole that he was asking. The French amendment had been put to the vote as presented in the Egyptian and Lebanese amendments; the points that seemed furthest from the original text had been dropped, but public opinion would not understand that no vote had been taken on the fundamental question, that of everyone's right to a nationality.

When the Indian and United Kingdom amendment was put to the vote, he had considered it as an addition and had not thought that it would prevent the Commission from taking a decision on another text. He therefore asked the Commission to vote on the Drafting Committee's text, which was also part of the French amendment and had not been voted on.

[5]

THE CHAIRMAN decided that the Commission had before it part of the French amendment which had not yet been voted on, owing to a misunderstanding, and asked the Commission for a decision on that text.

MR. PAVLOV (Union of Soviet Socialist Republics) contested the Chairman's ruling, which he thought procedurally incorrect. The Commission should take another vote on the Indian and United Kingdom amendment as an alternative to the Drafting Committee's text of the article.

THE CHAIRMAN put her ruling to the vote.

The Chairman's ruling was accepted by 6 votes to 3, with 6 abstentions.

THE CHAIRMAN put to the vote the proposal to include in article 15, as adopted by the Commission, the words "Everyone has the right to a nationality."

The proposal was rejected by 6 votes to 5, with 4 abstentions.

Article 16

MR. LEWIN (Agudas Israel World Organization) said that article 16, which was the foundation for religious freedom should include the word "religion", which was contained both in the Indian and United Kingdom representatives' amendments, and in the United States recommendations on that article.

The word "religion" appeared in the French Declaration on Rights of Man and of the Citizen of 1789, and in the American Bill of Rights of 1791. The words "freedom of thought and conscience", which appeared in the Drafting Committee's text of Article 16, were assumed to cover freedom of religion, but in practice might lead to misunderstandings in certain countries.

[6]

He wished the word "religious" to be inserted in paragraph 2, either before the word "practice" or before the word "observance". The United States recommendation regarding article 16 of the draft Declaration (document E/CN.4/AC.1/20) seemed to be the best text, except for the words "including the right, etc ...", which might give the impression that certain rights had been omitted.

On the basis of that text, he suggested the following draft of article 16 as a whole: "Everyone has the right to freedom of religion, conscience and belief, has the right, either alone or in community with other persons, in public or in private, to hold, change or manifest any belief and has the right to practise any form of religious worship and to teach and practise any form of observance.

The repeated use of the word "right" was intended to stress the cardinal importance of the right to hold or change beliefs, and the right to practise any form of worship and to teach and practise any observance. The words "of like mind" had been deleted as being superfluous.

The other Jewish organizations in category B endorsed what he had just said.

THE CHAIRMAN said the Commission could begin by voting on the Chinese amendment, which seemed to be the most far-reaching.

MR. CHANG (China) pointed out that the Chinese amendment applied simultaneously to articles 16, 17, 18 and 19, and suggested that it should not be considered at present.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the USSR amendment was a compromise between the Chinese text, which was an over-simplification, and the Drafting Committee's text, which was too long. The USSR text stressed freedom of thought and freedom to practise religious observance, and emphasized the limitations [7] imposed by conformity of such practice to national laws and public morals. There were many superstitions that were incompatible with national laws or public morals, particularly with the moral education of youth, with health and with respect for others. The text was sufficient to defend freedom of conscience and belief, and also satisfied the demands of public morals.

MR. LOUTFI (Egypt) wished to amend articles 16, 17, and 18 and 19. The limitations contained in article 2 of the Declaration were not sufficient in respect of these articles. He therefore proposed inserting, either at the end of article 19, or the beginning of article 16, the text of article 16 sub-paragraph 4 of the Covenant, namely: "The above rights and freedoms shall be subject only to such limitations as are prescribed by law and are necessary to protect public order and health, morals and the fundamental rights and freedoms of others."

The amendment was prompted by uncertainty as to whether the Covenant would be ratified or not.

MR. MALIK (Lebanon), Rapporteur understood the motives underlying the Egyptian amendment. But a limitative clause of that nature might distort the exact meaning intended in article 16. The article dealt with the rights and freedoms that were above the law and, as it were, outside it. A provision based on religion or morals could not be amended by the law. He would be opposed to such a formula, even in the Covenant. Moreover, the provisions of articles 2 and 3 of the Declaration answered the Egyptian representative's purpose. Consequently, he did not support the latter's proposal.

[8]

THE CHAIRMAN and MR. LOPEZ (Philippines) concurred in the views of the Lebanese representative.

MR. FONTAINA (Uruguay) pointed out a procedural error.

The Chinese amendment was not complementary, since it was meant to replace articles 16, 17, 18 and 19. The adjournment of its discussion was incorrect. The Egyptian amendment should be considered in connexion with article 19 and, if adopted, would then become retroactive and would apply to article 16, 17 and 18.

[9]

MR. CASSIN (France) thought that the Egyptian amendment raised the question whether Article 2 had been well drafted. The facts showed that it was inadequate. If the Commission did not wish the same problem to arise in connection with every article, Article 2 would have to be given more force and clarity.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the shortcomings of Article 2 were becoming evident. It was, however, premature to discuss

the Egyptian amendment. He suggested leaving the question open until after the consideration of all the articles of the Declaration had been completed, then returning to that proposal and perhaps summarizing those limitations in a general way in a single article. Had the draft Article 2 submitted by the USSR delegation at the commission's second session, a draft which mentioned the demands of the laws of the democratic States, been adopted, many difficulties would have been avoided. It could not be said that the law of a democratic State contained abuses, since to suppose that the demands of the law of a democratic State could conceal abuses would be to fail in self-respect.

He proposed that the USSR amendment to Article 16, which mentioned the limitations desired by the Egyptian representative, be put to the vote.

THE CHAIRMAN put to the vote the USSR amendment to Article 16.

The amendment was rejected by 10 votes to 5, with 1 abstention.

MR. MALIK (Lebanon) (Rapporteur) submitted the following amendment to Article 16, as proposed by the Drafting Committee:

“Everyone has the right (is entitled) to freedom of religion, conscience and belief; this right includes freedom to change his religion or belief, and freedom, either alone or in community with other persons of like mind and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

[10]

His amendment embodied all the essential elements of the original article; only the right to freedom of religion had been added. Apart from that, he had deleted the words “absolute and sacred right” and had merged the two original paragraphs into one.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Lebanese amendment had made no allusion to “freedom of thought”. Science had a right to protection on the same terms as religion. Out of respect for the heroes and martyrs of science, those words should not be deleted.

He preferred the Drafting Committee's text.

MR. MALIK (Lebanon) (Rapporteur) replied that he had not mentioned freedom of thought simply because that right was provided for under Article 17. He was as anxious as the representative of the USSR to safeguard freedom of thought, and agreed to include it in his amendment.

MR. CASSIN (France) wished the right to freedom of religion to be mentioned in the Drafting Committee's text, which he preferred to the Lebanese amendment. Moreover, he objected to the deletion of the reference to the right to freedom of thought.

The right to freedom of thought was a sacred and inviolable right. It was the basis and the origin of all other rights. Freedom of thought differed from freedom of

expression in that the latter was subject to certain restrictions for the sake of public order. It might be asked why freedom of inner thought should have to be protected even before it was expressed. That was because the opposite of *inner* freedom of thought was the *outward* obligation to profess a belief which was not held. Freedom of thought thus required to be formally protected in view of the fact that it was possible to attack it indirectly. Hence the right to freedom of thought, which was the basis of other liberties, should be included in the article.

[11]

He would prefer an article divided into two paragraphs, like that of the Drafting Committee. Speaking of the comments made by the representative of the Agudas Israel Organization, he thought that the English text of Article 16, which the latter had found lacking in clarity, protected all essential religious freedoms and needed no amplification.

MR. MALIK (Lebanon) (Rapporteur) agreed to insert in his text a mention of the right to freedom of thought, and to divide his amendment into two paragraphs as follows:

“Everyone has the right to freedom of religion, conscience, belief and thought, including freedom to change his religion or belief.”

“Everyone has the right to freedom, either alone or in community with other persons of like mind, and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

MR. FONTAINA (Uruguay) pointed out that the freedom to change one’s religion or belief was covered by freedom of religion and belief. That part of the article was therefore redundant. Moreover, the Lebanese amendment as redrafted coincided with the Drafting Committee’s original text. The only real amendment to Article 16 was the one submitted by India and the United Kingdom.

MR. CHANG (China) preferred the latter amendment. Article 16 should treat only of the protection of freedom of religion and belief; the protection of freedom of thought was dealt with in Articles 17 and 18. He suggested replacing “either alone or in community with other persons of like mind” by “with others”. He would vote for the Indian and United Kingdom amendment.

[12]

MR. MALIK (Lebanon) (Rapporteur) said that he had divided his amendment into two paragraphs so as to meet the wishes of the French representative. If the redrafting met with any objection, he would reserve the right to revert to his original text.

THE CHAIRMAN proposed, to take a vote, first on the first paragraph of the Lebanese amendment, then on the Indian and United Kingdom amendment, and finally on the second paragraph of the Lebanese amendment.

MR. WILSON (United Kingdom) said that freedom of religion and belief implied the freedom to practise one's religion or belief. There was, therefore, no need to mention it specifically. Moreover, if the idea of freedom of thought were introduced into the first part of the sentence, it would also have to be included in the second part so that it would read: "including freedom to change his religion, belief or thought" which would be rather out of place in a Declaration on Human Rights. The article dealt essentially with freedom of religion, and it would be better not to introduce any other consideration.

MR. PAVLOV (Union of Soviet Socialist Republics) supported the French representative's arguments regarding freedom of thought. That freedom should, moreover, be mentioned before the other freedoms. The United Kingdom representative's view that the article was a purely religious one was quite unjustified. Atheists also had the right to express their opinions and to have their freedom of thought protected.

MR. FONTAINA (Uruguay) said that freedom of thought was the fundamental freedom, and that freedom of religion and belief derived therefrom. He therefore suggested reversing the order of Articles 16 and 17 so that freedom of thought should be guaranteed by an article preceding the one on freedom of religion.

[13]

THE CHAIRMAN pointed out that Article 17 covered more than freedom of thought. She suggested taking a vote on whether it was desirable to deal with freedom of thought in a separate article or whether it would be sufficient to mention it in Article 16.

MR. CASSIN (France) said that according to the European conception, freedom of thought had a metaphysical significance. It was an unconditional right which could not be subjected to any restrictions of a public nature. The other rights, however important they might be, were subject to certain limitations. There was a great difference in degree between freedom of thought and freedom of opinion. It would, therefore, be sufficient to mention the right to freedom of thought first among the freedoms enumerated in Article 16; it was unnecessary to mention it again in Article 17.

MR. LOPEZ (Philippines) was in favour of mentioning the right to freedom of thought in Article 16, and not in Article 17, which was intended to guarantee freedom of expression.

Moreover, since Article 16 was intended essentially to protect religious freedom, the logical order in which the freedoms should be enumerated in that article were, in his opinion, "freedom of religion, of conscience, of thought and of belief," freedom of thought thus following freedom of religion and conscience.

MR. CHANG (China) agreed that according to European ideas freedom of thought was the basis of freedom of belief. Although belief implied thought, freedom of thought had in the course of history actually preceded freedom of belief. But the right to those freedoms implied the right to change them. He therefore suggested simply saying: "the right to freedom of thought, religion and belief."

[14]

MR. WILSON (United Kingdom) thought that metaphysical considerations were being pushed too far. Article 17 contained elements without which freedom of thought could not exist. It would therefore be better to be satisfied with the original Articles 16 and 17, which were admirably drafted and satisfied all practical requirements.

THE CHAIRMAN appointed a sub-committee, composed of the representatives of France, Lebanon, the United Kingdom and Uruguay, to reconsider the drafting of Articles 16 and 17 in the light of the views expressed during the meeting.

The meeting rose at 5:30 p.m.

E/CN.4/111

7 June 1948

**Report of the Sub-Committee Consisting of the Representatives
of Australia, China, France, Lebanon, India and the United
Kingdom on Article 2 of the Draft International Declaration
on Human Rights**

Article 2

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of general welfare in a democratic society.

E/CN.4/112

7 June 1948

**Report of the Sub-Committee Consisting of the Representatives
of China, France and the United Kingdom on the Second
Paragraph of Article 3 of the Draft International Declaration
on Human Rights**

Article 3

All are equal before the law and are entitled to equal protection of the law, without any discrimination, and against any discrimination in violation of this Declaration or incitement to such discrimination.

E/CN.4/113
7 June 1948

**Report of the Sub-Committee Consisting of the Representatives
of France, Lebanon, the United Kingdom and Uruguay, on the
Consideration of Article 16 of the Draft
International Declaration on Human Rights and its
Relation to Articles 17 and 18**

1. Article 16 should read as follows:

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

2. The word “thought” in Articles 17 and 18 should be replaced by the word “opinion”.

3. Article 16 should precede Articles 17 and 18.

E/CN.4/SR.61
7 June 1948¹⁰⁹

Original Text: French

Summary Record of the Sixty-First Meeting
[of the Commission on Human Rights]
Held at Lake Success, New York, on Monday,
7 June 1948 at 11.00 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Vice-Chairmen:* Mr. P. C. Chang Wu, China; Mr. René Cassin, France. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Steyaert, Belgium; Mr. A. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Omar Loutfi, Egypt; Mrs. Hansa Mehta, India; Mr. de J. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Representative of Specialized Agency:* Mr. Metall, International Labour Organization (ILO). [2] *Representatives of Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. A. J. van Istendael,

¹⁰⁹ This was the date of the meeting. The document was issued on 23 June 1948.

International Federation of Christian Trade Unions; Miss Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; Mr. Janner and Mr. Brotman, Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations; Miss Schaefer, International Union of Catholic Women's Leagues. *Secretariat*: Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

**Continuation of Consideration of the Report of the Drafting Committee
(Document E/CN.4/95)**

Article 14

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

“(1) Everyone has the right, alone as well as in association with others, to own property (in accordance with the laws of the country where the property is located).

“(2) No one shall be arbitrarily deprived of his property.”

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

MR. PAVLOV (Union of Soviet Socialist Republics) felt that it was absolutely necessary to preserve the clause in parenthesis which emphasized the respect to the internal laws of each country. On the other [3] hand, he thought that in the second paragraph, the word “arbitrarily”, which apparently lent itself to different interpretations, should, in order to avoid any misunderstanding, be followed by the phrase: “that is, contrary to the laws.”

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

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

MR. CASSIN (France) said that the original French proposal had provided that property ownership should be governed by the laws of the country where the property was situated. That qualification however, now seemed unnecessary, as the Drafting

Sub-Committee's text introduced a new element by mentioning the two forms which property rights take, thus ensuring the right of states to choose either form.

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

[4]

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

THE CHAIRMAN, as representative of the United States of America, supported the deletion of the words in parenthesis since they might give rise to confusion; furthermore, they were unnecessary in view of the provisions of article 2. Neither could the United States delegation accept the USSR amendment to paragraph 2 as it might be interpreted in such a way as to deprive people of their property both by arbitrary and legal means, and that was exactly what the Commission wished to prevent.

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

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

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

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

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

[5]

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

The USSR concept of property was different from that of other countries; exploitation of property was considered unjust and illegal in his country. The Union of Soviet Socialist Republics was not trying to impose its views upon other

nations, but it attached great importance to the limitation clause between parentheses, for this clause would prevent the views of others from being imposed upon it.

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

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

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

[6]

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

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

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

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

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

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

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

*The second paragraph was adopted by ten votes to four.
Article 14 as a whole was adopted by nine votes to four.*

[7]

Article 19

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

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

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

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

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

Speaking as representative of the United States of America, she said her delegation preferred the Indian and United Kingdom text, but with an [8] amendment consisting of the addition of the words: "including freedom to form and join trade union associations of his own choice."

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

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

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

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

The Drafting Committee's text enumerated moreover the kinds of associations to which a person had a right to belong. But any enumeration was dangerous. It might be argued that religious associations, for example, had the same right to be included in article 19 as trade union organizations. [9] He did not see why the latter should be mentioned any more than the former. The purpose of article 19 should be to grant to everyone freedom to organize or join any association provided only that that was done within the framework of democratic interests. The simplified draft advocated by the Chinese delegation best fulfilled that purpose.

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

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

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

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

MRS. MEHTA (India) was opposed to the United States amendment because she did not think it necessary to make special mention of trade unions, which were included among democratic associations covered by the article dealing with the right of organization and assembly. She explained that the part of the sentence "for the promotion, etc." taken from the Drafting Committee's text had been adopted by her delegation in order to meet objections raised by the USSR representative. She

realized, however, that the provisions of article 2 made that phrase unnecessary. [10] The Indian delegation would therefore vote for the simplified text proposed by the Chinese delegation.

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

MR. VAN ISTENDAEL (World Federation of Christian Trade Unions) observed that the new Declaration on Human Rights should take into account the constant evolution of human society. A new type of organization had appeared during recent decades, the trade union organization; and to mention it in article 19 of the Declaration would mean granting it formal recognition. As regards the amendment submitted by the United States, he stressed the importance of allowing everyone to belong to the trade union association “of his own choice” in order to avoid all possible abuses. Furthermore, he considered it unnecessary to mention the same reservations in each of the articles of the Declaration since, under article 2, no association could be formed if its interests and purposes were contrary to the aims of the Declaration.

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

[11]

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

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

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

MR. LOPEZ (Philippines) said that the Drafting Committee text for article 24 of the Declaration assured to everyone the freedom to belong to trade unions to protect their interests.

That provision fully accorded with the wishes of trade union associations.

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

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

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

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

[12]

Article 20

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

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

Articles 21 and 22

THE CHAIRMAN read out the drafts proposed by the Drafting Committee for article 21 and 22 (document E/CN.4/95) and the variants proposed by the French delegation (document E/CN.4/82/Add.8), the Indian and United Kingdom delegations (document E/CN.4/99) and the Chinese delegation (document E/CN.4/102).

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

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

The United States delegation believed that in its present form the first sentence of the Drafting Committee text could be interpreted as meaning that everyone had the right to take an effective part in the government of his country only so long as his

opinions coincided with those of the President, [13] the Prime Minister or whoever might be in power, but that the right lapsed as soon as he disagreed.

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

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

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

As regards the elections provided for in the same paragraph, the USSR delegation felt that they should be universal and just. There was no need to provide for the elections to be periodic, for that was a detail which could well be omitted. It should be stated, however, that the elections must be direct as direct elections ensured the setting up of truly democratic organs. Nevertheless, if certain delegations objected, the USSR delegation was prepared not [14] to insist on the insertion of this principle in articles 21 and 22, as that might give rise to great difficulties in several countries. It would insist, however, on the principle of the universal character of elections and on the equal right of all to take part in them for that principle was acceptable to all.

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

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that there was a difference between the enumerations in article 3 and in articles 21 and 22. Article 3 dealt with the full enjoyment of all the rights and freedoms set forth in the Declaration, while articles 21 and 22 dealt only with the right to vote and the way in which elections should be held. What was important in the latter case – for instance, the right of everyone to take part in elections without any discrimination based on education – might be of no importance whatever for article 3. Similarly, length of residence played a very important part as regards the right to vote for, in several countries, part of the

working population, such as the agricultural workers, were deprived of the right to take part in elections because they had not resided in their constituencies for a sufficient length of time. There was also the case of one country where the rich had two votes at elections. If elections were to be quite fair, he thought the principles he had mentioned should be added to the list in the Drafting Committee's text.

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

[15]

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

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

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

The Indian and United Kingdom text could form the first paragraph of article 21. The article, however, could not end there; the Commission would have to proclaim that the State must conform to the will of the people. Such a statement of principle should be included at the beginning of any document of a doctrinal or theoretical nature. In its draft Declaration the Commission had to find a compromise between the present state of the world and men's aspirations; but whatever the place assigned to it the principle that the [16] State must conform to the will of the people must be stated in the Declaration; on that point the French delegation would not yield at any cost.

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

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

It was unfortunately, a fact that in many countries women did not enjoy political rights; the right to vote, in particular, was often withheld on the pretext of political immaturity. It was important, therefore, that that Declaration should state that everyone had the right to take an effective part in the government of his country, and should specify the grounds on which there could be no discrimination. In case the Commission decided not to retain the enumeration of the grounds for discrimination, she would like the records of the meeting to set forth how the Commission interpreted the words "everyone".

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

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

[17]

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

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

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

He would also point out that there was a difference between the notions of access to public office and participation in the government, and he suggested, amending the Indian and United Kingdom text as follows:

“Everyone has the right to *access to public office* and to take part in the government of his country directly or through his freely chosen representatives.”

MR. MALIK (Lebanon), Rapporteur, proposed that the words “and to hold public office”, suggested by the Lebanese representative, should be [18] placed at the end of the Indian and United Kingdom text.

Replying to MR. LOPEZ (Philippines), MR. FONTAINA (Uruguay) explained that the term “government”, was more restricted in its meaning than “public office”, for it did not include the various administrative bodies which formed the State apparatus.

MR. CASSIN (France), replying to the question asked by the Philippines representative, said there was a distinction in English between “government”, that is to say political affairs, on the one hand, and “administration” on the other. In order to avoid any ambiguity, he proposed replacing, in the French text, the expression “prendre part au gouvernement de son pays” by the expression “prendre part à la direction des affaires politiques de son pays”. The access to public office and employment would be dealt with in a separate paragraph.

MR. WILSON (United Kingdom) said his delegation was prepared to accept the addition proposed by the representative of Uruguay. He would prefer, however, the expression “to have access to public employment” because in the English expression “to hold office”, the word “office” usually referred to a ministerial post.

MR. CHANG (China) proposed, as regards the English text, to revert to the Drafting Committee’s wording and say “access to public employment”.

THE CHAIRMAN asked the representatives of China, India and of the United Kingdom to work out a formula on which the Commission would vote at its next meeting.

The meeting rose at 1:15 p.m.

E/CN.4/SR.62

7 June 1948¹¹⁰

Summary Record of the Sixty-Second Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Monday,
7 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Loutfi, Egypt; Mrs. Mehta, India; Mr. Quijano,

¹¹⁰ This is the date of the meeting. The document was issued on 11 June 1948.

Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. *Representatives of Specialized Agency:* Mr. Lebar, International Labour Organization (ILO). [2] *Consultants from Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Mr. Rubinow, World Federation of United Nations Associations; Mr. Lewin, Agudas Israel World Organization; Mr. Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; Mr. Janner and Mr. Brotman, Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations; Miss Strahler, International Committee of the Red Cross; Miss Schaefer, International Union of Catholic Women's Leagues.

**Consideration of Draft International Declaration on Human Rights,
Submitted by the Drafting Committee (Annex A of document E/CN.4/95)**

Articles 21 and 22

MR. WILSON (United Kingdom) explained that he had not been able to consult the Chinese representative with regard to a new text of Articles 21 and 22, but that he and the representative of India had agreed upon the following draft, which they submitted as Article 21:

“Everyone has the right to take part in the government of his country directly or through his freely chosen representatives. Everyone has the right of access to public employment in his country.”

It would be seen that the first sentence was the original Indian-United Kingdom draft, as in document E/CN.4/99, to which the second sentence had been added.

THE CHAIRMAN put the above draft to the vote, as a substitute for the text proposed by the Drafting Committee.

The Commission approved the new text of Article 21 by eleven votes to four with one abstention.

[3]

MR. CASSIN (France) urged that the following sentence, which had been in the Drafting Committee text of Article 21, should not be dropped from the Declaration:

“The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.”

Since, according to the rules of procedure, he could not propose it as an addition to Article 21, which had already been voted upon, he would ask to have it considered as Article 22.

After a short discussion of procedure, THE CHAIRMAN asked the Commission to vote whether it wished to consider the inclusion of the above text as Article 22.

The Commission decided, by nine votes to three with four abstentions, to consider the inclusion of the above text as Article 22.

The Chairman, speaking as the representative of the United States of America, asked the French representative whether he would agree to redraft the beginning of the article as follows: "Everyone has the right to a government which will conform . . ." That would put the article in a declaratory form, and would be in keeping with the rest of the Declaration.

MR. CASSIN (France) accepted that proposal.

MR. WILSON (United Kingdom) expressed concern that the text in question, either in the original French draft or as amended by the United States representative, went beyond the original purpose of the Declaration. This was to state human rights, not the obligation of States. Article 21 contained all that was necessary, for, if government representatives were freely chosen, the government would in fact conform to the will of the people.

Moreover, the phrase "as manifested by elections which shall be periodic, free, fair and by secret ballot" went into matters of detail which [4] the Commission was expressly trying to avoid. It was sufficient to speak of "freely chosen representatives"; how they were to be chosen was a debatable subject. Mr. Wilson drew the attention of the Commission to the comment on Article 21 of the Draft Declaration on page 24 of document E/600, according to which the Commission had agreed at its second session, held at Geneva, that "the use of such balloting procedure as the secret ballot could not be imposed when its effect might be contrary to the intentions of Article 74(b)¹¹¹ of the Charter, or to the obligations contained in the relevant parts of the trusteeship agreements". The Commission would recall that the Trusteeship Council had recently sent a Visiting Mission to Western Samoa,¹¹² where voting by secret ballot was not and never had been in operation: the Visiting Mission had agreed that that was in accordance with the Charter, since representatives were freely chosen. That principle was already maintained in the text just approved for Article 21, and Mr. Wilson urged that nothing more was necessary.

¹¹¹ There is no article 74(b) of the Charter. It is evident that the reference should be to article 73(b) which reads: "Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end: . . .

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement. . ."

¹¹² The Trusteeship Council sent a Visiting Mission to Western Samoa in June 1948 to investigate a petition dated 18 November 1946 from the Members of the Legislative Council, political representatives, and judiciary in Western Samoa, requesting that Samoa be granted self-government and remain under the protection of New Zealand.

THE CHAIRMAN declared that her delegation, too, was satisfied with Article 21. She had proposed an amendment to the French text, simply in order that the Article should be in a declaratory form if the Commission adopted it.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) pointed out that many members had felt that Article 21, as adopted was inadequate. He supported the French proposal.

He could not agree with the United Kingdom representative that democratic principles were applicable to the metropolitan powers only and not to non-metropolitan territories. In the former Italian colonies, for instance, a system of secret ballot had in fact been used, with satisfactory results. If such a system had not been universally applied heretofore, it was the duty of the Commission to see that in future it was made the right of all peoples in the world.

[5]

MR. CASSIN (France) was willing to admit that Article 21 did perhaps include the essence of the principle he was now trying to incorporate. The Declaration should not, however, omit some reference to the will of the people. The Commission was not preparing a purely legal text, but was speaking for the masses of the world.

He did not wish the question of secret ballot to become the subject of controversy; there were other systems, as for example in the Swiss Confederacy, which were equally democratic. He would therefore withdraw the words "and by secret ballot", but hoped the Commission would retain the reference to the will of the people.

MR. PAVLOV (Union of Soviet Socialist Republics) recalled that when the Commission had considered Article 2 of the Draft Declaration, he had urged that reference should be made to the democratic State. The Commission had, however, decided against it; and had consequently come upon great difficulties with regard to the question of arbitrary acts. The present discussion was another example of the result of that mistaken decision.

Mr. Pavlov agreed that the will of the people must be mentioned. While he thought the representative of France had been wrong to withdraw the reference to the secret ballot, he was willing to compromise and would agree to the words "and, where possible, by secret ballot". He would further wish to amend the French proposal to read as follows: ". . . elections which shall be universal, without discrimination, equal and direct, periodic, free, fair and, where possible, by secret ballot".

MR. CHANG (China) wondered whether a simplified form would be acceptable, taking into consideration the general structure of the Declaration. He proposed some such simple formula as "The Government shall conform to the will of the people".

[6]

MR. HOOD (Australia) supported the representative of China. It was possible that the Commission had proceeded too rapidly in its consideration of Article 21 and that some mention of the will of the people should be included somewhere in the declaration. He

would go even further than the Chinese representative, and would suggest that the Commission might go back to Article 21 with a view to including that phrase at the end of the first sentence, along the following lines: “. . . freely chosen representatives, to the end that the Government shall conform to the will of the people”.

THE CHAIRMAN, supported by MR. FONTAINA (Uruguay), thought that the proper place for such a statement was not in an article, but in the Preamble.

MR. CASSIN (France) could not agree that his proposal should be relegated to the Preamble.

MR. FONTAINA (Uruguay) suggested that, before a vote was taken upon the actual text, the Commission should vote whether it was to be included in the Preamble or as a separate article.

After a short discussion, in which MR. CHANG (China) pointed out that if the text was rejected as an article, members would still have the right to reintroduce it when the Preamble was discussed, MR. FONTAINA (Uruguay) withdrew his suggestion.

THE CHAIRMAN proposed to take the vote in the following order: the first part of the French proposal, namely “Everyone has the right to a government which shall conform to the will of the people”, should be voted upon first, since it was practically the same as the USSR proposal; the USSR amendment to the second part would next be voted; and if that was rejected, the remainder of the French proposal would be put to the vote.

[7]

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that his proposal for the first part was the wording of the text, adopted at the second session of the Commission, namely, “The State shall conform . . .”, a broader form than the French draft, which by using the word “government” narrowed the sense of the article.

After a brief exchange of views, in which MR. CASSIN (France) pointed out that the French translation of “government” was “pouvoirs publics”, which was all-inclusive, and MR. LEBEAU (Belgium) stated his preference for the word “State”, as covering all degrees of authority, the Commission decided to vote upon the proposal in two parts, taking the USSR amendment first in each case.

The Commission rejected the first part of the USSR amendment by six votes to four, with five abstentions.

The Commission approved the first part of the French proposal by eight votes to three with five abstentions.

The Commission rejected the second part of the USSR amendment by nine votes to six, with one abstention.

MR. WILSON (United Kingdom) explained that he would vote against the second part of the French proposal, on the ground that it was the duty of the government to conform to the will of the people, however that will was expressed. It was unnecessary to specify the means whereby the will of the people was to be manifested.

The Commission rejected the second part of the French proposal by nine votes to six, with one abstention.

THE CHAIRMAN announced that Article 22 would thus read:

“Everyone is entitled to a government which shall conform to the will of the people.”

[8]

MR. MALIK (Lebanon) asked whether the text approved could not be attached to Article 21, as the representative of Australia had proposed. It belonged in substance to that Article.

THE CHAIRMAN suggested that that decision should be left to the style Committee which was to go over the final draft.

MR. WILSON (United Kingdom), as a member of that Committee, thought the matter far too delicate to be decided by the Committee and asked for a ruling from the Commission.

The Commission decided by eleven votes with four abstentions, to attach the text to Article 21.

MR. PAVLOV (Union of Soviet Socialist Republics) asked the Commission to consider the addition of a new article, to the effect that everyone had the right to participate in the elections of the governing body of his country.

The Commission decided, by seven votes to four, with three abstentions not to consider the inclusion of such an article.

Article 13

THE CHAIRMAN read a paper on the order of voting on proposals and amendments concerning Article 13, prepared by the Secretariat at the request of the Commission (document E/CN.4/106).

MR. CASSIN (France) said that if the United States delegation would accept the inclusion in their amendment of “the right to found a family”, and reference to the age of puberty, he would withdraw his own proposal.

MR. WILSON (United Kingdom) wished, in deference to ideas expressed at a previous meeting by the French representative, to insert the words “have the right to marry and” in his amendment, after the words “Men and women”.

[9]

At the request of the Uruguayan representative, he replaced the words “are entitled to” by “have”, as that would facilitate translation into Spanish.

MR. FONTAINA (Uruguay) was opposed to the addition of the words “have the right to marry and”. If that right were mentioned expressly, it would be only logical to mention the right to the dissolution of marriage, which the text failed to do.

MRS. MEHTA (India) remarked that she would support the United States text, if the Egyptian amendment to it, deleting the words “deriving from marriage”, were approved. While, in most cases, a family derived from marriage, the text as it stood could not be applied to adopted children.

MR. MALIK (Lebanon) stated that, according to the very criteria set up by the Secretariat in document E/CN.4/106, the United States amendment should be put to the vote before that submitted by India and the United Kingdom; the United States amendment was farthest removed from the original in that it not only deleted four ideas contained in the original, as did the other amendment, but introduced one new idea.

MR. WILSON (United Kingdom) agreed with the Lebanese representative.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that, according to rule 54 of the rules of procedure, “the most far-reaching proposal or amendment” was to be put to that vote first. The Secretariat had proceeded to determine the most far-reaching proposal on the quantitative basis of the number of words deleted. Mr. Pavlov felt that the determination should have been made on a qualitative basis, and that the extent to which ideas contained in the amendments were removed from the [10] original should have been given primary consideration. In that case, the USSR amendment would have to be put to the vote first.

It was obvious that the USSR proposal went farther than that of the United Kingdom, since it contained three ideas: equal rights for men and women to enter into marriage, during married life, and to dissolve the marriage, in countries where divorce existed. That last clause could be added to the USSR amendment to meet the previously made objection that in some parts of the world divorce was not permitted.

Mr. Pavlov stressed the need to introduce equality between men and women in all matters relating to marriage. According to the rules of procedure, the USSR amendment should be put to the vote first; those opposed to the principle of equality between the sexes could then cast a negative vote.

After a brief procedural discussion, the Commission decided to consider the United States amendment first.

MR. CASSIN (France) proposed the following amendments to the United States text:

1. Change the first sentence to read: “Men and women *of full age have the right to marry and to found a family* and are entitled to equal rights as to marriage.”
2. In the second sentence, delete the words “deriving from marriage”. The Egyptian amendment was thus included in the second French proposal.

The Commission approved the first French amendment by ten votes to one, with four abstentions.

The Commission approved the second French amendment by seven votes to three, with four abstentions.

[11]

THE CHAIRMAN explained that the United States text, as amended by the French representative, was intended as a substitute for Article 13 in document E/CN.4/95. If adopted, it would become the new Article 13. The Commission approved the United States text as a whole, as amended by the French representative, by eight votes to one, with six abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) called attention to the fact that the Commission had, no doubt inadvertently, left out of the new article the idea that marriage was to be entered into only with the full consent of both parties. It had, in fact, approved an article permitting young girls, in parts of the world where such customs still prevailed, to be forced into marriage.

In order to remedy that situation, Mr. Pavlov wished to propose the following: "Marriage may be entered into only with the full consent of both spouses; men and women shall have equal rights both during the marriage and in its dissolution." The statement that men and women should have equal rights in the dissolution of marriage was intended to protect the woman from the loss of property which she frequently incurred as a result of divorce.

Mr. Pavlov remarked that, if the Commission were unwilling to reopen the discussion of Article 13, his proposal might constitute a new article. MR. CASSIN (France) observed that the concept of full consent still existed in Article 13 as approved by the Commission. The phrase in that article, "the right to marry" struck at the very root of the problem, as the original draft adopted at the second session of the Commission had not done; the right to marry meant that no one was obliged to marry, save of his own free will.

[12]

MR. WILSON (United Kingdom) requested that the USSR proposal might be put to the vote in two parts. He would support the first part (up to the semi-colon); the second part he thought unnecessary, as the words in Article 13 approved by the Commission, "equal rights as to marriage", covered all stages of marriage, including divorce.

The Commission approved, by eleven votes to none, with four abstentions, the first part of the USSR proposal, reading as follows: "Marriage may be entered into only with the full consent of both spouses".

The Commission rejected the rest of the USSR proposal by seven votes to six, with two abstentions.

The Commission decided, by fourteen votes to none, with one abstention, that the approved portion of the USSR proposal would become part of Article 13.

Article 16

MR. MALIK (Lebanon) reported that the drafting sub-committee, composed of the representatives of France, Lebanon, the United Kingdom and Uruguay, and

entrusted with the consideration of Article 16 and its relations to Articles 17 and 18, unanimously recommended the following text: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others, in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” The sub-committee also recommended that the word “thought” in Articles 17 and 18 should be replaced by “opinion”, and that Article 16 should precede those articles.

MR. CASSIN (France) called attention to the fact that the word “*observances*” in the French text of proposed Article 16 should be replaced by “*rites*”, and that other drafting changes in that text were desirable.

[13]

The Commission approved Article 16 by eleven votes to none, with four abstentions.

Articles 17 and 18

MR. JANNER (Co-ordinating Board of Jewish Organizations) said that he was aware of the Commission’s desire to formulate principles of a general character in the Declaration, rather than draft a detailed statement of principles. While his organization would be the last to advocate any unnecessary limitation to the freedom of expression and imparting information, it wished to call attention to the danger of expressing those freedoms in too general terms. A most fundamental human right, that to freedom from fear, might be imperilled thereby.

Freedom of expression and imparting information should not mean freedom of incitement to hatred and violence against racial or religious groups. Mr. Janner recalled that, for precisely such incitement against the Jews, Streicher had been condemned to death by the Nuremberg Tribunal.¹¹³ Consequently, incitement to hatred and violence had been recognized as a crime under international law. The Declaration of Human Rights should prevent such incitement from being carried on under the guise of free expression, and should provide security from continual fear.

In particular, Mr. Janner felt that close attention should be given to the words “by any means” in the text of Articles 17 and 18 submitted by the United Nations Conference on Freedom of Information (document E/CN.4/95). To avoid the dangers he had indicated, they might be amended in some such manner as: “by any means consistent with the fulfilment of this Declaration”. Although the words “by any means” might refer simply to the technical media of imparting information,

¹¹³ Julius Streicher was one of the defendants at the International Military Tribunal. An anti-Semitic propagandist, he was convicted of crimes against humanity.

that safeguard was necessary. Even in the post-war world, incitement to hatred against racial, religious and national groups occurred.

It might be considered that the appropriate place for specific limitations was the Covenant. Nevertheless, the Declaration should be drafted in such a manner as to permit the insertion of such limitations in the Covenant. It should be made clear that, under the Declaration, no man had the right to incite others to violence against any group of human beings.

The meeting rose at 5:40 p.m.

E/CN.4/SR.63

8 June 1948¹¹⁴

Summary Record of the Sixty-Third Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday,
 8 June 1948, at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations.

[2]

Articles 17 and 18

THE CHAIRMAN pointed out that the Drafting Committee had transmitted to the Commission the text of articles 17 and 18 as adopted by the United Nations Conference on Freedom of Information. Amendments to that text had been presented by France, China and the Union of Soviet Socialist Republics (documents E/CN.4/82/

¹¹⁴ This was the date of the meeting. The document was issued on 22 June 1948.

Add.8, E/CN.4/102, and E/CN.4/95). She then opened discussion of the USSR amendment as the most removed text from the Geneva draft.

MR. PAVLOV (Union of Soviet Socialist Republics) asked for separate votes on the three important principles in the USSR amendment (document E/CN.4/95, page 8): freedom of expression in accordance with the principles of democracy (first part of paragraph 1), limitation of that freedom against fascist and war propaganda (second part of paragraph 1), and government subsidy to democratic organs of the press (paragraph 2). All those principles should be acceptable to true believers in democracy.

Speaking on the second part of paragraph 1, Mr Pavlov stated that the bitter lesson of fascist and imperialist wars had shown the need to limit the freedom of expression of fascists who even now carried on their dangerous war propaganda, contrary to the desires of the people. The present amendment was drawn up in accordance with the General Assembly Resolution 127(II) dealing with the publication of false or distorted reports likely to impair friendly relations among nations. As regards paragraph 2 of the USSR amendment, Mr. Pavlov wished to correct certain allegations made at the time of a previous discussion [3] of that question. The USSR amendment did not aim at nationalization of the press, nor would its results be as far-reaching as those achieved inside the Union of Soviet Socialist Republics where there was not only a tremendous circulation of the major dailies, but where all professional and other groups had, with government assistance, their own press organs which truly reflected the people's point of view.

The sole purpose of that amendment was to enable the people to avail themselves fully of their right of freedom of expression by providing that facilities for printing newspapers should be extended to them by their own governments. Such provision was also necessary to counterbalance the newspaper syndicates and monopolies through which, in many countries, small groups of people had complete control over the standardized news published in their papers. Mr. Pavlov referred to several such owners of newspapers, particularly in the United States of America and the United Kingdom. There had been a marked trend towards monopolization of newspaper publications in certain countries. Moreover, the owners of those syndicates were frequently connected with other big business concerns and thus reflect a different point of view from that of the people. That circumstance had been particularly apparent during the late President Roosevelt's electoral campaigns deferring to a statement by the late Lord Northcliffe, owner of numerous British newspapers, that it was impossible to start a newspaper on less than two million. Mr. Pavlov stressed that it was extremely unfair that financial reasons should prevent the people from having newspapers reflecting their own views. There was no need to fear that government subsidization of newspapers would lead to government control of the latter since individual journalists had shown independence of view and objectivity,

even under the system of newspaper syndicates. However, some influence by a democratic government was to be preferred to control of the press by [4] business interests. In view of the importance of the matter, he asked for a roll call vote on his proposal.

MR. QUIJANO (Panama) opposed government subsidy to organs of the press. It was undemocratic and would work against the principle of freedom of expression. Even control by small groups was to be preferred to the possibility of complete government control of the press through subsidies. He was therefore against the USSR amendment.

MR. CASSIN (France) felt that the USSR provisions for implementing freedom of expression, while valuable, were inappropriate in the present context. The French delegation had always felt that freedom entailed responsibility, as reflected in the French amendment to article 17.

However, he would withdraw his own amendment to articles 17 and 18 in favour of the Geneva draft, provided the expression: "on his own responsibility" was inserted in the latter text. As regards the second part of paragraph 1 of the USSR proposal, he recognized the pernicious effects of war propaganda – amply demonstrated at the unsuccessful disarmament conference of 1925 in Geneva – but raised the question whether such provisions should be included in the present text. Referring to similar proposals previously discussed and rejected, he stressed the need for a strong, over-all limitation clause in article 2, and reserved the right to propose at a later date the necessary amendments to that article (including a provision relating to international co-operation requirements). He would vote against the USSR amendment, not because he objected to the principle proposed, but because such provisions belong to article 2.

[5]

THE CHAIRMAN, as representative of the United States of America, stated that she supported the wording submitted by the United Nations Conference on Freedom of Information.

MR. CHANG (China) also supported the text submitted by the United Nations Conference on Freedom of Information, but proposed, in view of the previously agreed substitution of the word "opinion" for the word "thought" in the first line of the Geneva text, the following re-arrangement of the article: "Everyone shall have the right to freedom of opinion and expression; this right shall include freedom to seek, receive and impart information and ideas without interference and regardless of frontiers." The word "by any means" in the third line of the Geneva text seemed superfluous. He would not oppose, however, the inclusion of such an idea, but suggested that the words should be changed to: "through all media of expression".

MR. MALIK (Lebanon) explained that he could not support the USSR amendment for the following reasons: the first sentence of paragraph 1 of that amendment imposed a limitation upon the freedom of expression, an absolute and unrestricted

right. Furthermore, freedom of expression should be above guarantees of law which could be withdrawn at any time. He also questioned the desirability of singling out freedom of artistic representation from among other similar freedoms not mentioned.

As regards the second part of paragraph 1 of the USSR proposal, while he was opposed to fascism, he thought that it did not constitute the only evil of society; consequently such a provision would lead to further unnecessary enumeration. The main purpose was to lay down the positive and basic freedom of expression, limitations could be provided elsewhere.

[6]

Paragraph 2 seemed to imply a form of state control over the press which was as undesirable as control by private monopolies. He would like to see a completely free press which he was sure would be able to correct its own shortcomings. He therefore suggested that the Commission should respect the decision of the Conference and adopt its better formulated text.

MR. LEBEAU (Belgium) thought that the vote about to be taken did not relate to the ideas, but the formulation of the different proposals. He would vote against the USSR amendment in view of the fact that the other proposals were better formulated.

MRS. MEHTA (India) felt that the Commission should accept the text which the United Nations Conference on Freedom of Information had adopted after thorough discussion.

MR. WILSON (United Kingdom) also preferred the text submitted by the Conference. Referring to some remarks by the USSR representative, he pointed out that in any case the greater diversity in the opinions expressed in the United Kingdom indicated a condition fundamental to democracy.

THE CHAIRMAN said that in view of her previous request that the Commission should confine itself exclusively to the consideration of broad principles, she would refrain from correcting some remarks made during the discussion.

MR. HOOD (Australia) agreed with the foregoing speakers, in particular with the Lebanese representative. The USSR proposal resembled another proposal introduced during the last regular session of the General Assembly, and unanimously settled after prolonged debate. While that [7] proposal had been treated as a political question, the Commission was at present concerned with the formulation of principles of human rights. He would therefore vote against the USSR proposal.

MR. LARRAIN (Chile) shared the Belgian representative's views. He supported the principles underlying the USSR text, but felt that it was a question of choosing the most adequate draft.

MR. LOUFI (Egypt), while sharing some of the views expressed by the USSR representative, supported the shorter and clearer text submitted by the Conference.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) observed that the Lebanese fear that mentioning the principles of democracy in the first sentence of the USSR proposal would unduly limit freedom of opinion and expression was particularly difficult to understand since democratic principles were the basis of the United Nations Charter and of the work of the Commission.

The second sentence of the USSR proposal was a logical sequence to the first, as it was aimed against fascism and aggression which were contrary to the principles of democracy. The United Nations would be as unsuccessful as the League of Nations had been in dealing with aggressors if it could not agree to take a clear stand against them. The terrific cost in lives of the last war surely should have taught some worthwhile lessons.

The Lebanese representative had suggested that if limitations on freedom of speech were enumerated, the list should be complete and should include for example, a provision against pornography. There was an important difference, however, between specifying fascism and aggression, which had proved to be the worst scourges humanity had ever known and other [8] lesser evils; and to fail to condemn them, particularly for such formalistic reasons as had been given, would be unfair and unjust to the hopes of millions of people throughout the world.

MR. FONTAINA (Uruguay) pointed out that under the USSR proposal it might be possible to justify the control of information and the press exercised in Franco Spain. The word “fascism” did not technically include the Spanish regime, which called itself “phalangist”,¹¹⁵ nor did it include imperialism and other “isms”. The USSR text was therefore particularly restrictive and he would vote against it.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) stressed the important substantive difference between the USSR proposal and the other proposals. The first part of the USSR draft was completely in accordance with the spirit and letter of the United Nations Charter in that it spoke of strengthening international co-operation in order to achieve world peace and security.

Referring to the point raised by the Uruguayan representative, Mr. Stepanenko recalled that in two different resolutions the General Assembly had pronounced the Franco regime in Spain fascist and the USSR draft, in speaking of fascism, would therefore necessarily include Franco Spain. It would moreover guarantee that the freedoms mentioned would be used in the interests of democracy. Not to limit the freedoms proclaimed in article 17 would be dangerous. The Nazis, prior to the Second World War had given an example of how the press could incite racial and national hatreds that led to war. As a member of a country whose losses were among the most severe of those endured by Nazi victims, he appealed to the members of the

¹¹⁵ The term “Phalangist” or “Falangist” was used to describe fascist-type political movements associated with the Spanish dictator Franco, who ruled from the late 1930s until his death in 1975. It derives from the *Falange Española de las Juntas de Ofensiva Nacional Sindicalista*. “Falange” refers to a phalanx formation.

Commission to accept the USSR proposal in order to protect the world from a renewal of the catastrophe of war.

[9]

MR. VILFAN (Yugoslavia) thought the discussion held at the previous meeting on the subject of the right to marriage had proved that members of the Commission could be convinced by arguments that explained a need felt by millions of people. The suggestion that it would be necessary to give a complete list of restrictions to freedom of opinion and expression if fascism and aggression were specified, was incorrect. The average citizen anywhere would probably not even know the meaning of the word pornography, for example; yet everybody in all parts of the world understood the difference between war and peace. Only recently when there had seemed to be a probability that another war could be avoided, people everywhere rejoiced. The Declaration on the Rights of Man could not fail, therefore, to mention the obligations of the press to fight against war.

MR. LOPEZ (Philippines) opposed the USSR draft and supported the text adopted by the Conference on the Freedom of Information, with minor amendments. The Soviet proposal to state certain limitations on the right to freedom of opinion and expression was unnecessary in view of the provisions of article 2 of the Declaration. Mr. Lopez was willing, however, to consider the French proposal to strengthen article 2 by including in it reference to the requirements of international co-operation. Explicit restrictions on freedom of speech and of the press would threaten the whole principle of freedom, for in attempting to restrict the abuses of freedom, the basic freedom itself might be denied.

Mr. Lopez felt that in spite of the faults of the press in his own country he would be unwilling to exchange the system in use there for any system which would make the press a tool of the Government. With a free press there was at least a possibility of improvement, but there was no possibility for remedying a press corrupted by totalitarian control at its very source.

[10]

MR. PAVLOV (Union of Soviet Socialist Republics) asked that paragraph 1 of his draft amendment should be voted on as a whole, as the statements made had indicated that members of the Commission who could not accept the second sentence would not accept the first sentence either. He was convinced, however, that history would justify his proposal.

The objection to including freedom of artistic representation unless scientific and other freedoms were mentioned seemed unfounded since the latter would be covered by freedom of speech and press.

Some representatives had objected to his proposal on the ground that it did not include an exhaustive list of the limitations on the freedom of speech and press. He was prepared to mention other limitations if it were so desired; but the USSR delegation had specified only those which it considered most important and most

acceptable to the Commission. It was hard to imagine that anyone could seriously be opposed to prohibiting fascism and incitement to hatred.

In reply to the point raised by the Philippine representative, Mr. Pavlov said that the Nuremberg trials had shown ways for curtailing the freedoms and activities of the enemies of democracy without doing harm to democratic elements themselves.

A vote was taken by roll-call on paragraph 1 of the USSR proposal. The result of the vote was as follows:

In favour: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia

Against: Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, Philippines, United Kingdom, United States of America, Uruguay

Absent: Iran

Paragraph 1 of the USSR proposal was rejected by thirteen votes to four.

[11]

A vote was taken by roll-call on paragraph 2 of the USSR proposal. The result of the vote was as follows:

In favour: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia

Against: Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, Philippines, United Kingdom, United States of America, Uruguay

Absent: Iran

Paragraph 2 of the USSR proposal was rejected by thirteen votes to four.

THE CHAIRMAN turned to consideration of the proposed French amendment to add to the first line of article 17 the words “on his own responsibility”.

MR. LEBEAU (Belgium) did not think the meaning of the words proposed was clear.

MR. WILSON (United Kingdom) recalled the history of the article under consideration. After prolonged discussions in the Sub-Commission on Freedom of Information and the Press and at the Geneva Conference on Freedom of Information, a text had been adopted by the Conference, by a vote of 29 in favour and 6 against. A proposal such as that which had just been made by the French representative had been presented to the Conference and had been rejected.

The Commission should be extremely wary of making changes in a text that had been arrived at after so much thought. It should feel an obligation to respect views so emphatically expressed by the Conference, especially since the document under preparation would go before the Economic and Social Council and [12] finally to the General Assembly itself where the representation would more nearly parallel that of the Conference than did the representation in the Commission.

Referring to certain Chinese amendments, Mr. Wilson pointed out that changing the word “thought” to the word “opinion” in the first line of the Conference text, was merely a logical result of changes that had been made in the previous article. He was

also willing to accept as a drafting change the substitution of the words “through all media of expression” for “by any means”, in order to clarify a meaning which might have been ambiguous in the original wording. He hoped, however, that the Commission would feel bound not to introduce any new ideas or to exclude any ideas which were already contained in the text.

MR. CASSIN (France) was convinced by the argument presented by the United Kingdom representative that the Commission should feel morally bound to follow the text submitted by the Conference on the Freedom of Information. He therefore withdrew his proposal and also stated his approval of substituting “through all media of expression” for “by any means”.

MR. HOOD (Australia) agreed with the United Kingdom representative that the Commission should not make any substantive changes in the text submitted. However, he approved the Chinese wording as a necessary and proper drafting change resulting from the substitution of the word “opinion” for the word “thought” in the first line.

MR. CHANG (China) did not think that the suggestions of the Conference on the Freedom of Information were necessarily binding on the Commission but he agreed that the important ideas in the Conference text should be retained. It seemed redundant, however, to keep the phrase “to hold opinions” in the second line, if freedom of opinion had already been mentioned in the first line.

[13]

MR. MALIK (Lebanon) pointed out that the first clause of the Conference text was a general statement of principle, which was explained in the second clause. If the phrase “to hold opinions” were omitted, then part of the process of enjoying the right stated in the first clause, would be missing. It was not, therefore, redundant to retain the phrase in the second part. He was prepared to accept the substitution of “through all media of expression” for “by any means”.

MR. LOPEZ (Philippines) observed that freedom to impart information necessarily implied freedom to hold opinions and he therefore supported the Chinese suggestion to omit “to hold opinions” in the second line. He also favoured changing “thought” to “opinion” in the first line and placing the phrase “without interference” before “regardless of frontiers”, as the two phrases taken together would make for a more harmonious and logical statement.

MR. PAVLOV (Union of Soviet Socialist Republics) asked whether the words “freedom of opinion” implied in English, as they did in the Russian translation, both the freedom to hold an opinion and the freedom to convince others of such an opinion. He also wondered whether “regardless of frontiers” referred to geographical or moral frontiers.

In reply to the point raised by the Philippine representative, Mr. Pavlov observed that frequently people did impart opinions which they did not themselves hold, as

for example certain newspapermen wrote articles that expressed the opinions of the owners of the papers rather than their personal convictions.

[14]

THE CHAIRMAN explained that in the first line freedom of opinion and expression meant the right to form any opinion and to speak freely about it.

She agreed with the USSR representative that it was possible to impart an opinion which an individual did not himself hold, but she observed that newspapermen who followed such a practice were generally looked upon as lacking in integrity.

MR. CHANG (China) suggested that the representatives of Lebanon, Philippines, the United Kingdom and China should try to prepare for the afternoon meeting a text that would be acceptable to the Commission.

THE CHAIRMAN stated that the Chinese suggestion would be followed.

The meeting rose at 1:08 p.m.

E/CN.4/SR.64

8 June 1948¹¹⁶

Original Text: French

Summary Record of the Sixty-Fourth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Tuesday,
8 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. C. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. de Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Specialized Agencies:* Mr. Metall, International Labour Organization (ILO); Mr. Lebar, United Nations Educational, Scientific and Cultural Organization; Mr. Hill, World Health Organization. [2] *Non-governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; Mr. Janner and Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss Schaefer, International Union of Catholic Women's Leagues; Miss Robb, Liaison Committee of

¹¹⁶ This is the date of the meeting. The document was issued on 17 June 1948.

Women's International Organizations; Mr. Bienenfeld, World Jewish Congress. *Secretariat*: Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

Continuation of Consideration of the Articles of the Declaration of Human Rights

Articles 17 and 16 (Continuation)

THE CHAIRMAN requested the representative of China to present the conclusions of the Drafting Sub-Committee on articles 17 and 16.

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

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

MR. PAVLOV (Union of Soviet Socialist Republics) proposed to amend the Drafting Committee's text by adding the phrase "within the limits which [3] ensure the security of the State". The present text made no mention of the security of the State; it was too wide in scope and could lead to abuses, for it could protect any aspect of espionage. No State could allow a foreigner to collect any kind of information within its boundaries without any control. Articles 17 and 18, as now drafted, represented a violation of national sovereignty. Moreover, not only was the amendment indispensable in principle, but it corresponded to the practice followed by all States. In addition it represented nothing new, for it was taken word for word from the text worked out and unanimously adopted by the Sub-Committee on Freedom of Information, which had met on 19 January 1948. True, the text then applied to correspondents and the press, but it could very well be made to apply to all individuals.

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

The USSR amendment was rejected by 12 votes to 4, with 1 abstention. The Drafting Committee's text, as amended by the Drafting Sub-Committee, was adopted by 13 votes to 4.

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

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

[4]

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

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

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

THE CHAIRMAN remarked that there was no question of voting on a text but merely of deciding whether the Commission was eventually prepared to reconsider article 2, and, for that purpose, to appoint a drafting subcommittee composed of the representatives of France, Egypt and the United Kingdom. The Commission would be pledged to nothing except the setting up of a drafting sub-committee to consider the question.

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

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

[5]

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

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

proposed to name a drafting sub-committee, composed of four of the Officers of the Commission.

Articles 23 and 24

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

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

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

[6]

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

The realization of those objectives meant more to individuals in the United States than any state guarantee of full employment. That was why the United States considered the text submitted by India and the United Kingdom to be the best if

amended by the addition of the right to set up and join trade unions. It was, moreover, in conformity with the text adopted in the Declaration of Bogotá.

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

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

[7]

MRS. LEDON (Commission on the Status of Women) declared that during the last meetings of the Commission on the Status of Women, a resolution had been drafted for submission to the Economic and Social Council and addressed to Member States of the United Nations, requesting them to take a formal stand on the principle of equal pay for equal work and equal working conditions for men and women workers.¹¹⁷ She drew the attention of the members of the Commission on Human Rights to this fact so that the latter should, as far as possible, retain the words "equal pay for equal work", contained in the second paragraph of article 24. Even if that assertion were repetitious, given the word "Everyone" in the first paragraph, the idea was of such fundamental importance that it should be stated explicitly.

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

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

Six essential ideas had been brought out by the discussion: 1) the right to work, 2) the right to just and favourable working conditions, 3) the right to a decent standard of living for the worker and his family, [8] 4) equal working conditions for men and

¹¹⁷ See the 1947 Report of the Commission on the Status of Women (E/CN.4/81), Chapter XI (paragraph 36) on "Urgent Problems" regarding the question of "equal rights impartially for all citizens".

women workers, 5) the right to join a trade union and 6) the right to fight unemployment.

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

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) stated that his delegation was particularly interested in the articles which concerned the right to work, the right to rest, etc. Only a very few documents in existence at the present time mentioned those rights. The question of work and employment was on a totally different plane nowadays than during the nineteenth century. Unemployment had become an every-day phenomenon, affecting as many as twenty million people in the world at any given moment. To gloss over that problem would mean disregarding one of the main anxieties of the man in the street. In that connection, attention should be paid to the statements of trade union representatives. Mr. Klekovkin could not understand that some members opposed the mention of the State as responsible for the prevention of unemployment. After all, it was the State which had to take the necessary measures on behalf of the community or of society. In the Ukraine, the new generation was unacquainted with the fear of unemployment. The Ukrainian [9] constitution affirmed the right to work and the organization of the soviet economy guaranteed it. Capitalist States could not offer the same guarantees because the control of their national economic system was not in their hands, but even they could take certain effective measures against unemployment.

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

intellectual freedom. That spiritual resurrection evolved from the economic prosperity which had facilitated the spreading of culture among workers.

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

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

MR. HOOD (Australia) said that he was in full agreement with most of the ideas expressed by the representative of France. If the article were to keep its proper importance, it should include not only five or six ideas but others as well, such as wellbeing and public health, the right to education [10] and to culture. Those ideas could, however, be grouped in three or four sections, which would have to be arranged harmoniously in a final concise text. His delegation was ready to take its share in that work, but it was necessary beforehand that each member should express his opinion on the matter. A sub-committee could then combine all the suggestions in three or four groups.

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

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

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

[11]

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

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

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

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

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

[12]

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

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

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

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

As regards the State's responsibility in respect of unemployment, he agreed with the United Kingdom representative, in recognizing that one could [13] not delegate to the State all the functions and responsibilities of the community. To do that, would be to relieve employers and the organizations concerned of all responsibility.

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

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

The question of the State's responsibility was one, among others, of fundamental importance, because it was not sufficient to state a right, it had to be guaranteed. He was surprised that whereas six months ago the Commission had unanimously agreed on the importance of that view, it had never completely reversed its position. Finally, he supported the Uruguayan representative in his statement that a large part of the responsibility rested with the employers.

MR. LEBEAU (Belgium) approved the India-United Kingdom amendment in all respects, save one. It was an excellent draft and preferable to that of the French delegation because of its conciseness. The principle of equality between the sexes had been stated many times in the Declaration and therefore, it was unnecessary to mention it again.

[14]

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

the concept of the right to join a trade union was sufficiently new to deserve special mention.

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

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

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

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

The India-United Kingdom amendment reduced the rights of workers to nothing; it contained nothing concrete which could give satisfaction to the millions of workers who were hoping for the betterment of their lot. He seconded the ideas put forward by Mr. Cassin and hoped that he would not withdraw them.

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

[15]

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

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

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

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

MR. LOPEZ (Philippines) said that his delegation attached particular importance to the social and economic rights mentioned in the articles under discussion.

The Philippine delegation had taken an active part in the drafting of article 23 during the Geneva sessions. It could, of course, be redrafted if the Commission considered it necessary, but without either shortening or lengthening it to excess. The fact that the existence of the rights in question had only recently been recognized could be used as an argument in favour of conciseness, as pointed out by the United Kingdom representative. On the other hand, it could also be argued that that fact necessitated their being even more fully defined than rights which had been recognized for a long time. The right to protection against unemployment had to be mentioned explicitly.

[16]

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

Article 23 dealt with an obligation which rested not only with the State but with the community as a whole. He proposed, therefore, that the following second paragraph should be inserted in article 23: "The enjoyment of those rights should be ensured by such measures as would create the possibility for useful work and prevent unemployment."

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

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

"Everyone has the right to useful and remunerative work;
 "Everyone has the right to just and fair working conditions and to reasonable limitations on working hours;
 "Everyone is free to join trade unions for the protection of his interests."

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

Those rights were the following: 1) the right to work; 2) freedom to join trade unions; 3) the right to protection against unemployment; 4) the right to social security; 5) equality between workers; 6) the right to a [17] standard of living that would permit a person to live with decency and dignity; 7) the right to limitations on working hours and to rest; 8) the right to participate in the cultural life of the community. The millions of workers who had placed their hopes in the Declaration would not understand how it could be either incomplete or ambiguous.

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

He preferred to make no specific reference to the State's obligation in respect of measures to combat unemployment and expressed approval of the India-United Kingdom text as amended by the United Kingdom representative. He proposed that a drafting committee should be appointed to examine fully the various proposals which had been made.

MR. LEBEAU (Belgium) seconded the proposal.

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

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

[18]

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

The meeting rose at 5:30 p.m.

E/CN.4/114

9 June 1948

**Report of the Sub-Committee Consisting of the
Representatives of Australia, France, India, Philippines,
Union of Soviet Socialist Republics, United
Kingdom and the United States
on Article 23 of the Declaration on Human Rights**

1. Everyone has the right to work and to just and favourable conditions of work and pay.

2. The enjoyment of these rights should be ensured by such measures (taken by the State or by society) as would create the widest possible opportunities for useful work and prevent unemployment.

3. Everyone is free to form or join trade unions (of his own choice) for the protection of his interests.

(4. Women shall work with the same advantages as men and receive equal pay for equal work.)

Several members of the Sub-Committee felt that the substance of paragraph 2 might be inserted in a general form in the preamble or in the text preceding the enumeration of economic and social rights.

E/CN.4/117

9 June 1948

Original Text: Russian

**Union of Soviet Socialist Republics: Amendment to the Text
of Articles 17–18 of the Draft International Declaration
on Human Rights as Suggested by the Conference on Freedom
of Information (Document E/CN.4/95)**

Everyone has the right to freedom of thought and its expression; wherein is included freedom of conviction, and freedom of access to sources of information and means of communication and transmission in the territory of his own country and of other countries, within limits corresponding to the interests of national security.

E/CN.4/SR.65

9 June 1948¹¹⁸

Summary Record of the Sixty-Fifth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Wednesday,
9 June 1948, at 10:15 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko,

¹¹⁸ This was the date of the meeting. The document was issued on 24 June 1948.

Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. de Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Representatives of specialized agencies:* Mr. Metall, International Labour Organization; Mr. Lebar, United Nations Educational, Scientific and Cultural Organization; *Observer from an inter-governmental organization:* Mr. Stone, Preparatory Commission of the International Refugee Organization. [2] *Consultants of non-governmental organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions. *Secretariat:* Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

[3]

Continuation of the Discussion of the Draft Declaration on Human Rights (Document E/CN.4/95)

Article 23

THE CHAIRMAN announced that the text of article 23 as proposed by the Drafting Committee would be voted upon paragraph by paragraph.

Paragraph 1 of article 23 was adopted unanimously.

MRS. MEHTA (India) recalled that some members of the Drafting Committee had thought that paragraph 2 should constitute a separate article or be inserted in the preamble.

MR. WILSON (United Kingdom) thought that the paragraph could be dealt with in three ways. It could be inserted in the preamble, in article 2 of the Declaration, or at the beginning of the list of economic and social rights. He suggested that a vote should be taken first to decide whether or not paragraph 2 should remain in article 23.

MR. MALIK (Lebanon) opposed the idea that the paragraph should be inserted in articles 2, 3 or 23. He felt that it should be clearly stated somewhere in the Declaration that it was not enough to enumerate economic and social rights, but that society itself should be of such a nature as to ensure the observance of those rights. Favourable social conditions were necessary for that purpose. An article to that effect should therefore be included in the section devoted to economic and social rights.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the worst fault of the old democracy was that it was too formal. It proclaimed certain rights but did not guarantee their observance. The Soviet Union would always be in favour of full implementation. If the means to exercise a certain right were not specified, the fact

of proclaiming that right had no great value. The right to work should not remain an empty phrase. It would have no full meaning unless the measures to prevent unemployment were also [4] set forth; and the right place for such a provision was in the section devoted to economic and social rights.

Some members of the Commission wished to relegate that provision to the preamble in order to destroy whatever concrete usefulness it might have in the struggle against unemployment. The USSR representative declared that he would oppose any attempt to place the provision elsewhere, and asked the Chairman to proceed to the vote.

MR. LOUTFI (Egypt) suggested that paragraph 2 of article 23 should become a separate article to be placed at the beginning of the section devoted to economic and social rights, thus establishing a general principle.

MR. LEBEAU (Belgium) supported the Egyptian representative and called for a decision on the question as to whether the provision contained in paragraph 2 should be placed in the preamble, in articles 2, 3 or 23 or expressed in a separate article. He proposed the deletion of the words: “by the State and” in the parenthesised phrase.

MR. CASSIN (France) did not think that it would be possible to include such a provision in the preamble or articles 2 or 3. In his opinion it was necessary to establish that the individual was entitled to demand that the State, society and international co-operation should guarantee the right in question. He therefore proposed the following amendment to paragraph 2: “. . .ensured by such measures taken by the State and by international cooperation . . .”.

MR. WILSON (United Kingdom) asked a vote to be taken to establish whether the provision contained in paragraph 2 should remain in article 23. If it was decided not to insert it in article 23, a completely new text could be drafted to cover all the other economic and social rights as well.

[5]

MR. MALIK (Lebanon), Rapporteur, thought that an article containing a provision to the effect that “everyone had a right to a good social order ensuring the enjoyment of . . .” might be inserted at the beginning or the end of the section dealing with economic and social rights. He agreed with the French representative in believing that greater emphasis should be given to action within the State than to action by the State.

MR. LEBEAU (Belgium) seconded the French representative’s amendment and withdrew his own.

THE CHAIRMAN agreed with the Lebanese representative. She thought that the Commission wished to have the paragraph inserted elsewhere in the Declaration and proposed the appointment of a sub-committee to prepare a new draft.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that paragraph 2 should first be put to the vote. A sub-committee could be appointed if that paragraph

were rejected. If a new article in general terms were to be drafted, any reference to the prevention of unemployment would be lost. That was an important point on which the Commission should come to a decision by vote. He thought that the provision of paragraph 2 should be retained, but that the idea of a general article was an excellent one provided that it did not involve the exclusion of that provision.

THE CHAIRMAN remarked that the expressed conception of the necessity for full employment covered the prevention of unemployment.

MR. MALIK (Lebanon) thought that the right to protection against unemployment could be included in the first paragraph of article 23. That would in no way interfere with the adoption of a general article covering [6] all economic and social rights.

MR. HOOD (Australia) believed that the difficulty might be solved if all economic and social rights were grouped together in a single article preceded by a provision similar to that contained in paragraph 2 of article 23, or as had been suggested by the French and Lebanese representatives.

MR. LOPEZ (Philippines) supported the Lebanese representative's amendment. He had no objection to the insertion of a new article covering all economic and social rights. He thought, however, that it was possible to leave out the question of unemployment altogether, in view of the fact that Article 55 of the Charter contained a reference to full employment.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) did not think that the problem could be solved by a vote, since the question involved was one of principle. In his opinion, the only possible solution was to retain paragraph 2 of article 23 in its present form.

As regards the Australian representative's suggestion, Mr. Klekovkin did not think that it was acceptable in view of the fact that a separate article was devoted to each separate right throughout the other parts of the Declaration.

MR. WILSON (United Kingdom) agreed with the Ukrainian representative. He went even further believing that the right to work on the one hand and unemployment on the other were two aspects of the same problem, taken from two different points of view, namely the point of view of the State and that of the individual. That being so, prevention of unemployment was already covered by the reference to full employment. He proposed to proceed to the vote.

[7]

MR. CHANG (China) thought that it was difficult to decide whether or not the provision should be included in article 23, since no text was available on which all members agreed. He agreed with the Lebanese representative that reference to unemployment should be made in article 23 and that a general article should be placed at the end of the section devoted to economic and social rights.

He proposed the following text combining the provisions of paragraphs 1 and 2 of article 23:

“Everyone has the right to work and to just and favourable conditions of work and pay; that right includes the adoption of such measures as would create the widest possible opportunities for useful work and prevent unemployment.”

He asked that his proposal be put to the vote.

MR. VILFAN (Yugoslavia) proposed an amendment to the text submitted by the representative of China; involving the addition of the words: “taken by the State or society” after the word: “measures”.

MR. CASSIN (France) also proposed an amendment; he suggested the addition of the words: “taken by the various States, and with international co-operation” after the word: “measures”.

MR. CHANG (China) could accept neither of the two amendments.

MR. PAVLOV (Union of Soviet Socialist Republics) asked whether the representative of Lebanon had withdrawn his amendment; he preferred the Lebanese to the Chinese text in view of its more energetic formulation.

MR. LOPEZ (Philippines) stated that he had supported the Lebanese amendment; but, since the Chinese text corresponded more to his own wishes, he would support the latter and vote against the Lebanese amendment.

[8]

THE CHAIRMAN read out paragraph 1 as amended by the representative of China. She said that she would vote against that amendment.

MR. MALIK (Lebanon) felt that his own draft was better; the word “protection”, contrary to the views of the United Kingdom representative, was completely unambiguous and included all measures to be taken against unemployment.

Mr. Malik asked for a vote on his amendment. If that amendment were rejected, he would propose, as an amendment to the Chinese text, replacing the words: “the widest possible” by the word: “adequate”. He pointed out that, while the French representative’s intentions were excellent, his amendment might raise difficulties in introducing a new element which would require further study.

MR. CHANG (China) accepted the Lebanese representative’s amendment to his text.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that the Lebanese amendment was enhanced by the element to which the United Kingdom representative had objected. He proposed that the Lebanese text should be amended by the addition of the following clauses: “guaranteed by measures (taken by the State or society) to create the widest possible opportunities for full employment.” He pointed out that his amendment was based on the text of Article 55 of the Charter. Mr. Pavlov asked for a separate vote on the Lebanese, USSR, and Yugoslav amendments; the latter amendment consisted of adding the words between brackets to the phrase suggested by the USSR representative.

Mr. Pavlov also proposed that the Chinese draft should be amended by replacing the word “includes” by the word: “provides”.

[9]

MR. WILSON (United Kingdom) stated that if the Indian representative accepted the Lebanese amendment, he would do the same. He agreed that the words “protection” would not cause misunderstanding. Mr. Wilson could not accept the Chinese amendment; it would be difficult to interpret since it concealed the disagreement without settling it.

MR. CHANG (China) considered that his was a compromise formula; he pointed out that it was impossible to deal with the question of unemployment without mentioning measures to be taken against it.

MR. CASSIN (France) stated that the USSR amendment led him to propose the addition of the phrase: “in the various States and with international co-operation” after the word: “measures”.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) asked for a full explanation of the meaning of the French amendment. Did it imply that, without international co-operation, States would take no measures against unemployment?

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with the Ukrainian representative’s interpretation of that amendment, and asked whether the representative of France would not agree to withdraw his amendment.

MR. CASSIN (France) stated that such interpretation of his amendment was incorrect and due, perhaps, to a certain ambiguity. He proposed that the text should read: “in the different States, separately, or with international co-operation”.

MR. FONTAINA (Uruguay) supported the French amendment which implied consultation with existing international organizations, in particular, with the International Labour Organization.

[10]

MR. HOOD (Australia) recalled that the discussion had arisen over the question of whether or not the second paragraph of article 23 should be retained. He pointed out that the Lebanese amendment represented a mere drafting improvement of the first paragraph which dealt with the right of work and consequently with the maintenance of employment; the USSR and French amendments were concerned with the question of measures to be taken and would therefore have to be examined in the light of all the economic and social rights. Consequently it would be better to vote first on the Lebanese amendment which he supported.

MR. FONTAINA (Uruguay) remarked that adoption of the Lebanese amendment would mean that the Commission abandoned the idea of a general article on measures to be taken to ensure the enjoyment of economic and social rights. He therefore requested that the Commission should first vote on the question of whether or not the second paragraph of article 23 should be retained.

MR. PAVLOV (Union of Soviet Socialist Republics) supported the Chairman's suggestion to vote first on the amendments to the first paragraph of article 23; regardless of the decision on the USSR and French amendments, the Commission could then consider a general clause relating to measures to be taken in order to ensure enjoyment of economic and social rights.

MR. CASSIN (France) withdrew his amendment in order to eliminate the difficulties and enable a vote to be taken on the Lebanese amendment.

MR. LOUFI (Egypt) supported the suggestion to vote first on the Lebanese amendment in view of the fact that it related to the first paragraph.

[11]

MR. LEBEAU (Belgium) shared the view of the representative of Uruguay that a vote should first be taken on the preliminary question of whether or not the Commission wished to retain the idea in the second paragraph of article 23.

MR. MALIK (Lebanon) remarked that his amendment applied to the first paragraph, consequently the normal procedure would be to take a decision on that paragraph before considering the second paragraph.

He would vote against the USSR amendment which, however, might fit into a separate article.

Mr. Malik specified that his amendment would complete the first paragraph by stating the theory of the right of constant work; its adoption would in no way prejudice the acceptance of a separate article on the measures to be taken.

THE CHAIRMAN put the Yugoslav, USSR and Lebanese amendments to the vote. The Yugoslav amendment was to add the words: "taken by the State or society".

The amendment was rejected by 9 votes to 4 with 4 abstentions.

The USSR amendment was to add the words: "guaranteed by measures to create the widest possible opportunities for full employment".

The amendment was rejected by 9 votes to 4 with 4 abstentions.

The Lebanese amendment was to add the words: "and of protection against unemployment" at the end of the first paragraph of article 23.

The amendment was adopted by 8 votes to 5 with 4 abstentions.

THE CHAIRMAN appointed a sub-committee, consisting of the representatives of France, Lebanon, United Kingdom, the Union of Soviet Socialist Republics and the United States, to work out a special article concerning the measures to be taken in order to ensure enjoyment of economic and social rights.

The meeting rose at 1:15 p.m.

E/CN.4/SR.66
9 June 1948¹¹⁹

Summary Record of the Sixty-Sixth Meeting
[of the Commission on Human Rights]
 Held at Lake Success, New York, on Wednesday,
 9 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Wu, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Representative of the Commission on the Status of Women. [2] *Representatives of Specialized Agencies:* Mr. Metall, International Labour Organization; Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. Drennan,¹²⁰ Catholic International Union for Social Service; Mr. van Istendael, International Federation of Christian Trade Unions (IFCTU); Miss Schaefer, International Union of Catholic Women's Leagues; Dr. Robb, Liaison Committee of Women's International Organizations; Dr. Bienenfeld, World Jewish Congress. *Secretariat:* Dr. Humphrey, Director, Division of Human Rights; Mr. E. Lawson, Secretary of the Commission.

**Continuation of the Consideration of the Draft International Declaration
 on Human Rights, Submitted by the Drafting Committee
 (Annex A of Document E/CN.4/95)**

THE CHAIRMAN drew attention to the text of Article 23 submitted by the drafting sub-committee. (E/CN.4/114) She pointed out that the words "of his own choice" in paragraph 3 had been placed in parenthesis, as the sub-committee had been unable to agree upon their inclusion. Certain members had contended that the words "everyone is free to form or join trade unions" already implied that the individual was free to choose the trade union, but the United States delegation wished to retain the words "of his own choice" for the sake of clarity.

MR. WILSON (United Kingdom) warned the Commission of the danger of putting more in the article than was necessary. The words "of his own choice" would imply that any individual could join any trade union, which would, only increase the difficulties of demarcation which already existed among the different trade unions.

¹¹⁹ This is the date of the meeting. The document was issued on 14 June 1948.

¹²⁰ The representative of the Catholic International Union for Social Service was Miss Juliet H. Drennan.

[3]

He added that the United Kingdom delegation considered the whole paragraph unnecessary if the Commission wished to retain it. However, it should make sure that no misleading statements were included.

MR. MALIK (Lebanon) asked why the Sub-committee had in that instance departed from the formula “everyone has the right . . .”, and had substituted “everyone is free . . .”.

MRS. MEHTA (India) explained that “everyone is free . . .” left it to the individual to decide whether or not he wished to join a trade union.

MR. LEBEAU (Belgium) supported the explanation given by the Indian representative; it was not only a question of the right of the individual to join a trade union, but also his right not to join. The present text made that abundantly clear, and in his opinion the words “of his own choice” were redundant.

THE CHAIRMAN, speaking as the representative of the United States of America, withdrew the words “of his own choice”, in order to simplify the voting.

MR. LOUTFI (Egypt) declared his intention not to vote for paragraph 3, which he considered superfluous, since the right to freedom of association was already given in Article 18.

MR. MALIK (Lebanon) asked why the sub-committee had singled out trade union association for separate mention, when freedom of association was already covered in Article 18.

THE CHAIRMAN explained that the United States delegation considered that the right to form and join trade unions was an essential element of freedom. While other associations had long enjoyed recognition, trade unions had met with much opposition and it was only recently that they had become an accepted form of association. The struggle was, in fact, still [4] continuing, and her delegation thought, therefore, that specific mention should be made of trade unions.

MR. FONTAINA (Uruguay) agreed with the representative of Egypt that paragraph 3 was superfluous, as the matter was already covered by freedom of association in Article 18. He would not, however, be able to vote against the paragraph, having voted for freedom of association. If it were to be retained, it should be interpreted as meaning that individuals were not only free to join, but also not to join trade unions.

Mr. Fontaina understood why the USSR representative, who had only seen USSR trade unions, could not imagine any worker wishing to remain outside a trade union, for a USSR worker who left his trade union would have no work. Uruguay, however, among other countries, had many trade unions, which could be roughly classified into two politically opposed categories: those with a socialist trend, and those with a communist trend. Mr. Fontaina cited a case in his country where a socialist trade union had promoted a strike for an increase of pay; when the increase was obtained for all workers, whether members of the socialist or communist trade

union, the communist trade union had organized a strike for a further increase, with the result that the factory in question had closed and all had suffered from a long period of unemployment. In view of such cases, it was essential that the right to join trade unions should be accompanied by the right not to join.

THE CHAIRMAN recalled that when Article 19 had been considered, the suggestion to include trade unions in it had been decided against. Several members had supported that decision on the assumption that specific mention of trade unions would be made in Article 23. It was understood that the words "everyone is free to form or join trade unions" left individuals free not to join.

The Commission approved paragraph 3 of Article 23 by twelve votes, with four abstentions.

[5]

Paragraph 4: "Women shall work with the same advantages as men and receive equal pay for equal work."

THE CHAIRMAN, speaking as the representative of the United States of America, expressed her strong support for the principle of equal pay for equal work, which was widely observed in the United States, where many States had equal pay laws on their Statute Books. She felt, however, that there was no need for a specific provision in the Declaration, since the principle was adequately covered by the provision against discrimination in Article 3, and paragraph 1 spoke of "just and favourable conditions of work and pay". Moreover, she disagreed with the phrase "with the same advantages" since there were many fields of work in which women required special advantage?

MRS. MEHTA (India) explained that only two members of the subcommittee had wished to include the paragraph in question. For her part, she would vote against it, as she had explained at an earlier meeting. To make a specific reference to women in the article would give rise to the impression that women did not have the same rights in other matters where they were not specifically mentioned.

MR. LARRAIN (Chile) recalled that when the Economic and Social Council at its last session had considered the proposal concerning equal pay for equal work submitted by the World Federation of Trade Unions and supported by the French and many Latin American delegations, Chile had supported the proposal wholeheartedly, pointing out that equal pay would be no innovation in Chile, where the principle was already applied in various fields of activity. The Council had adopted a resolution referring the problem to the International Labour Organization and calling upon all Member States to implement the principle.

In view of the Council's action, the delegation of Chile felt it was right and proper to refer to the principle in Article 23. Since there were, however objections to the

specific mention of women, Mr. Larrain [6] proposed that the following text might be more acceptable:

“Everyone is entitled to receive equal pay for equal work.”

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) expressed his astonishment that the representative of India, herself a woman, was opposed to paragraph 4. The importance of such a provision was paramount, in view of the fact that women had been discriminated against in the matter of pay almost more than in any other. Moreover, the Commission on the Status of Women had adopted a resolution, requesting that the Declaration should contain a provision with regard to equal pay for equal work.

The provision had been included in the text adopted at the second session of the Commission and in the text of the Drafting Committee, and it was not right to ask for its exclusion now. As the representative of Chile had pointed out, the Economic and Social Council had passed a resolution on the subject, and in Mr. Stepanenko’s opinion the Commission was bound to include such a provision in the Declaration.

MR. WILSON (United Kingdom) declared that, in spite of the arguments of the Byelorussian representative, he would be guided by the views of the two women members of the Commission.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that paragraph 4 was of great importance. In many countries women were paid less than men for the same work – a particular form of discrimination which could not be ignored in the Declaration. The fact that “just and favourable conditions of work and pay” were mentioned in paragraph 1 would be no safeguard, since employers might consider it just to pay women less for the same work.

Mr. Pavlov suggested that the following text might prove more acceptable to the majority of the Commission:

[7]

“Women shall enjoy no less advantages than men in work and shall receive equal pay for equal work.”

MR. CASSIN (France) thought paragraph 4 had its uses, since the matter was not entirely covered by the provision against discrimination in Article 3, which had no power to regulate relations between employer and employee. He would favour the principle of the text adopted at the second session, with the amendment proposed by the USSR representative.

MRS. MEHTA (India) reiterated her conviction that any specific mention of women in the article would only weaken the position of women; there were many other fields in which there was discrimination against women, but nowhere else did the Declaration make specific mention of women, it being understood that “everyone” included women.

MRS. LEDON (Commission on the Status of Women), on behalf of her Commission, which represented all the women of the world, urged the adoption of paragraph 4. The argument that the question of equal pay for equal work was covered by the general provision in paragraph 1 was not correct, since the Declaration did not specify what were “just and favourable conditions of work and pay”.

Human beings must first be able to live; the standard of living depended upon work and its remuneration. The question of equal pay was therefore vital for women. In conclusion, Mrs. Ledon appealed to the sense of justice of the members of the Commission, urging them to support that paragraph in order to improve the position of women throughout the world.

MR. LOPEZ (Philippines) stated that he had previously objected to the wording of the first part of the provision, as he had thought it was open to misinterpretation. With the first part now amended by the [8] USSR representative, he could support paragraph 4. Paragraph 1 was not enough, since the criterion of what was “just and favourable” would be determined by contracts between the employer and employee. Paragraph 4 would in no way be redundant, for it introduced a new idea which was not contained in the rest of the article.

MR. HOOD (Australia) supported the alternative text proposed by the representative of Chile, since it disposed of the objection, which he shared, to the specific mention of women. Moreover, it stated a principle which was not clearly enunciated in paragraph 1, wherein “just and favourable” referred to the conditions of work of individuals and did not cover the relations of individuals to one another.

MR. WU (China) also supported the text proposed by the representative of Chile, which he thought would cover the objection raised by the representative of India.

MR. CASSIN (France) urged members not to allow discrimination to continue, simply because they were afraid of words and preferred abstract amendments. The French delegation had considered the question very seriously and would support the original provision, since it considered it more important to defend women than to defend words.

MR. WU (China) wished to make it clear that his delegation did not object to the mention of women, and was guiltless of any attempt to use vague and abstract words. The broader statement of the Chilean representative, however, stated an important principle which had not hitherto found its place in the Declaration, and which the Chinese delegation was glad to support.

MR. PAVLOV (Union of Soviet Socialist Republics) had no fault to find with the Chilean text, save that it was not sufficiently specific.

[9]

If that could be corrected, he would be willing to support it. He proposed that it should be amended to read:

“Everyone, regardless of race, nationality or sex, is entitled to equal pay for equal work.”

That would cover discrimination against women, and also discrimination against coloured workers as compared to white, colonial workers as compared to those of metropolitan Powers, etc.

MR. LARRAIN (Chile) explained that his sole desire had been to enunciate the principle clearly, yet in such a way that the paragraph would not be rejected. He would accept the USSR amendment.

MR. WILSON (United Kingdom) pointed out that although the Commission had started by discussing equal pay for men and women, a separate principle had now developed. He had nothing against the principle of equal pay for equal work, but it was a wide subject which entered into the matter of family responsibilities and which would involve an examination of the wage structure in various countries. Moreover, if that one principle were to be emphasized, it would throw the whole Declaration out of balance.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed that the vital interests of the working people were concerned in the question of equal pay for equal work, and the working woman must be protected from discrimination.

The whole question of wages was not a question of pay for work, but rather of pay in accordance with the requirements of the individual. Modern society, unfortunately, could not yet achieve that, but at least it could do away with the injustice suffered by women, coloured races, national minorities etc.

MR. FONTAINA (Uruguay) declared that the very arguments of the USSR representative indicated the vast nature of the subject, for if the principle of equal pay for equal work were to be enlarged upon, it would [10] be necessary to mention every possible ground for discrimination. The Chilean text, on the other hand, referred to the principle of equal pay for equal work for “everyone”, which included men and women, and rendered the USSR amendment unnecessary.

MR. LOUTFI (Egypt) moved the closure of the debate.

MR. QUIJANO (Panama) asked the Chairman to put paragraph 4 to the vote in two parts, the first part to be: “Everyone regardless of race, nationality and sex”.

The Commission rejected the first part of paragraph 4 of Article 23, by eight votes to five, with four abstentions.

THE CHAIRMAN put to the vote paragraph 4 in the following text: “Everyone is entitled to receive equal pay for equal work”.

The Commission approved paragraph 4 of Article 23 by ten votes to three with four abstentions.

[11]

MR. CASSIN (France) said he had voted against the text “Everyone is entitled to receive equal pay for equal work” because he considered that not only was such an

abstract formula very dangerous, but its interpretation would give rise to serious problems.

MR. FONTAINA (Uruguay) suggested that paragraph 4 should become paragraph 2.

MR. LOPEZ (Philippines) considered that the suggested new paragraph 2 should begin with the word “Women”.

MR. PAVLOV (Union of Soviet Socialist Republics) regretted the adoption of a wording for paragraph 4 of Article 23 which did not include mention of “equality regardless of sex”.

The Committee decided by eight votes to none with eight abstentions that paragraph 4 of Article 23 should become paragraph 2.

THE CHAIRMAN put Article 23, reading as follows, to the vote:

“1. Everyone has the right to just and favourable conditions of work and pay and to protection against unemployment.

“2. Everyone is entitled to receive equal pay for equal work.

“3. Everyone is free to form or join trade unions for the protection of his interests.”

The Commission adopted by eight votes to three with five abstentions the text of Article 23 as amended.

Consideration of the Report of the Drafting Committee, (document E/CN.4/95) (Continuation of discussion)

Article 24

MR. PAVLOV (Union of Soviet Socialist Republics) considered that Article 24 was covered by Article 23.

After a brief discussion, THE CHAIRMAN put to the vote a proposal that the Drafting Sub-Committee should be requested to draft a separate Article 24.

[12]

The proposal was adopted by eleven votes to none with five abstentions.

Articles 25 and 26

THE CHAIRMAN pointed out that the India/United Kingdom joint proposal (document E/CN.4/99) suggested the amalgamation of Articles 25 and 26, and that the delegation of China had proposed that Article 23–29 should be amalgamated (document E/CN.4/102).

MRS. MEHTA (India) suggested the insertion in the Joint India-United Kingdom proposal of a new paragraph reading as follows:

“Mothers and children shall be granted special care and assistance” to which MR. WILSON (United Kingdom) said he was not opposed. He did not however wish to be committed to that exact wording.

Replying to MR. LEBEAU (Belgium), who asked whether the words “security in the event of unemployment”, need be retained in the India / United Kingdom draft as protection against unemployment was provided for in Article 23, MR. WILSON (United Kingdom) said he would prefer their retention.

MR. CASSIN (France) pointed out that the amendments suggested by his delegation (document E/CN.4/82/Add.8) were submitted as amendments to the text adopted at the second session, but as the Lebanese amendment to paragraph 1 of Article 23 had been adopted that morning, he would not press the French amendment to Article 25. He supported the retention of the words “security in the event of unemployment” in the Joint India / United Kingdom text, and suggested the addition of a new paragraph referring to the right of everyone to an adequate standard of living. He agreed with the representative of India’s proposed amendment.

MRS. MEHTA (India) and MR. WILSON (United Kingdom) accepted the amendment suggested by the representative of France.

[13]

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) referring to Article 26, said the questions of social security etc., dealt with under that Article were of great importance to workers throughout the world. Pointing out that in some countries workers who became unemployed because of old age, illness, disability etc., found themselves without any means of support he emphasized the fact that in his country all workers, without exception, were insured against such possibilities, and that the insurance contributions were paid entirely by the employers. He disagreed with the practice followed in certain countries whereby workers themselves were required to pay their share of the cost of social insurance.

Article 26 should contain more concrete guarantees of social security for the working man than were contained in the India/United Kingdom text.

Replying to the Chairman, who asked what percentage of his wages a worker in Byelorussia received in case of disability etc., MR. STEPANENKO (Byelorussian Soviet Socialist Republic) said that such a worker received a monthly allowance based on the average rate of pay for the number of years he had been working.

THE CHAIRMAN, speaking as the representative of the United States of America, wished to make the position of her delegation clear, and to emphasize that it supported the India/United Kingdom text for Articles 24/26 in the belief that that text stated the substance of the original Articles in a briefer and better form. She suggested that the words “necessary social services and” should be inserted before

the word “security”, in order to make it clear that the term “social security” encompassed the right to services as well as to economic protection.

MR. HOOD (Australia) supported the India/United Kingdom text and the amendment suggested by the Chairman. He proposed that the words “and to social services” should be added after the words “standard of living”.

[14]

MR. LEBEAU (Belgium), MRS. MEHTA (India) and MR. WILSON (United Kingdom) also supported the amendment suggested by the Chairman.

MR. WILSON (United Kingdom) suggested that the second part of the text for Articles 24–26 should read: “including security in the event of unemployment, disability, old age or other lack of livelihood in circumstances beyond his control, and special care and assistance for mothers and children”.

MR. CASSIN (France), supported by MR. MALIK (Lebanon) suggested that the proposed text for Articles 24–26 should be divided into three sentences.

MR. WILSON (United Kingdom) said he preferred two sentences and proposed that a Sub-Committee should be appointed to draft the Article.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the India/United Kingdom text omitted all reference to the right of the family to a dignified standard of living, and the right of man to medical care and housing. The Declaration must contain clauses emphasizing these rights, and he asked the Drafting Sub-Committee to take his suggestions into consideration.

Referring to the high cost of medical aid and the lack of hospitals and health centres in the United States of America, he pointed out that in the Union of Soviet Socialist Republics not only was all medical aid provided free of charge to workers, but the hospital network system had been increased five times and the number of physicians 500 per cent during the last quarter of a century. Expenses in connection with the improvement of health services were increasing yearly.

Stressing the right of man to adequate housing, he said that in the Union of Soviet Socialist Republics only one to four per cent of a worker’s earnings was spent on housing, whereas in certain other countries the average spent on housing was 30 per cent.

[15]

THE CHAIRMAN said the Drafting Sub-Committee would take into account the suggestions made by the representative of the Union of Soviet Socialist Republics. Speaking as representative of the United States of America she pointed out that in that country the poor received free medical aid, and that although the idea of socialized medicine was not generally accepted, several hospital insurance schemes were being tried out. Taken on a basis of population she thought that there were more doctors in the United States of America and more hospital beds than there were in the USSR.

She felt it would be most interesting if there was an exchange of medical missions between the United States of America and the Union of Soviet Socialist Republics. That exchange might prove to be a very profitable one and would help greatly in the two countries' mutual knowledge of one another. She would do all in her power to arrange for such a mission if the USSR representative would reciprocate.

The meeting rose at 5:20 p.m.

E/CN.4/119

10 June 1948

**United States of America: Proposed Alternative for the
Preamble of the Draft International Declaration
on Human Rights**

Whereas recognition of the inherent dignity and the equal rights of all the persons is the foundation of freedom, peace and justice in the world, and

Whereas the States, Members of the United Nations, reaffirming their recognition of that dignity and of those rights, have declared their purpose to promote and encourage respect for human rights and fundamental freedoms,

Now therefore the General Assembly recommends the following Declaration as a common standard of achievement for the United Nations in the performance of its obligation to promote universal respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

E/CN.4/120

10 June 1948

**Report of the Sub-Committee Consisting of the Representatives
of France, Lebanon, United Kingdom, United States of
America and Uruguay, on Additional Articles for the
Draft International Declaration of Human Rights**

(1) The following text was unanimously accepted by the Sub-Committee to come at the end of the Declaration:

“Everyone has the right to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.”

(2) in addition, Mr. Cassin suggests the following article, to precede the articles on economic and social rights:

“Everyone as a member of society has the economic, social and cultural rights enumerated below, whose fulfilment should be made possible in every State separately or by international collaboration.”

E/CN.4/121

10 June 1948

Original Text: Spanish

Panama: Proposed Text for Articles 27–28 of the Draft International Declaration on Human Rights

Everyone has the right to education and to free primary schooling. Education shall be based on the principles of human freedom, morality and brotherhood. It shall be widely available to everyone without distinction as to sex, race, language, religion or political opinion and shall promote the spiritual, intellectual and physical development of the people.

E/CN.4/122

10 June 1948

Original Text: Spanish¹²¹

American Declaration of the Rights and Duties of Man

**Adopted by the Ninth International Conference of American States
(Extract from the Final Act of the Conference)**

Whereas:

The American nations have acknowledged the dignity of the individual, and their national constitutions recognize that juridical and political institutions, which regulate society, have as their principal aim the protection of the essential rights of man and the creation of circumstances that will permit him to achieve spiritual and material progress, and attain happiness;

¹²¹ This version of the American Declaration was presumably prepared by the translation services of the United Nations on the basis of a Spanish-language version. There is an official English-language version of the American Declaration that differs slightly from this text. Note the remarks of Eleanor Roosevelt concerning translation difficulties of the Declaration at E/CN.4/SR.58, p. 7.

The American states have on repeated occasions recognized that the essential rights of man are not derived from the fact of one's being a national of a certain state, but are fundamental attributes of the individual;

The international protection of the rights of man should be the supreme guide of an evolving American law.

Both the American affirmation of essential human rights and the guarantees given by the internal regimes of the respective states establish the initial system of protection considered by the American States as being suited to the present social and juridical conditions, not without recognizing that they should increasingly strengthen that system in the international field as these conditions become more favourable;

The Ninth International Conference of American States Agrees
To adopt the following

American Declaration of the Rights and Duties of Man

[2]

Preamble

All men are born free and equal in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.

The fulfilment of duty by each individual is a prerequisite to the rights of all. Rights and duties are inter-related in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.

Duties of a juridical nature presuppose others of a moral nature that support those duties in concept and are the basis therefor.

Inasmuch as the spirit is the supreme aim of human existence and the greatest expression thereof, it is the duty of man to serve that end with all his strength and resources.

Since culture is the maximum social and historical expression of that spirit it is the duty of man to preserve, practice, and foster culture by every means within his power.

And, since morality and good manners constitute the noblest flowering of culture, it is the duty of every man always to hold them in high respect.

Chapter One

Rights

Article I

Every human being has the right to life, liberty, and the security of his person. *Right to life, liberty and personal security.*

Article II

All persons are equal before the law and have the rights and duties established in this Declaration, without *Right to equality before the law.*

distinction as to race, sex, language, creed, or any other factor.

Article III

Every person has the right freely to profess a religious faith, and to manifest and practise it both in public and in private.

Right to religious freedom and worship.

Article IV

Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of thought by any medium whatsoever.

Right to freedom of investigation, opinion, expression, and dissemination.

[3]

Article V

Every person has the right to the protection of the law against abusive attacks upon his honour, his reputation, and his private and family life.

Right to protection of honour, personal reputation, and private and family life.

Article VI

Every person has the right to establish a family, the basic element of society, and to receive protection therefor.

Right to a family and to the protection thereof.

Article VII

All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.

Right to protection for mothers and children.

Article VIII

Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will.

Right to residence and movement.

Article IX

Every person has the right to the inviolability of his home.

Right to inviolability of the home.

Article X

Every person has the right to the inviolability and circulation of his correspondence.

Right to the inviolability and circulation of correspondence.

Article XI

Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing, and medical care, to the extent permitted by public and community resources.

Right to the preservation of health and to wellbeing.

Article XII

Every person has the right to an education, which should be based on the principles of liberty, ethics, and human solidarity.

Right to education.

[4]

Article XII (Cont'd)

Furthermore, every person has the right to an education that will prepare him to lead a decent life, to raise his standard of living, and to be a useful member of society. The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit, and the desire to utilize the resources that the state or the community is in a position to provide. Every person has the right to receive, free, at least a primary education.

Article XIII

Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries. He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific, or artistic works of which he is the author.

Right to the benefits of culture.

Article XIV

Every person has the right to work, under proper conditions, and to follow his vocation freely, in so far as existing conditions of employment permit. Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.

Right to work and to fair remuneration.

[5]

Article XV

Every person has the right to leisure time, to wholesome recreation, and to the opportunity for

Right to leisure time and to the use thereof.

advantageous use of his free time to his spiritual, cultural, and physical benefit.

Article XVI

Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.

Right to social security.

Article XVII

Every person has the right to be recognized everywhere as a person having rights and obligations, and to enjoy the basic civil rights.

Right to recognition of juridical personality and of civil rights.

Article XVIII

Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby justice will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

Right to a fair trial.

Article XIX

Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.

Right to nationality.

Article XX

Every person having legal capacity is entitled to participate in the government of his country, directly or through his representative, and to take part in popular elections, which shall be by secret ballot, and shall be genuine, periodic, and free.

Right to vote and to participate in government.

[6]

Article XXI

Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.

Right of assembly.

Article XXII

Every person has the right to associate with others to promote, exercise, and protect his legitimate interests of a political, economic, religious, social, cultural, professional, trade union, or other nature. *Right of association.*

Article XXIII

Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home. *Right to property.*

Article XXIV

Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest, and the right to obtain prompt action thereon. *Right of petition.*

Article XXV

No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law. No person may be deprived of liberty for non-fulfilment of obligations of a purely civil character. *Right to protection from arbitrary arrest.*

Every individual who has been deprived of his liberty has the right to have the legality of the measure ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

[7]

Article XXVI

Every accused person is presumed to be innocent until proved guilty. Every person accused of an offence has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous, or unusual punishment. *Right to due process of law.*

Article XXVII

Every person has the right to seek and receive asylum in foreign territory, in case of pursuit not resulting from *Right of asylum.*

common law crimes, and in accordance with the laws of each country and with international agreements.

Article XXVIII

The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

Scope of the rights of man.

Chapter Two **Duties**

Article XXIX

It is the duty of the individual so to conduct himself in relation to others that each and every one may fully form and develop his personality.

Duties to society.

Article XXX

It is the duty of every person to aid, support, educate, and protect his minor children, and it is the duty of children to honour their parents always and to aid, support, and protect them when they need it.

Duties toward children and parents.

Article XXXI

It is the duty of every person to acquire at least an elementary education.

Duty to receive instruction.

[8]

Article XXXII

It is the duty of every person to vote in the popular elections of the country of which he is a national, when he is legally capable of doing so.

Duty to vote.

Article XXXIII

It is the duty of every person to obey the law and other legitimate commands of the authorities of his country and those of the country in which he may be.

Duty to obey the law.

Article XXXIV

It is the duty of every able-bodied person to render whatever civil and military service his country may require for its defence and preservation, and in case of public disaster, to render such civil services as may be in his power.

Duty to serve the community and the nation.

It is likewise his duty to hold any popular elective office that devolves upon him in the state of which he is a national.

Article XXXV

It is the duty of every person to co-operate with the state and the community with respect to social security and welfare, in accordance with his ability and with existing circumstances.

Duties with respect to social security and welfare.

Article XXXVI

It is the duty of every person to pay the taxes established by law for the support of public services.

Duty to pay taxes.

Article XXXVII

It is the duty of every person to work, as far as his capacity and possibilities permit, in order to obtain the means of livelihood or to benefit his community.

Duty to work.

[9]

Article XXXVIII

It is the duty of every person to refrain from taking part in political activities that, according to the law, are reserved exclusively to the citizens of the state in which he is an alien.

Duty to refrain from political activities in a foreign country.

E/CN.4/124

10 June 1948

United Kingdom: Draft Preamble to the International Declaration on Human Rights

Whereas it is a purpose of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all;

And whereas this purpose can be attained only on the basis of a common understanding of the nature of these rights and freedoms;

The Declaration of Human Rights sets forth the rights and freedoms which are essential to the highest expression of human dignity and worth and which every person and every organ of society, national and international, should strive to promote by teaching and education and by progressive measures to secure their universal recognition and observance.

E/CN.4/SR.67
10 June 1948¹²²

Summary Record of the Sixty-Seventh Meeting
[of the Commission on Human Rights]

Held at Lake Success New York, on Thursday,
 10 June 1948, at 11 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. Jockel, Australia; Mr. Steyaert, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. de Quijano, Panama; Mr. Ingles, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Representatives of specialized agencies:* Mr. Metall, International Labour Organization (ILO); Mr. Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO). [2] *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Drennan, Catholic International Union for Social Service; Mr. Prentice, Commission of the Churches on International Affairs; Mr. Brotman, Co-ordination Board of Jewish Organizations; Mr. Strahler, International Committee of the Red Cross; Mr. Bienenfeld, World Jewish Congress; Miss Schaefer, International Union of Catholic Women's Leagues. *Secretariat:* Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

Continuation of the Consideration of the Report
of the Drafting Committee to the Commission on Human Rights
(Document E/CN.4/95)

New article

THE CHAIRMAN read the following text which the Sub-Committee had unanimously recommended to the Commission for adoption as an article of general principle to be added at the end of the Declaration:

“Everyone has the right to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.”

She then read a second text prepared by the French representative for inclusion in the Declaration preceding the articles on economic and social rights.

¹²² This was the date of the meeting. The document was issued on 25 June 1948.

“Everyone as a member of society has the economic, social and cultural rights enumerated below, whose fulfilment should be made possible in every State separately or by international collaboration.”

MRS. MEHTA (India) wondered whether the adjective “good” was altogether necessary. It was obvious that a social order guaranteeing all [3] the rights and freedoms set out in the Declaration on Human Rights would of necessity be “good”. Conceptions of good and evil were relative. To speak of a “good” social order in which rights and freedoms could be fully realized led to the supposition that there could be a “bad” or “less good” social order which offered the same guarantees to mankind.

MR. MALIK (Lebanon) was in favour of retaining the adjective “good”; he did not think it infringed on or affected the sense of the second part of the Sub-Committee’s text, for the adjective qualified the social order, while the second part of the sentence laid down the conditions unnecessary to justify the adjective.

MR. CHANG (China) suggested that the place to be given to the new articles should not be decided upon immediately. It was sufficient to agree that the articles would be added towards the end of the Declaration.

While supporting the idea that an article of general principle establishing everyone’s right to a good social and international order should be included in the Declaration, he thought that the Commission should go further, and should affirm that it was the duty of all to contribute towards the establishment and maintenance of that order. While stressing the importance of the question, he thought that there was no need for an immediate vote on the text proposed by the Sub-Committee.

The Commission should reflect on what improvements might be made in it. He, therefore, suggested that the consideration of the question should be postponed till a later date. If, however, the Commission decided on an immediate discussion of the two new articles, he would propose the inclusion in the first text of a phrase expressing the idea he had just set forth, namely, the need to affirm, side by side with the duties of the State, the individual’s duty to contribute to the good social order he demanded. He therefore suggested adding [4] after the words “everyone has the right” either “and the duty to assist in the realization of” or “and the duty to bring about”.

MR. MALIK (Lebanon) entirely agreed with the idea Mr. Chang wished to have included in the Declaration, and realized its importance. That idea should, however, be stated in the Preamble which would mention the rights of States as well as the duties of the individual. To introduce the idea of the individual’s duties into an article would be a departure from the form given to the other articles of the Declaration. The Commission should decide whether it considered such a departure justified by the importance of the article in question.

MR. CHANG (China) said in answer to a question by the Chairman that article 2 did not fully meet the idea he wished to express by the new article. The duties of the individual mentioned in article 2 were those which he owed to the State of which he was a national, or to other nationals of that State. The article, the addition of which had been recommended by the Sub-Committee, introduced a new idea, namely the individual's right to a good social order. As, however, the social order which the individual was entitled to demand, under the terms of that article, depended in the first instance on the individual's contribution to its establishment and maintenance, that right was dependent on the fulfilment of a duty which should be clearly stated.

MR. CASSIN (France) referred to the circumstances which had led to the preparation of the two texts. As a result of the difficulties encountered during the consideration of article 23 and the following articles, the Commission had been struck by two defects in the text originally drawn up in Geneva: excessive length and repetition, on the one hand, and too much detail on the other. It should be remembered that the Commission was not called upon to draft the provisions of a national constitution but the [5] articles of an international Declaration.

The Lebanese representative had at that time proposed that the articles of the Declaration should be drafted with a view to simplicity and clarity and that they should include a sort of prefatory article which would, in a sense, be a statement of general principle and would obviate the need to mention throughout the text of the Declaration the duties of the State to the individual.

The Sub-Committee entrusted with the drafting of the prefatory article had reached unanimous agreement on the first text which affirmed the need for a good social order which would permit the enjoyment of all the rights and freedoms set out in the Declaration on Human Rights. That text was, therefore, of a very general nature and covered all the articles of the Declaration. The unanimity shown in the Sub-Committee was proof that it answered a real need.

The second text proposed by the French delegation was more specific and applied to the economic, social and cultural rights which the Commission was examining at present. The Sub-Committee had not thought it necessary to retain it; the French delegation was today formally submitting it to the Commission.

MR. JOCKEL (Australia) said that the text proposed by Mr. Cassin seemed to his delegation to be much more important and of greater scope than the one agreed upon by the Sub-Committee. His delegation would vote for the first text on condition that that text did not exclude Mr. Cassin's text.

MR. MALIK (Lebanon) said that the majority in the Sub-Committee was of the opinion that the first text covered the second, and, therefore, made it redundant. To make a special reference to the economic, social and cultural rights would be to favour them in comparison with other rights and freedoms, which was inadmissible. The Commission should decide whether it wished to retain both texts or not.

[6]

MR. WILSON (United Kingdom) agreed that this represented the view of the majority of the Sub-Committee.

MISS SENDER (American Federation of Labor) thought both texts should be retained. The need for an article on general principle had become obvious during the consideration of the articles on economic and social rights. The Commission had realized that those rights had not been clearly enough defined in the Geneva text which, moreover, was far from complete. It was mainly in order to fill that gap that the Sub-Committee had been set up.

The original idea had not been accepted by the majority in the Sub-Committee, but it had been raised again by the French representative. The latter's text, therefore, corresponded more closely to the task entrusted to the Sub-Committee as well as to the idea which the Commission desired to express. Furthermore, the Commission had taken a formal decision regarding the inclusion of an article which would deal especially with economic, social and cultural rights.

MR. JOCKEL (Australia) repeated that his delegation did not object to the adoption of the Sub-Committee's text, but it saw in it only a restatement of principle. The desired aim was to affirm the economic, social and cultural rights of the individual. In their present form, the articles of the Declaration on those rights were inferior to those of the Geneva text, which clearly established the responsibilities of both the State and society. Those articles had been altered, to improve their form and style; but their importance should be established by the adoption of a prefatory article. The text proposed by Mr. Cassin was very complete in the sense that it stated the rights of the individual and indicated the State, as an entity or in collaboration with other States, as the guarantor of such rights.

[7]

MR. VILFAN (Yugoslavia) pointed out that there was a link between the new article which the Sub-Committee wished to be adopted, and article 2 which governed the relations between the individual and society; the ideas expressed in those articles were not identical but were very close. The Commission had decided to instruct the Sub-Committee to prepare a fresh draft of article 2; he wondered how far the fresh draft would make the new article useless. It would be difficult to vote before being sure of that point. That was why he thought the discussion of the new article premature.

Should the Commission decide to take a vote on Mr. Cassin's text immediately, he reserved the right to amend it so as to read "... whose fulfilment should be made possible by the State." That amendment was in line with the ideas he had put forward the previous day when the Commission had decided to draw up a prefatory article on economic, social and cultural rights.

MR. STEYAERT (Belgium) said his delegation would be sorry if the first article were adopted to the exclusion of the article proposed by Mr. Cassin. The first had an altogether general bearing while the second stressed, to some extent, social, economic and cultural rights which were less well known.

MR. PAVLOV (Union of Soviet Socialist Republics) thought it was premature to pass judgment on the fate of either of the proposals, or on the Chinese amendment, which introduced an absolutely new idea. Since the articles in question were to come at the end of the Declaration, their consideration should be postponed until the end of the examination of the articles of the Declaration. Should the Commission decide, however, to discuss them in substance at once, the USSR delegation would have some serious objections to raise.

[8]

THE CHAIRMAN agreed that the final placing of the articles should be discussed later. It could be decided by the Style Committee. The Commission should first make known its position in regard to the two texts submitted to it and should decide whether it would consider both of them at once, or only one of them, or would not deal with them until a later stage of its work.

MR. CHANG (China) asked for some enlightenment on the functions of the Style Committee. He thought that that Committee would deal mainly with questions of style and with the uniformity of translations, and he was surprised that it should be entrusted with important decisions such as the placing of articles.

THE CHAIRMAN, supported by MR. WILSON (United Kingdom) said that the Style Committee would only deal with questions of form and construction, and would take no decisions of substance.

A short discussion of procedure took place in the course of which MR. CASSIN (France) pointed out the great difference between his text, which referred specifically to article 23 and the following articles, which the Commission was in the process of considering, and the Sub-Committee's text, which was a general text, and could quite suitably be considered when the Commission started revising the general texts.

THE CHAIRMAN called on the Commission to vote on whether it would proceed to the consideration of the two texts immediately, or would postpone such consideration until later.

The Commission decided by 8 votes to 4 with 2 abstentions, to postpone until later the consideration of the text proposed by the Drafting Sub-Committee.

The Commission decided by 6 votes to 6, with 2 abstentions, to postpone until later the consideration of the text proposed by Mr. Cassin.

[9]

Articles 27 and 28

THE CHAIRMAN read out the text of article 27 as adopted at the Commission's second session, the alternative texts proposed by the French and United States delegations, the text of article 28 as adopted at the Commission's second session and the alternative text submitted by the French delegation (document E/CN.4/95). She also read out the draft article proposed by the Indian and United Kingdom delegations in place of articles 27 and 28 (document E/CN.4/99), reminding the meeting that the text submitted by the Chinese delegation had been withdrawn.

MR. QUIJANO (Panama) emphasized his delegation's wish to contribute towards the establishment of the principle of the right to education.

The Panama delegation felt that it would be unthinkable if a human right as elementary as the right to education were not included in the Declaration. Mr. de Quijano pointed out that the constitutions of forty countries proclaimed the principle of free and compulsory education. In those countries, everyone without any distinction whatsoever had the right to primary education. Certain countries, including Panama, extended that right to secondary and even to higher education, in the sense that both those stages of education were free.

The representative of Panama drew the Commission's attention to the fact that article 12 of the Declaration on Human Rights adopted at the Inter-American Conference at Bogotá established the right to education for everyone. In the opinion of the Panama delegation, that fact was a weighty argument in favour of proclaiming the same right in the International Declaration on Human Rights.

[10]

Mr. de Quijano agreed that the text adopted at the Commission's second session was drafted in terms which were rather too broad, but he thought that it could easily be re-drafted in a more concise form without affecting the basic principle involved. It was, for instance, unnecessary to include provisions regarding the manner in which the State should apply the principle of the right to education, as provisions dealing with the State's obligations were out of place in a Declaration designed to establish the rights of the individual. The principle itself, however, should be proclaimed with full force.

The Panama delegation had prepared the following draft article which it now submitted to the Commission as a substitute for articles 27 and 28:

"Everyone has the right to education and to free primary schooling. Education shall be inspired by the principles of human freedom, morality and solidarity. It shall be accorded to everyone without distinction as to sex, race, language, religion or political opinion and shall promote the spiritual, intellectual and physical development of the people."

[11]

MR. JOCKEL (Australia) stated that his delegation supported the alternative version of article 27 submitted by the United States delegation. He suggested, however, that the word "fundamental" should be replaced by "elementary".

Speaking as the representative of the United States of America, THE CHAIRMAN agreed to that amendment.

MR. LEBAR (UNESCO) remarked that it was hardly necessary to stress UNESCO's interest in the work of the Commission on Human Rights.

After a war in which the most fundamental human rights had been trodden in the dust, UNESCO felt that it was extremely important once again to proclaim those rights firmly and clearly in a document of solemn significance such as the International Declaration on Human Rights.

Ignorance and illiteracy which, unfortunately, still prevailed in some parts of the world, were among the principal obstacles to international understanding. For that reason UNESCO was devoting a considerable part of its activities to the work of ensuring the necessary minimum of education to all the peoples of the world. It was also trying to contribute towards better international understanding by carrying out a series of investigations of factors which could improve or hinder such understanding.

Mr. Lebar also pointed out that his organization was considering with the closest attention the Economic and Social Council's resolution on UNESCO's contribution to the struggle against discrimination and for the protection of minorities.

Mr. Lebar thought that the Declaration on Human Rights would give valuable aid to UNESCO's work by proclaiming the right to education and culture as one of the fundamental rights; it would thus provide a common ground for understanding among all men of good will.

[12]

As regards articles 27 and 28 which were now under discussion, Mr. Lebar recalled that it had often been stated in the course of the Commission's debates that the Declaration should, as it were, place on record the general trend of world opinion with regard to certain principles at the time when the Declaration was issued. An article drafted in the terms proposed by the Indian and United Kingdom delegations, which merely established the right to education without specifying the right to different stages of education and higher education in particular, would therefore, not fully correspond to the Declaration's aims.

The adoption of that text would automatically involve the deletion of article 28. Mr. Lebar warned the Commission of the danger of such a step. In that connection, he cited the example of Germany where, under the Hitler regime, education had been admirably organized but had, nevertheless, produced disastrous results. It was

absolutely necessary to make it clear that education to which everyone was entitled should strengthen respect for the rights set forth in the Declaration and combat the spirit of intolerance. The text proposed by the representative of Panama fulfilled that purpose.

MR. WILSON (United Kingdom) stated that with the consent of the Indian delegation he would be prepared to withdraw the India-United Kingdom draft text and to support the alternative version submitted by the United States representative.

MRS. MEHTA (India) agreed to withdraw the India-United Kingdom text but explained that her delegation had considered it unnecessary to specify the different kinds of education to which everyone was entitled, since that question was within the competence of UNESCO.

She added that she agreed to the United States text but would insist on the word “fundamental”, which conveyed more clearly than “elementary” the conception of basic education which was the right of everyone.

[13]

THE CHAIRMAN invited the representative of the World Jewish Congress to expound his organization’s views on articles 27 and 28 of the Declaration.

MR. BIENENFELD (World Jewish Congress) recalled the circumstances in which the Commission had adopted article 28 at its second session in Geneva. As the result of interventions on the part of the World Jewish Congress and certain other organizations, the Commission had recognized that a Declaration which failed to indicate the spirit in which everyone was to be educated would not fulfil its purpose, and had agreed to devote a separate article – article 28 – to that question.

As the representative of UNESCO had pointed out, education in Germany and other fascist countries had been carried out in compliance with the principle of the right of education for everyone; yet the doctrines on which that education had been founded had led to two world wars. If the Declaration failed to define the spirit in which future generations were to be educated, it would lose its value as a guide for humanity.

The Declaration was not merely an appeal to the State; it was an appeal also to parents, teachers and educators. It was necessary to stress the importance of the article devoted to the spirit of education, which was possibly greater than that of all the other articles of the Declaration.

Mr. Bienenfeld stated that while the last part of article 27 was a repetition and might be deleted, article 28 should be retained in view of the fact that its provisions did not appear in any other section of the Declaration. Stating that at its last session UNESCO had adopted the entire text of article 28 as a basis for its efforts in Germany and in all other countries where it was necessary to work a change in

the spirit of education, Mr. Bienenfeld appealed to the Commission to retain article 28 in the Declaration.

[14]

MR. LOUTFI (Egypt) stated that his delegation would support the text proposed by the United States delegation, as it contained all the elements of the text of article 27 as adopted at the second session of the Commission, except the provision against discrimination. The Egyptian delegation did not, however, think that such a provision was necessary since it appeared more than once in other parts of the Declaration and particularly in article 3.

As regards article 28, Mr. Loutfi thought that some of the ideas contained in it might be included in the Preamble to the Declaration.

MR. MALIK (Lebanon) supported Mr. Bienenfeld's remarks regarding the importance of article 28. The human being was, by definition, a creature gifted with the power of reason, and the study of the ways in which that power could be developed was the Commission's concern. It was not enough to say that everyone had the right to education; it was necessary to specify the nature of such education. That was the only possible guarantee that future generations would not be educated in a spirit contrary to the aims of the United Nations as defined in the Preamble to the Charter.

In connexion with the part played by the family in the education of children, Mr. Malik stressed the need to exclude the possibility of situations in which dictators had the power to prevent parents from educating their children as they wished. Control of education could not be left entirely to the discretion of the State; parents should be allowed the freedom to determine the spirit in which they wished their children to be brought up.

The Lebanese delegation would support the text of article 27 as proposed by the United States delegation. It did not think, however, that the United States text was sufficiently comprehensive. The Commission was in duty bound to guard against the possibility that the education [15] of future generations could again be poisoned by doctrines opposed to the letter and the spirit of the Declaration. In that respect, the text proposed by the Panama delegation seemed entirely satisfactory.

MR. CASSIN (France) was inclined to agree in substance with the version of article 27 proposed by the United States delegation. However, he thought that it should be redrafted and that article 27 should confine itself to stating the right to education and the principle that elementary education was free and compulsory. The French delegation considered it unnecessary to repeat in article 27 that higher education would be accessible to everyone, without discrimination; on the other hand, it hoped that the text which it had proposed for adoption and which was intended to protect the economic, social and cultural rights of man would make it unnecessary for the Commission to insert the words "as can be provided by the State or community" in article 27.

Mr. Cassin suggested the following text for article 27: "Everyone has the right to education. Fundamental education shall be free and compulsory."

Mr. Cassin said that his delegation could not agree to the deletion of article 28; moreover it felt that it should be amended only after thorough study. Article 28 had given rise to long and earnest discussion in Geneva and the draft adopted there reconciled two trends of thought on the subject, one favouring the right of the State to determine the system of education and the other favouring the right of the family. At that time, the Commission had felt that, in the interest of the child and of mankind in general, the Declaration should not set forth directives regarding the system of education, but should, however indicate the factors which would favour the development of human personality. Consequently, the text adopted in Geneva contained no allusion to the State and to the family. The version of the article proposed by the French delegation was a drafting amendment [16] in the interest of greater clarity and it followed the Geneva text very closely. Mr. Cassin asked the Commission to retain article 28 as drafted by his delegation.

THE CHAIRMAN asked the representative of the International Union of Catholic Women's Leagues to express the views of her organization on the articles under discussion.

MISS SCHAEFER (International Union of Catholic Women's Leagues) also emphasized the importance of articles 27 and 28, declaring that the spirit and aims of education should be made clear.

She observed, however, that those articles failed to mention the fundamental right and responsibility incumbent upon parents to educate their children as they saw fit. If that right were not stated in the Declaration, there might very well be a recurrence of situations such as that which prevailed in Germany under Hitler. The sentence: "Elementary education is free and compulsory" might be interpreted to mean that if the State provided free education, it was entirely free to determine the system of education. It would be better to say:

"The State shall maintain adequate and free facilities for education."

MR. CHANG (China) proposed the adoption of the following text:

"1. Everyone has the right to education, including free fundamental education and equal access on the basis of merit to higher education.

"2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms."

Mr. Chang pointed out that the first paragraph of that single article retained the two ideas contained in the joint United Kingdom-India text, while the second

paragraph set forth, in condensed form, the substance of [17] article 28, the importance of which the Chinese delegation had stressed time and again.

In reply to a question from the representative of the USSR, the Chairman stated that it was the understanding of the United States delegation that the new text suggested for article 27 was intended to replace articles 27 and 28 of the text adopted at the Commission's second session in Geneva.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) pointed out that the phrase "on the basis of merit" was vague and rather ambiguous.

He, personally, was opposed to any statement of a restrictive nature. In the Ukrainian Soviet Socialist Republic, everyone had a right not only to elementary education, but equally to higher education; the only qualification required of the student was the desire to educate himself. The delegation of the Ukrainian Soviet Socialist Republic could not accept any restriction of the aspirations to higher education.

Mr. Klekovkin did not understand why articles 27 and 28 should be combined in a single article which failed to mention the spirit in which education should be given. In connection with the articles regarding the right to work, the Commission had recognized the need to enter into matters of detail; it likewise appeared necessary to be more precise in defining the right to education.

The text adopted at the Commission's second session in Geneva and the draft suggested by the French delegation contained the essential factors upon which the concept of free education in modern democratic society should be based. Those texts were defective neither in form nor substance, and nothing justified the deletion of article 28, which had been approved unanimously in Geneva. The Commission should decide whether to combine the ideas expressed in articles 27 and 28 in a single article, but it should not sacrifice any of these basic ideas.

[18]

Speaking as the representative of the United States, THE CHAIRMAN observed that access to higher education in the countries of the USSR was subject to the same conditions as those prevailing in the United States: entrance examinations had to be passed. The selection of persons for admission to advanced study was made on that basis. Therefore, the reservation contained in the United States draft simply laid down a principle which had already been recognized.

THE CHAIRMAN then announced that a drafting sub-committee would be asked to submit suggestions for redrafting articles 27 and 28. It would be composed of the representatives of China, France, Lebanon, Panama, the United Kingdom, the Union of Soviet Socialist Republics and the United States.

The meeting rose at 1:15 p.m.

E/CN.4/SR.68

10 June 1948¹²³

Summary Record of the Sixty-Eighth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Thursday,
 10 June 1948, at 3:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. C. Malik, Lebanon. *Members:* Mr. G. Jockel, Australia; Mr. L. Steyaert and Mr. R. Lebeau, Belgium; Mr. A. S. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. G. Larrain, Chile; Mr. P. C. Chang, China; Mr. O. Loutfi, Egypt; Mr. R. Cassin, France; Mrs. H. Mehta, India; Mr. M. de J. Quijano, Panama; Mr. J. D. Ingles, Philippines; Mr. M. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom; Mr. R. Fontaina, Uruguay; Mr. J. Vilfan, Yugoslavia. *Also Present:* Mrs. A. Ledon, Representative of the Commission on the Status of Women. *Representatives of Specialized Agencies:* Mr. A. Metall, International Labour Organization; Mr. P. Lebar, United Nations Educational, Scientific and Cultural Organization. [2] *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Drennan, Catholic International Union for Social Service; Mr. Prentice, Jr., Commission of the Churches on International Affairs; Mr. B. Janner and Mr. Brotman, Co-ordinating Board of Jewish Organizations; Miss Strahler, International Committee of the Red Cross; Miss C. Schaefer, International Union of Catholic Women's Leagues; Mr. Bienenfeld and Mr. Wolkowicz, World Jewish Congress. *Secretariat:* Mr. J. Humphrey, Director of the Human Rights Division; Mr. E. Lawson, Secretary of the Commission.

**Continuation of the Discussion on the Draft Declaration
 of Human Rights (document E/CN.4/95)**

Articles 27–28

THE CHAIRMAN recalled that the drafting sub-committee composed of the representatives of China, France, Lebanon, Panama, USSR, United Kingdom and the United States of America had agreed on a combined text for Articles 27 and 28. The first sentence "Everyone has the right to education" had been unanimously accepted by the sub-committee. Two alternatives for the second sentence had been drafted for consideration by the Commission, as follows: (1) "This right includes free, compulsory elementary education", or (2) "This right includes free fundamental education". Finally, the drafting committee had reached agreement on the third part of the paragraph: "and equal access on the basis of merit to higher education."

¹²³ This is the date of the meeting. The document was issued on 14 June 1948.

THE CHAIRMAN put to the vote the first sentence:

“Everyone has the right to education.”

That sentence was approved unanimously.

[3]

THE CHAIRMAN then opened discussion on the two alternatives for the second sentence and explained that the word “fundamental” was intended by several members of the drafting sub-committee to include the broader concept of education for adults as well as for children and adolescents.

MRS. MEHTA (India) objected to the use of the word “compulsory” in a Declaration of Rights.

MR. CASSIN (France) said that he would vote in favour of the original text of Article 27 as adopted at the second session of the Commission, as it contained the concepts which his delegation supported: fundamental education should be free and compulsory. The word “compulsory” should be interpreted to mean that no one (neither the State, nor the family) could prevent the child from receiving elementary education; the idea of coercion was in no way implied. Moreover, he saw no objection to the word “fundamental” which the French text had translated “*élémentaire*”. Incidentally, Mr. Cassin thought that the French text of the original draft should be corrected to read *éducation élémentaire* rather than *instruction élémentaire*.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed the importance of free and compulsory elementary education. It should be free so that millions who could not afford the high costs involved might not be deprived of it. Elementary education should be free in order to give everyone the opportunity for schooling, and to combat illiteracy. In that connection, Mr. Pavlov felt that the word “fundamental” seemed to imply that education should be broad and intensive, rather than superficial; it tended to weaken and confuse the definition. Finally, the representative of the USSR emphasized the importance of retaining the word “compulsory”. The concept contained in that word was closely linked with the concept of the right to education. It presupposed that the obligations of society corresponded [4] to the rights of every human being to free education. The State had the obligation to furnish opportunities for education to everyone and to ensure that no one could be deprived of those opportunities. In his own country, almost fifty million persons of all ages were receiving education. On the other hand, millions of inhabitants of countries of the Far East were receiving no education at all. He had learned from United States sources that almost ten million persons were not fully literate in that country. Therefore, Mr. Pavlov strongly supported the inclusion of the word “compulsory” in the definition of the right.

MR. LEBAR (UNESCO) wondered whether the Commission might be able to combine the concept of compulsory education with that of fundamental education. The word “fundamental” contained the more recent and much broader concept of adult education and represented great progress in the thinking of the past educators over several decades. Mr. Lebar strongly favoured “fundamental” to replace “elementary”.

MR. WILSON (United Kingdom), while he saw no difference between the words “fundamental” and “elementary”, preferred the latter word. On the other hand, he agreed with the representatives of India and Australia that it was dangerous to include the word “compulsory” in the draft Declaration because it could be interpreted as acceptance of the concept of State education. Although the United Kingdom had enjoyed free and compulsory education for several generations, Mr. Wilson found it difficult to reconcile the statement of the right to education with the notion of the compulsory nature of that education.

MR. CHANG (China) pleaded for support of the concept of “fundamental” education as elucidated by the representative of UNESCO. That new and modern concept was particularly well adapted to countries where adult education became [5] imperative for those persons who had not enjoyed the opportunities of grade-school instruction. Mr. Chang agreed with the representative of the United Kingdom that the word “compulsory” should be deleted.

MR. LARRAIN (Chile), while he could not agree fully with the arguments presented by the representatives of France and the USSR, would vote to retain the terms “free, compulsory, elementary education”. The constitution of Chile contained identical terms and the implementation of that constitutional provision had proved an effective weapon in combatting illiteracy.

In order to avoid mention of the word “compulsory” and to safeguard more adequately the right of the individual to education, MR. AZKOUL (Lebanon) offered a compromise amendment which he tentatively drafted as follows:

“Parents have the right to control their children’s education, but cannot prevent them from receiving education.”

Mr. Azkoul explained that the right to education was not in the hands of the individual alone; the family and the State shared in ensuring that right. However, neither the family nor the State could deprive the individual of it. The concept of compulsion was in contradiction with the statement of a right and his amendment was intended to eliminate any implication of coercion. The representative of Lebanon thought that the word “compulsory” could be isolated from the remainder of the text and voted on after all the other amendments had been put to the vote. He would welcome the suggestions of the Commission regarding the final drafting of his amendment.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that the Lebanese amendment neither clarified nor simplified the definition of the right to education. The first alternative agreed upon by the drafting sub-committee ensured the right to free and compulsory elementary education and should be maintained. It meant that the individual had the right to education himself and should discharge his obligation to society to do so. [6] Since no one could prevent him from exercising his right, he would benefit himself and his community. In the Byelorussian SSR, the exercise of the right had contributed greatly to stamping out illiteracy.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with Mr. Stepanenko that the Lebanese proposal could be covered in the simple statement: “free and compulsory education.” The word “compulsory” should not be feared for it could only work to the advantage of the child whose parents might not understand his vital interests and to the improvement of society, which would receive educated individuals. The first alternative text should therefore be voted as it stood, including the word “compulsory”.

The Lebanese representative might then wish to re-introduce his amendment. MR. AZKOUL (Lebanon) accepted the procedure suggested by the representative of the USSR and reserved the right to re-introduce his amendment after the other amendments had been voted.

MRS. MEHTA (India) reminded the Commission that it was discussing the rights of all human beings and should not concern itself either with the rights of children or with the obligations of parents. She reiterated her objection to the word “compulsory” for the contradictory concepts of a right and a compulsion could not be reconciled in the draft Declaration.

MR. LEBAR (UNESCO) called attention to the fact that the phrase “free and compulsory education” had become traditional in all countries. Its omission from the Declaration of Human Rights would constitute a backward step. Mr. Lebar wished to dispel the confusion surrounding the use of the word “compulsory”. It did not mean that the State exercised a monopoly over education, nor did it infringe the right of parents to choose the school facilities they wished to offer their children.

[7]

MR. PAVLOV (Union of Soviet Socialist Republics) gave vigorous support to the explanation offered by the representative of UNESCO. However, he continued to question the use of the term “fundamental education”. While elementary education was free in many countries, he doubted whether free fundamental education was possible at the present time in view of existing cultural conditions.

MR. FONTAINA (Uruguay) felt that the word “compulsory” should be removed from the first paragraph of Article 27 proposed by the drafting subcommittee, and should be inserted in the second paragraph (former Article 23), which dealt with the manner in which education was to be directed.

THE CHAIRMAN put to the vote the deletion of the word “compulsory” from “This right includes free, compulsory. . .”

The deletion of the word “compulsory” was rejected by eight votes to seven.

The Chairman stated that in its next vote the Commission would choose between the words “elementary” and “fundamental”.

The phrase “This right includes free, compulsory elementary education” was approved by seven votes to five, with three abstentions.

MR. CHANG (China) felt that it would be tragic to omit the word “fundamental” from that phrase. He urged the Commission to insert the words “and fundamental” after “elementary”, thus making a reference to education for adults.

The Chinese representative’s amendment was approved by ten votes to one, with five abstentions.

THE CHAIRMAN directed the Commission’s attention to the phrase, “and equal access on the basis of merit to higher education”.

[8]

MR. PAVLOV (Union of Soviet Socialist Republics) questioned the words, “on the basis of merit”. The Russian translation which he had before him was unsatisfactory. To avoid the possibility that such factors as wealth might be included, he suggested, instead, the words “on the basis of personal capabilities and knowledge.”

THE CHAIRMAN, supported by MR. CASSIN (France) and MR. CHANG (China) stated that the words “on the basis of merit” represented precisely the safeguard sought by Mr. Pavlov. They excluded such factors as wealth, personal or political favour, and ensured that higher education would be open to those who had the ability to receive it.

MR. PAVLOV (Union of Soviet Socialist Republics) accepted the suggestion of MR. LEBEAU (Belgium) that the Russian text might contain the very words proposed by Mr. Pavlov himself, as an equivalent for the English “on the basis of merit”.

The phrase “and equal access on the basis of merit to higher education” was approved unanimously.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed the addition of the following sentence: “Access to education shall be without distinction as to race, sex, language, religion, social standing, financial means or political affiliation.”

THE CHAIRMAN, speaking as the representative of the United States, remarked that the USSR amendment seemed unnecessary, as injunctions against discrimination appeared in a separate article devoted to that subject. If the USSR amendment

were adopted, the same addition would logically have to be made in a number of other articles.

MR. DE J. QUIJANO (Panama) stated that he would vote for the USSR amendment, as the same idea was contained in the draft of Article 27 which he had submitted.

[9]

The USSR amendment was rejected by eight votes to five, with two abstentions.

MR. MALIK (Lebanon) remarked that his delegation had voted against the inclusion of the word “compulsory”, lest it be interpreted as making it imperative for children to be sent to schools designated by the State. Now that the word had been approved, the Lebanese amendment was all the more necessary; it was designed to guarantee the right of the family to determine the education of its children, but not to prevent such education. He proposed two versions of the amendment; while he himself preferred the first, he would be content with the milder second one. The versions were as follows:

1. “Parents have the primary right to determine the education of their children.”
2. “This does not exclude the right of parents to determine the education of their children.”

MISS SCHAEFER (International Union of Catholic Women’s Leagues) appealed to the Commission to adopt the first of the two versions submitted by the Lebanese representative. The inclusion in the article of the word “compulsory” introduced an element of obligation by the State which might be misinterpreted. While the State should guarantee education to children, the primary responsibility for that education and the right to determine it rested with the parents. She urged the Commission to recognize that right and to state it in the Declaration of Human Rights.

THE CHAIRMAN said that, in her understanding, it was the general view of the Commission that acceptance of the word “compulsory” in no way put in doubt the right of a family to choose the school which its children should attend.

Speaking as the United States representative, she said that she considered the Lebanese amendment unwise. The obligation of the State to provide free and compulsory education meant that children had to attend school, [10] but not necessarily the school provided by the State. While the latter was distinctly obligated to provide schools for all children without distinction, the choice of the school was left to the parents.

In the United States there was a difference of opinion on what should be provided by the State to non-public schools; the limits were extremely difficult to define. The Lebanese amendment might well give rise to an endless discussion in which she urged the Commission not to engage.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) agreed with the Chairman that the word “compulsory” did not exclude the right of the family to choose the school to which its children would go. The Lebanese amendment was therefore not necessary in the first paragraph of Article 27. It might possibly be discussed in connection with the second paragraph.

MR. MALIK (Lebanon) thanked the Chairman and the Ukrainian representative for their interpretation of the text approved by the Commission.

As that text did not deprive parents of the right to choose the school to be attended by the children, there was no objection of substance to the Lebanese amendment, which was intended to safeguard that right by stating it explicitly. In spite of the explanations and interpretations given at the present meeting, it was not excluded that a State might understand the word “compulsory” as depriving the parents of the right to choose their children’s school.

He consequently urged the Commission to adopt his amendment in a still milder version, repeating, in fact, the very words used by the Ukrainian representative: “This does not exclude the right of the family to choose the school to which its children will go.”

MR. LEBEAU (Belgium) shared the view of the Lebanese representative that it was important, in the Declaration of Human Rights, to state explicitly [11] a basic right of parents. While he preferred the second version of the Lebanese amendment, because it was stated in more general terms, he was prepared to vote in favour of the third.

MR. FONTAINA (Uruguay) and MRS. MEHTA (India) observed that the Lebanese amendment represented an unnecessary repetition; they could not support it.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) repeated that he was willing to consider the Lebanese amendment as a possible addition to the second paragraph of Article 27, but not to the first. The Lebanese amendment, in its final version, was rejected by ten votes to three, with one abstention.

THE CHAIRMAN stated that the second paragraph of Article 28, as proposed by the drafting sub-committee, read as follows: “Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of international good will.” To that text there was a USSR amendment, re-introducing a portion of the text approved by the Commission at its second session.

MR. FONTAINA (Uruguay) suggested that the words “compulsory and shall be” should be inserted before the word “directed”. The second paragraph was intended to show what direction the education mentioned in the first paragraph should take; it was necessary for that education to be compulsory.

MR. CHANG (China) pointed out that in the first paragraph the word “compulsory” referred only to elementary and fundamental education. He did not think it should be used in a paragraph which applied also to higher education.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with the Chinese representative. He questioned the practical possibility of making higher education compulsory at the present time.

[12]

The Uruguayan amendment was rejected by five votes to three, with seven abstentions.

MRS. MEHTA (India) stated that she would have to abstain from voting on the second paragraph of Article 27. She did not think the type of education to be provided should be defined.

MR. INGLES (Philippines) wished to express the views of his delegation on the proposed second paragraph, which did not differ substantially from the draft approved at the second session. The Philippine delegation felt that it was necessary not only to sanction the right to education, but to outline the objectives of that education. If the determination of the objectives were left entirely to Governments, there was a danger that some of them might pursue anti-social aims. He supported the draft proposed by the drafting sub-committee; in his opinion, the addition of the words "promotion of international good-will" was a sufficient substitute for the previously approved phrase, "combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere", which the USSR representative wished to reinstate.

MR. WILSON (United Kingdom), supported by Mr. Jockel (Australia) requested that consideration of the second paragraph might be postponed until the Secretariat could prepare and distribute to delegations a copy of the proposed text.

The Commission approved Mr. Wilson's request by eight votes to four, with two abstentions.

The Commission decided, by six votes to four, with three abstentions, to rise the following afternoon at 3.30 p.m. in order to enable its committees to meet.

The meeting rose at 5:50 p.m.

E/CN.4/125

11 June 1948

Original Text: French

France: Amendment to Article 30 of the Draft International Declaration on Human Rights (Document E/CN.4/95)

Add this second paragraph to Article 30:

"Everyone is also entitled to the protection of his moral and material interests relating to the inventions of any literary, scientific or artistic work of which he is the author."

The previous French amendment on this subject is withdrawn.

E/CN.4/126

11 June 1948

Original Text: French, English

France: Amendment to Article 30 of the Draft International Declaration of Human Rights

Insert the words “*in scientific research*” between the words “share” and “in the benefits”.

E/CN.4/127

11 June 1948

Report of the Sub-Committee Consisting of the Representatives of France, India and the United Kingdom on Articles 25–26 of the Draft International Declaration on Human Rights

1. Everyone has the right to social security. This includes the right to a standard of living and social services adequate for the health and wellbeing of himself and his family and to security in the event of (against the consequences of) unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

2. Mother and child have the right to special care and assistance.

Note: The Drafting Committee, in proposing the above text, recommends that a preliminary vote should be taken as to whether the words “against the consequences of” (proposed by France) should be substituted for “in the event of” (proposed by the United Kingdom).

E/CN.4/129

11 June 1948

Suggestions for a Preamble to the Draft International Declaration on Human Rights

(Submitted by the American Federation of Labor)

Whereas indifference toward the happiness and the welfare of the individual in any part of the world makes possible the spreading of suffering and of conflict between peoples;

Whereas it is obvious that international co-operation can be effective for the peace of the world only when based on the respect for the human person;

Whereas it is the purpose of the United Nations to assist the people of the world in obtaining freedom from fear, freedom from want, freedom of thought and religion and freedom of speech and of the press.

This Declaration of Human Rights sets down the basic principles which all Nations, members of the United Nations, pledge themselves to respect in their relations with their own nationals as well as internationally.

E/CN.4/SR.69

11 June 1948¹²⁴

Summary Record of the Sixty-Ninth Meeting
[of the Commission on Human Rights]

Lake Success, New York, on Friday,

11 June 1948, at 11 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Gordon-Jockel, Australia; Mr. Steyaert, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Ingles, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Specialized Agencies:* Mr. Metall, International Labour Organization; Mr. Lebar, United Nations Educational, Scientific and Cultural Organization. [2] *Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Miss Stuart, World Federation of United Nations Associations; Miss Drennan, Catholic International Union for Social Services; Mr. Nolde and Mr. Prentice, Commission of the Churches on International Affairs; Mr. Moskowitz, Consultative Council of Jewish Organizations; Mrs. Van den Berg, International Alliance of Women; Mrs. Parsons, International Council of Women; Miss Schaefer, International Union of Catholic Women's Leagues; Miss Robb, Liaison Committee of Women's International Organizations; Mr. Bienenfeld, World Jewish Congress. *Secretariat:* Mr. Humphrey, Director, Division of Human Rights; Mr. Lawson, Secretary of the Commission.

Continuation of the Consideration of Articles 27 and 28
of the Declaration on Human Rights

THE CHAIRMAN said that the Commission had before it a draft submitted by the Drafting Sub-Committee suggesting the addition to article 27 of a paragraph 2 as follows:

¹²⁴ This was the date of the meeting. The document was issued on 25 June 1948.

“Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedom and to the promotion of international goodwill.”

There was also an amendment proposed by the Soviet Union to add the following at the end of the second paragraph:

“. . . and to the combatting of the spirit of the intolerance and hatred against other nations or racial or religious groups everywhere.”

MR. PAVLOV (Union of Soviet Socialist Republics) said that it would be best first to take a vote on the USSR amendment, since his delegation’s attitude to paragraph 2 would depend on the Commission’s decisions on the USSR amendment.

[3]

The experience of the World War, which had been a war of the democratic countries against the Fascist countries, made certain conclusions evident. Different conceptions of the aims of education might have been and might still be put forward in the Commission. But it was for the Commission to draw up a text acceptable to all the members of the United Nations, based on the principles of the Charter and the experience gained during the war.

The program prepared by the Drafting Sub-Committee was quite positive and acceptable. But education also had a political side which it was essential to stress, if it was to be an effective instrument for peace. The State should assume responsibility for the political education of its people, so as to lead it towards peace, condemning any attempts at a revival of Fascism. Under the USSR constitution anti-Semitism and racial and religious hatred was considered as a crime. How could the prohibition of propaganda of hatred or intolerance be considered an intolerable restriction of the democratic freedoms? He recalled the disastrous results of the education given the German youth by the Nazis. The education of young people in a spirit of hatred and intolerance had been one of the fundamental factors in the development of Nazism and Fascism. It should be made impossible for young people to be brought up in a spirit of hatred. There were certain circles in New York where one could see the development of a new racial theory which alleged the superiority of the Anglo-Saxon race. The origins of that theory could be traced to Mr. Churchill’s speech at Fulton.¹²⁵ One could read in certain organs of the press articles on the number of atomic bombs required to destroy particular towns, or of scientific discoveries capable of poisoning millions of human beings. All such propaganda became extremely dangerous the moment it affected the education of

¹²⁵ In an address delivered at Fulton, Missouri, on 5 March 1946, at Westminster College, Winston Churchill said: “From Stettin in the Baltic to Trieste in the Adriatic an iron curtain has descended across the Continent.” He had used the term “iron curtain” earlier, in a 12 May 1945 letter to United States President Truman, and in the House of Commons on 16 August 1945.

young people. He, therefore, called on the Commission to accept the [4] USSR amendment, the purpose of which was to promote the education of people who would combat hatred and would work for a new international understanding.

THE CHAIRMAN, speaking as United States representative, pointed out that it would be difficult to assert that the United States upheld racial theories favouring the Anglo-Saxon race, since its population was made up of groups which differed so much that any racial theory would be devoid of any basis. It was true that the United States published, perhaps even too often, information about its scientific discoveries, while the government of the Soviet Union was rigorously silent on similar research in the Soviet Union. What was published was certainly no more of a threat to the peace than what was kept secret.

MR. WILSON (United Kingdom) agreed with the Chairman. The United Kingdom text which was meant to replace articles 27 and 28 actually amounted to the complete deletion of article 28. That proposal was still before the Commission and, as it was the earliest, it should be the first to be put to the vote. He thought it dangerous to try to summarize in three or four lines all the theories on the aims of education.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) could not see how an article, which simply stated the need for respecting all human rights and for developing international goodwill to prevent any kind of hatred, could be dangerous. He agreed with Mr. Pavlov's statement on the danger of a racial theory favouring the Anglo-Saxon race. As far as the publishing of scientific discoveries was concerned, it was not a question of publicity or the lack of publicity, but of the way in which such publications were used in the education of young people. When the press mentioned that, thanks to new scientific discoveries the cities of the [5] Soviet Union could be bombed, it was clear that, if that was how these discoveries were explained in the schools, it amounted to war propaganda. There was no such propaganda in the Soviet Union against the United States. A refusal to accept the USSR amendment would, in his opinion, amount to an admission that it was intended, under the guise of free education, to teach that war was necessary and to prepare young people for such a war. The Soviet Union intended to fight for peace everywhere and always, and that was why his delegation asked that the amendment be adopted.

MR. CHANG (China) recalled that the Commission had discussed the question of education at length at its last meeting, and that it was essential that the declaration should not be silent on that point. Paragraph 2, as re-drafted by the Drafting Sub-Committee, appeared to him to express adequately the aim which positive education should pursue.

MR. CASSIN (France) asked whether the deletion of article 26 proposed by the United Kingdom also entailed the deletion of paragraph 2 proposed for article 27 by the Drafting Sub-Committee.

THE CHAIRMAN replied that the United Kingdom proposal to delete article 28 also applied to paragraph 2 proposed by the Drafting Sub-Committee, as that paragraph merely brought up certain points of article 28.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the Commission should not consider the Indian and United Kingdom proposal on article 28 until it had completed the discussion of article 27. He therefore suggested that the Commission begin by taking a vote on the USSR amendment to paragraph 2 of article 27.

[6]

MR. CHANG (China) suggested that the United Kingdom representative should modify his proposal by applying it not only to article 26, but to the whole of paragraph 2 of article 27, since that paragraph embodied the ideas contained in article 28.

MR. WILSON (United Kingdom) pointed out that the Commission was working on the Drafting Sub-Committee's original text. It had adopted a new text for article 27. There were three proposals regarding article 28: (1) to replace it by the Drafting Sub-Committee's text; (2) the USSR proposal; (3) to delete the whole of the article.

THE CHAIRMAN, referring to the procedure which had been followed with regard to the discussion of article 27, recalled that it had been decided to examine that article first with the understanding that articles 27 and 26 might be merged into a single article. After several proposals had been received, a sub-committee had been appointed and, in view of the Commission's wish to merge the two articles, it had suggested that a new version of article 26 should be included as a second paragraph in article 27. The ideas contained in article 26 were therefore produced in the second paragraph of article 27. The Commission, however, was still seized of a proposal to delete article 26. Only if that proposal were rejected would the Commission examine the Sub-Committee's text and decide whether it should be included as a second paragraph in article 27 or form a separate article 23.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) supported Mr. Pavlov's suggestion that paragraph 2 of article 27 should be examined before the question of whether or not it was necessary to retain article 28.

[7]

THE CHAIRMAN remarked that such a procedure was impossible since article 28 was incorporated in paragraph 2 proposed for insertion in article 27 by the Sub-Committee.

MR. CASSIN (France) stressed that the correct procedure was to decide in the first place whether the Commission wished to add the definition of the principles of education to article 27. If that were the case, the Commission should then proceed to establish such a definition, and lastly to decide where it should be placed. If a vote on

the deletion of article 28 were taken, some members might be compelled to vote against their own opinion.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) supported the remarks made by Mr. Stepanenko.

MR. WILSON (United Kingdom) suggested that, in view of the course the discussion had taken, it might avoid misunderstanding if a vote were first taken on the deletion of the second paragraph of article 27 as drafted by the Sub-Committee and then on the deletion of article 28.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) observed that the simplest procedure would be to vote on paragraph 2 separately. As the United Kingdom representative wished to have that paragraph deleted, he could vote against its insertion.

THE CHAIRMAN proposed that the deletion of paragraph 2 of article 27 should be put to the vote first, being the one furthest removed from the original proposal.

The Chairman's proposal was adopted by 11 votes to 3, with 1 abstention.

[8]

THE CHAIRMAN put to the vote the deletion of paragraph 2 of article 27.

The proposal was rejected by 10 votes to 5.

MR. QUIJANO (Panama) announced that he would vote against the USSR amendment not because he disagreed with it in principle but because he thought that the adoption of that amendment would amount to interference in domestic jurisdiction.

The amendment submitted by the Union of Soviet Socialist Republics was adopted by 6 votes to 5 with 4 abstentions.

MR. CHANG (China) proposed the deletion of the words: "and foster international understanding", in order to avoid two repetitions of the same idea in a single paragraph.

It was decided to retain the words: "and foster international understanding" by 4 votes to 4, with 5 abstentions.

MR. MALIK (Lebanon) proposed the following wording:

"The aim of education is the full development of the human personality. Such development demands the strengthening of respect."

MR. CASSIN (France) accepted Mr. Malik's proposal but suggested that the second sentence should read as follows: "Such education should strengthen respect . . ."

MR. MALIK (Lebanon) withdrew his proposal.

MR. FONTAINA (Uruguay) was in agreement with the substance of the paragraph but stated that he would vote against its adoption for grammatical reasons.

[9]

THE CHAIRMAN put to the vote the first part of paragraph 2 as far as the words "... fundamental freedoms".

*The first part of paragraph 2 was adopted by 13 votes to none, with 2 abstentions.
Paragraph 2 as a whole was rejected by 7 votes to 5, with 2 abstentions.*

MR. CHANG (China) proposed the following text:

"Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of international goodwill."

MR. VILFAN (Yugoslavia) suggested that the following phrase should be added to the text proposed by the Chinese representative:

"and to the combatting of the spirit of intolerance and hatred against the nations or racial or religious groups."

The amendment proposed by the representative of Yugoslavia was adopted by 6 votes to 4, with 3 abstentions.

The text submitted by the representative of China was adopted in its amended form by 7 votes to 5, with 2 abstentions.

Article 27 as a whole was adopted by 7 votes to 4, with 3 abstentions.

Article 28

It was decided to delete Article 28 by 11 votes to 1, with 3 abstentions.

[10]

Article 29

THE CHAIRMAN recalled that the following drafts had been placed before the Commission; the draft adopted at the Commission's second session, a French proposal to merge articles 29 and 30, and a United Kingdom-India proposal to delete paragraph 2 of article 29.

Speaking as the representative of the United States of America, the Chairman announced that she would support the United Kingdom-India proposal, since paragraph 1 contained by implication the provisions of paragraph 2. She added that she thought it preferable to discuss articles 29 and 30 separately.

MR. PAVLOV (Union of Soviet Socialist Republics) did not think there was anything in common between articles 29 and 30, and felt that they should be

examined separately. Furthermore, he thought that there was a marked difference between the two paragraphs of article 29; paragraph 2 dealt with vacations with pay which were not mentioned in paragraph 1. Suppressing the second paragraph would be tantamount to depriving the workers of their vacations. He was opposed, therefore, to the deletion of the reference to vacations with pay from the Declaration.

Moreover, limitations on working hours was an important point, for a worker could not possibly enjoy his leisure if he worked 12 hours or more a day.

THE CHAIRMAN pointed out that the Declaration had no juridical value. Consequently, mentioning that right in the Declaration was a meaningless gesture. In the United States it was recognized by law and, in the majority of cases, established by collective contracts. Mentioning it in the Declaration would be tantamount to expressing a pious wish, without any legal guarantee whatever, and would do more harm than good.

[11]

MR. CASSIN (France) noted that there was no objection to the first paragraph. As regards the provisions of the second paragraph, it was not the first time that objections of that kind had been raised. If there had to be a general article on the implementation of all economic and social rights, he saw no objection to the deletion of the second paragraph of article 29.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out, in connexion with the Chairman's argument, that the same objection could be raised against all the articles of the Declaration. If that argument therefore stood, it was useless to go on with the drafting of the Declaration. He thought that the Declaration would derive its value from the moral strength and authority of the United Nations. The workers' right to rest should, therefore, be written into the Declaration.

MR. WILSON (United Kingdom) agreed with the Chairman and pointed out that the substance of article 29 was largely covered by article 23. Furthermore the Declaration was a statement of principles and there was no reason why it should describe the implementation of various rights. Such implementation usually varied according to the country.

MISS SENDER (American Federation of Labor) preferred the existing wording of article 29 but did not object to its deletion if there had to be a general article on all economic and social rights.

MR. FONTAINA (Uruguay) pointed out that, in the text adopted at Bogotá, one article alone – article 13 – contained all the substance of articles 28, 29 and 30 of the Declaration. Every State was left to decide how it should implement the [12] provisions of the article. He thought that that was a logical method.

Replying to a question asked by the Chairman, he said that he had only tried to show how the Declaration could be implemented, that is to say by confining itself to a statement of the rights in question.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that the aim of the Indian-United Kingdom proposal was to express a pious wish; the workers would gain nothing unless the Declaration stated how the implementation of that right was to be ensured. Workers would not be able to afford vacations unless there was a provision for vacations with pay. In addition to receiving vacations with pay, workers in the Byelorussian SSR also had their travelling expenses paid.

He did not think that the Commission would succeed in drafting an article on all social and economic rights. It would be more logical, therefore, to retain the second paragraph of article 29. That would enable any worker reading the text to understand the question immediately.

The meeting rose at 1:10 p.m.

E/CN.4/SR.70
11 June 1948¹²⁶

Summary Record of the Seventieth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Friday,
11 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. J. D. L. Hood, Australia; Mr. R. Lebeau, Belgium; Mr. A. S. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. G. Larrain, Chile; Mr. P. C. Chang, China; Mr. Omar Loutfi, Egypt; Mr. René Cassin, France; Mrs. Hansa Mehta, India; Mr. M. de J. Quijano, Panama; Mr. Jose D. Ingles, Philippines; Mr. M. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. A. P. Pavlov, Union of Soviet Socialist Republics; Mr. G. Wilson, United Kingdom; Mr. R. Fontaina, Uruguay; Mr. Josa Vilfan, Yugoslavia. *Also Present:* Mrs. Amalia Ledon, Commission on the Status of Women. [2] *Representatives of Specialized Agencies:* Mr. R. A. Metall, International Labour Organization (ILO); Mr. Pierre Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO). *Consultants of Non-Governmental Organizations:* Miss Toni Sender, American Federation of Labor; Mr. A. J. van Istendael, International Federation of Christian Trade Unions (IFCTU); Miss J. H. Drennan, Catholic International Union for Social Service; Mr. Sartell Prentice, Jr., Commission of the Churches on International Affairs; Mr. Barnett Janner, Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations; Mrs. W. B. Parsons, International Council of Women; Mrs. M. B. Vandenberg, International Alliance of

¹²⁶ This was the date of the meeting. The document was issued on 21 June 1948.

Women; Miss Catherine Schaeffer, International Union of Catholic Women's Leagues; Mr. F. R. Bienenfeld and Mr. Stephen D. Wolkowicz, World Jewish Congress.

[3]

**Continuation of Consideration of the Draft International
Declaration on Human Rights (Document E/CN.4/95)**

Article 29

THE CHAIRMAN read a statement submitted by the representative of the International Federation of Christian Trade Unions supporting the French position on paragraph 2 of Article 29 and the statement of the AF of L representative. The Federation favoured both the content and the spirit of the Article. It considered that its implementation on the international level was the responsibility of ILO, while on the national level it should be implemented by both the legislatures and the trade unions. The Federation however made its acceptance of the Article dependent on the adoption of an article covering the whole social and economic field.

MR. LOUTFI (Egypt) supported the joint India-United Kingdom amendment suggesting the deletion of paragraph 2. He considered that the statement of principle contained in paragraph 1 was sufficient and did not need further elaboration.

MR. VILFAN (Yugoslavia) favoured retention of paragraph 2. He was ready to accept the "umbrella article" proposed by the French representative but thought that a decision on that point should be reached only after examining all the social, economic and cultural rights. In its present form the paragraph did not adequately cover the field. It was not enough to speak of "limitation of working hours" or of "periodic vacations with pay" since it might be argued that that requirement could be met for instance by giving workers a free Sunday. The Declaration should lay down the principle towards the realization of which international development should be directed.

THE CHAIRMAN put paragraph 1 of Article 29 to the vote.

Paragraph 1 of Article 29 was unanimously adopted.

[4]

In answer to a question by MR. PAVLOV (Union of Soviet Socialist Republics), the Chairman explained that the India-United Kingdom amendment proposed the deletion of paragraph 2 of Article 29.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) pointed out that since paragraph 2 contained an important principle the Commission would place itself in the strange position of voting against it if it adopted deletion of the paragraph.

THE CHAIRMAN stressed that no question of opposing the principle was involved. It was merely a matter of deciding whether it should be inserted in the Declaration at that point.

The India-United Kingdom proposal to delete paragraph 2 of Article 29 was adopted by 9 votes to 6.

Consideration of Article 30

MR. CASSIN (France) introduced his amendment suggesting the insertion of the words “in scientific research and” between the words “share” and “in the benefits”. In answer to questions and suggestions by MR. MALIK (Lebanon), MR. LEBEAU (Belgium), the Chairman and MR. CHANG (China), the French representative explained that cultural life included science but that he wished to lay particular stress on the participation of even uneducated persons in scientific progress.

MR. CHANG (China) proposed the replacement of the last part of the sentence after “share” by “in scientific advancement” and recalled that the phrase was derived from Bacon.

MR. PAVLOV (Union of Soviet Socialist Republics) favoured the article because it emphasized the right of “everyone” to participate in cultural life. The benefits of science were not the property of a chosen few but the heritage of the people. He stressed that the task of science [5] was to work for the advancement of peaceful aims and to make human life better. In the USSR science and culture belonged to all and tremendous progress had been achieved in making the benefits of culture accessible to broadest masses.

After MR. CHANG (China) had drawn the Commission’s attention to the fact that the time originally set aside for the plenary meeting of the Commission had elapsed, MR. CASSIN (France) moved that the discussion should be continued until a decision on the Article could be reached.

MR. WILSON (United Kingdom) seconded the motion of the French representative.

It was decided by 11 to 1 to continue consideration of the Article.

THE CHAIRMAN requested the members to limit their remarks to the issues presented by the Article and not to introduce extraneous matter.

In answer to MR. STEPANENKO (Byelorussian Soviet Socialist Republic), who had pointed out that the USSR representative had not finished his observations, she said that Mr. Pavlov had been making a general statement not directly linked with the Article under consideration.

MR. CHANG (China) maintained that his amendment was furthest removed from the original text and consequently should be voted first.

MR. CASSIN (France) withdrew his own amendment and supported the Chinese proposal.

MR. PAVLOV (Union of Soviet Socialist Republics) submitted the following amendment:

[6]

“In the advancement of science which should serve the interests of the progress of mankind, the cause of peace, and co-operation amongst peoples”.

THE CHAIRMAN put the USSR amendment to the vote as furthest removed from the original draft.

The USSR amendment was rejected by 9 votes to 4, with 3 abstentions.

After a short discussion the Chinese amendment was adopted by 8 votes to 3, with 5 abstentions.

MR. CASSIN (France) proposed the addition of a second paragraph to Article 30. The paragraph in question would read:

“Everyone is also entitled to the protection of the moral and material interests relating to the inventions or any literary, scientific or artistic work of which he is the author.”

He stated that the Bogotá Conference had adopted a similar provision.

MRS. MEHTA (India) considered that article 14 of the Declaration made sufficient provisions for the problem at issue. She would oppose the inclusion of a separate Article which would single out only a section of the people.

MR. WILSON (United Kingdom) shared the view of the Indian representative. He felt that no special category of people should be singled out because this might lead to the necessity of mentioning other groups.

MR. LARRAIN (Chile) strongly supported the French proposal and was gratified that it was based on the Bogotá Declaration.

MR. FONTAINA (Uruguay) favoured the French proposal and associated himself with the representative of Chile. He disagreed with the views of the Indian and United Kingdom representatives and pointed [7] out that the Declaration of Human Rights had made provisions for the right of other groups but had left intellectual workers without protection.

THE CHAIRMAN, speaking as the representative of the United States of America, pointed out that the United Nations Declaration was shorter than that adopted at Bogotá. The latter document dealt with copyright which was a problem of international law. She opposed inclusion of the French amendment.

The French amendment was rejected by 6 votes to 5, with 5 abstentions.

**Consideration of Draft Articles 25/26 Prepared by the Drafting
Sub-Committee (Document E/CN.4/127)**

THE CHAIRMAN read the following new draft for Articles 25/26 prepared by the Drafting Sub-Committee:

“1. Everyone has the right to social security. This includes the right to a standard of living and social services adequate for the health and wellbeing of himself and his family and to security in the event of (against the consequences of) unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

“2. Mother and child have the right to special care and assistance.”

She pointed out that the Drafting Sub-Committee in proposing that text, had recommended that a preliminary vote should be taken as to whether the words “against the consequences of” (proposed by the representative of France) should be substituted for “in the event of” (proposed by the representative of the United Kingdom).

[8]

MR. CASSIN (France) said the words “against the consequences of” appeared in the text adopted at the second session of the Commission and also in the Bogotá Convention. He felt they were more appropriate than the words “in the event of”.

MR. WILSON (United Kingdom) replying to a question raised by MR. MALIK (Lebanon), said his delegation had proposed the words “in the event of unemployment, sickness etc.” because one of the consequences of sickness or old age, for instance, might well be death, and no one could be assured security against such a possibility.

THE CHAIRMAN, speaking as the representative of the United States of America, said her delegation supported the words “in the event of” as there were many consequences of sickness, disability etc. against which the individual could not possibly be protected.

MR. PAVLOV (Union of Soviet Socialist Republics) said he had compared the texts of Articles 25 and 26 in the draft adopted at the second session of the Commission with the new text proposed by the Drafting Sub-Committee, and considered that the latter was not an improvement. All reference to housing and medical assistance had been deleted. He asked for clarification of the word “security” as used in the text.

THE CHAIRMAN considered that the words “everyone has the right to social security”, which appeared in the new draft, meant that everyone had a right to a standard of living and social services adequate for the health and wellbeing of himself and family.

MR. WILSON (United Kingdom) supported the Chairman's remarks. The Drafting Sub-Committee had not deleted reference to medical assistance and housing – those services were included in the broad terms used in the new text.

[9]

The term “security” meant security against unemployment, *etc.* To use the term “social security” would be a mistake because in the United Kingdom, for example, the meaning of that term went far beyond that of the word “security”.

MR. METALL (International Labour Organization), referring to the new text of Articles 25/26, felt the Commission was placing a new definition on the words “social security” and giving it the same meaning as the right to a standard of living and adequate social services *etc.* He suggested that the phrase “security in the event of” should be redrafted to read “protection in the event of”.

The word “sickness” should either be deleted, as sickness was a form of disability, or the word “disability” changed to read “invalidity”. He suggested that the first paragraph of Articles 25/26 should be redrafted to read:

“Everyone has the right to a standard of living, and to social services adequate for the health and wellbeing of himself and family, and to social security including protection in the event of unemployment, sickness, invalidity, old age and the loss of livelihood in circumstances beyond his control.”

THE CHAIRMAN felt that it would be unwise for the Commission to use the term “social security” in a different sense from that in which it was used by the International Labour Organization. The term “disability” might be used to cover both sickness and invalidity, and in that connection she supported the text adopted at the second session of the Commission.

[10]

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that sickness in itself did not always result in disability. He doubted the value of the amendment suggested.

MR. HOOD (Australia), referring to an ambiguity in the English text of Articles 25/26 prepared by the Drafting Sub-Committee, suggested that the word “to” should be inserted in the second line before the words “social services”.

MR. MALIK (Lebanon) said Articles 25/26 should be drafted in such a way as to leave no doubt that sick people who could still work were also entitled to security.

MR. CASSIN (France) supported the amendment suggested by the representative of the International Labour Office, provided that it was divided into two sections as follows:

“(1) Everyone has the right to a standard of living and to social services adequate for the health and wellbeing of himself and his family.

“(2) Everyone has the right to social security including protection in cases of unemployment, sickness, invalidity, etc.”

THE CHAIRMAN suggested that the term “loss of livelihood” should be changed to read “lack of livelihood” in order to cover the case of children.

MR. WILSON (United Kingdom) considered that the last part of the amendment should be redrafted to read: “sickness, disability, old age or other lack of livelihood, in circumstances beyond his control.”

[11]

THE CHAIRMAN, replying to MR. MALIK (Lebanon), said the clause “adequate for the health and wellbeing of himself and his family” covered both the right to a standard of living and the right to social services.

MR. METALL (International Labour Organization), replying to MR. WILSON (United Kingdom), who questioned the use of the words “social security”, said that he considered those words had too wide a definition only when they appeared at the beginning of the paragraph. As they at present appeared in the middle of the paragraph they covered what was simply a fact in the legislation of most countries. The Declaration was not defining social security, it was merely saying what should be provided under social security.

MR. PAVLOV (Union of Soviet Socialist Republics) considered that Articles 25/26 should contain some mention of social insurance.

MR. METALL (International Labour Office) pointed out that the words “social security” as used in the draft text of Articles 25/26 included all measures of social insurance.

MR. WILSON (United Kingdom) emphasized the fact that it might be dangerous to use the term “social security” as it did not mean the same thing in all countries. The insertion of those words in the middle of paragraph 1 of Articles 25/26 did not improve the text, and he would therefore vote against their inclusion.

MR. LEBEAU (Belgium) supported the amendment suggested by the representative of the International Labour Office.

MR. CASSIN (France) considered that the words “social security” should be retained. The Commission would not be carrying out its task in a proper manner if those words were omitted from the Declaration.

[12]

MR. PAVLOV (Union of Soviet Socialist Republics) reiterated his previous remarks regarding Articles 25/26, and suggested that the amended text proposed by the representative of the ILO should be circulated in writing.

After a brief discussion, in which the Chairman and the representatives of Uruguay, Belgium, Yugoslavia, and the Union of Soviet Socialist Republics took

part, the last-named formally moved, under rule 52 of the rules of procedure, the adjournment of the debate on the amended text for Articles 25/26 submitted by the representative of the International Labour Organization.

MR. VILFAN (Yugoslavia) supported the proposal of the USSR representative.

THE CHAIRMAN said the discussion of the draft text submitted by the representative of the International Labour Organization would be adjourned until Monday morning, 14 June.

MR. PAVLOV (Union of Soviet Socialist Republics) having proposed that the Commission should take up the discussion of Article 31, the Chairman asked members of the Commission to vote on whether they wished to continue the discussion of the “umbrella” clause or of Article 31 or to adjourn immediately in order that the sub-committees might meet.

The Commission decided to adjourn by ten votes to none, with six abstentions.

The meeting rose at 5:15 p.m.

E/CN.4/131

14 June 1948

Original Text: Russian

Union of Soviet Socialist Republics: Proposal for Articles 25 and 26 of the Draft International Declaration of Human Rights

1. Everyone has the right to social security and to a standard of living adequate to the maintenance of his own welfare and health as well as those of his family and, in particular, the right to material security in case of unemployment, sickness, disability, old age or the loss of means of subsistence for reasons beyond his control and, if he is employed, the right to social insurance at the expense of the State or of his employers, in accordance with the legislation of each country.

2. Everyone has the right to medical care and the help of physicians in case of illness.

3. Everyone has the right to housing fit for a human being. The State and society shall take all necessary steps including legislation, to ensure that every person has a real opportunity of enjoying all these rights.

E/CN.4/132

14 June 1948

Lebanon: Suggested Preamble for the Draft International Declaration on Human Rights

Whereas recognition of the inherent dignity and the equal and inalienable rights of all persons is the foundation of peace, freedom and justice in the world, and

Whereas ignorance and contempt for human rights have before and during the last world war resulted in barbarous acts which outraged the conscience of mankind, and

Whereas the opening lines of the Charter reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women, and

Whereas it is a purpose of the United Nations to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all, and

Whereas this purpose can be attained only on the basis of a common understanding of the nature of these rights and freedoms,

Now therefore the General Assembly recognizes in the following solemn Declaration the essential rights and freedoms which, constituting the dignity and worth of the human person, should form a common standard of achievement for all nations, and calls upon every individual and every organ of society, national and international, to strive by teaching and education to promote their respect and by progressive measures to secure their universal recognition and observance.

E/CN.4/133

14 June 1948

United States of America: Suggestion for New Article of the Draft International Declaration on Human Rights

Every person, as a member of society, has the economic, social and cultural rights enumerated below, and is entitled to their realization, through national effort and international co-operation, in accordance with the social system and economic and political organization in each State.

E/CN.4/135

14 June 1948

Original Text: Russian

Union of Soviet Socialist Republics: Substitute for New Article of the Draft International Declaration on Human Rights

It is the duty of the State and of society to take all the necessary measures, including legislative measures, to ensure for every individual a real opportunity to enjoy the rights mentioned in the present Declaration.

In view of the special importance of the economic, social and cultural rights enumerated in Articles 23–30 of the present Declaration, and, in particular, of the right to social security, it is considered desirable that they be implemented by means of both national efforts and international co-operation, due consideration being given to the social, economic and political organization and resources of each State.

E/CN.4/SR.71

14 June 1948¹²⁷

Original Text: French

Summary Record of the Seventy-First Meeting **[of the Commission on Human Rights]**

Held at Lake Success, New York, on Monday,
14 June 1948, at 10:30 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Steyaert, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Ingles, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Representatives of specialized agencies:* Mr. Metall, International Labour Organization (ILO); Mr. Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO). *Observer from inter-governmental organization:* Mr. Stone, Preparatory Commission of the International Refugee Organization (IRO). [2] *Consultants from non-governmental organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions (IFCTU); Mr. Rubinow, World Federation of United Nations Associations;

¹²⁷ This was the date of the meeting. The document was issued on 28 June 1948.

Mrs. Drennan, Catholic International Union for Social Service; Mr. Nolde and Mr. Prentice, Commission of the Churches on International Affairs; Mrs. Van den Berg, International Alliance of Women; Miss Schaffer, International Union of Catholic Women's Leagues; Miss Robb, Liaison Committee of Women's International Organizations. *Secretariat*: Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

**Continuation of the Discussion on the Draft International
Declaration on Human Rights (document E/CN.4/95)**

Articles 25 and 26

THE CHAIRMAN read the text proposed by the International Labour Organization for paragraph 1 of the article intended to replace articles 25 and 26:

“Everyone has the right to a standard of living, and to social services adequate for the health and wellbeing of himself and his family (and to social security) including protection in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.”

A separate vote had to be taken on the words which appeared in brackets. The representative of the USSR had also asked that the following phrase should be included in the ILO text: “social insurance, housing and medical care.”

Speaking as United States representative, the Chairman thought that the text proposed by the representative of ILO was both complete and adequate. She would prefer the term “social insurance” not to be used, as its meaning varied in different countries. She would agree, however, to the inclusion somewhere in the text, either before or after the expression “social security”, [3] of the words “food, clothing, housing and medical care”.

Owing to the absence of some representatives, the *Commission decided to consider the covering article* (document E/CN.4/120) proposed by MR. CASSIN (France) for inclusion in the Declaration before the series of articles on social and economic rights.

Covering articles (document E/CN.4/120)

THE CHAIRMAN read the article proposed by MR. CASSIN (France).

MR. LOUTFI (Egypt) wished the French text amended so as to say that the fulfilment of rights should be guaranteed “in accordance with economic and social possibilities. . .” It was to be understood, moreover, that that question was within the competence not only of the State, but of any organization which might be entrusted with those functions.

THE CHAIRMAN, speaking as the United States representative, proposed the following amendment:

“... be made possible in every State separately or in collaboration with other States, in accordance with the social and economic system and political organization.”

MR. CASSIN (France) welcomed the comments to which his proposal had given rise. The two suggestions which had just been made, though similar, were not, however, identical. While the Egyptian representative wished to obtain the maximum possible rights compatible with the potentialities of the social, economic and political system of each country, the text proposed by the United States representative tended rather to insist on the need for such measures to be fit in with the prevailing system. It might be possible to merge these two ideas into a single amendment.

He would like to hear the Australian representative's views on his proposal.

MR. WILSON (United Kingdom) thought that the text proposed by MR. CASSIN (France) raised a serious difficulty. In the articles adopted [4] up till then the Commission had not defined how the other rights were to be applied. To introduce into a covering article on social and economic rights the question of the method of applying those rights gave them priority. The Declaration on Human Rights would be publicized throughout the entire world, and would serve as a basis of education. It would be unfortunate were such an important text to give priority to those rights, thus placing them before all others. The text agreed upon by the Drafting Subcommittee for insertion at the end of the Declaration covered all rights enumerated in the Declaration, and appeared to be amply sufficient. Objections had been raised against other articles because they contained, in addition to a statement of rights, provisions for applying such rights.

Such details which were justified in the Covenant should not appear in the Declaration. In a question of such importance the Commission should proceed circumspectly, and should avoid giving the impression that the fulfilment of social and economic rights was more important than that of the other human rights.

It was his delegation's view that no distinction should be made between the rights and freedoms enumerated in the Declaration. The French text, by using the expression “whose fulfilment should be made possible etc.” implied that there was less need to implement the other rights. He would vote against the text submitted by the French delegation.

THE CHAIRMAN suggested that the further discussion of the covering article should be postponed until the afternoon meeting, and that the Commission should resume the consideration of the article which was intended to replace articles 25 and 26.

Articles 25 and 26 (continued)

THE CHAIRMAN read the wording submitted by the representative of the USSR for the new article:

“1) Everyone has the right to social security and to a standard of living sufficient for the maintenance of his own welfare and health as [5] well as those of his family, and in particular the right to material security in case of unemployment, sickness, disability, old age or the loss of means of subsistence for reasons beyond his control, and in case of employment, the right to social insurance at the expense of the State or of employers, in accordance with the legislation of each country.

“2) Everyone has the right to medical care and physician’s help in case of sickness.

“3) Everyone has the right to housing worthy of the dignity of the human being.

“The State and community should take all necessary measures, including legislative ones, to insure for every person *real* possibilities of enjoying all these rights.”

She then read again the text proposed by the ILO for paragraph 1 of the new article, and the USSR amendment thereto.

MR. CASSIN (France) considered that the draft proposed by the representative of the ILO, based as it was on the Drafting Sub-Committee’s text, was highly satisfactory. The words “to a standard of living and to social services adequate for the health and wellbeing” covered the points enumerated in the USSR draft. However he had no objection to the words “housing and medical care” being added.

As to the term “social insurance” he himself had submitted a text in which that expression had been used, and which had been rejected by the Commission as too narrow. The words “social security” used in the ILO text were broader. It would be a mistake to re-introduce a term already considered inadequate. He was in favour of the text proposed by the representative of the ILO.

MR. WILSON (United Kingdom) was unable to accept the USSR draft for articles 25 and 26. In his country, social insurance was the joint responsibility of the State, employer and the worker. It was impossible to adopt any text which would compel a country to alter completely a system of social insurance which was entirely satisfactory.

Moreover, he agreed with Mr. Cassin that the term “social insurance” had a much narrower meaning than had “social security”.

The ILO text covered all the points contained in the USSR draft. Medical care was covered twice; once by the words “standard of living” and again “by “health and wellbeing”. Housing – as well as food and clothing – was covered by “well-being of himself and his family”. He was prepared to accept the ILO text if the words in brackets were left out. The meaning of the term “social security.” differed in the various countries. If it had only a vague meaning it could be accepted, but in practice it was not universally applied, as the ILO had pointed out to the Commission.

THE CHAIRMAN, speaking as United States representative, supported the ILO text for the same reasons as those of MR. WILSON (United Kingdom). The text was sufficiently complete. For the sake of unanimity she was prepared to accept the addition of the words "housing and medical care".

MR. HOOD (Australia) also thought that all the principles enounced in the text of the representative of the USSR were included, in general terms, in the draft submitted by the ILO. He thought the words "social security" should be retained in the ILO text. The text was very useful and, if it were left out, the clearness of the rest of the text would suffer, and it would be left uncertain where the protection would come from in the cases listed at the end of the paragraph. The article should contain the concept of social security which should, in every State, be the basis of the "protection" mentioned in the text.

MR. PAVLOV (Union of Soviet Socialist Republics) replying to the comments put forward, did not accept the argument that the right to medical care was inferred in the ILO draft. It was true that the text spoke of standards of living and of social services adequate for health, but there was [7] no provision for cases where health was lost or threatened. The principle of the right to medical care which was admitted in all countries, could not be opposed. The USSR text went further than merely admitting a principle; it stipulated that the right to such care would be guaranteed by legislative measures. Such an important right should be stated categorically and its application should be guaranteed.

The United States of America might, as its representative had told the Commission, have a million hospital beds, but other countries were less advanced in that field and the article should call on them to make an effort. The USSR had spent twenty-thousand million roubles on medical care in 1948. One million hospital beds were available to the population in free hospitals in the USSR, in addition to the four hundred and fifty thousand beds in the clinics and sanatoria.

In regard to paragraph 3 of this draft, he did not agree with some representatives, that the ILO text was satisfactory. It was not enough to talk about standards of living and wellbeing. The workers' right to adequate housing should be stated in concrete terms. There was no equality of housing in many countries. Now that industrialization was going forward steadily it was intolerable that people should be housed in a way which was incompatible with human dignity. All States should take the measures called for in the Declaration. He could see nothing to object to in paragraph 3.

He reminded the United States representative of the difficulties with which the USSR had been faced in the matter of housing after the German occupation. One thousand seven hundred towns, seventy thousand villages and over six million houses had been destroyed, leaving twenty-five million persons homeless; as the United States representative had rightly remarked, the USSR had been faced with

difficulties. The figures he had quoted gave an idea of the size of the task which had had to be tackled and which still had to be carried through. Since the end of the war five million persons had been re-housed as a result of the reconstruction of eight hundred and thirty-nine thousand houses in rural districts and nine million square metres of dwelling in the towns.

[8]

THE CHAIRMAN, speaking as United States representative, pointed out to the USSR representative that she thought that the main objection to paragraph 3 of his draft arose from the difficulty of precisely defining the expression “worthy of the dignity of the human being”. Every country had its own conception of what constituted housing worthy of the dignity of the human being.

MR. PAVLOV (Union of Soviet Socialist Republics) replied that he had in mind a memorandum from the President of the United States to Congress, which dealt with the question of millions of young people forced to live in slums. It was clearly impossible to use the same form of words for everyone. But his text was sufficiently clear: human beings should not live like animals; they should not be forced to live in shacks, hovels or caves. They should be provided with adequate housing which would not endanger their health or that of their families. He would accept any amendment which would state that idea in even stronger terms. It was also important that the words “every person” in the last paragraph should be emphasized so that the article should appeal to the feeling of social justice. He did not object to the amendment of the words “worthy of the dignity of the human being”, but he insisted on the retention of the principle that every person had a right to adequate housing, and that that objective could only be attained with the help of the State and society.

He asked that when the vote was taken, his text should be voted on paragraph by paragraph in the following order: paragraph 2, paragraph 3, paragraph 1 and the last paragraph.

[9]

MRS. MEHTA (India) preferred the shorter text proposed by the representative of the International Labour Organization. The reference to a “standard of living adequate for health and wellbeing” adequately covered the points raised by the USSR amendment.

Mrs. Mehta did not, however, think that the reference to “social security” should be deleted altogether, and suggested by way of compromise that the phrase “and to such measures of social security as would include protection in the event of. . .” should be inserted after the word “family”.

MR. METALL (International Labour Organization) thought that the USSR amendment, by speaking of “the right to social security at the expense of the State or of the employer” raised insurmountable difficulties, as methods of social insurance varied

from country to country and social insurance could be financed in at least seven distinct ways, by the State, the employer, the employee or by part contributions by two or all three of the above.

Mr. Metall supported the Chinese representative's suggestion that the words "including housing and medical care, food and clothing" should be inserted after the words "social services" in the ILO text. He pointed out, however, that if that amendment were adopted, the phrase "and to social security" would no longer be apposite as the principal elements of social security would have been listed already. He preferred the wording "and to social insurance including protection in the event of unemployment etc.", which, he thought, should satisfy both the United Kingdom and USSR representatives. The point at issue was to define the means by which it was proposed to put social security into effect; and the reference to social insurance seemed to him appropriate in that connexion.

THE CHAIRMAN, speaking as representative of the United States of America, thought that it would be very difficult to accept such an [10] amendment, since the term "social insurance" inevitably implied payments made in advance. That conception excluded the possibility of social security in its wider sense, comprising donations or contributions from other sources made at the actual moment of need.

MR. METALL (International Labour Organization) explained that the reference to social services in the first part of his proposal made sufficient provision for countries such as the United States, which preferred the system outlined by the Chairman for the protection of the health and wellbeing of its citizens.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the concept of social insurance which his delegation defended was fundamentally different from that upheld by the others. In the eyes of the USSR delegation, a system of social insurance based only on contributions deducted from the employee's wages did not constitute real social insurance but merely a system of compulsory savings imposed on the employee. Contributions to social insurance should, in his opinion, be made either by the State or by the employer.

The USSR delegation was aware of the fact that methods of social insurance were not identical everywhere and had included the phrase "in accordance with the legislation of each country" in its text with that fact in mind. Moreover, the first part of the USSR text, in referring to social security, provided for the protection of everyone, including those who were not employees. The USSR amendment thus covered all the points which could be considered necessary.

In conclusion, Mr. Pavlov repeated that a system under which the worker paid the entire contribution towards his insurance was antidemocratic and did not constitute real social insurance. He suggested that other countries, and especially the United Kingdom, should ponder that question.

[11]

MR. CASSIN (France) thought that the ILO text as amended by the Chinese delegation was adequate. He stated that France was a country with one of the most highly developed systems of social insurance. He would, however, be unable to vote in favour of the USSR amendment for two reasons, firstly, on account of the difficulties connected with the existence of different systems in various countries, and secondly because France, like many other countries, had millions of working citizens who were neither employers nor employees but independent workers. It was, therefore, impossible to establish a uniform system of social insurance or to issue rigid directives to individual States.

MR. WILSON (United Kingdom) remarked that whatever system seemed the most desirable, a Declaration on Human Rights could not call on States to change the systems which were in force in their countries. The discussion on social security and insurance had convinced him that it was inadvisable to include those concepts in the Declaration in view of the difficulties of interpretation to which they were bound to give rise.

As a compromise, Mr. Wilson proposed to replace the words “including protection” in the ILO text by “and to social security”.

He added that he did not think that there was any need for the words “food and clothing” proposed in the Chinese amendment.

MR. METALL (International Labour Organization) agreed to the changes proposed by Mr. Wilson.

In compliance with the wish of the USSR representative, THE CHAIRMAN put to the vote paragraph 2 of the USSR proposal, reading as follows: “Everyone has the right to medical care and physician’s help in case of sickness”.

[12]

Paragraph 2 of the USSR amendment was rejected by 7 votes to 4 with 2 abstentions.

THE CHAIRMAN put to the vote paragraph 3 of the USSR amendment.

Paragraph 3 of the USSR amendment was rejected by 6 votes to 14, with 3 abstentions.

MR. FONTAINA (Uruguay) thought that the paragraph was simply an injunction to States to supply free housing.

MR. PAVLOV (Union of Soviet Socialist Republics) replied that the context and especially the last paragraph of his amendment clearly showed that it had no such meaning. There were naturally other possibilities varying from country to country, such as rent reductions, assistance given by organizations and so on.

MR. CHANG (China) wished to point out before a vote was taken on the first part of paragraph 1 that its provisions were fundamentally the same as those contained in the ILO text. To vote against the USSR text would, therefore, signify disagreement with its wording only, but not with the principles on which it was based.

THE CHAIRMAN put to the vote the first part of paragraph 1 of the USSR amendment down to the word “control”.

The first part of paragraph 1 was rejected by 9 votes to 4 with 1 abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) regretted that while it had been admitted that his text was fundamentally identical with that submitted by the ILO, the former should have been rejected simply because it emanated from the USSR delegation. He drew the Commission’s attention to the fact that the second part of paragraph 1 [13] contained a reference to social insurance which did not appear in the ILO text and which was in danger of being omitted altogether if his amendment were rejected.

THE CHAIRMAN put to the vote the second part of paragraph 1 of the USSR amendment.

The second part of the USSR amendment was rejected by 9 votes to 4, with 1 abstention.

THE CHAIRMAN put to the vote the last paragraph of the USSR text.

The last paragraph was adopted by 6 votes to 4, with 4 abstentions.

The Commission then proceeded to consider the question of the vote, to be taken on the text submitted by the International Labour Organization as amended by the Chinese and United Kingdom representatives.

MR. WILSON (United Kingdom) was in favour of a separate vote as to whether special reference should be made to “food and clothing”.

MR. CHANG (China) did not see what possible objection there could be to that phrase when millions of people throughout the world were deprived of food and clothing.

MR. PAVLOV (Union of Soviet Socialist Republics) was surprised that the representative of China should have voted against the last paragraph of the USSR amendment which made provision for the means to ensure those very rights which he wished to safeguard.

MR. CHANG (China) stated that the question raised in that paragraph would form the subject either of a separate “umbrella” clause or of a paragraph to be inserted in the Preamble. He added that his reasons for voting against the USSR text were connected with its wording.

[14]

MR. FONTAINA (Uruguay) observed that the practical application of the provisions of the Declaration would depend on the domestic legislation of each State, provided of course that such legislation corresponded to the principles and purposes of the United Nations. He did not think that the words “food and clothing” were

necessary, since the phrase “standard of living adequate for health and wellbeing” was sufficiently clear.

MR. CHANG (China) did not agree that the term “standard of living” was sufficiently precise. The question involved concerned not only the quantity but also the quality of food. The Chinese representative did not understand the wish to avoid reference to the two principal factors of an adequate standard of living.

THE CHAIRMAN suggested that the words “including food and lodging, housing and medical care” should be inserted after the words “standard of living”.

MR. CHANG (China) agreed to that proposal.

THE CHAIRMAN called for a vote on the question as to whether the words “food and clothing” should be included in the text.

It was decided to include those words by 11 votes to 3.

THE CHAIRMAN put to the vote the Chinese amendment as a whole.

The Chinese amendment was adopted by 12 votes to none with 2 abstentions.

THE CHAIRMAN put to the vote the United Kingdom amendment.

The amendment was adopted by 6 votes to 2 with 5 abstentions.

A vote was then taken on the ILO text thus amended.

[15]

The ILO text was adopted in its amended form by 8 votes to none, with 6 abstentions.

The Commission proceeded to vote on the second paragraph of Article 26 dealing with special protection for mothers and children.

In reply to a question by MR. FONTAINA (Uruguay), the Chairman explained that the article referred to mothers and children in general and not to motherhood and childhood in particular.

The second paragraph of article 26 was adopted unanimously.

MR. CASSIN (France) stated that he had abstained from voting on paragraph 1 because it contained no reference to social security, Mr. Cassin declared that world public opinion would fail to understand why such an omission had been allowed to occur, and reserved the right to raise the whole question again when the “umbrella” clause came under discussion.

MR. HOOD (Australia) shared Mr. Cassin’s attitude. The Chairman put to the vote the whole of the joint article 25/26, as amended.

The article was adopted by 8 votes to none with 6 abstentions.

The meeting rose at 1 p.m.

E/CN.4/SR.72
14 June 1948¹²⁸

Summary Record of the Seventy-Second Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Monday,
 14 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Steyaert, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Cassin, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also present:* Mrs. Ledon, Commission on the Status of Women. *Representatives of Specialized Agencies:* Mr. Metall, International Labour Organization (ILO); Mr. Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO); Mr. Stone, Preparatory Commission for the International Refugee Organization. *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions. [2] *Consultants from Non-Governmental Organizations:* (continued) Mrs. Drennan, Catholic International Union for Social Services; Mr. Nolde and Mr. Prentice, Jr., Commission of the Churches on International Affairs; Miss Schaeffer, International Union of Catholic Women's Leagues; Dr. Robb, Committee of Women's International Organizations; Dr. Bienenfeld, World Jewish Congress; Mrs. Baker Vandenberg, International Alliance of Women. *Secretariat:* Mr. Humphrey, Director of the Human Rights Division; Mr. Lawson, Secretary of the Commission.

Continuation of the Discussion of the Draft Declaration
of Human Rights (Document E/CN.4/95)

THE CHAIRMAN read document E/CN.4/120, containing the report of the drafting sub-committee on two suggested additional articles. The first had been unanimously accepted by the sub-committee; the second had been suggested by the French representative, in addition to the first, as an introduction to articles on economic and social rights.

THE CHAIRMAN remarked that, at the request of the United Kingdom representative, who believed that the first article obviated the need for the second, the two would be discussed in relation to each other. She called for comments on the proposed articles.

¹²⁸ This was the date of the meeting. The document was issued on 24 June 1948.

MR. HOOD (Australia) called the attention of the United Kingdom representative to a basic difference between the articles contained in document E/CN.4/120 and the articles previously adopted. The latter, for the most part, dealt with the natural rights of individual human beings; the former viewed human beings as members of organized society. Mr. Hood agreed with the statement previously made by the Lebanese representative that the difference should be noted in the Declaration.

As the article accepted by the sub-committee appeared somewhat general, the Australian delegation would support the idea expressed in the French [3] proposal, as well as the Egyptian amendment, suggested at the previous meeting, to the effect that States should take such action as was within the limits of their possibilities. On the other hand, the words "should be made possible" in the French proposal could with advantage be replaced by "should be ensured"; the article would be strengthened thereby.

MR. VILFAN (Yugoslavia) agreed that the Declaration should contain an article mentioning implementation. He felt, like the United Kingdom representative, that no distinction should be made between social and economic rights and civil rights. He consequently moved, as a substitute for the two suggested articles, a portion of the amendment proposed earlier by the USSR representative to articles 25–26, reading as follows: "The State and community should take all necessary measures, including legislative ones, to ensure for every person real possibilities of enjoying all these rights." Such an article would show plainly that the obligation to ensure the exercise of the various rights stated in the Declaration rested upon the State.

Mr. Vilfan agreed with the Chairman that his proposal might be considered as a substitute for the first article only.

MR. MALIK (Lebanon), in reply to a remark by the Byelorussian representative, stated that there was only a distant relationship between the first article in document E/CN.4/120 and paragraph 3 of article 21 as approved by the Commission. A "good social order" was not necessarily identical with a good Government; moreover, the present article also mentioned an international order and then proceeded to define those concepts; it thus went considerably further than the paragraph referred to by the Byelorussian representative.

[4]

MR. CASSIN (France) observed that now that the Commission had approved the articles dealing with economic and social rights, the general situation was clearer. It was plain, for instance, that the Commission should follow the example to be found in all constitutions adopted in recent years, and should treat those rights separately from the rights of the individual. Economic and social rights, in order to be fully realized, required material assistance to be furnished by the State – a practical difference which the Declaration could not ignore. He did not agree with the United Kingdom representative that the insertion of a covering article to precede

the articles on economic and social rights would over-emphasize the importance of those rights. The Commission would merely be following the method which it had used in connection with the rights of the individual.

As regards the text of the French proposal, Mr. Cassin was prepared to accept both the Australian and the Egyptian amendments; the first strengthened the principle involved, while the second was a qualification to the execution of that principle. The two amendments balanced each other.

The French representative felt that it would be a grave error to omit from the Declaration the modern and widely accepted concept of social security. Mention of it could be made in his proposal; as that article was of a general nature, the precise interpretation of the concept would be left to the individual States. He urged the Commission to accept the idea contained in his proposal.

MR. MALIK (Lebanon) said that he failed to find anywhere in the beginning of the Declaration an article parallel to that proposed by the French representative. While there was a declaratory statement of the rights and freedoms of human beings, there was no statement to the effect that society must be as organized as to guarantee those rights and freedom to the individual. Consequently, the adoption of the French proposal would mean that economic and social rights, the importance of which none could [5] deny, would be given preferential treatment over other rights of equal importance.

In support of his remarks, Mr. Malik cited articles 5 and 6 as approved by the Commission. Those articles prohibited slavery and unjustified arrest; yet nowhere in the Declaration was there an article guaranteeing those provisions. The French proposal, if adopted, would create a bias in favour of economic and social rights; the first article contained in document E/CN.4/120 dealt adequately with all rights without exception, and should alone be approved by the Commission.

MR. CASSIN (France) replied that the covering test which applied to fundamental human rights did not contain a guarantee because rights to life and liberty were unconditional. The realization of economic and social rights, on the other hand, involved material assistance on the part of the State, and therefore required a guarantee. There was no intention to place undue emphasis on such rights; the intention was merely to recognize their importance. It was noteworthy that all States which had rewritten their constitutions during the past thirty years had given special and separate attention to economic and social rights.

THE CHAIRMAN asked the Commission to vote whether it wished to have a second covering article, the exact wording of which would be determined later, or a single article covering all the rights in the Declaration.

The Commission, by ten votes to six, approved the idea of having a second covering article.

MR. PAVLOV (Union of Soviet Socialist Republics) supported the Yugoslav proposal. It applied equally to all articles contained in the Declaration, and could come either at the beginning or at the end.

[6]

As regards the first article in document E/CN.4/120, he agreed with the Indian representative's previous statement that the meaning of the word "good", as applied to social and international order, was extremely debatable. The Lebanese representative, the original proposer of the article, thought that an order which granted all the rights and freedoms enumerated in the Declaration must be "good". Mr. Pavlov could not agree with that conclusion. Thus, the Declaration stipulated equality between the sexes and among the various races and religions. Even if that formal equality were realized, however, social inequalities would not be abolished. The inequality between rich and poor, that basic criterion of a social order, would remain; all the rights listed in the Declaration missed that fundamental point.

On the other hand, it was impossible for the Commission to agree upon a concrete definition of the word "good" in that particular context. The ideal social order, to some of its members, meant socialism; the views of the others were widely divergent. A discussion of the ideal social order could not bring any positive results.

If the word "good" were omitted, the proposed article would become merely tautological: everyone would have a right to the realization of his rights. Mr. Pavlov preferred the wording proposed by the Yugoslav representative, which stated the obligation of the State and society to ensure real possibilities of enjoying the rights formulated in the Declaration, and mentioned legislative measures which might be required. He hoped the Lebanese representative would be able to accept that wording.

Mr. Pavlov recalled that his delegation had wished to have included, in the article granting each right, a mention of how that right was to be realized. Since that had been defeated, it was necessary to have a single article, dealing with the realization of economic, social and political rights, either at the beginning or at the end of the Declaration.

[7]

He thought that the French representative might accept, in lieu of his own proposal, the wording proposed by the Yugoslav representative, which could, of course, be amended as the Commission wished. It should, in any case, be taken as the basis for discussion.

THE CHAIRMAN, as the representative of the United States of America, proposed the following amendment to replace the French proposal: "Every person, as a member of society, has the economic, social and cultural rights enumerated below, and is entitled to their realization, through national effort and international

co-operation, in accordance with the social system and economic and political organization in each State.”

She accepted the suggestions of the Egyptian and United Kingdom representatives that the final clause should be amended to read: “in accordance with the organization and resources of each State.”

MR. CASSIN (France) proposed that there should be a mention of social security in the opening clause.

THE CHAIRMAN, as the United States representative, accepted the suggestions of MR. MALIK (Lebanon) that her text should begin: “Every person, as a member of society, is entitled to the realization of the economic, social and cultural rights enumerated below. . .”

As the words “social security” did not appear in any of the articles dealing with economic and social rights, she agreed with the French representative that they should be included in her text. Several possible ways of introducing those words were proposed by the Chairman and by the United Kingdom representative.

MR. CHANG (China), supported by MR. MALIK (Lebanon), remarked that the original phrase, “economic, social and cultural rights enumerated below”, appeared preferable. It contained a general statement, the meaning [8] of which was wider than social security. If the Commission felt it necessary to use the term in the Declaration, it could do so when it revised the articles dealing with social rights.

MR. CASSIN (France) felt that the term “social security” – which had originated in English-speaking countries – had to be included in the Declaration. It represented a stage in human development; its inclusion would strengthen the whole document. As no place had been found for the term in any of the other articles, it was necessary to introduce it into the article under consideration.

THE CHAIRMAN, in reply to the USSR representative, remarked that the United States [*sic*] contained no mention of political rights because, like the French proposal, it was designed to precede articles dealing with economic and social rights.

MR. PAVLOV (Union of Soviet Socialist Republics) thought it would be incorrect to have a covering article stressing the realization of economic and social rights unless the other rights mentioned in the Declaration were covered as well. When he had voted in favour of a covering article, he thought that it would apply to all rights, though particular emphasis would be placed on the realization of economic, social and cultural rights, which, historically speaking, had been more recently recognized.

MR. FONTAINA (Uruguay) said that he had voted in favour of a covering article in the hope that it would contain a reference to social security, which had been left out of articles 25 and 26. The concept of social security was of paramount importance and had been recognized as such in the Bogotá Declaration. Unless reference to it was made in the covering article, he would vote for a reconsideration of articles 25 and 26.

[9]

He was supported by the representative of the Philippines, MR. LOPEZ, and MR. VILFAN (Yugoslavia).

MR. CASSIN (France) doubted the utility of reconsidering the article which had raised such deep controversy earlier in the day. The objections which had been raised to the inclusion of social security then would undoubtedly be raised again. It was far better to include a reference to social security in the covering article, because the welfare of workers had long since ceased to be a purely national concern; the mass unemployment of 1932 showed that action was needed on an international level. The clause referring to "international co-operation" in his proposal would satisfy that necessity.

In response to the desire of the representative of Yugoslavia, the Chairman suggested that the covering article should start with the words "Every person has the right to social security and . . . etc."

MR. PAVLOV (Union of Soviet Socialist Republics) advanced the following text, which, in his opinion, would satisfy all the desires expressed by the various members: "The State and society shall undertake all necessary measures, including legislation, for ensuring to every person a real possibility of enjoying all the rights listed in this Declaration. In view of the particular significance which social, economic and cultural rights have, as listed in articles 23 to 30, (particularly the right to social security) it is recognized desirable to have them implemented both through material national efforts and through international co-operation, taking into account the social and economic systems and resources of each State."

He wondered whether the wishes of the French representative would be met if a separate vote were taken on the clause referring to social security.

[10]

MR. CASSIN (France) preferred his proposal with the amendments suggested by the representatives of the United States, Egypt and Australia. If that were defeated, a vote could be taken on other proposals.

THE CHAIRMAN read the proposed text, as amended by the representatives of India, the United Kingdom and China:

"Everyone as a member of society has the right to social security and is entitled to the realization of the economic, social and cultural rights enumerated below, in accordance with the organization and resources of each State, through national effort and international co-operation."

She thought that the USSR proposal would have to be considered as an alternate text because it placed emphasis on different ideas, and would have to be voted upon first because it was further removed from the original text. The United States delegation preferred the French proposal, as amended, and would vote for it rather than for the USSR text.

MR. CHANG (China) wondered whether it was the intention of the Commission, by placing the covering article at the head of the articles dealing with economic and social rights, to create for them the name of “social security articles”. He suggested that the clause referring to social security should be voted upon separately in both proposals.

The clause reading “particularly the right to social security” of the USSR proposal was adopted by 5 votes to 1, with 9 abstentions.

The first sentence of the USSR proposal was rejected by 11 votes to 4.

The second sentence of the USSR proposal was rejected by 10 votes to 4 with 1 abstention.

The phrase “Everyone... has the right to social security” of the amended French proposal was adopted by fifteen votes, with two abstentions.

The French proposal, as amended, was adopted by twelve votes, with five abstentions.

The meeting rose at 5:15 p.m.

E/CN.4/137

15 June 1948

United States of America: Proposal for Clause to be added to Article 19 of the Draft International Declaration on Human Rights

Everyone has the right to freedom of assembly and association, and especially for the *promotion and protection of the rights and freedoms set forth in this Declaration.*

E/CN.4/138

15 June 1948

Preamble

**The Committee on the Preamble, composed of the officers of the
Commission on Human Rights, proposes the following text:**

Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, and

Whereas ignorance and contempt for human rights resulted, before and during the Second World War, in barbarous acts which outraged the conscience of mankind

and made it apparent to all that the fundamental freedoms were the supreme issue of the conflict, and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression that human rights should be protected by a regime of law, and

Whereas the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women, and

Whereas the Members of the United Nations are pledged to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all (without distinction as to race, sex, language, or religion), and

Whereas this pledge can be fulfilled only through a common understanding of the nature of these rights and freedoms,

Now therefore the General Assembly

Recognizes in the following solemn Declaration the rights and freedoms which, being essential for the dignity and worth of the human person, should form a common standard of achievement for all nations, to the end that every individual and every organ of society, national and international, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures to secure their universal and effective recognition and observance.

E/CN.4/139

15 June 1948

Original Text: Russian

Union of Soviet Socialist Republics: Draft Preamble to the International Declaration on Human Rights

In accordance with the principle of respect for human rights and fundamental freedoms for all without distinction of race, sex, language and religion, and for the dignity and worth of the human person, proclaimed by the Charter of the United Nations;

With the aim of guaranteeing the observance of all the said rights and freedoms, and of promoting the common progress and the improvement of the living conditions of the people and the development of friendly relations among the nations;

The General Assembly recommends to all the States Members of the United Nations the following Declaration on Human Rights;

For use at their discretion in taking appropriate legislative and other measures and in their systems of upbringing and education; and for the dissemination of the provisions of this Declaration throughout the populations of the States Members themselves, of territories over which such States are performing the functions of the administering authority, of territories under trusteeship, and of non-self-governing territories.

E/CN.4/140

15 June 1948

Lebanon: Proposal for Addition to Article 30

Cultural groups shall not be denied the right to free self-development.

E/CN.4/141

15 June 1948

Report of the Sub-Committee Consisting of the Representatives of Egypt, France, United Kingdom, and Union of Soviet Socialist Republics on Re-Examination of Article 2, Paragraph 2 of the Draft International Declaration on Human Rights

In the exercise of his rights everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and to the requirements of *morality*, of general welfare and of *public order* in a democratic society.

E/CN.4/SR.73

15 June 1948¹²⁹

Summary Record of the Seventy-Third Meeting **[of the Commission on Human Rights]**

Held at Lake Success, New York, on Tuesday,
15 June 1948, at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko,

¹²⁹ This was the date of the meeting. The document was issued on 24 June 1948.

Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Also Present:* Mrs. Ledon, Commission on the Status of Women. *Representatives of Specialized Agencies:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO). *Consultants from Non-Governmental Organizations:* Mrs. Sender, American Federation of Labor (AFL); Mr. van Istendael, International Federation of Christian Trade Unions (IFCTU); Miss Stuart, World Federation of United Nations Associations. [2] *Consultants from Non-Governmental Organizations (Cont'd):* Mrs. Drennan, Catholic International Union for Social Service; Mr. Sartell Prentice Jr. and Mr. Nolde, Commission of the Churches on International Affairs; Mr. Moskowitz, Consultative Council for Jewish Organizations; Miss Schaeffer, International Union of Catholic Women's Leagues; Dr. Bienenfeld, World Jewish Congress. *Secretariat:* Mr. Humphrey, Director of the Human Rights Division; Mr. Lawson, Secretary of the Commission

[A discussion of implementation is omitted.]

[5]

Continuation of Discussion on the Draft Declaration on Human Rights, Document E/CN.4/95 (Article 31)

THE CHAIRMAN then outlined the Commission's further procedure and turned to the consideration of article 31 dealing with the rights of minorities. China, India and the United Kingdom had proposed the deletion of the article. France had presented a different text in document E/CN.4/82/Add.8, page 6, article 27. The United States delegation supported deletion of article 31, considering that provisions relating to rights of minorities had no place in a declaration of human rights. She further pointed to the decision taken at the Lima Conference in 1938¹³⁰ and reiterated in Chapultepec, that minority questions did not exist on the American continent. United States experience with foreign groups residing within its borders had been happy, assimilation having been emphasized throughout. Since there was need for the substance of article 31 to be covered by other provisions of the declaration, the United States delegation, wishing to give members of minorities the protection of group action, proposed the following addition to article 19:

"Everyone has the right to freedom of assembly and association, and especially for the promotion and protection of the rights and freedoms set forth in this Declaration."

¹³⁰ The Eighth Pan-American Conference took place in Lima from 9 to 26 December 1938 among representatives of the Organization of American States. The Declaration of Lima was adopted on 24 December 1938.

If there were any objections against re-considering the article previously adopted by the Commission, the United States delegation would present its amendment later.

MR. LOUTFI (Egypt) favoured deletion of article 31 and supported the United States of America amendment to article 19. The Commission was concerned with a declaration of rights of individuals, and not minorities; the rights of the latter were safeguarded by international conventions. Furthermore, the problem of minorities would be automatically solved by complete implementation of the human rights declaration.

[6]

MRS. MEHTA (India) opposed article 31 as unnecessary. Members of minority groups were protected as human beings by other articles of the declaration. Article 1 stated that all human beings were equal; article 3 ensured protection of members of minority groups by stating: “. . . and entitled to equal protection of the law against any arbitrary discrimination”, and article 30 covered the cultural life of communities, among which minority groups were obviously included. Consequently, since human rights were to be enjoyed equally by all, there was no need to grant special rights to minority groups.

MR. LEBEAU (Belgium) felt that the question of minority rights was essentially one of tolerance and strict application of human rights to members of minority as well as majority groups. He agreed with the representative of India that scrupulous enforcement of the principles of the declaration would obviate the need for article 31. Mr. Lebeau also pointed to the inconvenience of mentioning in international agreements independent rights of minority groups; he referred, in that connection, to Hitler's policy of raising the problem of treatment of German minorities in countries adjacent to Germany as a means to further his own political and military ends. On the other hand, it was also true that some minorities had been subjected to forced assimilation, as in the case of Tyroleans who had come under Italian rule after the first World War;¹³¹ still, it would be better to settle that problem by giving minorities opportunity for redress rather than by including such a clause in the present declaration. In view of those considerations, he supported the United States proposal to article 19.

MR. PAVLOV (Union of Soviet Socialist Republics) supported article 31 which was important, even in its imperfect form. Replying to the argument that a statement on minority rights had no place in a declaration of rights of individuals, he said that the clause was in complete conformity with the [7] Charter where equal rights of

¹³¹ Part of the Austro-Hungarian Empire, the German-speaking South Tyrol was promised to Italy if it joined the Entente forces in the First World War. The territory was annexed by Italy in 1919. In 1992 Italy and Austria reached an agreement by which the territory enjoys a large degree of autonomy.

men and of states were mentioned in the same sentence. The clause adopted at the Commission's second session protected the members of minority groups against discrimination by providing equal rights to minorities. Existing inequalities in law as well as in practice were against the Charter principles and should be prevented by such provision. He therefore supported the draft of article 31 adopted at the Commission's second session, proposing, however, the deletion of the words "... as far as compatible with public order. . ." in the fourth line of that text. He explained that there was nothing incompatible with public order in the right of minorities to use their own language in their schools. He equally objected to a similar phrase in the text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. Article 31, while not fully adequate, having no provision for implementation of the minorities rights mentioned there, was, nevertheless, important and justifiable in the light of the Charter.

THE CHAIRMAN recalled that previous debates on that question had brought out that the aim of States was to assimilate and absorb large foreign groups, and to make them part of the nation. Unless all the citizens of a given country could speak the same language, there was the danger that public order might be disrupted by persons who might not understand their duties as citizens of the country in which they were a minority. It was not a question of teaching children in a language different from that of the majority, but of adult persons who would be unable to assume their duties as citizens of the larger country.

MR. MALIK (Lebanon) stressed the importance of the problem raised in article 31 and pointed out that it arose from two different basic conceptions of the States: the uni-national, uni-cultural State which incorporated various ethnic, racial, religious and linguistic groups and practised a [8] policy of assimilation of those groups in the general "melting-pot"; and the multi-national, multi-cultural State which encouraged the development of diversified groups and was best exemplified in the USSR. It was significant that article 31 referred not to minority groups, as the term was generally understood, but to distinct ethnic and cultural groups constituting the component parts of the State.

The United States and most countries of South America had apparently based their policy toward ethnic and cultural groups on the principle of assimilation and had found it well adapted to their needs. Likewise, the countries of Western Europe had been able to create fairly homogeneous States by the amalgamation and fusion of various ethnic and linguistic elements of the population. France was an outstanding example of that homogeneity. However, the principle of assimilation did not appear to be applicable to many countries of Eastern Europe and Asia, such as India. Moreover, the tiny country of Lebanon was a multi-religious State and had been exerting every effort to protect the freedom of religious belief of its heterogeneous population.

In view of its importance, the problem raised in article 31 deserved careful study. While it might not be desirable that it form a separate article, some clause should be introduced in the declaration to ensure adequate protection of distinct ethnic groups in multi-national States.

MR. VILFAN (Yugoslavia) vigorously supported the remarks made by the representative of Lebanon. The Commission should recognize that the conception of the "melting-pot" could not be applied to Eastern Europe and Asia. Yugoslavia, for example, might be described as one State, with two scripts, three religions, four languages, five nationalities, six republics and many ethnic groups. After the First World War, the Yugoslav minority in Italy had suffered persecution. Consequently, Yugoslavia had learned from its own historical experience the importance of recognizing the rights of specific linguistic or cultural groups.

[9]

Mr. Vilfan further pointed out that the rights of ethnic groups did not coincide in every respect with the rights of the individual and could not always be protected by general bills of rights for which the State bore responsibility. While it was true that Hitler had made an international convention on minorities the pretext for aggression, as the representative of Belgium had demonstrated, the protection of the rights of minority groups could hardly be considered the reason for that aggression. The abuse of a right in no way detracted from the inherent value of the right; nor did it militate against the defence of that right. The successful co-existence of two distinct national groups in Belgium itself should encourage the representative of Belgium to support an extension of such excellent relationships among different ethnic groups in all countries of the world.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) emphasized that the co-existence in many States of various ethnic, religious, and cultural groups had been a source of discord and had often led to open conflict between nations. The events recalled by the representative of Belgium should not discourage the Commission from seeking to ensure to minority ethnic groups the rights granted to all human beings. However, in doing so, an earnest effort should be made to prevent the recurrence of situations which might lead to international complications.

Mr. Klekovkin recalled the experience of the large Ukrainian minority which had been incorporated into the Austro-Hungarian Empire. For many years, all efforts to assimilate the group had failed. The very fact that the Ukrainians had preserved their cultural, linguistic and national characteristics had made possible their rapid integration into the new Ukrainian Soviet Socialist Republic. Within the Ukrainian SSR, various ethnic groups, such as the Uzbeks, had been permitted to develop their culture and language freely without compromising their social, economic or political advancement. The contention of the United States

representative that such group development would retard progress was therefore unfounded.

[10]

Mr. Klekovkin strongly favoured retention of article 31 in order to promote the development of the cultures of distinct groups within multi-national States. That purpose was not served by the statement of the rights of individuals to free development without discrimination. For example, the article concerning education ensured the right to education; it did not ensure the right of a member of a special group to be educated in his own language.

Finally, the representative of the Ukraine observed that, in some cases, the practice of a policy of assimilation might be misinterpreted and considered an extension of colonialism. For example, if Hawaii were to become a state of the United States and its population were deprived of the right to continue to develop its own culture and languages, the United States might be accused of following a colonial policy. The State should give more attention to raising the cultural level of many small groups by encouraging the free development of their particular characteristics.

MR. HOOD (Australia) felt that the ideas contained in article 31 went beyond the scope of the declaration. The declaration enumerated the rights of the individual and included his right to form associations, while article 31 conferred certain rights upon groups as such. Basically, it raised a problem which directly affected the fundamental structure of States and the science of government, that of reconciling the rights and interests of all groups within the State. While he did not question the wisdom of the policy of free development of diversified groups in other countries, Mr. Hood pointed out that Australia had adopted the principle that assimilation of all groups was in the best interest of all in the long run. Therefore, although he wished to delete article 31, he felt that it might be stated more explicitly elsewhere in the declaration that individuals belonging to special groups should enjoy the rights granted to all human beings.

[11]

MR. FONTAINA (Uruguay) stressed that the protection of the rights of distinct ethnic, linguistic and cultural groups was essentially a political problem within the jurisdiction of every sovereign nation and covered by its national legislation. Since, however, the declaration was confined to the legal question of the protection of the rights of the individual, the political question raised in article 31 should be eliminated.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) did not agree with the representative of Uruguay that article 31 was primarily political. Moreover, not all the articles contained in the declaration had a non-political character and there was no valid reason for excluding mention of the rights of national groups.

Although article 31 was not wholly satisfactory, it should be included as a minimum statement of those rights.

Mr. Stepanenko reviewed the experience of his own people which had suffered economic and social oppression as a special linguistic and cultural group under the Czarist regime. Only with the establishment of the Byelorussian SSR after the October Revolution had it become free to develop its culture and language. In the thirty years since its inception, the Byelorussian Republic had achieved more than had been possible during several centuries towards raising the cultural level of its people. For the problem was essentially cultural; it did not infringe on citizenship, as the representative of the United States had seemed to imply. Members of distinct ethnic and linguistic groups remained full citizens of the State, despite the fact that they spoke their own languages in addition to the common language. Those minority groups had not been artificially created; they were the product of the historical development which could not and should not be curtailed. Retention of article 31 would broaden the scope of the rights which they could enjoy.

[12]

MR. WILSON (United Kingdom) pointed out that several representatives were interpreting the same objective in the light of their particular national backgrounds and problems. For valid, historical reasons, different countries followed different policies in resolving the problem of national minorities. The choice of the basic principles they had adopted depended upon their historical development, and were well adapted to the countries in which they were applied. Mr. Wilson was opposed to proclaiming the principle of assimilation in the Declaration. At the same time, implementation of the principle of diversity in some States, far from raising cultural levels, might create minority problems. Since it was difficult to satisfy the needs of all States without imposing a solution which had only been found practicable in a few, it was better to restrict the Declaration to a statement of rights applicable to all sections of humanity, and delete article 31.

MR. ORDONNEAU (France) recalled that the historical development of France into a homogeneous State had resulted from the extensive and rigorous application of universal human rights to all sections of the population. If it could be assumed that all the rights stated in the Declaration would be applied in that manner, article 31 would become superfluous. On the other hand, Mr. Ordonneau agreed with the representative of the United Kingdom that the specific statement of the rights of national groups might defeat the very purpose of the Declaration by increasing intolerance of minorities and hindering their integration within a State.

MR. MALIK (Lebanon) again stressed the importance of finding a formula to reconcile the two conceptions of the State under discussion. Some of the worst crimes against humanity had been committed against helpless national minorities. While he would oppose vehemently any [13] statement which might have the effect

of disrupting a uni-national, uni-cultural State, it was the duty of the United Nations to reassure national groups that their right to free development would be protected. To that end, the Commission should concentrate on the fundamental factor: protection of the cultural group, rather than the minority.

Mr. Malik suggested that the following text might be inserted, either as a separate article or as an addition to Article 18:

“Cultural groups shall not be denied the right to free self-development.”

He expressed readiness to withdraw the amendment if it were likely to create difficulties for some States.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed an amendment which might be introduced either as a separate article or as a second part of article 30. He drafted the first sentence roughly as follows:

“Everyone has the right to his ethnic, national culture, regardless of whether he belongs to a minority or majority group of the population.”

THE CHAIRMAN suggested that the representatives of the United States, Lebanon and the USSR should form a drafting committee to reconcile the amendments they had proposed. After a decision on the resulting text, the Commission could proceed to vote on article 31.

The meeting rose at 1:20 p.m.

E/CN.4/SR.74

15 June 1948¹³²

Original Text: French

***Summary Record of the Seventy-Fourth Meeting [of the
Commission on Human Rights]***

Held at Lake Success, New York, on Tuesday,

15 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt (United States of America). *Rapporteur:* Mr. Malik (Lebanon). *Members:* Mr. Hood (Australia); Mr. Steyaert (Belgium); Mr. Stepanenko (Belgium); Mr. Larrain (Chile); Mr. Chang (China); Mr. Loutfi (Egypt); Mr. Ordonneau (France); Mrs. Mehta (India); Mr. Azkoul (Lebanon); Mr. de Quijano (Panama); Mr. Lopez (Philippines); Mr. Klekovkin (Ukrainian Soviet Socialist Republics); Mr. Pavlov (Union

¹³² This was the date of the meeting. The document was issued on 28 June 1948.

of Soviet Socialist Republics); Mr. Wilson (United Kingdom); Mr. Fontaina (Uruguay); Mr. Vilfan (Yugoslavia). *Also Present:* Mrs. Ledon (Commission on the Status of Women). *Representative of a Specialized Agency:* Mr. Lebar (United Nations Educational, Scientific and Cultural Organization). [2] *Consultants from Non-Governmental Organizations:* Miss Sender (American Federation of Labor); Mrs. Drennan (Catholic International Union for Social Service); Mr. Prentice (Commission of the Churches on International Affairs); Mr. Nolde and Mr. Brotman (Co-ordinating Board of Jewish Organizations for consulting with the Economic and Social Council); Miss Schaefer (International Union of Catholic Women's Leagues); Mr. Bienenfeld (World Jewish Congress).

**Continuation of the Consideration of the Report of the Drafting
Committee to the Commission on Human Rights (document E/CN.4/95):
Consideration of the Draft Declaration and Amendments Submitted by
Various Delegations**

Article 30

The Chairman asked whether the Commission wished to consider the addition to article 30 of the Declaration of certain texts submitted by members of the Commission.

The Commission decided by 10 votes with 4 abstentions to consider the additions to article 30.

THE CHAIRMAN recalled that two proposals had been made, one by the USSR representative and the other by the representative of Lebanon.

She put the proposed USSR addition to article 30 to the vote.

The addition was rejected by 8 votes to 4, with 3 abstentions.

The Chairman asked for observations on the additional text proposed by the Lebanese representative, which read as follows: "Cultural groups shall not be denied the right to free self-development."

MR. LOPEZ (Philippines) observed that the expression "cultural groups" was ambiguous and that in the context of article 30 it might mean any cultural, literary or musical organization.

[3]

MR. FONTAINA (Uruguay) supported the Philippines representative's objection; he considered the addition proposed by the Lebanese representative unnecessary, since the principle it introduced was a political and not a legal one.

MR. MALIK (Lebanon) stated that the text he had submitted already represented, in an attenuated form, the idea he would like to see embodied in the Declaration. He had deliberately drafted that idea in a form which would be

acceptable to the Commission. There was some truth in the objection raised by the Philippine representative, but the ambiguity might perhaps be an advantage in the present case, since it would indicate that the text had no controversial meaning.

MISS SENDER (American Federation of Labor) suggested replacing the words: “cultural groups” by “groups of common cultural background”. If the Philippine representative accepted that suggestion, the ambiguity to which he had referred might disappear.

MR. MALIK (Lebanon) and MR. LOPEZ (Philippines) accepted that suggestion.

MR. PAVLOV (Union of Soviet Socialist Republics) suggested replacing the words: “cultural groups” by “groups of common ethnical background”. National minority groups must at least be guaranteed the right to retain the culture associated with their ethnical origin.

MR. HOOD (Australia) pointed out that the words: “free self-development” were even more ambiguous. Did they refer to cultural development or to national emancipation?

MR. CHANG (China) remarked that the ambiguity was caused by the fact that the word “cultural” could have two meanings; it could refer either to the practice of science and the arts, or the ethnical origin of a community. There could be no doubt that in article 30 the word “cultural” was [4] used in the former sense, and in the context of the words: “cultural groups” could mean nothing but “cultural organizations”. That article was perhaps not the best place to insert the text proposed by the Lebanese representative.

After a brief discussion, THE CHAIRMAN, at the request of the Lebanese representative, decided to put to the vote the additional text submitted by him and the proposed amendments to that text.

The Chairman first put to the vote the amendment proposed by the Philippine representative, which proposed replacing the words: “cultural groups” by “groups of common cultural background”.

The amendment was rejected by 8 votes to 6, with 2 abstentions.

THE CHAIRMAN put to the vote the amendment proposed by the representative of the Soviet Union, which proposed replacing the words “cultural groups” by: “groups of common ethnical background”.

The amendment was rejected by 10 votes to 6.

THE CHAIRMAN put to the vote the original text submitted by the representative of Lebanon.

The text was rejected by 7 votes to 4, with 5 abstentions.

MR. MALIK (Lebanon) suggested that, in view of the Chinese representative's remarks, it would perhaps be more appropriate to add his text to the new article 18 of the Declaration (formerly article 19). He asked the Chairman to put that proposal to the vote.

THE CHAIRMAN asked whether the Commission was prepared to consider the addition of the text to article 18.

The proposal was rejected by 6 votes to 3, with 4 abstentions.

[5]

Article 31

THE CHAIRMAN observed that, in her view, the amendment furthest removed from the original proposal appeared to be that of China, India and the United Kingdom, which proposed the deletion of the article.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Commission, having rejected every provision which guaranteed the rights of national minorities, still had an opportunity, by deciding that the amendment to article 30 submitted by the representative of the Soviet Union should become a separate article 31, to declare that those minorities were entitled to the preservation of their culture, to the use of their mother tongue in scholastic establishments, and generally speaking to protection. He therefore made a formal proposal that the amendment to article 30 submitted by him should become a new article 31.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) observed that that proposal would be in harmony with the suggestion of the Chinese representative that it would be inappropriate to include those ideas in article 30.

THE CHAIRMAN put to the vote the deletion of article 31, and remarked that, if it were deleted, the Commission would not have to decide upon the replacement of article 31 by the text proposed by the representative of the Soviet Union.

It was decided by 10 votes to 6 to delete article 31.

MR. CHANG (China) pointed out that the Commission should not give the impression that it had completely ignored the question of the protection of special religious or ethnical groups. In the article relating to the right to education there was a provision in favour of religious minorities.

[6]

MR. PAVLOV (Union of Soviet Socialist Republics) remarked that the Declaration contained no provision relating to the right of national minorities to have schools in

their mother tongue. Furthermore, the Commission had just decided to delete article 31 of the text approved at the second session of the Commission, but he urged that the USSR proposal should be put to the vote.

THE CHAIRMAN put the USSR proposal to the vote.

The proposal was rejected by 10 votes to 5.

Article 32

THE CHAIRMAN, speaking as representative of the United States of America, pointed out that in many cases the Commission might have inserted a sentence or an article in the Declaration merely because no one had had sufficient reason to vote against its inclusion. In general, the Commission had followed the course of stating fundamental rights very briefly, so as to distinguish the Declaration from the Covenant. Such, for example, had been the case with the proposed amendment to the article on arbitrary detention. That amendment had been rejected, not because the Commission was opposed to the rights it set forth, but because the majority had considered the list too detailed.

Article 32, on which the Commission had to take a decision, certainly expressed an idea that could hardly be opposed. There was no doubt that all laws should be in conformity with the purposes and principles of the Charter in so far as they dealt with human rights. But what would be gained by including that article in the Declaration? The Declaration was in no way binding, so that the article could not appropriately be included. Moreover, the words: “purposes and principles of the Charter” were very difficult to define when the question of their application to specific law arose.

[7]

The United States delegation would therefore vote against the inclusion of article 32, since it might lead to misunderstanding and would be out of place in the Declaration.

THE CHAIRMAN put the deletion of article 32 to the vote.

The proposal was adopted by 9 votes to 1, with 4 abstentions.

Article 33

THE CHAIRMAN supported the proposal put forward by India, the United Kingdom and China, for the deletion of the article. It was vague and lacking in precision; its application did not seem clear and it would be unwise to include in the Declaration an article that obscured its meaning.

MR. PAVLOV (Union of Soviet Socialist Republics) was against the proposal supported by the Chairman. During the discussion of the articles of the Declaration, whenever there had been any question of inserting provisions designed to eliminate the remains of Nazism or fascism, the Commission had rejected those provisions on the pretext that they would be covered later by a general article. But the Commission was at present deleting those general articles. The USSR representative urged that even though the relevant USSR proposals had been rejected, the Commission should retain article 33, which had been adopted during the Geneva session and which provided, although in a restricted form, the indispensable elements of defence against the possible rebirth of Nazism or fascism. He emphasized that that article was the only one which could be used as a weapon against Nazism and favoured the French text which seemed to express the idea best. Consequently, he appealed to the Commission to consider its responsibilities before rejecting the article, which might in future serve as a weapon against Nazism and fascism.

[8]

MR. ORDONNEAU (France) thought it essential that the Declaration should at least recall the dangers of Nazism; such a reference would also have a legal value of its own, for as the USSR representative had said, it would be a weapon against any possible recurrence of that doctrine. It was wrong to deny a possible recurrence, and the danger against which article 33 was aimed was a serious one. The cautious wording of the article had also been emphasized by the USSR representative. The French text differed only in drafting from the text adopted at Geneva.

THE CHAIRMAN proposed putting to the vote the deletion of article 33: that being the amendment farthest removed from the original.

MR. PAVLOV (Union of Soviet Socialist Republics) said that a proposal for deletion could be considered as the farthest removed from the original. Negation was not an amendment; the only amendment was the French one. Moreover, if the deletion were put to the vote first, the Commission could not know which text was being deleted: the text adopted at Geneva or the French one.

THE CHAIRMAN pointed out that she was conforming to the procedure always followed by the Commission so far without any objection arising. However, she was prepared to put the French amendment to the vote; those in favour of deleting the article should vote against it.

MR. ORDONNEAU (France) observed that the Chairman's ruling seemed perfectly logical. The practice of moving the deletion of an article was bad. Logically, the vote must be against an article, not in favour of its deletion. Those wishing the article to be deleted could vote against each part of it or against the whole.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) recalled that the USSR representative had twice drawn the Commission's attention to [9] that point. Moreover, Rule 54 of the Rules of Procedure was quite clear on the matter.

He favoured the French text of article 33 and supported the views expressed by the USSR representative.

MR. AZKOUL (Lebanon) said that, since he was not allowed to vote as an alternate, he wished to state his delegation's views on article 33. That article was necessary. As article 2 contained a reference to the limitation of human rights in the general interest, the possibility of abusing that reference and violating human rights under cover of the general interest, must be prevented. His delegation was also in favour of the French text.

THE CHAIRMAN put the French amendment to article 33 to the vote.

The amendment was adopted by 10 votes to 1, with 2 abstentions.

Preamble

THE CHAIRMAN read out the draft preamble prepared by the Committee on the Preamble, composed of the officers of the Commission (document E/CN.4/138). She requested the members of the Commission to express their views regarding that text.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed a shorter text (document E/CN.4/139).

The delegation of the Soviet Union thought that the text it proposed was more suitable than the one prepared by the Committee on the Preamble, because it was concise and contained all the elements that should appear in the Preamble to a Declaration on Human Rights.

MR. CHANG (China) stressed the importance of the Preamble and the necessity of taking the utmost care in drafting it, and suggested that the consideration of the two texts submitted to the Commission should be deferred until the following day.

[10]

MR. WILSON (United Kingdom) pointed out that it would be advisable to decide without delay which of the texts the Commission would take as a basis for its discussions. Although the delegation of the United Kingdom had itself prepared a draft preamble, it proposed that the text of the Committee on the Preamble should be chosen as a working document, since the text had been drafted with due regard to all the suggestions that had been made.

MR. ORDONNEAU (France), supported by MR. CHANG (China), concurred with that proposal.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that it would be premature to decide, without previous consideration, which of the two texts submitted to the Commission should serve as a basis for discussion. The Commission should study on an equal footing all the proposals that were

submitted to it. It could discuss the Preamble on the basis of the two texts that had been submitted, and adopt certain clauses from one text and certain ideas from the other. It could not decide before studying those texts that it would not consider one of them.

MR. ORDONNEAU (France) recalled that the Commission had instructed the Committee on the Preamble to draft a text on the basis of all the proposals which had been made with regard to the Preamble. For that reason the Committee's text appeared to have priority over the draft submitted by the various delegations. That did not mean, however, that the latter texts would not be considered by the Commission; they would constitute amendments or variants to the Committee's text.

THE CHAIRMAN confirmed that the text prepared by the Committee was the result of the examination of all the drafts that had been submitted; the latter could be proposed again by the delegations.

[11]

The Commission decided to defer the discussion of the Preamble to the Declaration until the following day.

Article 2, paragraph 2

MR. LOUTFI (Egypt) submitted the following text for article 2, paragraph 2, which his delegation had drafted in consultation with the delegations of France and the United Kingdom:

“In the exercise of all the rights and freedoms enumerated in this Declaration, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and to the requirements of morality, of general welfare and of public order in a democratic society.”

THE CHAIRMAN pointed out that there were only two differences between that text and the draft prepared by the Style Committee: (1) the beginning of the sentence was shortened in the latter draft, being couched as follows: “In the exercise of his rights, everyone shall be subject only. . .”; (2) the words “morality” and “public order” had been added to the expression “general welfare” which alone appeared in the Style Committee's text.

MR. LOUTFI (Egypt) agreed to revert to the wording adopted by the Style Committee for the beginning of the sentence, but he insisted on the addition of the words: “morality” and “public welfare”.

In reply to a question by MR. CHANG (China), he pointed out that, according to the French and Latin idea, the expression “general welfare” did not include morality and public order.

MR. WILSON (United Kingdom) said that in English that expression included both morality and public order. Since that was not the case in French, his delegation had not opposed the insertion of the three terms so [12] that the French might be more accurate. However, since the expression “general welfare” had a wider significance than the expression “public order”, he suggested that the order of the terms should be transposed and that the text should read as follows: “. . .and to the requirements of morality, public order and general welfare in a democratic society.”

MR. FONTAINA (Uruguay) drew attention to the danger of using an expression such as “public order” which, given a wide definition, might lend itself to various interpretations. He pointed out that arbitrary acts could be committed under the pretext of defending public order. He suggested the use of the expression: “security for all”, which appeared in the draft submitted by the delegation of India and the United Kingdom (document E/CN.4/99).

MR. ORDONNEAU (France) stated that the English expression “general welfare” was untranslatable and had very little meaning in French. It was in order to solve the translation difficulty that the French delegation had added “*la morale*” and “*l’ordre publique*” to the expression “*bien-être général*”, so as to cover everything that was contained in the English idea of “general welfare”.

He pointed out that there was no danger to individual liberty in the expression “public order”; public order was, in fact, intended to preserve public security. Moreover, the French delegation had taken the precaution of stating that it was public order “in a democratic society”, so as to leave no room for any restrictive interpretation.

MR. HOOD (Australia) preferred the word “order” without any qualification, since the expression “public order” generally conjured up the idea of arbitrary measures. [13]

MR. ORDONNEAU (France) said that the word “*ordre*” would make the French text incomprehensible. If the English expression “general welfare” corresponded to the French idea of “*l’ordre public*”, the former could be used in the English text and the latter in the French.

MR. CHANG (China) supported that suggestion. He pointed out that, in the article which dealt with limitations to which human rights were to be subject, it would be well to avoid any enumeration which might give the impression that the Commission was inclining towards too much restriction.

MR. WILSON (United Kingdom) saw no valid reason why the three expressions should not be retained. In that connexion, he remarked that the terms “peace”, “order” and “good government” were to be found together in several federal Constitutions and expressing the same idea.

MR. FONTAINA (Uruguay) repeated his objection to the use of the expression “public order”. The meaning of words changed according to the use that was made

of them; that use sometimes became abusive, as in the case of the word “propaganda”, which had acquired a pejorative meaning and could no longer be used to mean “publicity”. So many crimes had been committed in the name of public order that the meaning of the expression had been distorted. The fact that the text spoke of public order “in a democratic society” did not solve the difficulty, since there were many different ideas of democratic society.

Mr. Fontaina urged the Commission to adopt the more simple expression “security for all”, which was not open to misinterpretation.

MR. AZKOUL (Lebanon) supported the remarks of the representative of Uruguay regarding the expression “public order”. He proposed the following text: “. . . and to the requirements of general welfare and interest”.

[14]

MR. PAVLOV (Union of Soviet Socialist Republics) emphasized that it was the laws of States that fixed the limits for the exercise of human rights and freedoms. He suggested, therefore, that the following phrase should be added to the text proposed by the Egyptian representative: “in accordance with the just requirements of the democratic State”.

MR. FONTAINA (Uruguay) proposed to be guided by article 28 of the Declaration of Human Rights adopted by the Inter-American Conference at Bogotá, according to which the exercise of human rights was subject only to such limitations as were necessary in order to respect the rights of others, the security of all and the just requirements of the democratic State.

MR. ORDONNEAU (France) stressed the special interest his delegation attached to the article dealing with limitations to the exercise of human rights. He reminded the Commission that, during the course of its discussion, it had deleted the provisions concerning limitations to certain rights from the text of the articles in question, because those limitations would be expressed in general terms in one single article. Thus, for example, the Declaration proclaimed freedom of conscience, of association and of assembly, without a single reservation. It was absolutely essential to re-establish the balance between the various provisions of the Declaration.

Mr. Ordonneau repeated that in French the idea of public order was in no way associated with political theories; it had a purely administrative significance, and corresponded to public morality, peace and security. Since the Declaration was a legal text, it was better to adopt an expression such as “public order”, which had a definite legal meaning, rather than use vague philosophical and literary terms, such as those proposed by the Lebanese representative.

[15]

Replying to the remarks of the USSR representative, Mr. Ordonneau pointed out that freedom was not exercised only within the framework of the State, but also, for example, within that of municipalities. For that reason, the French delegation had

preferred to use the expression “democratic society”, which covered communal groups.

THE CHAIRMAN put to the vote the USSR proposal to add the following words to the text submitted by the Egyptian delegation: “in accordance with the just requirements of the democratic State”.

The USSR proposal was rejected by 11 votes to 4, with 1 abstention.

THE CHAIRMAN put to the vote the Uruguayan proposal to substitute the expression: “security for all” for the expression “public order”.

The Uruguayan proposal was rejected by 6 votes to 5, with 5 abstentions.

THE CHAIRMAN then put the text proposed by the Egyptian delegation to the vote.

The text proposed by the Egyptian delegation for paragraph 2 of article 2 of the Declaration was adopted by 8 votes to 1, with 7 abstentions.

...

E/CN.4/143

16 June 1948

Philippine Amendment to Operative Clause of Preamble

Now therefore the General Assembly

Proclaims this Declaration on Human Rights as a common standard of achievement for all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education and by appropriate national legislation and international action to promote respect for these rights and freedoms and to secure their universal and effective recognition and observances.

E/CN.4/144

16 June 1948

China and the United States: Proposal Concerning Education for the Declaration on Human Rights

It is recommended that the Economic and Social Council pass a resolution containing the following proposal.

Immediately after action is taken by the General Assembly on the Declaration on Human Rights, the Secretary-General of the United Nations shall be requested, acting with the advice of the Commission on Human Rights and interested specialized agencies and in co-operation with Member States, to institute a comprehensive programme of education designed to bring before the people of the world the principles set forth in the Declaration in such a manner that they and their Governments may be encouraged to take steps within their own borders to bring about the conditions which the Declaration envisages as being essential to the full realization of human rights and fundamental freedoms.

E/CN.4/146

16 June 1948

**Report of the Sub-Committee Consisting of the
Representatives of Australia, China, Philippines,
United Kingdom and United States of America on
Paragraphs 4 and 5 of the Preamble on the Draft
International Declaration on Human Rights**

First Alternative

Whereas the peoples of the United Nations are determined to promote social progress and better standards of life in larger freedom, and

Whereas the Members of the United Nations are pledged to co-operate in promoting and encouraging respect for human rights and fundamental freedoms for all

(Sixth paragraph replace “through” by “on the basis of” or “with”)

Second Alternative

Whereas the Members of the United Nations are pledged to cooperate in promoting and encouraging respect for human rights and fundamental freedoms for all and are determined to promote social progress and better standards of life in larger freedom

(Replace “pledge” in sixth paragraph by “purposes”)

Note: Delete the fourth paragraph.

E/CN.4/147

16 June 1948

Original Text: French

**Statement by Mr. René Cassin, Representative of France,
on the Implementation of Human Rights**

Madam Chairman,

I want first to thank you and all my colleagues on the Commission for granting me this opportunity, – before my quite unavoidable premature departure – of broaching the question of the “implementation” of human rights which appeared under Item 2 of our agenda, and allowing me to hold up for a few moments the approaching completion of our laborious discussion on the *International Declaration*, the Preamble, Articles 2 and 20, and the last but extremely important articles designed to link the *Declaration* to the *Conventions* between States, the first of which has been studied by the Drafting Committee.

1. As has been well said, we must not only proclaim the essential human rights and briefly specify on whom the obligations rest, but also delimit these rights and specify how they can be ensured.

This last part of our work is by no means irrelevant to the Declaration, for the human rights which existed before the Charter of the United Nations, *a fortiori* exist long before we formulate them in the Declaration. Nor must it be forgotten that a Declaration, basic instrument of the General Assembly, implies certain aspects which are binding *per se*, for example, the decision of the United Nations to offer its assistance to States Members and the specialized agencies in drawing up future Conventions, or the decision to set up an auxiliary body. In other respects, however, the Declaration will have the character of a recommendation. Such will be the case when it calls on States Members generally to bring their legislation into conformity with the principles formulated in it, and to set up, within the sphere of their jurisdiction, [2] systems of appeal to judicial and administrative bodies, in order to prevent and, if necessary correct or suppress such violations of human rights as may have been committed within their territory.

...

E/CN.4/152

16 June 1948

**Report of the Drafting Sub-Committee on the 6th Paragraph
of the Preamble of the Draft International Declaration
on Human Rights**

Whereas a definition (a common understanding) of these rights and freedoms is necessary (of the greatest importance) for the fulfilment of this pledge.

E/CN.4/SR.75
16 June 1948¹³³

Summary Record of the Seventy-Fifth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Wednesday,
 16 June 1948, at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Azkoul, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Representatives of specialized agency:* Mr. Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO). *Consultants from non-governmental organizations:* Miss Sender, American Federation of Labor (AFL); Mr van Istendael, International Federation of Christian Trade Unions (IFCTU); Miss Stuart, World Federation of United Nations Associations (WFUNA). [2] *Consultants of non-governmental organizations (continued):* Mrs. Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; Mr. Moskowitz, Advisory Board of Jewish Organizations; Mrs. Van den Berg, International Women's Alliance; Miss Strahler, International Committee of the Red Cross (ICRC); Miss Robb, Liaison Committee of International Women's Organizations; Mr. Bienenfeld, World Jewish Congress (WJC). *Secretariat:* Mr. Humphrey, Director of the Human Rights Division; Mr. Lawson, Secretary of the Commission.

Continuation of the Discussion on the Draft Declaration of Human Rights:
Continuation of the Report of the Style Committee

THE CHAIRMAN said that the alterations proposed by the Style Committee were submitted for the approval of the Commission. She pointed out that the changes affected only the drafting and the order of the articles and did not alter their substance.

THE CHAIRMAN suggested the substitution of the word "of" for the word "on" in the English title. That change would not affect the French. Moreover, she suggested that the present title "Draft Declaration of Human Rights" should be replaced by "United Nations Declaration of Human Rights".

At the request of MR. ORDONNEAU (France), the French text of the second paragraph of the revised article 2 was amended as follows:

¹³³ This was the date of the meeting. The document was issued on 30 June 1948.

“... limitations as are necessary to secure respect for the rights of others and to (satisfy) the requirements ...”

At the request of MR. WILSON (United Kingdom), the English text of the second paragraph of the revised article 2 was amended by deletion of the word “to” in the phrase: “... for the rights of others and (to) the requirements...”

[3]

MR. CHANG (China) suggested that the order of the articles should be altered as follows: (a) the revised article 2 should be placed immediately before article 33 which had been adopted at the previous meeting; the article proposed by the representative of Lebanon should be placed before article 2; (b) the two paragraphs which made up article 3 might become two separate articles: the first paragraph would become article 2 and the second paragraph would become article 5 preceding the provisions concerning legal rights; (c) articles 4 and 5 would then become respectively articles 3 and 4; articles 6, 7 and 8 would remain unchanged.

MR. LEBEAU (Belgium) thought that the Commission was faced with two separate questions, namely, the approval of the text drawn up by the Style Committee, and the order of the articles in the Declaration. He asked that the text drawn up by the Style Committee should be approved before the consideration of the proposal submitted by the representative of China.

MR. CHANG (China) pointed out that his proposal should be taken as an amendment to the report of the Style Committee and should, therefore, be considered at the same time as that report.

THE CHAIRMAN proposed that the Commission should defer consideration of the Style Committee’s report until the next meeting.

Discussion of the Preamble to the Draft International Declaration of Human Rights

THE CHAIRMAN pointed out that the Commission had before it three draft preambles: the first had been submitted by the Union of Soviet Socialist Republics; the second had been drawn up by the Committee on the Preamble which had taken account of the drafts presented by France, Belgium, the United States and the American Federation of Labor; the third draft had been submitted by the United Kingdom (document E/CN.4/124).

[4]

MR. WILSON (United Kingdom) thought that the draft drawn up by the Committee on the Preamble should be taken as the basic text and the two other drafts considered as amendments.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the order of discussion suggested by the Chairman was preferable inasmuch as the draft submitted by his delegation could not be considered merely as an amendment to the text drawn up by the Committee on the Preamble. He observed that the Committee had failed to observe the principle of brevity which had been advocated in the course of previous discussions. He also pointed out that if the Commission were to adopt the preamble as drafted by the USSR delegation possibly with a few amendments, it would be unnecessary to consider any other draft.

Mr. Pavlov requested that the USSR draft of the preamble should be voted in parts: the first part, consisting of the first two paragraphs, recalled the principles of the Charter; the second part constituted the recommendation to the General Assembly.

THE CHAIRMAN read the draft preamble submitted by the USSR (document E/CN.4/139) and put it to the vote in parts, as requested by the representative of the USSR.

The first part was rejected by 9 votes to 5, with 2 abstentions.

The second part was rejected by 8 votes to 5, with 3 abstentions.

The draft preamble submitted by the USSR was rejected.

THE CHAIRMAN opened the discussion on the draft prepared by the Style Committee and proposed that it should be examined paragraph by paragraph.

MR. AZKOUL (Lebanon) drew attention to the logical way in which the text had been prepared. Paragraph 1 laid down an absolute and general [5] principle, which was independent of the existence of the United Nations; paragraph 2 declared that that principle had been violated; paragraph 3 showed the importance of averting the dangers of such a violation in the future; paragraph 4 was a reminder that the Charter provided that human rights should be respected; paragraph 5 recalled that the members of the United Nations had undertaken to respect those rights; paragraph 6 showed how those rights could be respected; lastly, a concluding paragraph consisted of the General Assembly's resolution.

THE CHAIRMAN read the text of paragraph 1.

MR. WILSON (United Kingdom) proposed a drafting amendment which would not affect the French text: that the word "of" should be inserted before the words "the equal".

The proposal was adopted.

MR. CHANG (China) hoped this paragraph would be adopted in view of its special importance and intrinsic value.

Paragraph 1 was adopted by 11 votes to none, with 5 abstentions.

THE CHAIRMAN read out paragraph 2.

MR. LEBEAU (Belgium) proposed that in the French text the words “à la veille de” should be replaced by the word “avant”.

MR. ORDONNEAU (France) preferred the words “dans la période précédente”. This suggestion was supported by the representative of Belgium, and *the amendment was adopted.*

MR. WILSON (United Kingdom) asked for the insertion in the English text of the word “of” after the word “ignorance”, an alteration which did not affect the French text. He also proposed that the last part of the paragraph should be omitted, from the words “and made it apparent to all . . .”

[6]

THE CHAIRMAN put the proposal for the omission of these words to the vote.

*The proposal was rejected by 6 votes to 3 with 5 abstentions.
The last sentence of paragraph 2 was retained.*

MR. CHANG (China) pointed out that the addition of the word “of” in the English text would narrow the meaning of the word “ignorance”. Most of the members of the Style Committee had had in mind ignorance in general and not simply ignorance of human rights.

THE CHAIRMAN agreed with the representative of China.

MR. AZKOUL (Lebanon) thought that the word as understood by the representative of China was weaker than in the sense of ignorance of human rights; he thought ignorance of human rights should be mentioned, and that there was no question of referring to ignorance in general in the Preamble.

MR. PAVLOV (Union of Soviet Socialist Republics) said that as the Preamble submitted by the USSR had been rejected in a manner which he considered far too hasty, he would abstain in principle throughout the voting on the Preamble. He would, nevertheless, make any observations he might deem necessary. He agreed with the representative of the United Kingdom. The Second World War had not been the result of ignorance of human rights but had been caused by the policy of Germany. The conclusions of paragraph 2 were faulty and might confuse the man in the street.

MR. ORDONNEAU (France) pointed out to the representative of the USSR that his remarks had unfortunately come too late, as a vote had already been taken on the retention of the last words of the paragraph.

MR. WILSON (United Kingdom) asked that the insertion of the word “of” should be put to the vote. He had thought its omission had been [7] a grammatical error, but if the present wording was intentional, it would be difficult for him to accept it.

MR. LEBEAU (Belgium) pointed out that the French text used the word “méconnaissance”, which could not be taken here as having a general sense; it definitely meant ignorance of human rights. He would support the United Kingdom amendment.

MR. CHANG (China) explained that he had not approved the drafting of this paragraph. It was true that the Germans and the Japanese were to blame for their contempt of human rights, but it could not be said that they had been ignorant of those rights. The word “ignorance” in the English text was not the right word, and he would propose that it should be replaced in the English text by the words “indifference to”.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the retention of the word “ignorance” would give the impression that the acts of the Germans and Japanese were being excused because they did not know that they were violating human rights. This was the most serious error in the whole paragraph. There had been no ignorance on the part of the aggressors, but a natural development of a system which had led to war. Public opinion had been shocked by the measures which the Fascists had deliberately taken, first in their own countries and later, during the war, in occupied countries.

MR. WILSON (United Kingdom) thought it would be preferable to adopt the Chinese representative’s proposal that the word “ignorance” should be omitted.

MR. ORDONNEAU (France) pointed out that the difficulty did not arise in the French text, as the word “méconnaissance” meant intentional ignorance.

[8]

MR. AZKOUL (Lebanon) agreed with the representative of France, but drew attention to the fact that there was a difference of degree between “méconnaissance” and “mépris”. Consequently, if the word “méconnaissance” (“ignorance” in the English text) were omitted, that would give the impression that only contempt for human rights was condemned and not ignorance of those rights.

MR. LEBEAU (Belgium) also thought that the distinction between ignorance and contempt should be preserved and suggested that “disregard of” should be used in the English text.

MR. WILSON (United Kingdom) accepted the Belgian representative’s proposal.

MR. CHANG (China) proposed that the substitution of the words “disregard of” for “ignorance” should be put to the vote.

The amendment was adopted by 10 votes to 1 with 5 abstentions.

[9]

MR. HOOD (Australia) spoke again on the wording of the second paragraph. Although the Commission had decided to retain the much too dogmatic statement it

contained, he wondered whether, in spite of that, it would not be wiser to define its scope more precisely by saying, in the English text, at the end of the sentence “and made it apparent to all that the fundamental freedoms were a (instead of “the”) supreme issue of the conflict.”

MR. CHANG (China) pointed out that as the idea underlying the sentence was saved, it would be perfectly in order to submit amendments to that sentence.

THE CHAIRMAN agreed.

MR. AZKOUL (Lebanon) said that the adjective “supreme” had an absolute meaning. It would, therefore, be incorrect to speak of a supreme issue since there could be only one supreme issue.

MR. HOOD (Australia), while agreeing with the Lebanese representative in regard to grammar, nevertheless, maintained that in ordinary language it was often possible to have several supreme issues.

THE CHAIRMAN suggested that the expression “an essential issue” should be used.

MR. LARRAIN (Chile) who shared Mr. Azkoul’s views on the use of the word “supreme” said that he would agree to: “one of the essential issues”.

MR. FONTAINA (Uruguay) said that, like the USSR representative, he had abstained from voting during the debate on whether to delete the words under discussion, as he too considered that those words raised a question of substance, and that he disagreed with the idea they expressed.

[10]

MR. PAVLOV (Union of Soviet Socialist Republics) said that all those difficulties would have been avoided had the Commission adopted the text proposed for the Preamble by the USSR. The second paragraph of the Preamble drafted by the Commission’s office gave the impression that the war had been caused by ignorance. It should not be forgotten that contempt for human rights had been taught by political groups which belonged to a well-defined system and were based on a capitalist economy aided by overseas countries. If the causes of the war were mentioned, the real ones should be given and those lay at the roots of the political system of the Nazi and Fascist groups, and in the lack of balance caused by capitalist economy. That system and that economy carried within themselves, and would always carry inherently the seeds of war. If the course of war was to be mentioned, that should be said; otherwise the matter should be left alone.

MR. ORDONNEAU (France) pointed out that the paragraph under discussion in no way dealt with the causes of war. It stated that respect for human rights was at stake. Victory had undeniably led to the establishment of a system which respected human rights certainly more than the Nazis had.

Discussion followed on the correct translation into Spanish of the English word “ignorance”. The Chairman asked the Spanish-speaking representatives to agree on a translation which the Commission could approve.

MR. AZKOUL (Lebanon) suggested the wording “that the fundamental freedoms were at stake in that conflict” so as to emphasize that respect for the fundamental freedoms depended on the outcome of the conflict.

[11]

MR. WILSON (United Kingdom) was still convinced that the host solution would be to delete the last part of the sentence. The Lebanese proposal gave the text a meaning which was nearer reality, but at the same time weakened it so much that one wondered whether it would be worth including in the Preamble.

THE CHAIRMAN put to the vote the proposal to delete from the second paragraph, third line of the English text the words “to all”.

It was decided by 7 votes to none, with 8 abstentions, to delete the words “to all”.

THE CHAIRMAN put to the vote the Lebanese amendment to say “. . .and made it apparent that the fundamental freedoms were at stake in the conflict.”

The amendment was rejected by 3 votes to none, with 11 abstentions.

THE CHAIRMAN put to the vote the Australian amendment to change the last part of the sentence so as to read: “. . . the fundamental freedoms were one of the supreme issues of the conflict.”

The amendment was adopted by 7 votes to none, with 9 abstentions.

MR. WILSON (United Kingdom) proposed putting to the vote the sentence as amended.

MR. LOPEZ (Philippines) and Mr. Larrain (Chile) objected to that procedure, pointing out that the Commission had weakened the sentence to please the United Kingdom representative in the hope of contributing to a result which the Commission could accept. One should not trade on that spirit of co-operation by asking for the deletion of the sentence. In effect, the Chilean representative had voted in favour of its retention and Mr. Wilson had criticized the sentence because its wording was too strong but had now been toned down. A vote had already been taken on that part of the sentence.

[12]

MR. ORDONNEAU (France) said that the Commission had decided at its last meeting not to vote on proposals to delete paragraphs.

MR. FONTAINA (Uruguay) pointed out that since they were dealing with a historic document of great importance, the rules of procedure should be applied so that the question could be settled. A vote should first be taken on the question of whether the vote, already taken, to delete the sentence, should be retaken.

MR. VILFAN (Yugoslavia) would abstain from voting as he was in favour of the draft Preamble submitted by the USSR, but thought that the second paragraph followed logically from the ideas stated in paragraph 1. Since the first paragraph spoke of the importance of observing the respect due to all the members of the human family and their equal and inalienable rights, one naturally expected the second paragraph which spoke of the war to say that the Second World War had imperilled the value and existence of those rights and freedoms.

MR. CHANG (China) pointed out that the Preamble had not been drafted in accordance with a concept acceptable to all the members of the Committee. That was why the second paragraph had not been unanimously supported.

THE CHAIRMAN put to the vote the question of whether a vote should be retaken on the deletion of the last part of the second paragraph.

The proposal to retake the vote was adopted by 7 votes to 4, with 5 abstentions.

THE CHAIRMAN took a vote on whether the last part of the sentence should be retained.

It was decided by 7 votes to 3, with 6 abstentions, to retain the last part of the sentence.

[13]

THE CHAIRMAN put to the vote the last part of the sentence as amended, i.e., the English text to read “and made it apparent that the fundamental freedoms were a supreme issue of the conflict.”

The text was adopted by 7 votes to none, with 8 abstentions.

Paragraph 3

MR. LOUTFI (Egypt) said that in order to make the Preamble as brief as was fitting, all proposals of secondary importance should be avoided. The paragraph did not express a single essential idea. It mentioned revolts “against tyranny and oppression”. There was no need to retain that idea in the Preamble. The paragraph also referred to the protection of human rights by “a regime of law”, an idea which should be retained but which was already included in paragraph 5. In effect, paragraph 5 spoke of promoting and encouraging respect for human rights and for fundamental freedoms, which could only be assured by appropriate legislation conferring on such rights and freedoms the protection of the law. The third paragraph could, therefore, be dropped *in toto*.

MR. ORDONNEAU (France) raised a question of procedure. To delete a sentence, a negative vote should be recorded when it was put to the vote. The method of voting on proposals to delete certain sentences was wrong, and the Commission had found,

in regard to the preceding paragraph, that it led to several votes on the same question, which should have been decided by a single vote.

The provisional French wording used the expression “*le régime de la loi*”, as being the equivalent of the English “a regime of law”. The expression had no exact meaning. It would be better to use an old expression, namely “*le regne de la loi*” (the rule of law”). [14]

MR. LOPEZ (Philippines) would vote against the adoption of paragraph 3 for the reasons already referred to by the Egyptian representative, and also because that paragraph referred to the right of the people to rebel, a reference which might be misconstrued. That was a right which had not been mentioned anywhere in the body of the Declaration.

He would prefer the legal protection to be given to the rights and freedoms to be mentioned in another part of the Preamble, and suggested its inclusion in the operative part of the Preamble, to which his delegation had submitted an amendment.

THE CHAIRMAN put paragraph 3 to the vote.

Paragraph 3 was adopted by 8 votes to 6, with 2 abstentions, thus being retained in the Preamble.

Paragraphs 4 and 5

THE CHAIRMAN opened the debate on paragraphs 4 and 5, which were closely linked.

MR. HOOD (Australia) suggested merging the two paragraphs, and thought that paragraph 4 might even be completely omitted. It was quite appropriate to quote the Charter, but if a quotation was to be made it would be best to use a passage conceived in more explicit and energetic terms.

Articles 55 and 56 of the Charter were ideal for that purpose. He, therefore, suggested that the following text be adopted for paragraph 5:

“Whereas the Members of the United Nations are pledged to take joint and separate action in co-operation with the Organization to promote and encourage respect for human rights and for fundamental freedoms. . .”

[15]

MISS SENDER (American Federation of Labor) said that the draft Preamble submitted by her Organization was among the drafts which the Committee on the Preamble had used as a basis for discussion before presenting a text for consideration. The draft submitted by the American Federation of Labor stressed the concept that indifference towards the happiness and the welfare of the individual made possible the spreading of suffering. The draft also emphasized the need to improve economic and social conditions to assist the people of the world in obtaining freedom from fear and want, thereby providing one of the most effective guaranties that human rights would be respected.

The Charter propounded the same idea.

MR. CHANG (China) also wanted the need for an improvement in economic and social conditions mentioned. It could be done by borrowing the words of the Charter on that subject. He suggested setting up a small committee to choose the appropriate quotations from the Charter.

THE CHAIRMAN agreed with the Chinese representative's request and appointed a committee for that purpose, consisting of the representatives of China, the United Kingdom, Australia, the United States and Yugoslavia, which would meet in the early afternoon.

MR. VILFAN (Yugoslavia) declined the offer as the Preamble as a whole, either wittingly or unwittingly, was based on a conception to which he could not subscribe; he could not note any concrete contributions to the preparation of a text based on a conception he did not share.

[16]

In reply to a question by MR. CHANG (China), he pointed out that the Preamble spoke only of the rights of the individual, whereas it could also have mentioned, as a compromise, and in deference to the ideas of all the members of the Commission, the rights of the Nation and of peoples.

The Preamble as submitted failed to recognize the duty of the individual to his Nation and to his State.

THE CHAIRMAN asked the representative of the Philippines to take the place of the Yugoslav representative on the Committee to choose the paragraphs from the Charter to be mentioned in the Preamble.

The meeting rose at 1:05 p.m.

E/CN.4/SR.76

16 June 1948¹³⁴

Original Text: French

Summary Record of the Seventy-Sixth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York, on Wednesday,
16 June 1948, at 10:45 a.m.¹³⁵

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, later, Mr. Azkoul, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium;

¹³⁴ This was the date of the meeting. The document was issued on 1 July 1948.

¹³⁵ According to document E/CN.4/SR.76/Corr:1, the seventy-sixth meeting began at 2.30 p.m. and not at 10.45 a.m.

Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Representative of specialized agency*: Mr. Lebar, United Nations Educational, Scientific and Cultural Organization (UNESCO). *Consultants from non-governmental organizations*: Miss Sender, American Federation of Labor (AFL); Mr van Istendael, International Federation of Christian Trade Unions (IFCTU); Miss Stuart, World Federation of United Nations Associations (WFUNA); Mrs. Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; Mr. Moskowitz, Consultative Council for Jewish Organizations; Mrs. Vandenberg, International Women's Alliance; Miss Strahler, International Committee of the Red Cross; Miss Parsons, International Women's Council; Miss Burgess, International Federation of Business and Professional Women. [2] *Consultants from non-governmental organizations* (continued): Miss Schaefer, International Union of Catholic Women's Leagues; Miss Robb, Liaison Committee of International Women's Organizations. *Secretariat*: Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

...

[16]

**Proposals Worked out by the Sub-Committee
Appointed to Redraft the Fourth Paragraph of the Preamble
(Document E/CN.4/138)**

MR. CHANG (China) submitted the two proposals drawn up by the Sub-Committee and pointed out that the text of those proposals was taken from the preamble of the Charter.

MR. ORDONNEAU (France) remarked that the text of the original document had also been taken from the Charter, and asked exactly which passage was being dealt with at the present time. He added that the expression "... in the dignity and worth of the human person..." had disappeared from the text at present before the Commission. It was impossible, however, to doubt the importance of mentioning that principle; such an omission could be interpreted as a deviation from certain principles laid down in the Charter.

MR. CHANG (China) admitted that the work of the Drafting Committee had been unduly hurried and that it might be desirable to refer the matter to the next meeting.

Following a discussion in which the representatives of Lebanon, France, the United Kingdom, China and the Union of Soviet Socialist Republics took part, the Chairman requested the Drafting Committee to meet immediately after the meeting.

The meeting rose at 5:45 p.m.

E/CN.4/148

17 June 1948

Draft Report of the Commission on Human Rights to the Economic and Social Council

1. The third session of the Commission on Human Rights opened on 24 May 1948 at the Interim Headquarters of the United Nations, Lake Success. The Commission held _____ plenary meetings and terminated its work on _____ June 1948.

2. The following representatives of Member Nations on the Commission attended: *Chairman: Mrs. Franklin D. Roosevelt (United States) Representative. Vice-Chairmen: Dr. P. C. Chang (China) Representative; Prof. René Cassin (France) Representative. Rapporteur: Dr. Charles Malik (Lebanon) Representative. Members: Mr. A. J. D. Hood (Australia) Alternate; Mr. R. Lebeau (Belgium) Alternate; Mr. A. S. Stepanenko (Byelorussian Soviet Socialist Republic) Representative; Mr. Herman Santa Cruz (Chile) Representative; Mr. Omar Loutfi (Egypt) Representative; Mrs. Hansa Mehta (India) Representative; Mr. M. de J. Quijano (Panama) Alternate; Mr. S. Lopez (Philippines) Alternate; Mr. M. Klekovkin (Ukrainian Soviet Socialist Republic) Representative; Mr. A. P. Pavlov (Union of Soviet Socialist Republics) Alternate; Mr. Geoffrey Wilson (United Kingdom) Alternate; Mr. Jose Mora (Uruguay) Representative; Mr. Josa Vilfan (Yugoslavia) Alternate.*

[2]

3. Mrs. Amalia C. Ledon (Mexico), Vice-Chairman of the Commission on the Status of Women, was present and participated without vote when sections of the draft of the International Bill of Human Rights relating to the particular rights of women were being considered.

4. The following representatives of specialized agencies were also present at the session: Mr. R. W. Cox and Dr. R. A. Metall, International Labour Organization; Mr. Pierre Lebar, United Nations Educational, Scientific and Cultural Organization; Miss B. Howell and Mr. Hill, World Health Organization; Mr. Oliver Stone, Preparatory Commission for the International Refugee Organization.

5. The following consultants from non-governmental organizations were also present: *Category A:* Miss Toni Sender, American Federation of Labor; Mr. August J. A. van Istendael, International Federation of Christian Trade Unions; Miss Julia Stuart, World Federation of United Nations Associations; *Category B:* Dr. Salomon Goldsmith, Dr. Isaac Levin and Dr. M. L. Munk, Agudas Israel World Organization; Miss Juliet H. Drennan, Catholic International Union for Social Service; Dr. O. Frederick Nolde and Mr. Sartell Prentice Jr., Commission of the Churches on International Affairs; Mr. Moses Moskowitz, Consultative Council of Jewish Organizations; Mr. Barnett Janner, Mr. A. G.

Brotman and Mr. Arthur C.A. Liverhant, Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations; Mrs. Marian Baker van den Berg, International Alliance of Women; Miss Marguerite Strahler, International Committee of the Red Cross; [3] Mrs. W. F. Parsons, International Council of Women; Miss Mildred Burgess, International Federation of Business and Professional Women; Miss Catherine Schaefer, International Union of Catholic Women's Leagues; Dr. Janet Robb, Liaison Committee of Women's International Organizations; Dr. F.R. Bienenfeld and Mr. Stephen D. Wolkowicz, World Jewish Congress; Miss Elizabeth A. Smart, World Women's Christian Temperance Union; Miss Anne Guthrie, World's Y.W.C.A.

6. Although its session opened on 24 May, the Commission was unable to begin its work on substantive questions until the afternoon of 26 May, owing to the delay in arriving at Lake Success of Mr. Stepanenko, Representative of the Byelorussian Soviet Socialist Republic, and of Mr. Klekovkin, Representative of the Ukrainian Soviet Socialist Republic. The Commission drew the attention of the Secretary-General of the United Nations to the fact that these Representatives could not arrive in time for the beginning of the third session of the Commission, for reasons independent of their will and in violation of the agreement adopted by the General Assembly on 31 October 1947; and called the attention of the Secretary-General to the necessity of taking measures to prevent a repetition of such incidents in the future.

7. Mr. Herman Santa Cruz (Chile) participated from the forty-ninth to the fifty-second meetings; Mr. Jose Mora (Uruguay) from the forty-sixth to the fifty-second meetings; and Prof. René Cassin (France) from the forty-sixth to the seventy-third meetings. Mr. Santa Cruz was represented from the fifty-fourth to the final meeting by Mr. J. Larrain; Mr. Mora was represented from the fifty-third to the final meeting by Mr. Roberto Fontaina; and Prof. Cassin was represented from the seventy-third to the final meeting by Mr. Pierre Ordonneau; these alternates were given the right to vote. In various meetings during the session Mr. G. Jockel (Australia) substituted for Mr. Hood, Mr. L. Steyaert (Belgium) for Mr. Lebeau, Dr. T. Y. Wu (China) for Dr. Chang, Dr. K. Azkoul (Lebanon) for Dr. Malik, and Mr. Jose D. Ingles for Mr. Lopez; these alternates were not given the right to vote. The Representative of Iran did not participate in the session. An observer representing the Government of New Zealand attended various meetings of the session.

[4]

8. The Commission re-elected Mrs. Franklin D. Roosevelt (United States of America) as Chairman, Dr. P.C. Chang (China) as Vice-Chairman, and Dr. Charles Malik (Lebanon) as Rapporteur. It elected Prof. René Cassin (France) as a Second Vice-Chairman.

9. Prof. John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Commission.

[5]

10. The Commission adopted the Provisional Agenda (document E/CN.4/88) as its Agenda.

11. The expression of the views of the Members of the Commission is embodied in the summary records of the plenary meetings (document E/CN.4/SR.46 to _____).

12. *Plan of Work in Regard to the International Bill of Human Rights*

[There is no text following paragraph 12.]

13. *The Prevention of Discrimination and the Protection of Minorities*

The Commission decided to postpone reconsideration of the terms of reference of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, as it had decided to do at its second session, until it had drawn up its draft International Bill of Human Rights, including implementation. It expressed the view that there was no need for the Sub-Commission to meet prior to the next meeting of the [5] Commission, since the Draft International Bill of Human Rights had not been completed at this session; and decided that reconsideration of the terms of reference of the Sub-Commission would be on the agenda of its next session.

...

E/CN.4/149

17 June 1948

Second Report of the Drafting Sub-Committee on the Preamble to the Draft International Declaration of Human Rights

4. Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

5. Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

6. Whereas this pledge can be fulfilled only on the basis of a common understanding of the nature of these rights and freedoms,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.

E/CN.4/150

17 June 1948

France-United States of America: Proposal on the Next Session of the Commission on Human Rights

The Commission recognizes that, in approving this Declaration, it has not completed its task of preparing a bill of human rights. The bill consists of a Declaration, a Covenant and measures of implementation.

The Declaration forms part only of the bill of rights. Completion of a Covenant including measures of implementation is essential.

The Commission recommends to the Economic and Social Council that a meeting of the Commission be held immediately after the eighth session of the council in 1949 for the completion of the Covenant and the measures of implementation.

E/CN.4/SR.77

17 June 1948¹³⁶

Original Text: French

Summary Record of the Seventy-Seventh Meeting [of the Commission on Human Rights]

Lake Success, New York on Thursday,

17 June 1948 at 11 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Jockel, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Representative of a specialized agency:* Mr. Lebar, United Nations

¹³⁶ This was the date of the meeting. The document was issued on 28 June 1948.

Educational, Scientific and Cultural Organization. *Consultants from non-governmental organizations*: Mr. Garvan, American Federation of Labor (AF of L); Miss Stuart, World Federation of United Nations Associations; Miss Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; [2] Mr. Moskowitz, Consultative Council of Jewish Organizations; Mrs. Vandenberg, International Women's Alliance; Mr. Bienenfeld, World Jewish Congress. *Secretariat*: Mr. Humphrey, Director, Human Rights Division; Mr. Lawson, Secretary of the Commission.

Consideration of the Proposal Submitted by the Chinese Delegation Regarding the Order of the Articles of the Declaration

MR. CHANG (China) proposed making article 2 the penultimate article of the Declaration. An article which dealt with the limitations on the exercise of the rights, and freedoms proclaimed in the Declaration should not appear at the beginning of the Declaration before those rights and freedoms themselves had been set forth.

MR. LOUTFI (Egypt) did not agree with that view, article 2 was among the articles which set forth the general principles and, as such, should appear at the beginning of the Declaration.

MR. FONTAINA (Uruguay) supported the Chinese representative's proposal.

He recalled his delegation's objections to the use of the words: "*ordre public*" (public order) in article 2, paragraph 2 (see document E/CN.4/SR.74). To place that article towards the end of the Declaration immediately before article 33 would reduce the possibility of misinterpreting that term.

MR. WILSON (United Kingdom) pointed out that the general scope of the Declaration would not change with the order in which the articles were placed. Article 2 should not be placed towards the end of the Declaration so as to avoid giving the reader the impression that the individual was granted unlimited rights; the reader would not realize, until he had reached the penultimate article, that the rights and freedoms laid down were subject to certain restrictions.

[3]

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with Mr. Wilson that the reader should know from the outset that the rights and freedoms set forth in the Declaration were to be enjoyed within the framework of society. Logically, the general provisions should precede the more specific clauses.

MR. LEBEAU (Belgium) entirely agreed with Mr. Pavlov.

MR. LOPEZ (Philippines) supported the Chinese representative's proposal; since they were dealing with a Declaration on Human Rights, the rights of the individual should be stressed before his duties to society.

THE CHAIRMAN, speaking as United States representative, thought that the article regarding the general limitations on the enjoyment of rights would be better placed towards the end of the Declaration.

The Chinese representative's proposal was adopted by 8 votes to 7 with 1 abstention.

MR. CHANG (China) proposed changing the order of the first five articles of the Declaration as follows: article 1 to remain where it was; article 3, paragraph 1 (principles of non-discrimination) to become article 2; article 3, paragraph 2 (principles of equality before the law) to become article 5; article 4 (right to life) to become article 3; article 5 (respect for human dignity) to become article 4.

The Chinese representative's proposal was adopted by 9 votes to 1 with 6 abstentions.

MR. CHANG (China) proposed placing article 13, which dealt with marriage, after article 9 which dealt with the family.

MR. LOUTFI (Egypt) pointed out that article 9 did not deal exclusively with the family. He was, therefore, opposed to the proposed change.

The Chinese representative's proposal was rejected by 5 votes to 4, with 7 abstentions.

[4]

MR. CHANG (China) proposed placing article 15, on nationality, after article 12, which dealt with the right to recognition as a person before the law.

MR. LOUTFI (Egypt) supported the proposal.

MR. LOPEZ (Philippines) pointed out that article 12 itself had not been properly placed; it should follow article 3 which dealt with the right to life and freedom.

MR. CHANG (China) thought it would be better to place article 12 after article 5 which dealt with equality before the law.

MR. ORDONNEAU (France), while remarking that his delegation did not attach much importance to the order of the articles in the Declaration, thought that there was no strong reason to alter the present order.

MR. PAVLOV (Union of Soviet Socialist Republics), supported by MR. MALIK (Lebanon), suggested adopting both the proposals which had been made, namely, to place article 12 after article 3, which would be immediately followed by article 15. His delegation would only vote for the Chinese representative's proposal to place article 19 after article 12 if the latter followed article 3 concerning the right to life and to liberty.

THE CHAIRMAN called on the Commission to vote on the proposal to place article 12, which dealt with the right to recognition as a person before the law, after article 3 on the right to life and to liberty.

The proposal was rejected by 7 votes to 6, with 3 abstentions.

MR. MALIK (Lebanon) then proposed placing article 12 immediately after article 4 on slavery and respect for human dignity. Article 12 would thus become article 5 and the numbers of the following articles would be altered accordingly.

[5]

The Lebanese representative's proposal was adopted by 9 votes to 1, with 6 abstentions.

THE CHAIRMAN, speaking as United States representative, suggested placing article 15, regarding nationality, immediately after article 11, on the right to asylum.

The proposal was adopted by 15 votes to none, with 1 abstention.

**Continuation of the Consideration of the Preamble
to the Declaration on Human Rights
(documents E/CN.4/138 and E/CN.4/139)**

THE CHAIRMAN recalled that the Commission had adopted at its earlier meetings the first three paragraphs of the Preamble to the Declaration. She then read the text prepared by the Drafting Sub-Committee on the Preamble:

“4. Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth, of the human person and to promote social progress and better standards of life in larger freedom; and

“5. Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

“6. Whereas this pledge can be fulfilled only on the basis of a common understanding of the nature of these rights and freedoms,

“Now therefore the General Assembly

“Proclaims this Declaration of Human Rights as a common standard of achievement for all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.”

[6]

THE CHAIRMAN called on the Commission to consider the text paragraph by paragraph, and opened the discussion on paragraph 4.

MR. ORDONNEAU (France), supported by MR. LEBEAU (Belgium) considered the French version of the text unsatisfactory. They would prefer the expression: “larger freedom” to be translated as: “*une liberté plus complète*”.

MR. FONTAINA (Uruguay) would also prefer the expression: “*the human person*” to be replaced by: “human being”.

THE CHAIRMAN reminded the Commission that the wording of paragraph 4 had been borrowed from the Charter, and thought that it would be best not to depart from that wording.

MR. MALIK (Lebanon) and MR. CHANG (China) also thought that, as long as the wording of the Charter had not been officially modified by the General Assembly, no changes could be made to it.

MR. JOCKEL (Australia), although unable as alternate to take part in the vote, said that his delegation approved of the text submitted by the Drafting Sub-Committee for the second part of the Preamble.

Paragraph 4 of the Preamble was adopted by 11 votes to none with 5 abstentions.

Paragraph 5 of the Preamble was adopted by 12 votes to none with 4 abstentions.

MR. FONTAINA (Uruguay) proposed amending paragraph 6 so as to read:

“Whereas this pledge can be fulfilled mainly through a common understanding of the nature of these rights and freedoms.”

[7]

The Uruguay representative's proposal was rejected by 10 votes to 4 with 2 abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) wished paragraph 6 to be deleted, as he thought it introduced not only an erroneous but a dangerous conception. To make the Declaration on Human Rights dependant on the application of a common conception of the nature of rights and freedoms would destroy its very purpose. The Commission's discussions had clearly shown the divergences which existed between the members in the fields of philosophy and ideology; that difference of ideas had not prevented fruitful co-operation, because even though there had been disagreement on the nature of the rights, the Commission has, nevertheless, come to a satisfactory agreement as to their practicable application.

Paragraph 6 in its present wording seemed to require a unity of thought and ideas which was impossible to achieve. His delegation, however, held that, in spite of philosophical differences, international co-operation was possible, as it considered that the minimum of rights, as set forth in the Declaration, could be applied in every detail by all. Its application should not be threatened by an unacceptable provision such as was contained in paragraph 6, at present submitted for the Commission's consideration.

THE CHAIRMAN pointed out that the realization of the purposes of the Declaration depended above all on a common understanding of the essential human rights and freedoms. If a common view on the nature of those rights and freedoms could not immediately be attained, that identity of views nevertheless retained the supreme aim to be sought. There had been disagreement in the Commission, but the decision of the majority had prevailed in the choice of articles, and the Declaration, as

drafted, indicated as effectively as was possible at present the degree of agreement which had been reached.

[8]

MR. CHANG (China) said that there was something to be said for the USSR representative's interpretation: the paragraph, as drafted could mean that the obligation assumed by the Members of the United Nations would not be binding should agreement on a common conception not be reached.

THE CHAIRMAN, speaking as United States representative, emphasized that the pledge in question was incumbent on the Members of the United Nations by virtue of the Charter and not of the Declaration which they would be asked to approve. In order to remove any ambiguity she proposed saying:

“Whereas this pledge can be fully fulfilled only through a common understanding of these rights and freedoms.”

The deletion of the words: “of the nature” answered Mr. Pavlov's comments regarding the various philosophical and ideological differences which existed.

MR. MALIK (Lebanon) advised the Commission to be very cautious in a matter which might lend itself to misinterpretation. The pledge of the Members of the United Nations to ensure the respect of fundamental human freedoms and rights had been taken more than three years ago; their task would obviously be facilitated if they could reach a common understanding of those rights and freedoms. Without making that common conception a *sine qua non* for international co-operation, the usefulness of such an identity of views could be recognized. He therefore suggested saying: “Whereas this pledge could be best fulfilled through a common understanding of those rights and freedoms.”

[9]

MR. PAVLOV (Union of Soviet Socialist Republics) recognized the merit of those various proposals which improved the text, but nevertheless insisted on the deletion of paragraph 6.

MR. ORDONNEAU (France) agreed with the USSR representative that it would be wiser to avoid adopting a text which, owing to hasty drafting, might lead to criticism. The Commission agreed that, in spite of the difference in philosophical and political systems, it was still possible to find grounds for common action, and that it was on that conviction that the work it had just completed was founded. As regards paragraph 6, the difficulty was more in the wording than in the substance as there was no doubt as to the authors' intentions. His delegation would, therefore, welcome any amendment which would satisfy the USSR representative and which would make it quite clear that the Commission had tried to find a common understanding and had succeeded in doing so.

THE CHAIRMAN and MR. CHANG (China) agreed that paragraph 6 was not essential and could, therefore, be deleted. Mr. Chang pointed out that any reservation regarding the pledge taken under the Charter would weaken that pledge.

MR. WILSON (United Kingdom) thought on the contrary that it should be emphasized in the Preamble that the Commission had reached a remarkable degree of understanding and that the Declaration was the result of that identity of views. He reminded the Commission that the terms of paragraph 6 had been taken from a draft submitted by his delegation, and that they had been linked with an earlier paragraph which had not been retained; they should, therefore, be somewhat amended to bring them into line with the paragraph immediately preceding them in the present draft, but they should not be deleted, as they fulfilled a useful function by providing a transition. He therefore suggested adopting [10] the amendments suggested by the Lebanese representative and by Mrs. Roosevelt.

MR. ORDONNEAU (France) said that he would only agree to the complete adoption of paragraph 6 if no satisfactory formula could be found. He suggested that the Commission should acknowledge its common effort by saying:

“Whereas this pledge can be fulfilled only through a common effort to reach as broad as possible a common understanding of these rights and freedoms.”

MR. CHANG (China) proposed appointing a small committee to draft a formula acceptable to all, bearing in mind the various comments made during the meeting.

MR. JOCKEL (Australia) supported that proposal. His delegation considered paragraph 6 the most important of all the paragraphs of the Preamble, and it should be retained while an attempt was made to satisfy the USSR representative's justifiable objections.

THE CHAIRMAN announced that the Drafting Committee to amend the form of paragraph 6 would be composed of the representatives of the following countries: China, France, Lebanon, the United Kingdom and the Union of Soviet Socialist Republics.

MR. ORDONNEAU (France) pointed out a translating error in the French text of the last paragraph of the Preamble. The text gave the impression that, in the national and international spheres, the efforts of nations would be directed only to teaching and education, whereas the text should read:

“...de développer le respect de ces droits et libertés et d'assurer par des mesures progressives, réalisés dans le domaine national et international, leur reconnaissance et leur application universelles et effectives.”

[11]

The Commission took careful note of the correction.

MR. PAVLOV (Union of Soviet Socialist Republics) drew the Commission's attention to the fact that the wording of the English and French versions did not exactly agree, and he feared that the difference in the texts might entail a difference

in substance. The English text spoke of a “common standard” while the French text referred to “*un idéal commun*”.

MR. LEBEAU (Belgium), supported by MR. WILSON (United Kingdom), said that the difference was one of form and did not affect the substance of the paragraph which was clearly the same in both texts. The term “common standard of achievement” was the aim which the nations should try to achieve: “*l'idéal commun*” used in the French text corresponded quite well with the idea expressed.

MR. FONTAINA (Uruguay) stressed the difficulty of translating accurately the full sense of the English word “standard” into a single French or Spanish word.

MR. ORDONNEAU (France) pointed out that the difference in form was due to the inherent difference in the spirit of the two languages. His delegation considered that the two texts corresponded as to substance.

MR. LOPEZ (Philippines) recalled that the Commission had decided in principle, that, whenever it was faced with the difficulty of a translation of that type, it would adopt texts which agreed in substance rather than in form.

The Commission adopted the last paragraph of the Preamble by 12 votes to none with 4 abstentions, on the understanding that the translations would endeavour to reproduce the meaning of the original English text paying more attention to substance than to form.

[12]

MR. PAVLOV (Union of Soviet Socialist Republics) proposed adding the following paragraph to the Preamble:

“*Recommends to all the States Members of the United Nations the following Declaration on Human Rights.*

“*For use at their discretion in taking appropriate legislative and other measures and in their systems of upbringing and education; and for the dissemination of the provisions of this Declaration throughout the populations of the States Members themselves, of territories over which such States are performing the functions of the administering authority, of territories under trusteeship, (non-self-governing territories.)*”

The text was taken from the Draft Preamble submitted by his delegation (document E/CN.4/139).

He proposed dividing the vote on the addition proposed by him as follows: the first vote to be taken on the measures necessary for the development of teaching and education; the second on the principle of the dissemination of the Declaration throughout the population of the non-self-governing territories.

MR. MALIK (Lebanon) approved of the second part of the addition suggested by the USSR representative, but feared that the first part would weaken the preceding paragraph just adopted by the Commission.

MR. WILSON (United Kingdom) raised an objection with regard to the form. The USSR representative’s proposal would give that part of the Declaration the character of a General Assembly resolution.

He was likewise opposed to the apparent discrimination made in the USSR text by especially mentioning the trust and non-self-governing territories, when it was clearly laid down in paragraph 5 of the Preamble that States Members of the United Nations were pledged to guarantee not only effective but universal respect for human rights and fundamental freedoms.

[13]

MR. ORDONNEAU (France) said that the first part of the USSR proposal corresponded almost exactly to the last article of the Draft Declaration proposed by Mr. Cassin (document E/CN.4/82/Add.8, article 28).

While agreeing with the USSR delegation on the need to include such a provision, his delegation considered that its logical place was at the end of the actual Declaration and not in the Preamble. Thus placed, the provision would serve as a link between the declaration of rights and the statement of the enforcement measures to be taken, thereby achieving the maximum legal force.

He also wholeheartedly agreed with the USSR representative that the Declaration should be universal. In that regard he pointed out that the Declaration on the Rights of Man of 1793 applied to all French territories. But it would not serve any useful purpose to include in the Preamble any special provision on non-self-governing territories which would seem to imply that the populations of those territories did not enjoy the essential rights and freedoms on an equal footing with the populations of the metropolitan territories.

On the suggestion of MR. PAVLOV (Union of Soviet Socialist Republics), the Chairman instructed the Drafting Committee, which had just been set up, to prepare a text which would take into account both Mr. Pavlov's and Mr. Cassin's drafts and to submit its recommendations to the Commission.

The meeting rose at 1:20 p.m.

E/CN.4/SR.78*

17 June 1948¹³⁷

***Summary Record of the Seventy-Eighth Meeting [of the
Commission on Human Rights]***

Held at Lake Success, New York, on Thursday,
17 June 1948 at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Jockel, Australia; Mr. Steyaert and later Mr. Lebeau, Belgium;

¹³⁷ This was the date of the meeting. The document was issued on 24 June 1948.

Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Consultants from Non-Governmental Organizations: Category A:* Mr. P. Garvan, American Federation of Labor; *Category B:* Dr. I. Lewin, Agudas Israel World Organization; Mrs. Drennan, Catholic International Union for Social Service; Mr. S. Prentice and Mr. Nolde, Commission of the Churches on International Affairs; Mr. Moskowitz, Consultative Council of Jewish Organizations.

[¹] The 79th meeting of the Commission was held in closed session, and the summary record (document E/CN.4/SR.79) is distributed as a restricted document to members of the Commission only.

[2]

Consultants from Non-Governmental Organizations: (continued) Category B: Miss Schaefer, International Union of Catholic Women's Leagues; Mr. S. Wolkowicz and Mr. Bienenfeld, World Jewish Congress; Mrs. M. Baker Vandenberg, International Alliance of Women. *Secretariat:* Mr. Humphrey, Director of the Human Rights Division; Mr. Lawson, Secretary of the Commission.

Continuation of the Consideration of the Draft International Declaration on Human Rights (document E/CN.4/95)

Article 20

THE CHAIRMAN recalled that the Drafting Committee had decided not to consider the text adopted at the second session of the Commission until the articles on implementation had been drafted. She asked the members of the Commission to decide whether or not the Commission could take any action in the matter until the Covenant had been drafted and the manner in which petitions should be dealt with had been settled. If the decision was a negative one the Commission could vote against the immediate inclusion of the article in the Declaration, and could take it up again at the proper time.

MR. PAVLOV (Union of Soviet Socialist Republics) thought consideration of article 20 should be postponed until implementation was considered. He pointed out that if the article were retained the Declaration could not be considered as complete. He did not wish to discuss the substance of the matter for the time being, but merely asked the Commission to remove the article from the Declaration, where he considered it was out of place.

MR. WILSON (United Kingdom) said there were two alternatives before the Commission: either to delete the article from the Declaration, with a mental reservation that it might be considered again at a later [3] stage, or else to leave it in the Declaration with a note to the effect that it should be reconsidered in the light of later decisions on implementation. He would prefer the second alternative.

THE CHAIRMAN put to the vote the question whether to retain article 20 of the Draft Declaration.

The Commission decided, by 7 votes to 5 with 1 abstention, to retain the article.

MR. WILSON (United Kingdom) proposed the insertion of a note to the effect that “the Commission decided not to consider the following text, since measures on the implementation of the Bill of Rights had not been considered at its third session.”

MR. QUIJANO (Panama) considered that the article should be adopted at once. The Commission had included in the Declaration all the articles it considered necessary, with the sole exception of that one. The article was clear, and it was undeniable that everyone had the right to submit petitions to a competent public authority and to obtain a response; that right was provided for in the constitutions of all the American nations and in those of many others. The Commission could not be making a mistake in including such a provision in the Declaration.

MR. PAVLOV (Union of Soviet Socialist Republics) contended that under the second part of the article the United Nations would have to constitute an organ to consider complaints of nationals against their own State. That was contrary to the Charter, which did not confer on the United Nations the right to interfere between a State and its nationals. Secondly, such a provision would multiply the possible causes of international conflict, which were already sufficiently numerous. He agreed with the United Kingdom representative that the article should be placed in brackets with a note to the effect that it had not [4] yet been considered, but thought it should be placed at the end of the Declaration as an addendum, without a number.

MR. WILSON (United Kingdom) agreed.

The Commission decided, by 12 votes to 1 with 1 abstention, to retain the article and to place it, unnumbered, at the end of the Declaration, with a note as suggested by the United Kingdom representative.

MR. MALIK (Lebanon), Rapporteur, submitted the following alternative text of paragraph 6 of the Preamble:

“Whereas a (definition) (common understanding) of these rights and freedoms is (necessary) (of the greatest importance) for the fulfilment of this pledge,”

MR. CHANG (China) stated that he preferred “definition” to “common understanding” and “necessary” to “of the greatest importance”. He further suggested replacing “fulfilment” by “full realization”.

The Commission decided, by 9 votes to 1 with 4 abstentions, in favour of the words “common understanding”.

The Commission decided, by 6 votes to 4 with 4 abstentions, in favour of the words “of the greatest importance”.

The Commission decided, by 8 votes to 2 with 4 abstentions, in favour of the words “full realization”.

The Commission adopted the amended text by 13 votes to none, with 1 abstention.

THE CHAIRMAN read the following draft text which the USSR representative had proposed should be added at the end of the Preamble:

“...and recommends it to the States Members of the United Nations for use at their discretion, both in taking the appropriate legislative and other measures and for the dissemination of the provisions contained in this Declaration among the population of the Member States themselves and among the populations [5] of such territories in regard to which these States are carrying out the functions of the Administering Authority, and populations of territories under Trusteeship and the populations of Non-Self-Governing Territories.”

MR. PAVLOV (Union of Soviet Socialist Republics) preferred the following wording:

“...recommends to all States Members of the United Nations the following Declaration for use at their discretion both in taking the appropriate legislative as well as other measures, and equally for the dissemination of the provisions contained in this Declaration...”

The phrase “recommends to all States Members . . . for use at their discretion” was equivalent to a statement that the States themselves would decide what legislative or other measures they would take. He pointed out that the word “colonial” was not used in the proposed text, which however emphasized the principle of equality between all peoples, an idea which appeared nowhere else in the Declaration. He did not agree with the suggestion which had been put forward that it was covered by the general nature of the Declaration; it should be stated in concrete terms. He thought the text should be voted upon in two parts: first up to and including the words “. . .among the populations” and second from the words “of the Member States themselves. . .”

MR. CHANG (China) concurred in the idea behind the USSR proposal, i.e. there should be no doubt that peoples who did not at present enjoy self-government should be included in the Declaration. He thought, however, that the addition of the words “and peoples” after “all nations” would remove any possibility of misunderstanding.

MR. FONTAINA (Uruguay) suggested that the last paragraph of the Preamble should begin: “Proclaims this Declaration of Human Rights [6] as a common standard of achievement for all nations, independent or non-self-governing, to the end. . .” He thought that would meet Mr. Pavlov’s contention, while avoiding any direct reference to Trust Territories or Non-Self-Governing Territories.

MR. LOUTFI (Egypt) considered the idea embodied in the USSR proposal to be extremely important. It was essential that the Declaration should state that it was applicable to nations or peoples that were not autonomous or were under Trusteeship, and if the USSR proposal were not adopted he reserved the right to make another proposal on the same lines. He proposed the phrase: “. . .both among

the populations of Member States themselves as well as among the populations of territories under their jurisdiction.”

MR. WILSON (United Kingdom) would vote for the proposal of the Chinese representative, which appeared to him the simplest way of making even clearer that the Declaration applied to all peoples, whatever their status. With regard to the USSR proposal, he considered it took the Commission outside the scope of the Preamble and into the sphere of implementation.

MR. MALIK (Lebanon) pointed out that the phrase “human rights and fundamental freedoms” occurred in a number of places in the Charter, including Article 76(c). He therefore thought some mention of the absolute universality of the Declaration would be in harmony with the Charter.

Of the three amendments which had been proposed, he would vote for the Egyptian one, which he thought expressed in the happiest manner the idea common to them all. He would also be prepared to vote for the Chinese proposal, but would abstain from voting on the USSR proposal, which went into more detail than was appropriate in a Preamble.

[7]

MR. PAVLOV (Union of Soviet Socialist Republics) opposed the Chinese amendment, which he considered too indefinite. The question of the populations of non-self-governing territories should be faced squarely and not evaded by vague general statements.

MR. CHANG (China) agreed with the USSR representative that the problem should be faced, but thought the Preamble was not the place to deal with it. If the USSR would propose the adoption of such a clause at the General Assembly, after the adoption of the Declaration, he would support it.

With regard to the USSR proposal, he pointed out that there were many more independent peoples than non-self-governing peoples in the world today. From a purely drafting point of view, therefore, the two phrases did not balance. Furthermore, the addition of the sentence proposed by the USSR made the paragraph unduly long.

THE CHAIRMAN, speaking as representative of the United States of America, considered both the Egyptian and the Uruguayan amendments to be acceptable, but thought the Chinese amendment expressed the same idea in fewer words. She would therefore take a vote first on the Chinese amendment.

With regard to the USSR proposal, she felt the Preamble was not the right place for it. Moreover, it might be argued that a document such as the Declaration should not recognize the status of Non-Self-Governing Territories as a permanent one; it would therefore be preferable to speak of “all peoples”.

MR. LOPEZ (Philippines) recognized the validity of the point raised by the USSR representative.

The representative of France had stated that there was no difference in the observance and recognition of rights and freedoms as between independent [8] and non-self-governing countries; but the representative of France was a national of a metropolitan power and was perhaps not in a position to know all the facts. The Philippines had enjoyed the widest political and civil freedom during the period when it was not self-governing, but their case had been exceptional. He would therefore vote in favour of including in the Preamble a reference to the inhabitants of non-self-governing territories. He would vote for the Chinese proposal, which added something to the operative clause, though he did not agree that it stated the point exactly as it should be stated. He would also vote for the Egyptian proposal if none other was put forward to embody the idea. He could not vote for the USSR proposal, since he did not consider the idea should be embodied in a separate paragraph. Like Dr. Chang, he would be prepared to support a proposal for a separate resolution containing the same idea for submission to the General Assembly at its forthcoming session or during the session at which the Declaration was adopted.

MR. STEYAERT (Belgium), while not having the right to vote, stated that the Belgian delegation supported the Chinese amendment.

MR. ORDONNEAU (France) supported the Egyptian amendment.

THE CHAIRMAN said she would put to the vote, first the first and second parts of the USSR proposal, secondly the Egyptian proposal, thirdly the Uruguayan proposal and fourthly the Chinese proposal.

The first part of the USSR proposal was rejected by 9 votes to 4 with 1 abstention.

The second part of the USSR proposal was rejected by 6 votes to 5 with 3 abstentions.

The Egyptian proposal was adopted by 9 votes to 3 with 2 abstentions.

The Chinese proposal was adopted by 8 votes to none with 5 abstentions.

[9]

THE CHAIRMAN turned to consideration of an article originally suggested by the Lebanese representative and subsequently proposed, by the Drafting Sub-Committee in the following form:

“Everyone has the right to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.”

MR. MALIK (Lebanon) pointed out that the idea contained in the proposed article was to some extent expressed in the preamble just adopted. He nevertheless felt that the Declaration should clearly set forth the right of mankind to have a United Nations a world organization [*sic*], as well as a social order, in which the rights and freedoms could be realized.

MR. WILSON (United Kingdom), a member of the Drafting Sub-Committee, observed that the article had originally been proposed in connexion with a heading

for economic and social rights. However, in view of the fact that another heading had been adopted and of the further fact that the preamble contained much of what the proposed article would include, he no longer favoured its adoption.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed that the word “such” should be substituted for “good” before “social and international order”, as a “good” social order could not be achieved except through a socialistic society in which there was real equality. Even the enjoyment of the rights and freedoms set forth in the Declaration would not be sufficient to ensure a “good” social order; that could be brought about only if the interests of all were identical with the interests of each individual, as had been proved in practice during the last third of a century.

[10]

MR. CHANG (China) drew attention to two drafting points. Firstly, he questioned the juxtaposition of “social” and “international”, which were not contrasting terms. “Social order, national and international” might be preferable. Secondly, he raised the point that “is entitled” might be substituted in the first line for “has the right” since the word “rights” was used further on in the article.

MR. FONTAINA (Uruguay), stressing the duty of each individual to co-operate in achieving a society in which the rights and freedoms could be enjoyed, suggested that the words “and the duty to co-operate in the fulfilment of” should be inserted between “international order” and “rights and freedoms”.

THE CHAIRMAN, speaking as the United States representative, supported the proposed article, with the drafting changes mentioned by the Chinese representative.

Reverting to her position as Chairman, she put to the vote the USSR proposal to substitute “such” for “good”.

The USSR proposal was rejected by six votes to four with three abstentions.

MR. MALIK (Lebanon) referred to the drafting point raised in connexion with “social and international”. Those two words were intended to express two different ideas, and in order not to change the meaning of the article, the drafting change would have to be: “social – national and international – and international order”.

After a short discussion of drafting in which the representatives of the Philippines, China and Lebanon took part, the Chairman put to the vote the first part of the article in the following form: “Everyone is entitled to a good social and international order. . .”.

The text was adopted by seven votes to none, with six abstentions.

[11]

THE CHAIRMAN put to the vote the article as a whole.

The article was adopted by six votes to three with six abstentions.

THE CHAIRMAN drew attention to the article proposed by the French delegation and contained in document E/CN.4/82/Add.8 as article 28.

MR. ORDONNEAU (France) explained that the purpose of the proposed article was to serve as a transition between the Declaration and the Covenant and to make clear in the Declaration that the United Nations recognized the necessity for further provisions such as the Covenant was to contain. For that reason, the French delegation considered that the article should be the last one in the Declaration. The wording of the article was not necessarily final.

MR. CHANG (China) pointed out that the proposed article belonged more properly with measures for implementation.

MR. ORDONNEAU (France) was willing to have the article included tentatively, with a footnote such as had been agreed to in connexion with article 20.

MR. WILSON (United Kingdom) did not think the article could be treated in the same way as article 20. In the latter case, no decision was at all practicable until measures of implementation had been decided upon. The article under discussion however dealt solely with implementation; and the Commission should follow the principle agreed to at its second session, namely, that measures of implementation should not be included in the Declaration.

THE CHAIRMAN, speaking as the United States representative, thought that the first paragraph of the proposed article went too far.

[12]

Some of the principles stated in the Declaration for example, the right to health could not be realized immediately. What would be the good of passing laws to punish countries for failing to supply what they did not have and could not get? Furthermore, the Declaration was not intended to state exactly what the States should do to ensure the rights to their citizens. If such provisions were included, interest in the Covenant might be markedly lessened; yet the Covenant was of very great importance.

The second paragraph of the proposed article clearly dealt with implementation. Moreover the world was not yet ready for the international court it envisaged. She would therefore vote against the paragraph.

MR. ORDONNEAU (France) pointed out that the French proposal did not give detailed recommendations for implementation but stressed primarily the need for implementation.

MR. PAVLOV (Union of Soviet Socialist Republics) was opposed to the French draft. A USSR proposal to mention in the preamble legislative measures to ensure the rights and freedoms stated in the Declaration had been criticized as too concrete; yet the French proposal which spoke of judicial and administrative measures was

far more concrete, and its specific recommendations for implementation were not appropriate for the Declaration.

The second part of the proposed article, in suggesting the adoption of international conventions to ensure the full realization of the provisions of the Charter, went beyond the Commission's competence.

THE CHAIRMAN put to the vote the question of whether or not the proposed article should be inserted in the Declaration.

It was decided not to insert the article by eight votes to three, with two abstentions.

[13]

MR. PAVLOV (Union of Soviet Socialist Republics) raised the point of the order of the articles at the end of the Declaration.

The Commission decided that the article dealing with a "good social and international order" should be third from the last; the article covering the duties of the individual, adopted at its previous meeting, should be next to the last; and the article beginning "Nothing in this Declaration shall be considered to recognize the right. . ." should be the last.

Discussion of Procedure for Considering the Rapporteur's Report

After a short discussion, the Chairman stated that the Rapporteur's report would include the Declaration in the form proposed by the Style Committee, but any changes the Committee had made in the original texts voted by the Commission might be put to the vote as amendments.

In reply to a point raised by MR. PAVLOV (Union of Soviet Socialist Republics), MR. MALIK (Lebanon) explained that the report would include a statement to the effect that the views of the various delegations could be found in summary records of the meetings of the Commission.

French-United States Proposal for Statement to Accompany the Commission's Report

THE CHAIRMAN asked for consideration of the French-United States proposal to transmit the Commission's report to the Council with the following statement:

"The Commission recognizes that in approving this Declaration it has not completed its task of preparing a Bill of Human Rights. The Bill consists of a Declaration, a Covenant and measures of implementation.

"The Declaration forms part only of the Bill of Rights. Completion of a Covenant including measures of implementation is essential.

[14]

“The Commission recommends to the Economic and Social Council that a meeting of the Commission be held immediately after the eighth session of the Council in 1949 for the completion of the Covenant and the measures of implementation.”

MR. MALIK (Lebanon) thought the statement should include a reference to the work on the Covenant done by the Drafting Committee; the statement by the French representative, Mr. Cassin, on implementation; and the work on implementation done by a Sub-Committee at the Commission’s second session.

MR. CHANG (China) considered the first two paragraphs of the French-United States proposal unnecessary. He further suggested an amendment to the third paragraph so that “after the eighth session of the Council in 1949” would be changed to “early in 1949”. The date of the Council’s eighth session was not as yet fixed.

THE CHAIRMAN explained that the first two paragraphs of the proposal were designed to ensure that there should be no doubt of the fact that the Commission did not consider the Declaration a complete Bill of human rights.

MR. CHANG (China) thought that idea might be included in the Rapporteur’s report.

MR. WILSON (United Kingdom) said he intended to propose at a later time that a conference similar to the Conference on Freedom of Information and the Press should be held to consider the Bill of Rights before it was presented to the General Assembly, [15] as otherwise some thirty Governments would have had no opportunity to make oral statements on the Bill prior to its consideration by the Assembly.

He hoped that the members of the Commission would bear in mind the possibility that such a conference might be held in making recommendations concerning the date of the next session.

The meeting rose at 6:25 p.m.

E/CN.4/148/Add.1

18 June 1948

ANNEX A

Draft International Declaration of Human Rights (Draft United Nations Declaration of Human Rights)

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights resulted, before and during the second world war, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

[2]

Article 1

All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2

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

Article 3

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

Article 4

1. No one shall be held in slavery or involuntary servitude.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Everyone has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 7

No one shall be subjected to arbitrary arrest or detention.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
 2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.
- [3]

Article 10

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Article 12

1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 13

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

Article 14

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the full consent of both intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection.

Article 15

1. Everyone has the right to own property alone as well as in association with others.

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

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

Everyone has the right to freedom of assembly and association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.

2. Everyone has the right of access to public employment in his country.

3. Everyone has the right to a government which conforms to the will of the people.

[4]

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.

Article 21

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.

2. Everyone has the right to equal pay for equal work.

3. Everyone is free to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and wellbeing of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

2. Mother and child have the right to special care and assistance.

Article 23

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.

2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Article 24

Everyone has the right to rest and leisure.

Article 25

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Article 26

Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.
[5]

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

Note: The Commission has not considered the following article since measures of implementation have not as yet been considered in its third session:

“Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.”

E/CN.4/SR.80

18 June 1948¹³⁸

Original Text: French

Summary Record of the Eightieth Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York on Friday,
 18 June 1948, at 10:45 a.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Charles Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Steyaert, Belgium; Mr. Stepanenko, Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Lopez, Philippines; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Consultants from Non-Governmental Organizations:* Miss Sender, American Federation of Labor (AF of L); Mr. van Istendael, International Federation of Christian Trade Unions; Mrs. Drennan, Catholic International Union for Social Service; Mr. Nolde, Commission of the Churches on International Affairs; Mr. Moskowitz, Consultative Council for Jewish Organizations; Mrs. Van den Berg, International Union of Catholic Women’s Leagues; Miss Robb, Liaison Committee of Women’s International Organizations; Mr. Bienenfeld, World Jewish Congress. *Secretariat:* Mr. Humphrey, Director of Division of Human Rights; Mr. Lawson, Secretary of the Commission.

[2]

Consideration of the Draft Report Presented by the Rapporteur
(document E/CN.4/148)

THE CHAIRMAN laid before the Commission the draft report presented by the Rapporteur.

MR. MALIK (Lebanon), Rapporteur, said that there would be several annexes to the report; annex “A”, the draft International Declaration, was being presented to the Commission with the draft report itself. He proposed that the Commission should

¹³⁸ This was the date of the meeting. The document was issued on 29 June 1948.

consider and adopt each paragraph separately, provided there were no objections to them. He would read out each paragraph and supply the necessary consents.

After the Commission had approved the proposed procedure, the first five paragraphs were adopted without any changes other than some alterations in the spelling of certain names.

Mr. Malik (Lebanon), Rapporteur, read out paragraph 6 relating to the delayed arrival of the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics.

THE CHAIRMAN, speaking as representative of the United States, proposed an amendment to that paragraph, calling for the deletion of the words “and in violation of the agreement adopted by the General Assembly on 31 October 1947”. She felt that to accuse any Government of a violation of a treaty or an agreement was a very delicate matter. The Commission had come to the conclusion that the blame for their late arrival could not be attributed to the two representatives in question and that the matter should be brought to the attention of the Secretary-General; it had not said that there had been formal violation of the agreement in question. The summary record E/CN.4/SR.46 was wrong on that point. She pointed out that she had said that the incident was regrettable and that she hoped it would never happen again.

[3]

MR. VILFAN (Yugoslavia) felt that the text of paragraph 6 was not exact in so far as it was too general. At the first meeting of the present session, the Commission had examined the whole question at length and had come to the conclusion that the two representatives were late in arriving because they had not been granted visas in time. He, therefore, moved an amendment proposing to delete the words “for reasons independent of their will” and to replace them by the words “because the United States Embassy denied them visas”.

He thought that the question was a very important one, the more so as a similar attitude had been adopted towards a representative of Yugoslavia: The United States Government was not entitled to take measures the result of which was to prevent certain representatives from attending meeting of United Nations institutions. He recalled that the Chairman had admitted the error committed by the United States Embassy in Moscow. In his view, that error was a violation of the agreement of 31 October 1947 and he thought that the Commission would be acting within its competence in stating that there had been in fact violation of that agreement.

He moved a second amendment proposing the addition of the words “between the Government of the United States of America and the United Nations” after the words “31 October 1947”.

THE CHAIRMAN fully agreed that there had been a delay in granting the visas, but she felt it was impossible to allege that they had been denied. She thought that the

Commission was not qualified to pass judgment on the agreement approved by the Congress of the United States and the United Nations. The Commission had never had an opportunity to study that agreement. Furthermore, such a study would not be within its competence. She proposed that the report should state that “certain members felt that there was violation of the agreement. . .”

[4]

MR. VILFAN (Yugoslavia) could not agree to the Chairman’s proposal to say that there had merely been a delay in granting the visas; the visas had first been refused and had been granted only after a certain time and as a result of various interventions. The Chairman herself had said at the first meeting that the representatives of Byelorussia and Ukraine had been denied visas because they had refused to answer a questionnaire presented by the United States Embassy in Moscow. His opinion was that the United States Embassy was not entitled to require representatives to the United Nations to answer such questionnaires.

Mr. Vilfan said he would agree to change his amendment so that it should read as follows: “their visas having first been denied and then, after a delay, granted by the United States Embassy in Moscow”.

THE CHAIRMAN said that the opinion of the Yugoslav representative constituted the contentious point of the question. There had never been an interpretation of that part of the agreement of 31 October 1947 and it was not for the Commission to interpret it, for it had not the necessary competence. The Commission’s report should confine itself to relating the facts as they actually happened. She proposed that the Yugoslav amendment should be put to the vote, and said that she would vote against for reasons she had already outlined.

MR. PAVLOV (Union of Soviet Socialist Republics) said that there would have been no discussion on paragraph 6 of the draft report if the Chairman had not proposed an amendment to the Rapporteur’s text.

On the suggestion of the USSR representative, the Commission had, at its first meeting, decided to draw the Secretary-General’s attention “to the fact that these representatives could not arrive in time for the beginning of the Third Session of the Commission, for reasons independent of their will and in violation of the agreement adopted by the General Assembly on 31 October 1947. . .” That resolution had not been [5] put to the vote because the Commission had reached unanimous agreement on that point. In his view, it was impossible, therefore, to allege now that the resolution had never been adopted.

He pointed out that his delegation had in its possession a note from the United States Embassy in Moscow dated 8 May stating that visas had been denied to Mr. Stepanenko and Mr. Klekovkin and that their passports had been returned to them. The representatives of the Byelorussian and of the Ukrainian Soviet Socialist Republics had not answered the questionnaire presented to them because of its

discriminatory character. The visas had been granted two days before the opening of the session after representations by the USSR Ministry of Foreign Affairs and after the United Nations Secretary-General had intervened. The question was important for such an incident might arise with any delegation; the mistake made by the United States Embassy was, therefore, an incorrect act, not only towards the Byelorussian and Ukrainian Soviet Socialist Republics but also towards the United Nations.

If paragraph 6 of the draft report was to be amended, it should be so as to give it greater accuracy; the denial of visas was proved by documents.

MRS. MEHTA (India) thought that the Commission's report should give an account of facts and decisions taken. She felt that the Commission had not decided during its first meeting that there had been violation of the agreement of 31 October 1947, and such a decision could not be taken now. It should only be said that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had not been able to arrive in time for the beginning of the session for reasons independent of their will.

She reminded the meeting that the Commission had not discussed the question in greater detail in view of the regrets expressed by the Chairman.

[6]

She would, therefore, vote against the Yugoslav amendment even if the facts stated by Mr. Vilfan were correct.

MR. WILSON (United Kingdom) shared the opinion of the Indian representative; the Commission could not pass judgment on the question under discussion and had to confine itself to a statement of the facts. He felt that as the resolution proposed by the USSR representative during the first meeting had not been voted upon it could not be mentioned in the Commission's report.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that paragraph 6 as it stood was the least that should be said on the question; his delegation however, was prepared to accept it as it did not wish to return to a painful subject.

He made it clear that he had been denied a visa and that his passport had been sent back to him. It was granted, after representations made on 22 May, too late to obtain transport to arrive in time for the beginning of the session. Those facts had been disputed, but they were true and could be proved; the visas had first been denied and then granted after a certain delay and after the United Nations Secretary-General had intervened. He agreed with the USSR representative that such an incident could happen again with other delegations and that that should be avoided.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) could not accept the Indian proposal. To state merely that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had arrived late for reasons independent of their will might lead to the belief that their own Governments had been responsible for the delay, which obviously was not the case. He thought that the violation of the

agreement was obvious since an intervention of the United Nations Secretary-General had been necessary in order to obtain visas.

[7]

MR. ORDONNEAU (France) associated himself with the Indian proposal. All the members of the Commission deeply regretted the incident but there was no need to pass judgment in the matter. As the United States Embassy had rectified the mistake, the agreement of 31 October 1947 had been respected.

MR. CHANG (China) recalled that he had been absent from the first meeting but that his alternate, Mr. Wu, had proposed the postponement of the second meeting until 26 May. The aim of that proposal had not been to await the arrival of the Byelorussian and Ukrainian representatives but to enable the members of the Commission to consider the various documents submitted to them.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to point out once more that the resolution he had proposed at the first meeting had been adopted without a vote, but that he had forwarded it to the Chairman in writing. His proposal had not met with any objections and it had been decided to ask the Chairman to draw the attention of the Secretary-General to the fact that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had not arrived in time for reasons independent of their will and in violation of the agreement adopted by the General Assembly on 31 October 1947. The Commission had begun by entrusting this task to the Chairman, but at the latter's request it had decided that the Commission as a whole should draw the Secretary-General's attention to the above-mentioned facts. The opinion of the members of the Commission had been unanimous at the time. He felt that the correct facts should be mentioned for therein lay a question of principle.

THE CHAIRMAN put to the vote the amendments proposed by the representative of Yugoslavia.

[8]

The first amendment proposed to delete the words "for reasons independent of their will" and to replace them by the words "and visas having first been denied and then, after a delay, granted by the United States Embassy in Moscow".

The amendment was rejected by 11 votes to 3.

The second amendment proposed the addition of the words "between the Government of the United States of America and the United Nations" after the words "31 October 1947".

The second amendment was not adopted, 5 votes being in favour and 5 against with 5 abstentions.

MR. FONTAINA (Uruguay) thought that an agreement could be reached. It was right to state that certain members of the Commission felt that there had been a delay

in granting visas to the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics. Consequently, the Commission could adopt the USSR proposal to mention in the report that there had been a delay in granting the visas, while pointing out that certain members felt that there had been violation of the agreement of 31 October 1947.

MR. PAVLOV (Union of Soviet Socialist Republics) said that he would withdraw his amendment if the United States representative withdrew hers; that would lead to a retention of the text as drawn up by the Rapporteur.

THE CHAIRMAN could not agree to that suggestion of the USSR representative. The report should indicate that the belief that there had been violation of the agreement was held by certain members and not by the Commission as a whole.
[9]

MR. PAVLOV (Union of Soviet Socialist Republics) thought that by acting in that way some members of the Commission were going back on the position they had taken up during the first meeting. In point of fact, it had been decided to state that the Commission as a whole, and not certain members, wished to draw the Secretary-General's attention to the facts now under discussion.

MR. ORDONNEAU (France) said that the Commission should verify whether such a decision had been taken at the meeting mentioned by the USSR representative and he proposed that the Secretary of the Commission should be asked to read out the summary record.

MR. MALIK (Lebanon), Rapporteur, said that he had used the wording of the summary record of the first meeting (document E/CN.4/SR.46) in paragraph 6 of his draft report. He read out the final part of that summary record: E/CN.4/SR.46 pages 15 and 16 – statements by Mr. Pavlov, the Chairman and Mr. Pavlov.

MR. ORDONNEAU (France) considered, in view of the explanations given by the Rapporteur, that no formal decision had been taken.

THE CHAIRMAN said that the last paragraph of the summary record was wrong: The USSR proposal had not been adopted as a formal notion.

MR. WILSON (United Kingdom) said that members of the Commission had agreed to draw the Secretary-General's attention to the fact that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had not been able to arrive in time for reasons independent of their will, but they had not stated that there had been violation of the agreement of 31 October 1947.
[10]

MR. PAVLOV (Union of Soviet Socialist Republics) thought it incorrect to reverse a decision which had already been adopted and was embodied in the summary record of the forty-sixth meeting. If the Commission wished to reopen discussion on that point, it should take a preliminary vote. Mr. Pavlov repeated that no formal vote

had been taken on the USSR proposal only because voting had appeared superfluous at that stage of the debate.

As regards the observations made earlier by the United States representative, Mr. Pavlov stated that, contrary to the information which she had received, all her speeches had been faithfully reproduced in the USSR press. That fact was easily confirmed by a perusal of the USSR newspapers.

THE CHAIRMAN stated that she was glad to hear that her speeches had been accurately reproduced in the USSR press.

As regards the USSR representative's suggestion that a vote should be taken on reopening the discussion, it was not possible to do so, as the summary record concerned had not yet been formally approved by the Commission and could not, therefore, be regarded as a document of incontestable authenticity.

MR. CHANG (China) pointed out that it appeared from the speech made by Mr. Wu as recorded in the summary record of the forty-sixth meeting that the Commission had postponed its work until 26 May following a proposal of the Chinese representative, not because the representatives of the Ukrainian and Byelorussian Soviet Socialist Republics had not yet arrived, but because members had not had sufficient time to examine the necessary documents.

[11]

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that under the rules of procedure the delegations were required to submit corrections to summary records within twenty-four hours. If no corrections were sent in within that period, the summary records were taken to be objective accounts of the debates.

MR. CHANG (China) quoted a passage of the summary record concerned, according to which the Chairman had expressed her willingness that the Secretary-General should be informed of the sense of the meeting and of the substance of the discussion. Apart from that, only one formal decision – that relating to the Chinese proposal – had been recorded.

Mr. Chang proposed that the Rapporteur should proceed to re-draft paragraph 6 of the report.

There being no objection, that proposal was accepted.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic), replying to Mr. Chang's statement to the effect that the meeting had been postponed to 26 May in order to enable members to study the documents, quoted a letter sent to him by the Secretary-General, according to which the Commission had decided to postpone the discussion on the agenda until 16 May pending the arrival of the two delegations.

THE CHAIRMAN read out paragraphs 7, 8, 9 and 10 of the draft report.

Those amendments were accepted without objection.

A decision on paragraph 11 was deferred until later, owing to the fact that the United States delegation felt that one of the summary records, namely that of the forty-sixth meeting contained inaccuracies.

MR. PAVLOV (Union of Soviet Socialist Republics) asked whether an attempt was being made to question the exactitude of the summary records, contrary to the provisions of the rules of procedure.

THE CHAIRMAN replied that it was not stated anywhere in the rules of procedure that the accuracy of summary records could not be questioned.

Discussion of paragraph 12 of the plan of work in regard to the International Charter on Human Rights

MR. CHANG (China) wondered whether it would not be better to include in that paragraph some explanation on the stage of the Commission's work on the Covenant and the measures to implement it.

MR. ORDONNEAU (France) was of the same opinion.

MR. MALIK (Lebanon) recalled that the Commission had decided, at the end of its second session at Geneva, to append to its report to the Economic and Social Council drafts of the Declaration, the Covenant and the measures for their implementation.

In its present report the Commission would submit to the Council only the text of the Declaration. It was highly desirable to append to the report both the Draft Covenant prepared by the Drafting Subcommittee, accompanied by an explanatory note, and the old report on the measures of implementation which the Council had not yet considered, as the Council had referred it back to the Commission without comment.

THE CHAIRMAN said that the United States and French proposals on measures for implementation should also be attached to the report.

MR. CHANG (China) accepted the Rapporteur's proposal.

He went on to ask whether there was any special reason why certain members of the Commission did not wish a decision to be taken on the Declaration by the General Assembly at its next session, or whether the reason was that they preferred to present the drafts of the Covenant and the measures of implementation at the same time as the Declaration, so that they could be considered together. On the other hand, some members favoured the idea of submitting the Declaration to the Assembly at once. He was of the opinion that the Declaration should be proclaimed without delay. [13] The Commission should at least recommend that the Declaration should come before the General Assembly this year.

THE CHAIRMAN thought the Declaration should be submitted both to the Economic and Social Council and to the General Assembly, but it was for the latter to decide what it wished to do. The Assembly should, in any event, consider it this year.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) said that they had already had a disappointing experience in that respect. They all knew that the Economic and Social Council had returned to the Commission, without comment, the two annexes to the Covenant and the measures of implementation which had been communication to the Council at the end of the Commission's last session. It was senseless to risk making the Commission ridiculous in the eyes of the Council by repeating the same procedure. He was not averse to telling in the report what had already been done in those two matters, without however attaching drafts which were incomplete and had not been considered by the Commission.

MR. HOOD (Australia) recalled the existence of an Australian proposal which should also be annexed to the report together with the other documents.

MR. MALIK (Lebanon), Rapporteur, explained that by appending to the report the Draft Covenant, prepared by the Drafting Committee, no dangerous precedent would be established. They would merely be doing what had been done at Geneva in connection with the draft on the measures on implementation. The Council had only referred those questions back to the Commission so as to enable it to carry on its work according to the plan drawn up by the Council itself, and not out of a spirit of contempt, as the Ukrainian representative thought. It was quite logical to submit to [14] the Council the work achieved on the Covenant, as had been done, during the last session, with the draft on the measures of implementation.

MR. WILSON (United Kingdom) agreed with the Rapporteur. It was only natural that in submitting its report to the Council the Commission should say how far it had got in regard to the three parts of the International Charter on Human Rights. As to the Assembly's adoption of the Declaration, he hoped that the Chinese representative would submit a resolution to that effect. That was a new idea, as the Declaration was only part of the Charter, all parts of which were supposed to be considered and proclaimed at the same time.

THE CHAIRMAN agreed with the Rapporteur.

MRS. MEHTA (India) thought that the three documents should be submitted at the same time, thus leaving the Council to decide what it wanted to do with them.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Declaration should clearly be submitted to the Council which would decide whether to transmit it to the Assembly. On the other hand, there were many gaps in the Covenant, notably the absence of any provision for the implementation of economic rights, and it was far from ready for submission to the Council. The substance of the draft measures of implementation had not been discussed at all and had already been referred back by the Council to the Commission. The Commission as such was only entitled to transmit documents, the preparation of which had been completed.

He thought that the Australian proposal was most unjust and was categorically opposed to its submission to the Council.

If, however, the Commission wished to submit all three documents to the Council at the same time, it would have to prolong its session in order to complete the work. [15]

MISS SENDER (American Federation of Labor) thought that world public opinion would fail to understand why all three parts of the Charter had not been considered together. It was, therefore, important that the Commission should inform the Council of the state of its work on each part of the Charter.

MR. FONTAINA (Uruguay) also thought that the three documents should be submitted to the Council which would decide whether there was any need for another session of the Commission, or whether to refer the work to a different commission.

MR. MALIK (Lebanon) proposed appending to the report in addition to the Declaration:

- (1) Annex B of Document E/CN.4/95 on the International Covenant on Human Rights, together with an explanatory note;
- (2) A reference to the third part of the report on the Commission's second session, and an Annex C containing Professor Cassin's statement, as well as the Chinese, United States and Australian proposals.

MR. LEBEAU (Belgium) also said that the Commission should, of necessity, indicate the state of the work on each part of the International Charter on Human Rights. He would, therefore, vote for the Rapporteur's proposal.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republics) again reminded the Commission that during its last session the Council had refused to consider the draft proposal on measures of implementation, as it was still incomplete: why, therefore, should the Commission wish to submit that document again?

He asked that the Rapporteur's proposal should be submitted in writing.

The meeting rose at 1:20 p.m.

E/CN.4/SR.81

18 June 1948¹³⁹

Original Text: French

Summary Record of the Eighty-First Meeting
[of the Commission on Human Rights]

Held at Lake Success, New York on Friday

18 June 1948, at 2:30 p.m.

Chairman: Mrs. Franklin D. Roosevelt, United States of America. *Rapporteur:* Mr. Malik, Lebanon. *Members:* Mr. Hood, Australia; Mr. Lebeau, Belgium; Mr. Stepanenko,

¹³⁹ This was the date of the meeting. The document was issued on 1 July 1948.

Byelorussian Soviet Socialist Republic; Mr. Larrain, Chile; Mr. Chang, China; Mr. Loutfi, Egypt; Mr. Ordonneau, France; Mrs. Mehta, India; Mr. Quijano, Panama; Mr. Carpio, Philippine Republic; Mr. Klekovkin, Ukrainian Soviet Socialist Republic; Mr. Pavlov, Union of Soviet Socialist Republics; Mr. Wilson, United Kingdom; Mr. Fontaina, Uruguay; Mr. Vilfan, Yugoslavia. *Consultants from Non-Governmental Organizations*: Miss Sender, American Federation of Labor; Mr. van Istendael, International Federation of Christian Trade Unions; Mr. Rubinow, World Federation of United Nations Associations; Miss Drennan, Catholic International Union for Social Service; [2] Mr. Nolde, Commission of the Churches on International Affairs; Mr. Moskowitz, Consultative Council of Jewish Organizations; Mrs. Van den Berg, International Women's Alliance; Mrs. Parsons, International Council of Women; Miss Schaefer, International Union of Catholic Women's Leagues; Miss Robb, Liaison Committee of Women's International Associations; Mr. Bienenfeld, World Jewish Congress. *Secretariat*: Mr. Humphrey, Director of the Division of Human Rights; Mr. Lawson, Secretary of the Commission.

[3]

Continuation of Discussion of the Draft Report of the Commission on Human Rights to the Economic and Social Council (document E/CN.4/148)

THE CHAIRMAN proposed that, in order to speed up its work, the Commission should restrict the discussion in the following way: speeches would be limited to five minutes and only one speech for and one against would be allowed for each question under discussion.

MR. PAVLOV (Union of Soviet Socialist Republics) did not think the discussion should be restricted to that extent at a time when the Commission had reached the end of its work.

MR. MALIK (Lebanon) and MR. LEBEAU (Belgium) admitted the need for gaining time but wished to reserve their delegations' right to state briefly their views, particularly on the question of implementation, which had not yet been discussed.

MR. WILSON (United Kingdom) and MR. FONTAINA (Uruguay) supported the Chairman's proposal.

The Commission decided, by 11 votes to 1, with 4 abstentions, that each speaker would be allowed to speak only once on the same subject and that speeches would be limited to five minutes.

Paragraph 6

MR. MALIK (Lebanon) reminded the Commission that two amendments had been proposed to paragraph 6 of the report: (1) the Chinese representative had requested the insertion of the words: "because of the necessity for members to have ample time to examine the various documents" after the words: "of 26 May"; (2) the United

States representative had requested that the words: “and in violation of the agreement” be replaced by the words: “and that certain members felt the delay was in violation of the agreement”. It was for the Commission to decide on those two amendments.

[4]

THE CHAIRMAN opened the discussion on the Chinese amendment first.

MR. VILFAN (Yugoslavia) said that the Chinese amendment did not respect the chronological order of events. The Chinese representative’s proposal to convene the second meeting of the Commission for the afternoon of 26 May “because of the necessity for members to have ample time to examine the various documents” had been moved only after the Commission had agreed in principle to inform the Secretary-General of the Byelorussian and Ukrainian representatives’ delay in arriving.

MR. CHANG (China) reminded the Commission that his proposal had been moved and adopted during the discussion on the USSR representative’s proposal.

The Commission adopted the Chinese amendment by 11 votes to 4, with one abstention.

The Chairman then put to the vote the United States amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) said his delegation attached very great importance to the principle of paragraph 6 of the report. He had personally listened to recordings of the discussion during the first meeting of the Commission and had been able to ascertain that the summary record of that meeting was a correct report of what had happened.

During the first meeting of the Commission, the USSR delegation had asked the Chairman to draw the Secretary-General’s attention to the fact that the representatives of the Byelorussian and the Ukrainian Soviet Socialist Republics had not arrived in time for reasons beyond their control and because of a violation of the agreement adopted by the General Assembly on 31 October 1947; it had also asked the Commission to call the Secretary-General’s attention to the necessity of taking measures to prevent a repetition of such incidents. After a short discussion, the USSR delegation had agreed to change its proposal so [5] that it would be the Commission itself and not the Chairman who brought those facts to the Secretary-General’s knowledge. The Chairman had then formally stated that, as there were no objections, the USSR proposal thus amended was adopted by the Commission.

The summary record of the first meeting, which recorded both his proposal and the decision of the Commission, had not so far given rise to any objection or correction.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) felt that it would be better to state clearly the reasons which had prevented him and the Ukrainian

representative from arriving in time for the beginning of the third session of the Commission, instead of saying that it was “for reasons beyond their control”.

THE CHAIRMAN pointed out that it would be completely outside the competence of the Commission to state that there had been violation of the agreement adopted on 31 October 1947 by the General Assembly. Speaking as representative of the United States, she said that, as some members of the Commission had expressed the opinion that Mr. Stepanenko and Mr. Klekovkin had been prevented from arriving in New York in time as a result of a violation of the said agreement, her delegation had moved an amendment to paragraph 6 of the report to make it clear that it was the opinion of “certain members” and not of the Commission itself.

MR. PAVLOV (Union of Soviet Socialist Republics) said it had never been maintained during the discussion on his proposal that the question was outside the Commission’s competence.

MR. WILSON (United Kingdom) felt that there had been a misunderstanding at the first meeting of the Commission. The USSR delegation had believed, in all good faith, that the Commission had decided that there had been violation of the agreement of 31 October 1947. On the other hand, the United Kingdom delegation believed, also in all [6] good faith, that the Commission had expressed no opinion on that question. His delegation would vote for the United States amendment, because it was certain that the Commission had not decided that there had been violation of the agreement.

MR. LEBEAU (Belgium) said he remembered very well that the Commission had adopted, by 10 votes to 1, the proposal to adjourn its work, on the clear understanding that, if the representatives of Byelorussia and the Ukrainian SSR had not arrived in time for the following meeting, their alternates would have the right to vote. The USSR delegation had then asked that the Commission should establish that there had been violation of the agreement of 31 October 1947. He had pointed out at the time that, as the question had been settled in its practical aspect, he could not vote in favour of the USSR resolution. Indeed, he believed that the Commission was incompetent to express its opinion on the question of the approval of the agreement concerning the seat of the United Nations and access to the United States.

He recalled saying that the incidents were serious; that they were not isolated incidents; that his delegation had heard of similar cases and that he thought it advisable that the Commission should authorize the Chairman to report those facts to the United States authorities and to stress how the Commission felt on the subject. It had been argued that it would be more advisable to have those observations forwarded by the Secretary-General and the Commission had agreed to that. It could not be said that the USSR resolution which asked that the Commission should establish violation of the agreement of 31 October 1947, had been adopted by tacit

consent. He personally would never have voted for the resolution if it had been put to the vote.

In his opinion the summary record of the first meeting was wrong when it stated that the USSR resolution had been adopted as there had been no objections. The Belgian delegation agreed with the observations made by the United States representative and would vote for her amendment.

[7]

MR. FONTAINA (Uruguay) said that, although he had not attended the first meeting, it seemed obvious to him that the Commission had unanimously deplored the regrettable incident which had happened and had expressed the hope that it would not happen again; furthermore, it seemed to him that there had been some confusion when a decision was taken on the opinion expressed by the USSR representative. It seemed that certain delegations would never have voted in favour of the USSR resolution, had they realized that it amounted to a kind of reprimand of the authorities of a Member State. It would be better therefore to state in the report that the Commission had regretted the incident and had brought it to the attention of the Secretary-General, without expressing any opinion on the international aspect of the question.

He formally moved the adjournment of the discussion on that point.

The Commission adopted the United States amendment to paragraph 6 of the report by 12 votes to 4.

MR. PAVLOV (Union of Soviet Socialist Republics) then proposed that the Commission should listen to the recordings of the discussion of the first meeting. It would thus be able to ascertain that the summary record of the meeting was correct.

THE CHAIRMAN, supported by MR. ORDONNEAU (France), stressed that the Commission would find it difficult to listen to recordings which gave the speeches in their original language without any interpretation.

The Commission rejected the USSR proposal by 10 votes to 4, with 2 abstentions.

MR. HOOD (Australia) wondered whether it was necessary to retain at the end of paragraph 6 of the report the following sentence from the resolution proposed by the USSR representative at the first meeting of the Commission: "and called the attention of the Secretary-General to the necessity of taking measures to prevent a repetition of such [8] incidents in the future."

THE CHAIRMAN reminded the Commission that Mr. Laugier, Assistant Secretary-General of the Department of Social Affairs, had attended that meeting and that it had been left to his discretion how to inform the Secretary-General of the fact that certain representatives could not arrive in time for the third session of the

Commission on Human Rights; that the Commission had expressed its fears in case such an incident happened again, and that it had expressed the wish that measures should be taken to prevent a repetition of such incidents in the future. The Commission had not decided by vote on the instructions it wished to give the Secretariat.

MR. MALIK (Lebanon) proposed that the drafting of the second sentence of paragraph 6 of the report should be changed as follows:

“The Commission drew the attention of the Secretary-General of the United Nations to the fact that these representatives could not arrive in time for the beginning of the third session of the Commission for reasons independent of their will, and that certain members felt the delay was in violation of the agreement adopted by the General Assembly on 31 October 1947; and to the necessity of taking measures to prevent a repetition of such incidents in the future.”

The Commission adopted the new draft by 13 votes to 1, with 1 abstention.

The Commission adopted paragraph 6 of the report as a whole by 10 votes to 4 with 2 abstentions.

...

[26]

...

Annex A

THE CHAIRMAN proposed the adoption of the title: “Draft United Nations Declaration on Human Rights.”

MR. LEBEAU (Belgium) stated his preference for the title: “Draft International Declaration on Human Rights”. The formula proposed by the Chairman was more restrictive; Mr. Lebeau felt that States which were not members of the United Nations but had applied for membership should also be able to conform to the Declaration.¹⁴⁰

It was decided by 11 votes to 4 to substitute the word: “International” for: “United Nations”.

THE CHAIRMAN proposed that the word: “on” in the English title of the Draft Declaration should be replaced by the word: “of”. She made it clear that she proposed that alteration for purely grammatical reasons.

¹⁴⁰ In accordance with E/CN.4/SR.81/Corr.1 of 2 July 1948, the second sentence of Mr. Lebeau’s remarks is deleted and replaced with: “However, there were a certain number of States which, through no fault of their own, were not Members of the United Nations. The wording ‘International Declaration’ had the advantage, first of having acquired some popularity with the public, and secondly of making it easier for the States, which Mr. Lebeau had in mind, to apply the Declaration.”

MR. MALIK (Lebanon) supported the Chairman's view. He thought that the word: "of" was preferable because a Declaration on, concerning or about Human Rights did not necessarily list all those rights, while the word: "of" indicated quite clearly that the list was complete.¹⁴¹

It was decided by 10 votes to none, with 4 abstentions, to substitute the word: "of" for the word: "on".

It was decided, by 14 votes to none with one abstention, to adopt the title "Draft International Declaration of Human Rights".

[27]

Preamble of the Declaration

THE CHAIRMAN recalled that the United States delegation had voted against certain articles of the Declaration, but that it would vote in favour of the Declaration as a whole. She added that all members of the Commission would have the opportunity to raise certain points again.

MR. VILFAN (Yugoslavia) reserved his Government's freedom of action.

MR. MALIK (Lebanon) read out the Preamble.

MR. LOUFI (Egypt) proposed that the French word "*populations*" in the penultimate line of the Preamble should be rendered in English as: "peoples".

It was decided by 14 votes to none, with 1 abstention.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) remarked that the Preamble as a whole had not been put to the vote at the previous meeting. There were considerable divergences between the Russian and English texts of the Preamble and his delegation was placed in an awkward position.

THE CHAIRMAN recalled that the Commission had adopted each paragraph of the Preamble separately and that, moreover, it had been understood that members of the Commission would check the accuracy of translations.

After a brief discussion on the agreement of the English and Russian texts the Preamble as a whole was adopted by 14 votes to none, with 4 abstentions.

Articles of the Declaration

MR. MALIK (Lebanon) read out the Declaration.

MR. WILSON (United Kingdom) asked that the commas in the English text of Article 5 should be omitted.

¹⁴¹ Pursuant to E/CN.4/SR.81/Corr.1 of 2 July 1948, the opening words of this sentence are replaced with: "MR. MALIK (Lebanon) and MR. LEBEAU (Belgium) supported the Chairman's view. They thought that the . . ."

Agreed.

MR. ORDONNEAU (France) proposed that the wording of the French text of paragraph 3 of Article 21 should be changed as follows: “*Toute personne peut librement former des syndicats et s’y affilier pour la défense de ses intérêts.*”^[*]

[*] This correction only affects the French text.

[28]

Agreed.

MR. ORDONNEAU (France) suggested that the word: “*aux*” should be submitted for the word “*les*” in the penultimate line of the French text of Article 27.^{*}

Agreed.

MR. WILSON (United Kingdom) suggested that the second word: “of” in the English text of the second paragraph of Article 27 should be omitted.^{**}

Agreed.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he would be unable to vote in favour of the Draft Declaration, which his delegation considered unsatisfactory. While it could not be said that the document contained nothing at all, since it did, in a somewhat vague way, reject certain generally accepted democratic concepts of fundamental rights; but it did nothing to ensure respect for human rights. Regardless of the insistence of the USSR delegation, the Commission had been unwilling to issue such a document as had been proposed by the USSR delegation on 4 and 27 May.

The chief faults of the Draft Declaration the Commission was about to vote lay in the absence of any effective measures to combat Fascism and Nazism and to protect against the possibility of their re-appearance; the deletion of all references to democracy; the rejection of the original article 31 and hence the limitation of certain rights; the absence of any provision for the implementation of human rights; and the rejection of any specific definition of the rights and obligations of individuals to the State.

Despite, however, the weak and inadequate document which was now before the Commission, the USSR delegation was confident that there would eventually emerge a Declaration which would effectively encourage the progress of democracy and the fight against Nazism and Fascism.

Mr. Pavlov asked to have his statement appended to the report of the Council as an expression of the minority view.

[*] This correction only affects the French text.

[**] This correction only affects the English text.

[29]

MR. VILFAN (Yugoslavia) associated himself with the statement of the USSR representative and supported his request that that statement should appear in the Commission’s report.

MR. STEPANENKO (Byelorussian Soviet Socialist Republic) expressed his whole-hearted support of the evaluation of the Draft Declaration given by the USSR

representative. He felt confident that the future would see a declaration which would be in accordance with the spirit and letter of democracy and the principles of the United Nations.

MR. KLEKOVKIN (Ukrainian Soviet Socialist Republic) stated that he would abstain from voting on the Draft Declaration as a whole, as it was not acceptable to his delegation.

In taking part in drawing up the Draft Declaration, he had borne in mind the desire of people throughout the world for freedom from war and enslavement. He had striven to have incorporated in the Declaration some clear provision which would enable the people of the world to live in peace, free from the threat of Fascism and destructive wars. That idea had not received the support of the Commission, and the Draft Declaration he was now asked to vote upon was therefore quite inadequate.

THE CHAIRMAN put to the vote the Draft Declaration as a whole.

The Commission approved the Draft Declaration by 12 votes, with 4 abstentions.

MR. CHANG (China) thought that the actual figures of the vote should be included in the Commission's report. The world should know that the Declaration produced after two years of serious work had obtained the support of twelve members, with four abstentions and no one opposed.

THE CHAIRMAN asked the Commission to vote upon the inclusion in its report of the USSR statement as a minority view. The proposal for its inclusion had been supported by the representatives of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic and Yugoslavia.

The Commission decided by 11 votes to 1, with 2 abstentions, to include the [30] USSR statement in the report.

A vote on the report of the Commission on Human Rights to the Economic and Social Council was taken by roll-call as follows:

In favour: Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, United Kingdom, United States of America, Uruguay

Abstaining: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

The report was adopted by 12 votes to none, with 4 abstentions.

MR. CARPIO (Philippines) explained that he would have voted for the adoption of the report, had he had the right to vote.

MR. QUIJANO (Panama) stated that his delegation deeply appreciated the honour of contributing to the drafting of such an important document.

Work on a Declaration on Human Rights had begun at San Francisco in 1945, on the proposal of the delegations of Mexico, Cuba and Panama. Panama had been the only country to submit a draft, and Mr. Quijano was pleased and proud to note that after months of arduous work the Commission had produced a Declaration which incorporated all the principles which had appeared in that original document.

The Draft Declaration seemed to him to combine brevity and clarity. Certain articles were perhaps rather long, and the document as a whole was not perfect. It did, however, represent a step forward in the road to perfection, and would, he thought, gain the recognition of the legislatures of the various countries of the world.

In conclusion, Mr. Quijano paid tribute to the Chairman, who had succeeded in instilling into the work something of the noble spirit of the late Franklin D. Roosevelt.

MR. FONTAINA (Uruguay) supported the statement of Mr. Quijano; he wished to stress that the representative of Panama had stated the views of all the Latin-American countries.

[31]

Out of respect for the USSR representative, whose work had been of the highest quality, Mr. Fontaina wished to explain that he had voted against the inclusion of the USSR statement in the report, not for any political reasons but for reasons of logic. Had Mr. Pavlov submitted an alternative draft declaration, he would gladly have voted for the inclusion of both draft declarations, as an expression of the majority and minority view.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he would hand in a list of all the texts proposed by the USSR to be appended to his statement.

MR. CHANG (China) expressed his appreciation for the great work of the Chairman.

In closing the third session of the Commission on Human Rights, the Chairman thanked the Commission for its patience and hard work, and expressed her satisfaction at the results achieved. On behalf of the Commission, she thanked the members of the Secretariat whose work had contributed to the success of the session.

The meeting rose at 7:20 p.m.

E/800

28 June 1948

Report of the Third Session of the Commission on Human Rights Lake Success, 24 May to 18 June 1948

...

[2]

1. The third session of the Commission on Human Rights opened on 24 May 1948 at the interim Headquarters of the United Nations, Lake Success. The Commission held thirty-six plenary meetings and terminated its work on 18 June 1948.

2. The following representatives of Member Nations on the Commission attended: *Chairman: Mrs. Franklin D. Roosevelt (United States) Representative. Vice-Chairmen: Dr. P. C. Chang (China) Representative; Professor Cassin (France) Representative. Rapporteur: Dr. Charles Malik (Lebanon) Representative. Members: Mr. J. D. L. Hood (Australia) Alternate; Mr. R. Lebeau (Belgium) Alternate; Mr. A. S. Stepanenko (Byelorussian Soviet Socialist Republic) Representative; Mr. Herman Santa Cruz (Chile) Representative; Mr. Omar Loutfi (Egypt) Representative; Mrs. Hansa Mehta (India) Representative; Mr. M. de J. Quijano (Panama) Alternate; Mr. S. Lopez (Philippines) Alternate; Mr. M. Klekovkin (Ukrainian Soviet Socialist Republic) Representative; Mr. A. P. Pavlov (Union of Soviet Socialist Republics) Alternate; Mr. Geoffrey Wilson (United Kingdom) Alternate; Mr. Jose Mora (Uruguay) Representative; Mr. Josa Vilfan (Yugoslavia) Alternate.*

3. Mrs. Amalia C. Ledon (Mexico), Vice-Chairman of the Commission on the Status of Women, was present and participated without vote when sections of the draft of the International Bill of Human Rights relating to the particular rights of women were being considered.

4. The following representatives of specialized agencies were also present at the session: [3] Mr. R. W. Cox and Dr. R. A. Metall, International Labour Organization; Mr. Pierre Lebar, United Nations Educational, Scientific and Cultural Organization; Miss B. Howell and Mr. G. E. Hill, World Health Organization; Mr. Oliver Stone, Preparatory Commission for the International Refugee Organization.

5. The following consultants from non-governmental organizations were also present: *Category A:* Miss Toni Sender and Mr. Peter Garvan, American Federation of Labor; Mr. August J. A. van Istendael, International Federation of Christian Trade Unions; Mr. Joseph Button and Miss Julia Stuart, World Federation of United Nations Associations; *Category B:* Dr. Salomon Goldsmith, Dr. Isaac Lewin and Dr. M. L. Munk, Agudas Israel World Organization; Miss Juliet H. Drennan, Catholic International Union for Social Service; Dr. O. Frederick Nolde, and Mr. Sartell Prentice Jr., Commission of the Churches on International Affairs; Mr. Moses Moskowitz, Consultative Council of Jewish Organizations; Mr. Barnett Janner, Mr. A. G. Brotman, and Mr. Arthur C. A. Liverhant, Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations; Mrs. Marian Baker van den Berg, International Alliance of Women; Miss Marguerite Strahler, International Committee of the Red Cross; Mrs. W. F. Parsons, International Federation of Business and Professional Women; Miss Catherine Schaefer, International Union of Catholic Women's Leagues; [4] Dr. Janet Robb, Liaison Committee of Women's International Organizations; Dr. F. R. Bienenfeld and Mr. Stephen D. Wolkowicz, World Jewish Congress; Miss Elizabeth A. Smart, World Women's Christian Temperance Union; Miss Anne Guthrie, World's Y.W.C.A.

6. Although its session opened on 24 May, the Commission was unable to begin its work on substantive questions until the afternoon of 26 May because of the necessity for the members to have ample time to examine the various documents and owing to the delay in arriving at Lake Success of Mr. Stepanenko, Representative of the Byelorussian Soviet Socialist Republic, and of Mr. Klekovkin, Representative of the Ukrainian Soviet Socialist Republic. The Commission drew the attention of the Secretary-General of the United Nations to the fact that these Representatives could not arrive in time for the beginning of the third session of the Commission for reasons independent of their will, and that certain members felt the delay was in violation of the agreement adopted by the General Assembly on 31 October 1947; and to the necessity of taking measures to prevent a repetition of such incidents in the future.

7. Mr. Herman Santa Cruz (Chile) participated from the 49th to the 52nd meetings; Mr. Jose Mora (Uruguay) from the 46th to the 52nd meetings; and Prof. René Cassin (France) from the 46th to the 73rd meetings. Mr. Santa Cruz was represented from the 54th to the final meeting by Mr. J. Larrain; Mr. Mora was represented from the 53rd to the final meeting by Mr. Roberto Fontaina; and Prof. Cassin was represented from the 73rd to the final meeting by Mr. Pierre Ordonneau; these alternates were given the right to vote. In various meetings during the session Mr. G. Jockel (Australia) substituted for Mr. Hood, Mr. L. Steyaert (Belgium) for Mr. Lebeau, Dr. T. Y. Wu (China) for Dr. Chang, Dr. E. Azkoul (Lebanon) for Dr. Malik, and Mr. Jose D. Ingles and Mr. V. D. Carpio (Philippines) for Mr. Lopez; these alternates were not given the right to vote. The Representative of Iran did not participate in the session. An observer representing the Government of New Zealand attended meetings of the session.

8. The Commission re-elected Mrs. Franklin D. Roosevelt (United States of America) as Chairman, Dr. P. C. Chang (China) as Vice-Chairman, and Dr. Charles Malik (Lebanon) as Rapporteur. It elected Prof. René Cassin (France) as Second Vice-Chairman.

9. Prof. John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Commission.

[5]

10. The Commission adopted the Provisional Agenda (document E/CN.4/88) as its Agenda.

11. The expression of the views of the Members of the Commission is embodied in the summary records of the plenary meetings (documents E/CN.4/SR.41 to E/CN.4/SR.81).

12. *Plan of Work in Regard to the International Bill of Human Rights*

The Commission had before it the Report of the Drafting Committee on an International Bill of Human Rights (document E/CN.4/95), which met at Lake Success from 3 to 21 May 1948. It decided to begin its work by dealing with the Draft International Declaration on Human Rights (Annex "A" of document E/CN.4/95), since the Drafting Committee already had carefully examined the Draft International Covenant on Human Rights; and after finishing this part of its work to proceed to examine the question of implementation and finally the Draft International Covenant on Human Rights in detail.

13. The Commission examined the proposed Articles for the Declaration, article by article, taking into consideration the amendments proposed by various Representatives. However, it did not have the time to consider the question of implementation, or the Covenant, in detail. On the basis of its deliberations as recorded in the summary records, the Commission prepared and adopted by twelve votes for, none against, and four abstentions,* the Draft International Declaration of Human Rights appended to this Report as Annex "A", which it submits to the Economic and Social Council.

14. The Commission also decided to forward to the Economic and Social Council the Draft International Covenant on Human Rights as it appeared in Annex "B" of the Report of the second session of the Drafting Committee on an International Bill of Human Rights; this Draft International Covenant on Human Rights, which the Commission did not have the time to examine, is appended to this Report as Annex "B".

[*] 1. The Representatives of Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, the United Kingdom, the United States of America, and Uruguay voted in favour of the Draft International Declaration of Human Rights; no Representatives voted against it; the Representatives of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics and Yugoslavia abstained; and the alternate for the Representative of the Philippines stated that if he had the right to vote, he would vote in favour.
2. The Representative of the Union of Soviet Socialist Republics requested that a statement relating to the Draft International Declaration of Human Rights, prepared by him, be appended to this Report; this statement is attached hereto as an Appendix. The Representatives of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic, and Yugoslavia associated themselves with this statement.

[6]

15. In addition, the Commission decided to refer the Council to Annex "C" of the Report of its second session (document E/600) and to various other proposals which have been made with respect to the question of implementation; these proposals, which have been distributed separately, are listed in this Report in Annex "C".

16. The Commission recognized that in approving the Draft International Declaration of Human Rights it had not completed its task of preparing an International Bill of Human Rights, which consists of a Declaration, a Covenant, and Measures of implementation. It agreed that the Declaration would form only part of the International Bill of Human Rights, and that completion of a Covenant, containing measures of implementation, is essential.

17. The Commission decided that further work on the question of implementation was of the utmost importance and that therefore it should embark upon this

work together with work on the Covenant, at its fourth session on the basis of the Report of the Working Group on implementation which met during the second session of the Commission (Annex C of document E/600) taking into account the other documentation contained or listed in Annexes “B” and “C” of the present report. The Commission recommended to the Economic and Social Council that a meeting of the Commission be held early in 1949 for the completion of the Covenant and the measures of implementation.

18. *The Prevention of Discrimination and the Protection of Minorities*

The Commission decided to postpone reconsideration of the terms of reference of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, as it had decided to do at its second session, until it had drawn up its draft International Bill of Human Rights, including implementation, it expressed the view that there was no need for the Sub-Commission to meet prior to the next session of the Commission, since the Draft International Bill of Human Rights had not been completed at this session; and decided that reconsideration of the terms of reference of the Sub-Commission would be on the agenda of its next session.

...

[10]

Annex A

Draft International Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights resulted, before and during the second world war, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2

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

[11]

Article 3

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

Article 4

1. No one shall be held in slavery or involuntary servitude,
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Everyone has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 7

No one shall be subjected to arbitrary arrest or detention.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

Article 10

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Article 12

1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

[12]

Article 13

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

Article 14

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.
2. Marriage shall be entered into only with the full consent of both intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection.

Article 15

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

Everyone has the right to freedom of assembly and association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.
2. Everyone has the right of access to public employment in his country.
3. Everyone has the right to a government which conforms to the will of the people.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in

accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.

[13]

Article 21

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.
2. Everyone has the right to equal pay for equal work.
3. Everyone is free to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and wellbeing of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.
2. Mother and child have the right to special care and assistance.

Article 23

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.
2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Article 24

Everyone has the right to rest and leisure.

Article 25

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Article 26

Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

[14]

Note: The Commission has not considered the following article since measures of implementation were not in its third session:

“Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.”

[15]

[Annex B consists of the Draft International Covenant on Human Rights prepared by the Drafting Committee.]

[37]

Appendix

**Statement Made by the Delegation of the Union of Soviet Socialist Republics,
on 18 June 1948, in the Commission on Human Rights on the Results of the
Commission’s Work**

The Soviet delegation considers that the draft Declaration on Human Rights which has been drawn up by the Commission contains various provisions which do not give rise to objections and are, generally speaking, acceptable.

The delegation of the Union of Soviet Socialist Republics, together with certain other delegations, consistently defended these provisions in the Commission, thus safeguarding the democratic rights and freedoms of the peoples against any attempt to weaken or diminish them and, in a number of cases, the wording of the relevant articles containing these provisions, as drafted earlier at Geneva, was largely retained.

In doing so, the Soviet delegation considered that the repetition in the present Declaration on Human Rights of certain old democratic principles and provisions

with which mankind has long been familiar is useful because in many countries of the world, more particularly in the case of¹⁴² the populations of trust and other non-self-governing territories fundamental human rights and freedoms are still not applied, although they should be applied.

Furthermore, at a time when the resurgence and propagation of anti-democratic, Fascist and other reactionary regimes constitutes a real danger for many¹⁴³ countries in the world, it is undoubtedly useful in a document such as the Declaration on Human Rights to restate some of the more¹⁴⁴ important democratic rights and freedoms, to the destruction of which¹⁴⁵ Fascist states, organizations and elements directed some of their efforts during the war and are still continuing to do so.

It should also be noted that the draft Declaration introduces into the complex of fundamental human rights certain new rights, which are not included in old constitutions, but which are typical of the new, modern, democratic constitutions (above all, in the Constitution of the Union of Soviet Socialist Republics) – rights such as the right to work, leisure, education, social security, etc. This is the positive aspect of the draft.

Since, however, the problem is to make an appraisal of the¹⁴⁶ Declaration as a whole, the Soviet delegation is bound to say that the draft is unsatisfactory, and is not calculated to guarantee either human rights and freedoms or respect for them.

In spite of the unremitting insistence of the Soviet delegation and certain other delegations, the majority of the Commission did not see fit¹⁴⁷ to prepare a document which would meet the fundamental requirements proposed for the Declaration on behalf of the Government of the Union of Soviet [38] Socialist Republics by the Soviet representative on the Drafting Committee on 4 May and at the Commission's meeting on 27 May this year.

As is known, these requirements were as follows:

- (a) The Declaration on Human Rights should ensure respect for human rights and fundamental freedoms for all, without distinction as to race, nationality, social position,¹⁴⁸ religion, language or sex, in accordance with the principles of democracy, national sovereignty and political independence for each State.
- (b) The Declaration on Human Rights should not only proclaim rights, but should guarantee their implementation, taking into account, of course, the economic, social and other peculiarities of each country;

¹⁴² The words "more particularly in the case of" were replaced with "and particularly in respect of" by E/800/Corr.1.

¹⁴³ The word "many" was replaced with "a number of" by E/800/Corr.1.

¹⁴⁴ The word "more" was replaced with "most" by E/800/Corr.1.

¹⁴⁵ The word "in particular" was added by E/800/Corr.1. ¹⁴⁶ The word "draft" was added by E/800/Corr.1.

¹⁴⁷ The words "see fit" were replaced with "wish" by E/800/Corr.1.

¹⁴⁸ The words "social position" were replaced with "status in society" by E/800/Corr.1.

- (c) The Declaration on Human Rights should define not only the rights but also the obligations of citizens towards their country, their people and their State.

The Soviet delegation wishes to draw special attention to the following specific serious omissions and shortcomings in the Declaration and the work of the Commission:

- (a) The ignoring of such a fundamental requisite of democracy as the struggle against Fascism and Nazism, against the activities of Fascist and Nazi elements and their abuse of democratic rights and freedoms and against the danger of the expansion, retention and resurgence of Fascist regimes; and, in particular, the failure to prohibit Fascist and Nazi propaganda and to enforce responsibility for such propaganda;
- (b) The failure to enlarge the democratic rights and freedoms of the peoples and to defend some of the most important democratic principles in the Declaration; the omission from the Declaration (except for one paragraph in Article 27) of any mention even of democracy and the actual concepts of “the democratic state”; “democratic principles”, etc.
- (c) The limitation and restriction of a number of democratic rights and freedoms in the Declaration as compared with the Geneva draft; the refusal to maintain consistently the principle of full equality for all, without distinction as to race, nationality, social position,¹⁴⁹ religion, sex and language; the omission from the Declaration of the provision regarding the right of every person to his own national culture, to be taught in school in his native language and to use that language in the press, at meetings, in courts and other public offices; the failure to wage a¹⁵⁰ serious fight against racialism and discrimination, to prohibit the propaganda of racial and national [39] hostility, and to lay down the principle that such propaganda should be punishable.
- (d) The failure, in most of the articles of the Declaration, to refer to ensuring and guaranteeing the implementation of rights and freedoms and to concrete forms, means and methods of applying the provisions of the Declaration; the unrealistic, formal and legal¹⁵¹ nature of the Declaration (especially¹⁵² Articles 21, 22, 24 and 25, relating to economic and cultural rights).
- (e) The failure to include in the Declaration any concrete obligations whatsoever on the part of the individual towards his native land, the people to which he belongs and the State; the direct ignoring in the case of several serious questions (freedom of information, freedom of transit) of these obligations,

¹⁴⁹ The words “social position” were replaced with “status in society” by E/800/Corr.1.

¹⁵⁰ The word “a” was replaced with “any” by E/800/Corr.1.

¹⁵¹ The words “formal and legal” were replaced with “purely formal and legalistic” by E/800/Corr.1.

¹⁵² The word “any” was added by E/800/Corr.1.

on the one hand and on the other hand, of the rights and sovereignty of States, and of the relevant provisions of the United Nations Charter concerning non-interference in the domestic affairs of States Members.

The Soviet delegation is certain that, instead of this weak and, in many ways, absolutely unsatisfactory Declaration, a Declaration will eventually be drawn up which will effectively serve the cause of historical progress, democracy, lead to a real improvement in the lives of millions of simple people throughout the world, as well as serve the aims of the fight against the danger of a recrudescence of Fascism and Nazism and, which will finally lead to an assertion¹⁵³ of the principles of equality of nations, real respect for human rights and freedoms and the strengthening of international peace.

The Soviet delegation has attached to this statement, for inclusion in the Commission's report, a list also of the main proposals and amendments to articles of the Declaration which were submitted by the Soviet delegation, but which were not adopted by the Commission. A perusal of this list will in itself serve largely to explain why the Soviet delegation must abstain from voting on the draft¹⁵⁴ Declaration as a whole.

[40]

Basic Proposals Advanced by the Soviet Delegation at the Third Session of the Commission on Human Rights and Rejected by the Commission during its Consideration of the Draft International Declaration on Human Rights

1. Draft Preamble to the Declaration Proposed by the Delegation of the Union of Soviet Socialist Republics

“In accordance with the principles proclaimed in the Charter of the United Nations of respect for human rights and basic freedoms for all without distinction as to race, sex, language and religion and for the dignity and value of the individual;

In order to ensure observance of all these rights and freedoms and with a view to promoting social progress and improving the living conditions of the peoples;

With a view also to promoting the development of friendly relations between nations;

The General Assembly recommends the following ‘Declaration of Human Rights’ to all States Members of the United Nations to be used at their discretion both in adopting¹⁵⁵ appropriate legislative and other measures, and in their systems

¹⁵³ The word “assertion” was replaced with “establishment” by E/800/Corr.1.

¹⁵⁴ The word “prepared” was added by E/800/Corr.1.

¹⁵⁵ The word “adopting” was replaced with “carrying out” by E/800/Corr.1.

of upbringing and education and¹⁵⁶ in extending the provisions of this Declaration to the peoples of States Members themselves and to the populations of all the territories in respect of which the States concerned discharge the function of the guiding¹⁵⁷ and administering authority (populations of trust and other non-self-governing territories).”

2. Addition to Article 2

After the words “property or other status” add “class”¹⁵⁸.

3. Addition to Article 4

“Slavery and the slave trade are prohibited in all their aspects; and all violations of this principle, whether they be of an overt or clandestine nature, must be punished according to law.”

4. Addition to Article 7

“Anyone deprived of his liberty has the right to be informed without delay of the grounds for his detention. Anyone who is arrested, detained or imprisoned is entitled to have immediately established¹⁵⁹ by the judicial authorities the¹⁶⁰ legality of his deprivation of liberty, and also to have his case brought before the court without undue delay or to be liberated.

No one may be imprisoned on account merely of failure to carry out his contractual obligations.

Everyone is entitled to compensation for illegal arrest or deprivation of liberty.”
[41]

5. Alterations¹⁶¹ and Supplements to Article 8

Insert the following before the text as adopted by the Commission:

“All people are equal before the law. Judges must be independent and answerable only to the law. Legal procedure¹⁶² in all States must be based on democratic principles.

¹⁵⁶ The word “and” was replaced with “as well as” by E/800/Corr.1.

¹⁵⁷ The word “guiding” was replaced with “ruling” by E/800/Corr.1.

¹⁵⁸ The word “class” was replaced with “status in society” by E/800/Corr.1.

¹⁵⁹ The words “have immediately established” were replaced with “the immediate establishment” by E/800/Corr.1.

¹⁶⁰ The word “of” was added by E/800/Corr.1. Obviously, the intent was for the word “of” to be placed before “the legality”.

¹⁶¹ The word “Alterations” was replaced with “Amendments” by E/800/Corr.1.

¹⁶² The word “procedure” was replaced with “proceedings” by E/800/Corr.1.

Hearings in all courts must be public, with the exception of cases for which provision is made by law for the purpose of complying with public morality or in the interests of national security. The accused shall be entitled to the services of a defence counsel in court.

Should the accused be unfamiliar with the national language, he must be enabled to acquaint himself with all the details of the case by means of¹⁶³ an interpreter, and he must be given the right to speak in court in his native language.”

6. Amendment to Article 9

Before the word “trial” delete “public”, and after the word “defence” add: “. . .and which must be public except in cases involving considerations of the protection of public morality or national security”.

7. Amendment to Article 10 (supplement to the text as adopted)

“and everyone is entitled to legal defence against such interference”.

8. Amendment to Article 11

- (a) Paragraph 1: After the words “residence within the borders of each State”, add: “in accordance with the laws of that State”.
- (b) Paragraph 2: After the words “to leave any country, including his own”, add: “in accordance with the procedure laid down in the laws of that country”.

9. Amendment to Article 12

Replace paragraph 1 by the following:

“The right of asylum is guaranteed to all persons persecuted in connection with their activity in defence of the interests of democracy or for their scientific activity or for their participation in the struggle for national liberation”.

10. Amendment to Article 13

The following wording is proposed:

“No one shall be arbitrarily deprived of his nationality, i.e. in any other manner or in any other case than as provided for in the laws of the country concerned”.

¹⁶³ The words “details of the case by means of” were replaced with “documents of the case through” by E/800/Corr.1.

11. Amendment to Article 14

Paragraph 2: Add after the first sentence of the text as adopted:

“Men and women shall enjoy equal rights both during marriage and when divorced”.

[42]

At the end of the third paragraph add the words “by society and the State”.

12. Amendment to Article 15

Replace the text as adopted by:

“1. Everyone has the right to own property alone as well as in association with others in accordance with the laws of the country where such property is situated.

2. No one shall be arbitrarily, i.e. illegally, deprived of his property.”

13. Amendment to Article 16

Replace the text as adopted by the following:

“Everyone must be guaranteed freedom of thought and freedom to perform religious services in accordance with the laws of the country concerned and the requirements of public morality”.

14. Text of Article 17

Replace the text as adopted by the following:

“1. In accordance with the principles of democracy and in the interests of strengthening international collaboration and world peace, everyone must be legally guaranteed the right freely to express his opinions and, in particular, freedom of speech and the press and also freedom of artistic expression. Freedom of speech and the press shall not be used for purposes of propagating Fascism, aggression and for provoking hatred as between nations.

2. For the purpose of enabling the wider masses of the people and their organizations to give free expression to their opinions the State will assist and co-operate in making available the material resources (premises, printing presses, paper, etc.) necessary for the publication of democratic organs of the press.”

14a. Second amendment to Article 17

The following changes should be introduced into the text as adopted:

“Everyone has the right to freedom of thought and its expression; wherein is included freedom of conviction and freedom of access to sources of information and means of communication for the transmission of information in the territory of his own country and also in other countries, *within limits corresponding to the interests of national security*”.

15. *Alternative text of Article 18*

Replace the text as adopted by the following:

“In the interests of democracy a legal guarantee must be provided for¹⁶⁴ freedom of assembly and meeting, street processions, demonstrations and the organization of voluntary societies and unions¹⁶⁵. All societies, unions and other organizations of a Fascist or anti-democratic nature, as well as their activity in any form, are forbidden by law under pain of punishment”.

[43]

16. *Amendment to Article 19*

Include the following in paragraph 3:

“The State shall consider, the will of the people as expressed in elections, which shall be conducted periodically and must be universal and equal and be held by secret ballot”.

17. *Alternative Text of Article 20*

Replace the text as adopted by the following:

“It is the duty of the State and society to take all the necessary measures, including legislative measures, to ensure for every individual a real opportunity to enjoy all the rights mentioned in the Declaration. In view of the special importance of the economic, social and cultural rights enumerated in Articles 21 to 26 of the Declaration and, in particular, of the right to social security, it is considered desirable that they be implemented by means of both national efforts and international co-operation, due regard being had to the social, economic and political organization and resources of each State”.

18. *Amendment to Article 21*

After the words “right to work . . . and pay” add: “and the right to protection against unemployment. The State and society shall guarantee this right by measures calculated to provide everyone with the broadest opportunities for¹⁶⁶ useful work, and to prevent unemployment”.

18. (a) *Second amendment Add*

“Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work.”

¹⁶⁴ The words “a legal guarantee must be provided for” were deleted by E/800/Corr.1.

¹⁶⁵ The words “must be guaranteed by the law” were added by E/800/Corr.1.

¹⁶⁶ The words “taking part in” were added by E/800/Corr.1.

18. (b) Proposed supplementary clause to Article 21

“Women shall enjoy equal advantages in their work with men and shall receive equal pay for equal work.”

19. Amendment to Article 22

Include the right to social insurance by inserting in paragraph 1 (after the words “. . . In circumstances beyond his control”) the words:

“and also (if he is gainfully employed) to social insurance at the expense of the State or of his employers, in accordance with the legislation of each country”.

In addition, add the following points also to Article 22 in the form of two independent sentences:

2. “Everyone has the right to medical care and assistance in case of illness.”
3. “Everyone has the right to decent housing.”

“It is the duty of the State and society to take all necessary steps, including legislation, to ensure that everyone has a real opportunity of enjoying all these rights.”

[44]

20. Amendment to Article 23

Add in paragraph 1 after the first sentence:

“Access to education must be open to all without any distinction as to race, sex, language, material status or party allegiance.”

21. Amendment to Article 24

Add to the text adopted:

“Everyone shall be guaranteed rest and leisure either by law or by contractual agreements, particular provision being made for the reasonable limitation of working hours and for periodical paid holidays.”

22. Amendment to Article 25

Add to the text adopted:

“The development of science must serve, the interests of progress and democracy and the cause of international peace and co-operation.”

23. Amendment to Article 26

At the beginning of the sentence: “Everyone is entitled to a good social and international order in which. . .” delete the word “good” (or, in the second variant of the text, the word “just”).¹⁶⁷

24. Amendment to Article 27

Add (after the words “democratic society”):

“. . . and also the corresponding requirements of the democratic State”.

25. Add to the text adopted a separate new paragraph in place of the corresponding Article 31 of the Geneva text rejected by the Commission

“All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and¹⁶⁸ to use that tongue in the press, at public meetings, in the courts and in other official premises”.

E/SR.180¹⁶⁹

21 July 1948

Summary Record of the One Hundred and Eightieth Meeting [of the Economic and Social Council]

Held at the Palais des Nations, Geneva, on Wednesday,
21 July 1948, at 3 p.m.

President: DR. CHARLES MALIK

9. Continuation of the discussion on working arrangements for the session.

Human Rights Committee

THE PRESIDENT announced that the first question before the Council was whether a Committee of the Whole on Human Rights should be established. There was the further question of the establishment of committees on procedure and co-ordination.

¹⁶⁷ The paragraph is replaced, by E/800/Corr.1, with the following: “At the beginning of the sentence: ‘Everyone is entitled to a social and international order of such a kind that the rights and freedoms set out in this Declaration may be fully realized.’”

¹⁶⁸ The word “also” was added by E/800/Corr.1.

¹⁶⁹ The document is taken from *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 19 July–28 August 1948, pp. 60–74.

In connexion with those subjects the United Kingdom delegation had raised the question of the size of committees.

MR. THORN (New Zealand) believed that the Social Committee would have too heavy a programme if there were no separate Human Rights Committee. The items which would go before the Human Rights Committee would be items 17 (Report of the third session of the Commission on Human Rights), 18 (Final Act of the United Nations Conference on Freedom of Information) and 19 (draft Convention on the Crime of Genocide). The sole intention of the New Zealand delegation was to expedite the Council's business.

MR. SANTA CRUZ (Chile) recalled that he had suggested at the previous meeting that a decision could be taken on the establishment of a Human Rights Committee when the Report of the Commission on Human Rights came up for discussion. He would therefore vote against the establishment of such a committee, on the understanding that a final decision could subsequently be taken by the Council.

MR. DE CLERMONT-TONNERRE (France) said that the French delegation would vote for the establishment of a Human Rights Committee and pointed out that the Committee would probably not be called upon to sit until after the Economic Committee had finished its work. Only ten of the items on the agenda were concerned with economic problems, while the Social Committee had seventeen items to consider; it was therefore likely that the Social Committee would sit long after the Economic Committee had finished its work. Consequently, it would be advisable to set up a committee to examine questions concerning human rights in order to lighten the Social Committee's task.

MR. MCNEIL (United Kingdom) proposed that the Human Rights Committee should not be a committee of the whole, but should be limited to twelve members, to be nominated by the President. He put forward the proposal not in the interests of the United Kingdom, but in those of [61] the smaller delegations represented on the Council. The appointment of a third committee of the whole would result in no saving of time, because three committees could not meet simultaneously.

MR. D'ASCOLI (Venezuela) felt that the Human Rights Committee would have to consider important items, in the discussion of which all delegations should be represented; it should therefore be a committee of the whole.

MR. P. C. CHANG (China) and MR. WILGRESS (Canada) supported the Venezuelan representative's view.

After MR. ARUTIUNIAN (Union of Soviet Socialist Republics) and MR. LANGE (Poland) had expressed themselves in a similar sense, MR. MCNEIL (United Kingdom) withdrew his proposal.

The Council decided, by 12 votes to 3, with 2 abstentions, to set up a Human Rights Committee as a committee of the whole.

...

[74]

Item 17

THE PRESIDENT pointed out that the Australian delegation maintained its proposal regarding item 17 (Report of the third session of the Commission on Human Rights).

MR. ARUTIUNIAN (Union of Soviet Socialist Republics) emphasized that item 17 was a report made to the Council by the Commission on Human Rights, which had been set up under Article 68 of the Charter. The Commission had now completed its work, and had prepared a Declaration on Human Rights which it had submitted in its report for consideration by the Council.

The Australian delegation wished the matter to be referred direct to committee without prior examination and discussion in plenary. The Soviet Union delegation thought that the matter could and should be discussed in plenary first. The adoption of the Australian proposal would mean that what should be one of the major achievements of the Council would be relegated to the background where few people would notice its existence.

MR. SANTA CRUZ (Chile) felt that item 17 should be considered in plenary, as matters of principle were involved. He could not, therefore, support the Australian proposal.

THE PRESIDENT put to the vote the Australian proposal that item 17 should be sent direct to committee.

The proposal was adopted by 13 votes to 5; it was decided to refer item 17 to the Human Rights Committee.

E/965

13 August 1948

Note by the Representative of Canada

It is the view of the Canadian Delegation that the Economic and Social Council would be failing in the discharge of its duty if it passed on to the General Assembly

without adequate study the subjects referred to the Human Rights Committee for the Seventh Session of the Council. Accordingly, the Canadian Delegation believes that the Human Rights Committee should continue to meet until its work is completed. In order, however, that the work of the Council on other subjects should not be impeded thereby, the Canadian Delegation is opposed to giving more than normal priority to the Human Rights Committee in the arranging of meetings. The Canadian Delegation considers that the other committees and the Council itself should proceed expeditiously to deal with all other subjects on the agenda, so that they can be disposed of as soon as possible, thereby releasing those members of delegations whose presence is not required to deal with the subjects referred to the Human Rights Committee. When all other work is disposed of the Human Rights Committee could then meet twice a day until its work is finished, after which it could resolve itself in Plenary Session to complete the work of the Seventh Session of the Council. The Canadian Delegation is of the opinion that this is the best means of assuring that the Council carries out the responsibilities which by the Articles of the Charter and the various resolutions of the General Assembly are placed upon it.

E/SR.201¹⁷⁰

17 August 1948

Summary Record of the Two Hundred and First Meeting
[of the Economic and Social Council]

Held at the Palais des Nations, Geneva, on Tuesday,
 17 August 1948, at 9.30 a.m.

President: DR. CHARLES MALIK

**47. Continuation of the discussion on working arrangements
 for the session¹ (E/965 and E/979)**

...

^[1] Resumed from the 199th meeting.

[417]

[MR. LANGE (Poland)] With regard to the work of the Human Rights Committee, the Polish delegation had already expressed the view, in that Committee, that its work could be shortened considerably, if it deferred consideration of the two remaining draft conventions on freedom of information until the eighth session, and passed on to the discussion of human rights and genocide. The Declaration on Human Rights

¹⁷⁰ The text of the document is taken from *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 19 July–28 August 1948, pp. 412–32.

and the Convention on the Crime of Genocide were well drafted and had reached an advanced stage, whereas the three draft conventions concerning freedom of information were less advanced. Even the first of them, which was of a technical nature, had taken up an inordinate amount of the Committee's time.

...

[418]

MR. KAMINSKY (Byelorussian Soviet Socialist Republic), speaking as Chairman of the Human Rights Committee, said that many representatives were evidently labouring under a delusion concerning that Committee's work. . .

Should the Council decide to transmit the documents on all three items to the Assembly, it should pay special attention to the draft Convention on the Crime of Genocide and the draft Declaration on Human Rights. He could not agree that all the draft conventions referred to the Committee were equally important. Perhaps the Assembly could understand the difficulties with which the Committee had been faced.

...

[420]

...

MR. SANTA CRUZ (Chile) recalled that he had opposed the setting up of a Committee on Human Rights when the Council had discussed that point.² His experience in the Commission on Human Rights had taught him that the Council and its Committees would not be able to study in detail, in five weeks, either the draft Convention on the Crime of Genocide or the draft Declaration on Human Rights. The Council should take note of the work of the Conference on Freedom of Information, of the Commission on

[²] See *supra*, 179th and 180th meetings.

[421]

Human Rights and of the *Ad Hoc* Committee on Genocide, make a general statement on them, and transmit it, together with any reservations made by delegations, to the General Assembly, which would discuss the documents in detail before adopting them. But his previous suggestions had been rejected.

He agreed with the representative of the Byelorussian Soviet Socialist Republic that the Human Rights Committee would not be able to complete its examination of the three conventions before 27 August.

He thought that the Council should adopt course A, as outlined by the President. If that were done he suggested that human rights should be dealt with first. Some representatives believed that all the items referred to the Human Rights Committee were equally important, but that the promotion for the respect for human rights was one of the basic purposes of the United Nations laid down by the Charter.

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MR. HODGSON (Australia) recalled that in the discussion which had taken place in the Human Rights Committee the previous afternoon, it had been argued that the Council was under a specific obligation to examine the three draft conventions on freedom of information. He thought there was no need to remind the Council that it had a similar, but prior, obligation in respect of the Declaration on Human Rights.

The Australian delegation was deeply interested in the Declaration on Human Rights and in the draft Convention on the Crime of Genocide, and was perturbed at the proposal to transmit them to the General Assembly after only general statements in plenary by individual representatives. His delegation was opposed to the irregular discrimination against two such important items which was clearly involved in the United Kingdom proposal.

...

Replying to Mr. Phillips (United Kingdom), Mr. Hodgson (Australia) said that he agreed with the suggestion that certain items should be deferred. The Council should direct the Human Rights Committee to complete examination of the draft Convention on the Gathering and International Transmission of Information, then to pass on at once to the Declaration on Human Rights, [427] and finally to the draft Convention on the Crime of Genocide; all that work should be completed by 27 August.

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[MR. MENDÈS-FRANCE (France)] Thirdly, the United Kingdom representative had proposed that the draft Declaration on Human Rights and the draft Convention on the Crime of Genocide should be transmitted to the General Assembly as they stood. The French delegation accepted that proposal for the reasons given by the representative of Poland – namely, that the texts on human rights and genocide had been fully studied and were satisfactory in form.

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[MR. P. C. CHANG (China)] The United States representative had said that the action of the General Assembly should not be restricted and that the different items referred to the Human Rights Committee should be treated with equal respect. Those principles were not contravened by course A suggested by the President, which would have the effect of returning to the plenary Council the three items relating to freedom of information, human rights and genocide, perhaps in different degrees of unpreparedness but none of them fully prepared. But the degree of unpreparedness did not affect the status of the texts. If the Human Rights Committee were instructed to consider the three draft conventions on freedom of information, the draft

Declaration of Human Rights and the draft Convention on the Crime of Genocide over the next ten days, their state of preparedness might be improved; but it could not be hoped that, within ten days, the five documents could be fully examined and recommendations made on them.

He agreed with the representative of Chile that human rights was the most important question before the Committee. The implications of the Charter, and especially of Article 55, could not be clearly and comprehensively brought out without a declaration on human rights. Genocide and freedom of information were subjects of great importance, but they had not the same close connexion with the Charter. If course A were adopted, the Council should deal first with human rights, then with genocide, and finally with freedom of information, however far that item had advanced in the Human Rights Committee. In that connexion, he felt that it would be unwise to limit the Human Rights Committee too strictly to one meeting per day.

MR. EREN (Turkey) said that it was generally agreed that none of the items before the Human Rights Committee was of greater importance than the others. But in view of the shortage of time it was inevitable that the Council should single out one of those items for treatment, without prejudice to the importance of the other two. As freedom of information was already under discussion in the Committee on Human Rights, he supported the United Kingdom proposal.

MR. ARUTIUNIAN (Union of Soviet Socialist Republics) stated that his delegation fully supported the right of all representatives to make, and to defend against criticism, any amendments they wished. But if the delay in the work of the Human Rights Committee was to be ascribed to obstruction, as it had been by the French representative, [431] then the responsibility lay with the French, United Kingdom and United States delegations, which had introduced basic amendments to the recommendations of the Commission on the Status of Women and to the draft Convention on the Gathering and International Transmission of News. In the case of article 5 of that draft Convention, for example, the Soviet Union amendments had not related to the original text, but to the joint amendment submitted by the delegations of France, the United Kingdom and the United States. The purpose of the Soviet Union amendments had usually been to restore the original text. The tendency of those delegations was to regard any opposition to their views as obstruction; that attitude was inconsistent and provocative.

He repeated that the Soviet Union delegation was interested in any proposal to speed up the work of the Council. He agreed that that work should be completed by 25 or 27 August. But it could not agree to freedom of information being given priority over genocide and human rights. It was only natural that the Human Rights Committee should deal first and foremost with human rights.

MR. PHILLIPS (United Kingdom) accepted the French amendment to his proposal.

THE PRESIDENT asked whether the Council wished the Human Rights Committee to resume work before a decision had been reached on the Council's business in plenary.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) felt that there was no point in the Human Rights Committee meeting before the Council had reached a decision on a question which might fundamentally alter its existing programme of work.

MR. THORP (United States of America) felt that the Council's decision would be unlikely to alter the immediate programme of work of the Human Rights Committee. There seemed to be general agreement that examination of the draft Convention on the Gathering and International Transmission of News, which was then under consideration by the Committee, should be completed.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said that he had raised no objection when, contrary to normal procedure, items under consideration in the Human Rights Committee had been discussed in plenary at a time when no members of the Committee could be present. He did feel it necessary, however, to object to the argument advanced by the United States representative. Until a decision had been reached by the Council on whether the Committee should continue its examination of the draft Convention on the Gathering and International Transmission of News, the Committee would not know what to discuss and might well enter into a debate that would duplicate the discussion in plenary.

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THE PRESIDENT put to the vote the proposal that the Human Rights Committee should continue its work during plenary meetings devoted to consideration of working arrangements for the session.

The proposal was adopted by 12 votes to 2, with 4 abstentions.

The meeting rose at 1:30 p.m.

E/SR.202¹⁷¹

17 August 1948

Summary Record of the Two Hundred and Second Meeting
[of the Economic and Social Council]

Held at the Palais des Nations, Geneva, on Tuesday,
 17 August 1948, at 3 p.m.

President: DR. CHARLES MALIK

¹⁷¹ The text of the document is taken from *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 19 July–28 August 1948, pp. 432–49.

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**49. Continuation of the discussion on working arrangements
for the session¹ (E/979, E/984 and E/Conf.6/79)**

...

^[1] Resumed from the 201st meeting.

[435]

MR. P. C. CHANG (China) explained that he had made two informal proposals: (1) to examine in plenary, and not in the Human Rights Committee, first the draft Declaration on Human Rights and then the draft Convention on the Crime of Genocide...

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There being no objection, THE PRESIDENT announced that the Council would adopt a method of work conforming to the principle laid down in course A (E/979).¹⁷²

He then put to the Council the Danish representative's suggestion that each delegation should be given an opportunity to state its final position on items 17, 18 and 19, in one short statement in plenary.¹⁷³

The suggestion was adopted.

...

E/1009**24 August 1948**

**Brazil: France:
Draft Resolution**

The Economic and Social Council

Takes Note of the Report of the Third Session of the Commission on Human Rights (Document E/800) and the Annexes thereto; and

¹⁷² "Course A", set out in E/979, provided that the draft Declaration would be withdrawn from the Council's Human Rights Committee and returned to the agenda of the Plenary Economic and Social Council.

¹⁷³ Item 17 was the Report of the Commission on Human Rights.

Decides

1. to transmit the said Report and the Annexes thereto to the General Assembly of the United Nations;

2. to submit the Draft International Declaration drawn up by the Commission to the United Nations General Assembly in order to enable the latter, at its next regular session, to pass judgment on this first element of the International Bill of Human Rights promised to the peoples of the world by the signatories of the United Nations Charter at San Francisco; and

3. to convene a session of the Commission on Human Rights for the beginning of 1949 and to invite the Commission to fulfil the terms of reference entrusted to it in connection with the Bill of Human Rights by completing as soon as possible the formulation of the Draft Covenant on Human Rights as well as the provisions relating to implementation.

E/SR.215¹⁷⁴

25 August 1948

Summary Record of the Two Hundred and Fifteenth Meeting
[of the Economic and Social Council]

Held at the Palais des Nations, Geneva, on Wednesday,
 25 August 1948, at 10 a.m.

President: DR. CHARLES MALIK

70. Report of the third session of the Commission on Human Rights¹ (E/800, E/800/Corr.1, E/800/Add.1, E/AC.27/W.1, E/857 and E/1009)

THE PRESIDENT drew attention to the decisions taken at the 202nd plenary meeting regarding the treatment of items 17, 18 and 19 of the agenda. He reminded the Council that delegations would have an opportunity to make one general statement of position on each of those items, and that there would be no further debate. He then called for general statements on the Report of the third session of the Commission on Human Rights (E/800).

MR. THORP (United States of America) said that in the opinion of his delegation the draft Declaration of Human Rights was one of the most important documents which had ever come before

^[1] See Supplement No. 2 (E/800).

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¹⁷⁴ The text of the document is taken from *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 19 July-28 August 1948, pp. 642-60.

the Council, and that it constituted an urgent and essential step in the achievement of the purposes of the United Nations and the implementation of the pledge which all Members had taken under Article 56 of the Charter.

Although the draft Declaration of Human Rights (E/800) was not a legislative document, it was much more than a statement of hopes and desires; it clearly and positively asserted the human rights which were the birthright of mankind everywhere. It was probable that in no country in the world had those rights been fully attained by all people, and the Declaration would therefore serve as a beacon towards which all nations should strive.

The United States delegation supported the Declaration, in the spirit expressed by Abraham Lincoln with reference to the United States Declaration of Independence. Quoting Lincoln's words, he emphasized that it was upon the basis of the Declaration of Independence that the founders of the American Republic had written the Constitution of the United States, which had given legal force to the high principles embodied in the original Declaration of Independence. By the same token, the great constitutional instruments of the French Republic would have been unthinkable without the *Déclaration des Droits de l'Homme*, and British laws and customs derived their inspiration from Magna Carta. It was his first hope that, at some future date, historians would be able to rank the Declaration before the Council among those great documents of history.

It was to be hoped that the Declaration of Human Rights, once approved by the General Assembly, would be the next step towards a Covenant on Human Rights embodying obligations binding in international law, with provisions designed to ensure the implementation and enforcement of those obligations.

The Declaration was only part of the International Bill of Human Rights which it was expected would emerge from the labours of the Commission, the Economic and Social Council and the General Assembly. In addition to the framing of a Covenant on Human Rights, special conventions should be drafted to deal with specific issues such as the protection of stateless persons. The conventions on freedom of information were also an elaboration and implementation of certain aspects of the Declaration of Human Rights.

The Declaration before the Council was not a perfect document, and his delegation would have liked to see a number of changes made by the Council; it might bring that matter up again in the General Assembly. But realizing that the Declaration was a symposium of the views of many nations, his delegation valued it for that very reason, and felt that the result of the Commission's combined effort was something better than any one nation could have produced.

The Council was considering a joint effort, which must be carried on jointly by all Members. [644] The American people firmly believed in that joint effort and felt that it was a step towards the realization of their best hopes for the future, a world of

peace and plenty in which all human beings would be able to develop their gifts and abilities to the full.

MR. VAN DER MANDELE (Netherlands) said that the Netherlands Government had followed with the greatest interest the proceedings which had led to the drafting of the Declaration of Human Rights, and drew attention to the fact that a national commission for the study of human rights had been set up in the Netherlands. That commission had held several meetings, and as a result of its work the Netherlands Government had submitted a number of observations to the Commission on Human Rights.²

The Netherlands delegation felt that a Declaration of Human Rights without a corresponding Covenant with provisions for implementation would have little meaning; it therefore considered that the Declaration should be referred back to the Commission for later submission to the Council together with a draft Covenant and the proposals for its implementation. If, however, the Council decided otherwise, the Netherlands Government considered that it would be useful if some of its observations were placed on record.

Referring to article 27, paragraph 2, of the Declaration, he said that his Government felt that the religion and beliefs of others should also be mentioned. Tolerance had been a pillar of the constitutional and social structure of the Netherlands for hundreds of years, and in the seventeenth and eighteenth centuries, when those who practised a religion other than that of the head of the State had been persecuted in many countries, nonconformists had been able to practise their religion in peace, if not openly, in the Netherlands. The people of the Netherlands therefore attached the highest importance to the principle of religious toleration and felt that it should be incorporated in the Declaration.

The Netherlands Government warmly welcomed article 14 of the Declaration, but felt that mention should be made of the source from which its principles derived. His Government also deeply appreciated the proposal submitted by the Lebanese delegation, that article 13 of the Declaration should recognize the Creator as the source of certain inalienable rights,³ and regretted that that proposal had not been accepted by the Commission. It was to be hoped that it would again be put forward when the relevant article was discussed at a later stage; if the Lebanese delegation did not wish to take the matter up his own delegation would do so.

THE PRESIDENT, speaking as the representative of Lebanon, assured the Netherlands representative

[²] See document E/CN.4/82/Rev.1.

[³] See *Official Records of the Economic and Social Council*, third year, sixth session, Supplement No. 1, page 23.

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that the proposal in question would be submitted again by his delegation.

MR. GUERREIRO (Brazil) said that the adoption of a Declaration on Human Rights might lead to considerable changes in present concepts of international law.

Extreme caution was advisable if the Council wished to avoid disappointing those who expected a just solution, imbued with a progressive spirit, of the problem of human rights.

The Council had before it, in addition to the draft Declaration, a draft Covenant and a number of suggestions for implementation (E/800, annex C). Neither the Covenant nor the suggestions for implementation, which would be the most important parts of the International Bill of Human Rights, had been sufficiently studied. Hence his delegation, and apparently other delegations also, were in some doubt as to the attitude they should adopt. He would like to see initial steps taken immediately to guarantee certain human rights. If those steps were not taken, the United Nations would be lagging behind ideas which had been accepted even before the San Francisco Conference. The United Nations Charter had laid down, three years previously, specific legal obligations in respect of human rights and fundamental freedoms which Members were obliged to respect; hence such rights had been removed from the purely domestic jurisdiction of States, and had become of international concern.

Since the Charter, by its nature, could not provide specific means of promoting respect for human rights in practice, there remained only two ways of achieving real progress:

- (1) To delimit and define as clearly and unequivocally as possible the fundamental rights and freedoms of the individual; and
- (2) To create effective means of safeguarding those rights and freedoms internationally.

He was inclined to believe that the Declaration could serve a useful purpose only if it provided a clear and detailed definition of rights and freedoms. The principles contained in such a Declaration might lend themselves to interpretations varying according to the needs of the case. If the terms of the Declaration were not sufficiently clear, the most diverse and unfortunate conclusions might be drawn from them and used for propaganda purposes.

The only efficient procedure would be to approve at the same time the Declaration, the Covenant and the measures for implementation, since those three instruments made up an organic whole.

However, since the Declaration had been sufficiently studied for the General Assembly to be able to take a decision on it, his delegation considered it desirable that that decision should be taken at the next session. It nevertheless reserved the right to urge, at the appropriate time, that several of the amendments proposed by the Brazilian Government should be adopted.

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He then gave the following examples of his Government's views:

Article 1: His Government appreciated the advantage of adopting formulas to impress public opinion. Nevertheless, it saw no reason why a Declaration on Human Rights should be introduced by philosophical postulates taken from outdated theories of natural law. It considered that the Declaration on Human Rights might profitably omit article 1 altogether and begin with article 2.

Article 5: Personality before the law should be recognized in an article preceding any enumeration of human rights. No one could have rights or obligations until he had been recognized as a person in the eyes of the law;

Article 7: Article 5 of the texts adopted at the second session of the Commission⁴ was preferable, because it was fuller;

Article 10: A clause should be inserted ensuring the protection of the individual against threats, intimidation and oppression;

Article 13: Further improvement was required, although the article was already an advance on article 15 of the earlier text;

Article 14: His Government wished the following clause to be included: "Parents shall have parental authority over their minor or non-emancipated children, and shall have the obligation to provide for their sustenance and education";

Article 18: The permissible restrictions on freedom of association should be explicitly stated; the limitations mentioned in article 27 were too general to fulfil the purpose desired.

In conclusion, he expressed the hope that the Council would adopt the draft resolution submitted jointly by the Brazilian and French delegations (E/1009).

MR. KATZ-SUCHY (Poland) said the Polish delegation had wholeheartedly supported all measures adopted by the General Assembly and the Economic and Social Council with a view to the preparation of the Declaration and the Covenant and had welcomed the setting up of a Commission on Human Rights.

His delegation regretted that a Covenant on Human Rights had not been completed, as that document would possess the legal status of an international treaty. The character of the Declaration of Human Rights was controversial, and although some delegations considered that it should be treated as an authentic, interpretation of the principles stated in the Charter, others felt that it should be regarded only as an expression of general principles of law recognized by the various nations. The Commission on Human Rights had accepted the Declaration as possessing moral value only – as creating a standard for education. The way in which it had been drafted showed clearly that the Declaration was not calculated either to guarantee or

^[4] See *Official Records of the Economic and Social Council*, third year, sixth session, Supplement No. 1, annex A.

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to implement human rights and freedoms, and it was therefore unsatisfactory to the Polish delegation. It was a statement of general principles; the preamble was entirely

abstract; the aims were not clearly stated; and it was open to interpretation as justifying intervention in the domestic affairs of States.

It was not sufficient merely to say that human rights had been violated during the war. It should be emphasized that violation of human rights and contempt of human dignity lay at the very roots of fascist ideology. The Declaration must condemn fascism first of all, and then make it impossible for fascism to rise again.

In its present form, the Declaration made no reference to democracy; he felt that the Commission on Human Rights had purposely omitted that word. The declarations of the Allied Powers, the Yalta Declaration and the Potsdam Agreement had made it clear that fascism must be destroyed. His delegation could not understand, therefore, why the Declaration contained no reference to democracy and to the eradication of fascism.

For the Polish people, the existence of the United Nations and the Declaration of Human Rights were the outcome of a struggle in which they had been engaged for many years, and which had cost the lives of 6,000,000 Polish citizens. The fight for freedom still continued in the mountains of Greece and elsewhere in the world, and fascism still reigned in Spain. The Declaration failed to emphasize the great difference between a democratic State and a fascist dictatorship.

The fact that human rights involved the duties of the individual towards his neighbour, his family, his nation and society was not clearly stated in the Declaration. Article 27 stated that everyone had duties to his community, and created the impression that those duties were simply debts of gratitude, the performance of which was left to the discretion of the individual. A Declaration of Human Rights should strike a balance between the rights and the duties of an individual, and he considered that the document before the Council was no more than a compilation of traditional human rights and freedoms of the old liberal school of thought. Articles 19 and 26 should both be redrafted. The Declaration should also include an article stating the right of every person to retain his or her native language and culture, and the Polish delegation would press for the addition of such an article.

It was not known whether the Declaration would apply to non-self-governing and trust territories, or how it would be implemented. The Polish delegation felt that it should guarantee all economic rights, the right to work, rest and education, and that it should be drafted in simple language which everyone could understand.

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Pointing out that it had been necessary to rebuild the structure of the Polish State, he said that one of the first acts passed by the Polish Parliament had been a declaration of the rights of citizens. The principles of that declaration were being applied in Poland in the political, economic and social fields, and the Polish delegation would like to see them applied universally. It felt that the General

Assembly should draw up a Declaration which would serve the cause of progress and democracy, which would lead to the betterment of the lives of people all over the world, and which would define the new relationship between individuals and society.

MR. CASSIN (France) said that the effective defence and protection of human rights was one of the cornerstones of the independence of nations and the maintenance of peace. He regretted that the Commission on Human Rights had not had sufficient time to carry out more completely its work on the preparation of an International Bill of Human Rights, as it had been requested to do two years previously. President Truman had promised, at the end of the San Francisco Conference, that an International Declaration of Human Rights would be prepared. That promise had been reviewed at every United Nations Assembly. Although the Commission on Human Rights had not been able to complete its mission entirely, it had at least prepared a draft Declaration of Human Rights. The draft Covenant was also almost completed, but the Commission was somewhat behind schedule in working out measures for international implementation and application. That part of its task was much more delicate.

The question before the Council was whether to wait until the whole task was finished, or to proceed by stages.

He believed that the Council had its own responsibilities in that sphere, and that despite the lack of time available, it had the power and the means to fulfil its main tasks, there were two steps which it should take: (1) to transmit the Commission's Report with its annexes and appendix to the General Assembly, so that the latter could take a decision on it; and (2) to call a session of the Human Rights Commission early in 1949, so that it might complete as rapidly as possible both the draft Covenant and the proposed measures of implementation.

His delegation urged that the draft Declaration of Human Rights should be submitted to the Assembly. The possible objections might be expected to be twofold. The first, raised by some members of the Commission, was that the three parts of the International Bill of Human Rights formed a complete and indivisible whole and could not be separated. It was feared that if the Assembly adopted only the Declaration, world public opinion would entertain false hopes. It was argued that such a Declaration would be of purely theoretical value. That was a dangerous objection, because it only left the alternative of all or nothing. Moreover, it was based upon the idea that time would help; but [649] time worked only for those who worked themselves. If it hesitated, the Council would ill requite the patience of its members, of the bodies with consultative status which, over a long period, had assisted the work of the Human Rights Commission, of the specialized agencies and, above all, of the peoples who needed to know that the promises made during the war would be kept.

He recalled that when Germany had been questioned in the thirties, not far from the Palais des Nations,¹⁷⁵ about her treatment of the German Jews, she had replied that every man was master in his own home. As soon as the idea of human rights had been mentioned, Germany had left the League of Nations, which could do nothing to remedy the situation because it had no power to take action. There must be no possibility that it could be said that the fate of nationals of any country did not interest the community of nations; for if any nation oppressed its subjects, it was obviously capable of extending oppression to its neighbours, and even further. That was the overriding reason why the Declaration of Human Rights should be voted on without the least delay.

The second possible objection to the course advocated by the French delegation was that the draft Declaration was not yet completely ready – that it might be improved once the general principles had been further defined in the course of drafting the Covenant. But though the text of the Declaration was not perfect, it should be remembered that the United Nations would be free to improve it later. The French Government had itself noted several defects, the chief one being, in its opinion, that the scope of the Declaration was not sufficiently universal or sufficiently international.

All the delegations had taken as their starting point the spirit of the declarations contained in their domestic legislation and the classic statements on human rights. However, it would be wrong to say that the Declaration of Human Rights, in the form in which it had been prepared by the Commission, was only a replica of various existing declarations. From the first, the Commission had taken up a position diametrically opposed to the Hitlerian concept, by proclaiming the equality of all human beings without distinction as to race. That point of view might have tremendous consequences if the logical conclusions were drawn from it.

However, when it dealt with the international order, certain defects could be seen in the Declaration. As it stood, it did not give sufficient prominence to rights which could not be enumerated in national declarations on the subject. At a time when there were so many stateless persons who were compelled to seek asylum somewhere, it should certainly be stated that one of the duties of the United Nations, as representing the community of nations, was to guarantee the right of asylum. It was the duty [650] of the United Nations, in agreement with each of its members, to seek means to ensure that there should be no human beings without roots in any national group.

The scope of other rights recognized in previous declarations had been narrowed or distorted, for example in the clauses referring to arbitrary arrest and equal pay.

¹⁷⁵ Cassin is referring to the Evian Conference, held in 1938. The French town of Evian, which is located near Geneva, hosted an international conference on the plight of Jewish refugees from Nazi Germany.

Equal pay presupposed equality of purchasing power if it were to become a reality, and that could not be achieved by decree. The Declaration gave no place to scientific and artistic pioneers, although those who contributed to the advance of civilization were entitled to have their interests protected.

Nevertheless, the plan and content of the Declaration were not merely a confirmation of old individual freedoms, but expressed two new ideas which showed that the lessons of two world wars had been taken to heart. It guaranteed both the economic and social rights of the individual. It gave form, too, to a third idea, by stating that no one had a right to use the freedoms it proclaimed for the destruction of freedom, thus laying down the principle that democratic regimes, too, had the right to defend themselves. The concept of democracy was mentioned, although apparently not often enough to satisfy everyone.

There was no doubt, therefore, that a step forward would be achieved if the Council placed the draft Declaration before the General Assembly with the request for a decision. His delegation was convinced that it was the duty of the Council to take a practical step, even if it were only to carry out the first part of the task entrusted to it at San Francisco.

A decision taken in 1948 would be all the more timely because three or four important conferences dealing with human rights were being held during the year, and the States taking part in them included non-members of the United Nations. Moreover, dates had their own importance, and a Declaration of Human Rights promulgated in 1948 would mark the centenary of 1848, a year in which a vast movement of emancipation, rich in international consequences, had shaken Europe, and in which slavery had been abolished in all the overseas territories under the flag of France. A decision on the Declaration of Human Rights might hasten the completion of the International Bill of Human Rights as a whole. In order to achieve that aim, the Council might convene the Human Rights Commission at the beginning of 1949, when it would be stimulated in its work on the Covenant and on implementation by the debates on human rights which would have taken place in the General Assembly.

The French Government considered that the Council had no alternative but to transmit the draft Declaration of Human Rights to the General Assembly, and it proposed that it indicate to the Assembly the links existing between that Declaration [651] and the Charter of the United Nations. It would be dangerous to tell the peoples that the Declaration lacked full legal validity and merely represented a beacon guiding humanity towards the final goal. The Declaration of Human Rights was a complement of the Charter which could not be included therein because of the lengthy preparation it had required. It was a clarification of the Charter and a basic instrument of the United Nations, having all the legal force of such an instrument. No one could disregard with impunity the principles it proclaimed.

The French Government reserved the right to propose that the General Assembly should (1) invite all States to take early action to bring their laws and practices into line with the Declaration of Human Rights and to set up the administrative and judicial instances of appeal necessary to ensure respect for human rights; and (2) recall the need for pursuing the study of conventions intended to ensure the practical observance of human rights and recommend the adoption of such conventions.

In that connexion, it was necessary to point out that the question of human rights had several aspects which should each be the subject of special conventions. The specialized agencies concerned would be the most competent bodies for the preparation of such conventions. If the draft Declaration of Human Rights were submitted to the Assembly separately, it would still be possible to establish a link between the Declaration and the work which the Human Rights Commission had yet to complete.

With regard to the draft resolution prepared by the Secretariat (E/AC.27/W.1), he wished to state that his Government was following attentively the work of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. France had just prepared, on the basis of proposals made by the International Labour Organization and of its own metropolitan legislation, a new labour code applicable to non-self-governing territories, the aim of which was to prevent discrimination. At the current stage of its work the Sub-Commission did not seem to have a sufficiently concrete task. The French delegation hoped that the Council would request the Human Rights Commission to revise the Sub-Commission's terms of reference so that it could accomplish more useful work. The procedure of asking governments to reply to communications brought to their attention in accordance with paragraph (e) of Council resolution 75(V) was in many ways imperfect, and should only be considered as a provisional procedure. As to the treatment of the replies, his delegation approved paragraph 3 of the resolution prepared by the Secretariat; it also supported the amendment in paragraph 5 of the same document, regarding alternates for members of the Commission. Those members had been chosen from lists of candidates designated by their governments; if a member was unable to be present at meetings, it would be better to choose a new one rather than appoint an alternate having the right to speak but not to vote.

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In conclusion, he expressed the hope that the Council would adopt the draft resolution submitted jointly by the French and Brazilian delegations (E/1009).

MR. THORN (New Zealand) observed that the protection of human rights and fundamental freedoms was a question with which New Zealand was much concerned. His Government's interest therein had taken a material form. It had

forwarded to the Commission on Human Rights comments⁵ on the draft Declaration and Covenant prepared at the second session of the Commission. Moreover, New Zealand had sent a qualified observer to the third session of the Commission. His Government therefore felt that it was in a position to understand the intrinsic complications and difficulties of the question.

Members of the United Nations had reached varying stages of economic and social development; their internal structures did not conform to a single pattern; and their philosophies had developed from different historical backgrounds. Consequently, the New Zealand delegation believed that however desirable the early adoption of a Bill of Human Rights might be, it was preferable not to move too fast. Sufficient time should be allowed for each government to consider the views and comments of other governments, for differing views to be reconciled, and for the greatest possible measure of agreement to be achieved. Delay would be preferable to the early adoption of texts which Members might have cause, on reflection, to regret.

The New Zealand delegation had intended to ask the Council to refer the draft Declaration of Human Rights to governments for their comments. Those comments could have been reconsidered by the Commission at its fourth session and there would have been some assurance that the Declaration, when it came before the General Assembly, would have been a generally acceptable document. However, because of the delay in the work of the Human Rights Committee, that course had not been immediately possible. It was nevertheless satisfactory that the Council did not intend to refer the Declaration to the General Assembly with a recommendation for its approval.

The New Zealand delegation felt that the discussion in the General Assembly should be of a general nature only. The Declaration should not be adopted until it had been reconsidered by the Commission in the light of detailed comments by governments. It might then be possible to present an acceptable draft to the 1949 Assembly.

^[5] See document E/CN.4/82/Add.12.

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The report of the Commission had not been issued until 28 June, and governments, particularly those not represented on the Commission, had not had an opportunity to consider it in detail. The Declaration dealt expressly, or by implication, with practically every field of human activity. Time was required to examine its significance in relation to domestic laws and practices.

The New Zealand Government had two further reasons for not wishing action to be taken at the coming Assembly. It had frequently been emphasized that the Declaration would not be legally binding. It was the Covenant which would create legal obligations. The New Zealand delegation hoped that the original plan – that

Declaration and Covenant should be adopted at the same time – might be adhered to. If the Declaration were adopted by itself, there was less likelihood of a Covenant ever being concluded.

In the second place the existence of the Declaration by itself would give it greater importance than had originally been intended. Although the majority of the members of the Human Rights Commission had agreed that the Declaration would have no legally binding effect, there were at least two members who had claimed for it a weight beyond that given to a General Assembly resolution. There was a very real danger that the Declaration, intended to be a statement of principles only, might be used for the purpose of defining provisions of the Charter. On the other hand, if the Covenant existed side by side with the Declaration, there could be no question as to which document created legally binding obligations.

The New Zealand Government considered that the Declaration of Human Rights should not be adopted by the coming General Assembly. The Assembly should hold a general discussion and then refer the Declaration to governments, asking them to submit comments to the Commission on Human Rights.

The Commission should be asked to consider those comments and also to proceed with its work on the Covenant and on implementation measures, with a view to all three parts of the Bill of Human Rights being discussed together at the 1949 General Assembly.

MR. SOERENSEN (Denmark) thought that insufficient time had been left for governments to consider the draft Declaration. The Commission's report had been issued only three weeks before the opening of the session, as the New Zealand representative had noted. The procedure now adopted would leave Governments a very short time to consider it. Nevertheless, a matter of such importance, within the competence of a number of different government departments, should be examined in great detail.

The Danish delegation would not formally propose postponement, although other good reasons might have been adduced, including the fact that the Declaration was only part of the proposed International Bill of Human Rights. The Declaration should not be isolated from the other parts [654] of the Bill. If it were, the conclusion might be drawn that the Declaration should be only *provisionally* examined by the Council and the General Assembly and that definite action should be postponed until the Covenant and the proposals for implementation had been placed before the Council.

The Declaration had one serious shortcoming. The draft prepared by the second session of the Commission on Human Rights⁶ had included a special clause regarding minority rights. The text before the Council contained no special reference to minority rights, and the report of the Commission did not indicate the reasons for the omission. It was true that article 2 stipulated that the rights and freedoms set forth in the Declaration should be recognized without distinction of

race, colour, sex, language, religion, political or other opinion, property or other status, or national or social origin; and when read in connexion with other articles in the draft, that article might be considered to give national minorities a right to constitute own associations, form their own political parties, and establish their own schools. But it was unsatisfactory that a Declaration intended to be a guide for world public opinion should not expressly state the rights of minorities.

The Declaration should embody either a general clause similar to that proposed in article 31 of the former draft, or at least a special clause referring to the focal question of education, which added to the rights proclaimed in article 23 the rights of persons belonging to racial, national, religious or linguistic minorities to establish their own schools and to impart and receive teaching in the language of their own choice.

The right of asylum, dealt with in article 12, was one with which the Danish Government had always been in sympathy. It had never refused asylum to any refugee who was in personal danger. Nevertheless Denmark, situated at one of the cross-roads of Europe and exposed to a great influx of refugees in times of political upheaval, felt that her acceptance of the article must be conditional upon adequate international measures being taken for the eventual distribution of refugees among all countries able to absorb them.

The Danish delegation was sincerely interested in the future of the Declaration, and although it recognized the urgency of the problems involved, it was anxious that there should be no negligence in its preparation. It was important that the document finally adopted by the General Assembly should stand for many years to come as a true and the full expression of the high ideals to which the United Nations had already pledged themselves in the Charter.

On behalf of the Canadian delegation MR. STEPHENS (Canada) congratulated the Commission

^[6] See *Official Records of the Economic and Social Council*, third year, sixth session, Supplement No. 1, annex A.

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on Human Rights on the draft Declaration before the Council. For the first time in history an international body had been able to produce a comprehensive enunciation of the rights of mankind. That fine statement of principles would certainly influence the course of legislation in States which considered themselves, or would come to consider themselves, bound by it.

Early in 1948, the Canadian Senate and House of Commons had established a Joint Parliamentary Committee on human rights which had examined the draft Declaration as it then was, and had been able to report on it in highly favourable terms.¹⁷⁶ The present draft Declaration could not, however, be considered the final

¹⁷⁶ Canada, Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms, *Minutes of Proceedings and Evidence*, Ottawa: King's Printer, 1947; Canada, Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms, *Minutes of Proceedings and Evidence*, Ottawa: King's Printer, 1948.

and perfect text. The third session of the Commission had improved the previous draft, but more remained to be done and in due course the Canadian delegation would have suggestions to make.

Meanwhile, it was the Canadian delegation's view that the preamble to the Declaration might be written more simply and directly. There were too many "whereases" and "ands". At the appropriate time, the Canadian delegation might wish to propose some substantive changes to the preamble.

The Canadian delegation fully agreed with the views of the Netherlands representative in regard to Article 1, and was glad that the Lebanese delegation to the General Assembly could be expected to introduce a suitable amendment. No doubt the Canadian delegation to the General Assembly would be anxious to support such an amendment.

The Canadian delegation was not convinced of the necessity to include articles 5 and 23 in the Declaration. The second paragraph of Article 23 enunciated some of the purposes of education and might have been more appropriate in a UNESCO resolution. The reference to "incitement to discrimination" in article 6 was vague and should either be clarified or deleted. Article 10 might be covered by a slight elaboration of article 3. In articles 20–22 the Declaration went beyond its purpose and became, in effect, a declaration of governmental responsibilities in the social field. A simple general statement of the right to social security would have been preferable.

Those were minor criticisms, however, and did not detract from the admiration which the Canadian delegation felt for the Declaration in general. It would support the Declaration, with the necessary modifications, in the conviction that its adoption would add to the sum total of human dignity, happiness and decency.

Finally, the Canadian delegation emphatically supported the French delegation's view that the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities should not meet until after the next session of the Commission on Human Rights. It would be undesirable for the Sub-Commission to meet before its terms of reference had been revised.

MR. PÉREZ PEROZO (Venezuela) believed that the General Assembly's consideration of the draft Declaration would lead to some much needed [656] improvements. Such improvements were required, because the Declaration would be the instrument by which the United Nations would proclaim its faith [*sic*] fundamental human rights.

The Venezuelan delegation would have preferred the Declaration to be accompanied by a Covenant defining precise obligations. It realized, however, why the Commission had been unable to submit all three parts of the Bill of Human Rights – Declaration, Covenant and Measures for implementation – at the same time.

It was satisfactory to note that the Declaration included not only human rights long recognized in other historic documents, but also new rights, such as the right to

work, the right to education and the right to social security. Those additional rights had become necessary because of the ever-increasing part which the individual played in collective life. They had been recognized in the domestic legislation of many countries, but needed to be proclaimed by the community of nations.

The draft Declaration left something to be desired, especially in the matter of form. The preamble followed the oratorical style of older documents. It should be written much more simply. The reference in the third paragraph to rebellion as a last resort, would have been more appropriate in a resolution of the General Assembly.

There also appeared to have been a systematic exclusion of any reference to the state, throughout the Declaration. The Declaration was of course primarily concerned with the rights of the individual. Nevertheless, the essential problem was to reconcile individual rights with the rights of the State. In that respect the former draft had been more logical.

Article 3 of the Declaration referred to the "right to life". That right should have been more explicitly defined. It should have been stated, for example, that the right to life existed from the moment of conception, and that the incurably ill also had a right to life.

It was understandable that the Declaration should not include all human rights. There was therefore, perhaps all the more reason to state that it should not be considered as an exhaustive recital. The Declaration could not then be interpreted as denying rights not enumerated.

The Venezuelan delegation favoured immediate transmission of the Declaration to the General Assembly, in which all members of the United Nations were represented. Further delay could not be justified. The peoples of the world expected results soon.

MR. EREN (Turkey) expressed the great interest of his country in the work of the Commission on Human Rights and its appreciation of the draft Declaration. The Declaration included all the principles which had ennobled man since the time of Plato, and for the first time brought them together on an international plane. It was encouraging to reflect that after two world wars men of all creeds and climes had been able to devise a common standard of rights for all mankind. The Turkish delegation generally approved [657] of the Declaration, all the principles of which were in conformity with the spirit of the Turkish Constitution.

During the second session of the Commission on Human Rights, there had been a tendency to use declaratory language, on the assumption that the Covenant would be mandatory while the Declaration would imply no legal obligation. The Commission's third session had, in general, followed the same lines, but not without introducing some controversial phraseology. The contrast between the absolute rights proclaimed in the Declaration and the conditions for their application stated in the Covenant appeared to some delegations to be incongruous; the Turkish

delegation thought it would be necessary to effect some reconciliation. It was not so much a matter of substance as of legal form.

There might be two ways of dealing with the question. One would be to aim at greater consistency between corresponding articles of the Covenant and the Declaration; but that might weaken the language of the Declaration. The other would be to add to the Declaration an article referring specifically to the Covenant.

MR. PAVLOV (Union of Soviet Socialist Republics) referred to the appendix to the Report of the Commission on Human Rights, in which the views of his delegation on the draft Declaration were expressed.

The Soviet Union delegation considered that the draft Declaration contained various provisions which were, generally speaking, acceptable. Together with certain other delegations, it had consistently defended those provisions in the Commission, thus safeguarding the democratic rights and freedoms of the peoples against any attempt to weaken or diminish them; in many cases, the wording of the articles in question, as drafted at the second session of the Commission, had been largely retained.

The Soviet Union delegation had considered that the repetition of certain old democratic principles and provisions with which mankind had long been familiar was useful, because in many countries of the world, and more particularly in trust and other non-self-governing territories, fundamental human rights and freedoms were still not respected.

Furthermore, at a time when the resurgence and propagation of anti-democratic, fascist and reactionary regimes constituted a real danger for many countries, it was undoubtedly useful, in a document such as the Declaration of Human Rights, to restate some of the more important democratic rights and freedoms. During the war fascist States, organizations and elements had directed their efforts to the destruction of those rights and freedoms and they were continuing to do so.

It should be noted that the draft Declaration introduced into the complex of fundamental human rights certain new rights, which were not included in old constitutions, but which [658] were typical of the new, modern, democratic constitutions – above all, the Constitution of the Soviet Union. Those new rights related to work, leisure, education, social security, etc. Such was the positive aspect of the Declaration.

But in making an appraisal of the Declaration as a whole, the Soviet Union delegation was bound to say that it was unsatisfactory, and was not calculated to guarantee either human rights and freedoms or respect for them.

In spite of the unremitting insistence of the Soviet Union delegation and certain other delegations, the majority of the Commission had not seen fit to prepare a document which met the fundamental requirements proposed by the Soviet

representative in the Drafting Committee on 4 May⁷ and at the Commission's meeting on 27 May 1948.⁸

Those requirements were as follows:

- (1) The Declaration should ensure respect for human rights and fundamental freedoms for all, without distinction as to race, nationality, social position, religion, language or sex, in accordance with the principles of democracy, national sovereignty and political independence of each State;
- (2) The Declaration should not only proclaim rights, but should guarantee their implementation, taking into account, of course, the economic, social and other characteristics of each country;
- (3) The Declaration should define not only the rights, but also the obligations of citizens to their country, their people and their State.

The Soviet Union delegation wished to draw special attention to the following serious omissions and shortcomings in the Declaration and in the work of the Commission:

- (1) The failure to take into account such a fundamental requisite for democracy as the struggle against the activities of fascist and nazi elements and their abuse of democratic rights and freedoms and against the danger of the expansion, continuation or resurgence of fascist regimes; in particular, the failure to prohibit fascist and nazi propaganda and to hold the authors responsible;
- (2) The failure to extend the democratic rights and freedoms of the peoples and to defend some of the most important democratic principles; the omission from the Declaration (except for one paragraph in article 27) of any mention of democracy of the modern concepts of the democratic State, democratic principles, etc.
- (3) The limitation and restriction of a number of democratic rights and freedoms in the Declaration, as compared with the former draft; the failure to maintain consistently the principle of full equality for all, without distinction as to race, nationality, social position, religion, sex or language; the omission from the Declaration of

[7] See document E/CN.4/AC.1/SR.21.

[8] See document E/CN.4/SR.49.

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the right of every person to his own national culture, to be taught in school in his native language and to use that language in the Press, at meetings, in courts and public offices; the failure seriously to combat racialism and discrimination, to prohibit propaganda for racial and national hostility, and to lay down the principle that such propaganda should be punishable.

- (4) The failure, in most of the articles of the Declaration, to refer to guarantees of rights and freedoms and to concrete means and methods of applying the provisions in question; the unrealistic, formal and legal nature of the Declaration (especially articles 21, 22, 24 and 25).
- (5) The failure to include in the Declaration any concrete obligations of the individual to his native country, to the people to which he belonged or to the State; the complete disregard, in such important questions as freedom of information and freedom of transit, not only of those obligations, but also, of the rights and sovereignty of States, and of the relevant provisions of the Charter concerning non-interference in the domestic affairs of Members.

The Soviet Union delegation was certain that instead of the weak and, in many ways, absolutely unsatisfactory draft before the Council, a Declaration would eventually be drawn up which would effectively serve the cause of historical progress and democracy. Such a Declaration would bring a real improvement in the lives of millions of simple people throughout the world, would help to guard against a recrudescence of fascism and nazism, and would finally lead to an assertion of the principles of the equality of nations, to real respect for human rights and freedoms and to the strengthening of international peace.

He then read the basic proposals advanced by the Soviet Union delegation, and rejected at the third session of the Commission on Human Rights (E/800, appendix).

He added that the list of proposals which he had cited was incomplete, but that all the Soviet Union proposals had been rejected by the majority. As a result, the Declaration was a much less comprehensive document than it might have been and, in general, was less satisfactory than the former draft. Nevertheless, the Soviet Union delegation would not object to the transmission of the Declaration to the General Assembly without any specific recommendation.

The Soviet Union delegation had noted the emphasis which many delegations had placed on the unsatisfactory work on the draft Covenant. It could not but agree. The Covenant failed to recognize any of the economic or social rights mentioned in the Declaration. It was also unbalanced. Article 5, for example, proclaimed the right to life in four lines, but the proposed restrictions on that right ran to about thirty lines. Article 9 took two lines to proclaim the right to freedom from arbitrary arrest and some thirty-five lines to define the limitations of that freedom.

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If the Council were to adopt the Covenant it would not be adopting a Covenant on Human Rights but a Covenant on the Restriction of Human Rights.

The Commission's suggestions for implementation (E/800, annex 3) were even more unsatisfactory. The Australian, United States, French and other proposals would undermine the domestic jurisdiction of States and might lead to international conflict. Every incident would be exaggerated and international security and peace would be endangered. As it was the purpose of the United Nations to strengthen international security and goodwill, the Soviet Union delegation would oppose all the proposals on implementation.

The meeting rose at 1:15 p.m.

E/SR.218¹⁷⁷

26 August 1948

Summary Record of the Two-Hundred and Eighteenth Meeting
[of the Economic and Social Council]

Held at Palais des Nations, Geneva, Thursday,
 26 August 1948, at 3 p.m.

President: DR. CHARLES MALIK

Acting President: MR. HERNÀN SANTA CRUZ

**75. Continuation of the discussion¹ on the Report of the third session
 of the Commission on Human Rights² (E/800, E/800/Corr.1, E/800/Add.1,
 E/AC.27/W.1, E/857 and E/1009)**

THE PRESIDENT announced that the Council would hear the remainder of the series of general statements on the Report of the Commission on Human Rights.

MR. SANTA CRUZ (Chile) said that his Government's sincere wish to see the principles of the Charter applied had been reflected in the part played by the Chilean delegation in the drafting of the Declaration of Human Rights. The essence of the Declaration, he thought, was contained in articles 3, 20 and 26, which represented all that was positive and living in the results achieved.

Liberty, one of man's greatest treasures, was now in great danger because of the legacy left by the war and because of the ideology which maintained that in

¹⁷⁷ The text of the document is taken from *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 19 July–28 August 1948, pp. 694–702.

the evolution towards ultimate freedom there must first be a stage involving the curtailment of individual freedoms. Nevertheless, as in the past liberty had survived the worst trials in history, so in the future it would survive any new totalitarian attempts to destroy it.

He agreed with the French representative that the Declaration of Human Rights should be put

[¹] Resumed from the 215th meeting.

[²] See Supplement No. 2 (E/800).

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before the next session of the General Assembly. Although the Declaration, unlike the Covenant, might not have the force of a legal obligation, it would have a future of moral force. The Declaration was far from perfect, but it contained the essence of the ideals of the United Nations. It had now reached a stage where the General Assembly could perfect it.

He regretted that an apparent lack of co-operation by the Soviet Union delegation in his early drafting stages, and the reluctance of other delegations to discuss matters of principle, had prevented both the Commission and the Drafting Committee from undertaking to define the relations between the individual and the State. Had that been done, a common denominator might have been found, which might have made it possible to draft a universally acceptable document.

Nevertheless, the Declaration was not sterile or vague and he believed that its principles would one day inspire men with self-respect.

MR. PAVLOV (Union of Soviet Socialist Republics) protested that the Chilean representative's remarks had not been in order, since unlike other representatives, including the representative of the Soviet Union, who had already spoken on the Report of the Commission on Human Rights (E/800), he had not confined himself to a general statement of position on behalf of his Government.³

THE PRESIDENT ruled that in their general statements representatives were free to refer to any conditions affecting human rights.

MR. EVATT¹⁷⁸ (Australia) opposed the suggestion made by certain representatives that the draft Declaration of Human Rights should be referred back to the Commission on Human Rights. It had already been under discussion for approximately two years, and during that time the Commission had dealt with twenty-four drafts and approximately two hundred proposals on the subject. At its third session, beginning in May 1948, the Commission had shortened the draft Declaration, and

¹⁷⁸ Herbert V. Evatt (1894–1965) was an Australian judge and Member of Parliament who served as Minister of Foreign Affairs in the Labour Government. He was president of the United Nations General Assembly in 1948.

he considered that an improvement. But, in his opinion, it should not be referred back to the Commission again; it should be submitted as soon as possible to the General Assembly for approval.

There were three matters to be considered in connexion with human rights – namely the Declaration, the Covenant and implementation measures. In conformity with the attitude maintained by the Government of Australia, he attached great importance to implementation and enforcement. When the Peace Treaties had been drawn up at the 1946 Paris Peace Conference, the representative of Australia had urged that provision be made for implementation of the human rights articles.

[³] See President's opening remarks at the 215th meeting.

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He pointed out that under the English legal system the remedy was equal in importance to the right, for without the remedy there was no right. He was aware that other legal systems differed in that respect, but measures should be taken to ensure that the human rights proclaimed by the United Nations should not become dead letters as soon as they were infringed. The declarations of rights in the 1919 peace treaties had been subject to wholesale infringement, largely because there had been no competent tribunal to adjudicate in cases of infringement. The wholesale infringement of the rights of minorities laid down in the peace treaties had been a major cause of the outbreak of World War II.

When the question came before the General Assembly, the Government of Australia intended to stress again the importance of implementation. In the Charter, an obligation was laid upon the Assembly to promote respect for human rights. There must be an international tribunal for enforcement. The General Assembly itself was a kind of international tribunal before which Member Governments could bring, for adjudication, cases of alleged infringement of the rights laid down in the Charter; but there must be an international tribunal before which individuals, or groups of individuals, who could not obtain the backing of governments, could bring cases of infringement of their rights.

Expressing his gratitude to those who, by their work, had been responsible for so great a step forward in promoting the aims of the United Nations, he voiced the hope that the report of the Commission on Human Rights would receive the attention it deserved at the next General Assembly.

MR. CHA (China) said that the new Chinese Constitution, which had recently come into force, contained a bill of rights. After closely comparing that bill of rights with the draft Declaration under discussion, he had come to the conclusion that they were very similar, and that the Declaration was a great document, particularly in view of its comprehensiveness and the recognition of social security. In his view, social security was the greatest benefit to be derived from such a declaration, and, for that reason, he was glad that the concept had been so fully brought out.

MR. MIKAOUI (Lebanon) said that his country was happy to have made its contribution to the work of the Commission on Human Rights. The text of the Declaration was admittedly not perfect, but the results were quite acceptable. The [697] formulations of the text appeared to be sound, and worthy of the edifice the world was anxiously awaiting. His country would count it a pleasure and an honour to be one of the genuine defenders of the Declaration in the General Assembly.

Lebanon was deeply attached to liberty. Her Constitution affirmed the individual freedoms without which there could be no liberty. All the legal formulas which man had invested for the supposed purpose of guiding his fellows, and which he used to restrict the freedom of others, should disappear for ever, so that respect for human dignity might be ensured.

Freedom was an organic whole: no part of it could be impaired without prejudice to the rest.

The Declaration of Human Rights, which he hoped would be accepted by all States, certainly represented a great step forward towards the common ideal of all peoples. Nevertheless, the Commission on Human Rights would have to return to its tasks after the next session of the General Assembly in order to prepare the draft Covenant and determine the measures for implementation.

He thought the draft resolution (E/AC.27/W.1) prepared by the Secretariat excellent, and would like his vote in favour of it to be regarded as an expression of thanks to the Commission and to the Secretariat for the work they had accomplished.

MR. PHILLIPS (United Kingdom) recalled that at its second session the Commission on Human Rights had decided that the International Bill of Human Rights should consist of a Declaration, a Covenant, and measures for the implementation of the Covenant. The United Kingdom Government felt strongly that the Covenant should be the core of the Bill, and that it should be a precise legal document without escape clauses. Only such a document would provide an effective safeguard for human rights and freedoms.

The Declaration was a statement of ideals, to which it was hoped that all people would aspire, but not an instrument imposing legal obligations on any State. It fell far short of being an adequate Bill of Rights for the purposes of the United Nations. He considered that the Declaration should not be adopted alone, but in conjunction with an adequate and enforceable Covenant on Human Rights. He did not wish to give the impression that he set a low value on the draft Declaration; it was a satisfactory document and represented substantial progress in the defence of human rights and freedoms, even though agreement had not been reached on the Covenant.

If the Declaration were adopted by the General Assembly at its next session, that would be a step forward in fulfilling the obligations laid down in the Charter. He

therefore supported the draft resolution submitted jointly by the delegations of Brazil and France (E/1009) to transmit the Report of the Commission on Human Rights to the General Assembly; he hoped that the Report would serve as a basis for the General Assembly's discussion, and that a Declaration on Human Rights would be adopted at its next [698] session. He supported the draft resolution on the understanding that there would be no slackening of the efforts to reach agreement on an adequate Covenant on Human Rights; for until the United Nations had adopted such a Covenant, it would not have completed the task entrusted to it under the Charter.

He agreed with the representative of the United States that there was no country in which all the rights envisaged by the Commission had been won, and that the draft was valuable because it was the work of representatives of many Governments.

Referring to the criticism that the Declaration contained insufficient reference to democracy, he quoted a passage on page 321 of the Yearbook on Human Rights for 1946:

“Recent statements by two Prime Ministers of the United Kingdom have affirmed the nature of the democratic liberty to which the British aspire:

“The essential aspects of democracy are the freedom of the individual, within the framework of laws passed by Parliament, to order his life as he pleases, and the uniform enforcement of tribunals independent of the Executive.’

“Democracy is not just majority rule, but majority rule with due respect to the rights of minorities. It means that, while the will of the majority must prevail, there shall be a full opportunity for all points of view to find expression. It means toleration for opposition opinions. Wherever you find suppression of minority opinion, there is no real democracy.’

“The first quotation is from a speech by Mr. Churchill, in January 1939; the second is from one by Mr. Attlee,¹⁷⁹ when he was addressing the Trades Union Congress in September 1945, soon after a general election had brought the Labour Party into power with a substantial majority. The two speakers lead political parties whose views are often in strong conflict. Their statements on the origins of human rights in Britain command the support of all their fellow countrymen.”

What counted in democracy was the application of its principles; the aim of the United Nations in both the Covenant and the Declaration should be to provide for the realities which went to make up democracy. That was more important than referring repeatedly to a word which had depreciated in value, which had become a catch-phrase, and which was subject to many different interpretations.

With regard to the criticism that the Declaration did not refer to the struggle against fascism, he pointed out that the word “fascism” had also lost its value.

¹⁷⁹ Clement Richard Attlee (1883–1967) served as leader of the Labour Party in the United Kingdom from 1935 to 1955 and Prime Minister of the United Kingdom from 1945 to 1951.

Indeed, a responsible representative at the General Assembly had named one of the United Kingdom Prime Ministers, whom he had just quoted, a fascist. That showed that it was most important to base the Covenant not on [699] words which were subject to different interpretations but on the underlying realities which made possible the human rights and freedoms which all those present desired.

MR. MARUTKO (Byelorussian Soviet Socialist Republic) associated himself with the general statement made by the Soviet Union representative on the Report of the Commission on Human Rights. He regretted that there were a number of serious omissions from the draft Declaration. Consequently, in his opinion, it fell far short of constituting a statement of all the true rights of mankind.

MR. MONGE (Peru) recalled that the Peruvian delegation had taken part in the drafting of the document before the Council.

The Constitution of Peru affirmed most of the rights and freedoms proclaimed in the draft Declaration. In Peru, democracy was a reality and everyone enjoyed the wellbeing to which all mankind was entitled. It might be that further changes would be made in the Declaration when it came before the General Assembly but it was essential that the General Assembly should adopt it.

The United Nations, and the Economic and Social Council in particular, should set themselves to improve the Declaration in which the various rights were proclaimed, and to prepare and approve the future Covenant which would give legal backing to those rights in every country throughout the world, thus establishing a new society on the ruins left by the recent war.

THE PRESIDENT pointed out that the general statements on the report of the Commission on Human Rights had been made by representatives of all the eighteen members of the Council. In accordance with the decision taken by the Council at its 202nd meeting, there could be no further debate.

As promised on that occasion, he had circulated a draft resolution⁴ which read:

“The Economic and Social Council

“Decides to transmit to the General Assembly the draft International Declaration of Human Rights submitted to the Council by the Commission on Human Rights in the Report of its third session (E/800), together with the records of the proceedings of the Council at its seventh session on this subject.”

He had submitted that form of words in view of the decision taken by the Council, at its 202nd meeting, that there should be, in plenary, “an opportunity for general statements of position by representatives, without other debate or decisions other than a decision to transmit the documents to the General Assembly together with the statement of position”.⁵ The wording of the draft resolution submitted jointly by the delegations of

[4] Subsequently issued, as amended and adopted, as document E/1040.

[5] See document E/979, paragraph 3, A.

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Brazil and France (E/1009) was not in accordance with that decision, and he therefore ruled that it was out of order. The only resolution on the item which it was in order for the Council to adopt was one similar to that which he had submitted; any debate on the addition of points of substance to that draft resolution would also be out of order.

MR. SANTA CRUZ (Chile) shared the President's opinion on the draft resolution submitted by the Brazilian and French delegations. Nevertheless, he had observed that, during the discussion, practically all the Council members had expressed the desire that the General Assembly should adopt a Declaration. He asked whether it would be in order to add to the draft resolution the following words: "expressing its hope that the General Assembly, at its next session, will approve a Declaration of Human Rights". The Council would not be referring specifically to the Report or the draft Declaration, but only expressing the general desire to see a hypothetical Declaration adopted at the next session.

The President said that he could not accept the Chilean representative's proposal. It would only have been in order before the relevant decision had been taken. His ruling was not based on a personal opinion, but was dictated by that decision. He deprecated any further discussion of such points, since the decision taken was a decision of substance and could not be rescinded during the current session.

In reply to a question by the Australian representative, he confirmed that under the terms of his draft resolution the whole of the Commission's Report, together with its annexes and appendix, would be transmitted to the General Assembly, as well as the draft Declaration of Human Rights.

MR. CASSIN (France) said that he would like to facilitate the President's very difficult task, but he did not think that they should tie themselves down to a form of words so rigid that it could not meet the needs of the time or even the desires of the Council.

In the first place, the Australian representative's question showed that the text submitted was not completely in accordance with the facts. It should read: "decides to transmit to the General Assembly the Report of the Commission on Human Rights, together with the annexes and appendix thereto and the records of the Council's discussions on the subject".

Secondly, it was understood that the resolution would not contain any comment on or evaluation of, the Declaration; he wished to point out that he was not asking that that understanding be altered. But when the Council had reached its decision, the French representative had formally reserved his delegation's right to submit a proposal on the wording of the resolution⁶ which was not necessarily so hard and fast that nothing could be added to it.

[6] See *supra*, 202nd meeting.

Thirdly, to avoid all friction, he was prepared, with the agreement of the Brazilian representative, to remove from their joint draft anything that might raise difficulties, while nevertheless leaving what was necessary for the future of the work. The Council, under whose responsibility the Commission had worked for two years, should not place so important a text before the General Assembly without even calling it by its name. There was a certain minimum wording that must be used out of respect for the subject-matter. Hence, a slight amendment to the President's draft seemed to him to be necessary; he proposed the following wording:

“The Economic and Social Council

“Decides to transmit to the General Assembly, in order that it may pass judgment on the draft International Declaration of Human Rights drawn up by the Commission on Human Rights, the Report of the said Commission, together with the annexes and appendix thereto (E/800) and the records of the relevant Council discussions.”

That text was almost identical with the wording proposed by the President, but it was more satisfactory because it provided for transmission of the whole Report to the General Assembly and drew its attention to the question which had been best prepared, by referring to the draft Declaration.

He did not think that he was out of order in submitting that proposal.

THE PRESIDENT repeated that any debate on the substance of the matter before the Council was out of order. He regretted that he could not rule the French representative's proposal in order, since the decision taken by the Council did not permit him to do so.

The drafting point raised by the Australian representative's question was in order, and to meet it, he would add the words “remainder of this report and the” after the words “together with the” in the draft resolution he had submitted.

MR. PAVLOV (Union of Soviet Socialist Republics) urged that the Council vote immediately on the draft resolution submitted by the President, as amended. If there was the slightest attempt to alter the previous decision of the Council he would have to insist that the debate be re-opened and would then speak on the subject.

MR. CASSIN (France) recalled that at the 202nd meeting of the Council, according to the summary record, the head of the French delegation had expressly stated that “the French delegation reserved the right to make proposals on the wording of those resolutions”. Consequently, the position of the French delegation with respect to the draft resolution was unassailable.

THE PRESIDENT ruled that the debate was closed, with the understanding that the Council adopted the resolution he had submitted on the Report of the third session of the Commission on [702] Human Rights. As amended, that resolution read:

“The Economic and Social Council

“Decides to transmit to the General Assembly the draft International Declaration of Human Rights submitted to the Council by the Commission on Human Rights in the Report of its third session (E/800), together with the remainder of this report and the records of the proceedings of the Council at its seventh session on this subject.”

He hoped that the conclusion of the general statements on genocide and freedom of information would not be marked by a discussion similar to that which had just taken place, since the only resolutions which the Council could adopt on those items were resolutions along exactly the same lines as that which he had just read out.

MR. GUERREIRO (Brazil) said that the joint draft resolution (E/1009) of the delegations of Brazil and France had been submitted in good faith, for he had interpreted the decision of the Council to mean that it should not deal with the substance of the item when discussing the resolution and transmitting it to the General Assembly. No recommendation had been made in the joint draft resolution regarding the decision which the General Assembly should take.

THE PRESIDENT replied that he had never questioned or doubted the good faith of the proposers of the joint draft resolution.

...

E/1046

28 August 1948

**Report of the Third Session of the Commission
on Human Rights
Resolution of 26 August 1948¹⁸⁰**

The Economic and Social Council

*Decides to transmit to the General Assembly the Draft International Declaration of Human Rights submitted to the Council by the Commission on Human Rights in the report of its third session (document E/800), together with the remainder of this report and records of the proceedings of the Council at its seventh session on this subject.**

[*] Documents E/SR.180, E/SR.201, E/SR.202, E/SR.215 and E/SR.218.

¹⁸⁰ E/RES/151(VII).

A/625

September 1948

**Report of the Economic and Social Council to the
General Assembly Covering the period from
18 August 1947 to 29 August 1948**

...

[34]

Social, Humanitarian and Cultural Questions

Section I. Human Rights

International Bill of Rights

127. The following seven stages were laid down by the Council at its fourth session¹ for the preparation of an International Bill of Human Rights.

- (i) Preparation of a draft by a drafting committee on the basis of documentation prepared by the Secretariat;
- (ii) Consideration of the draft at the second session of the Commission on Human Rights;
- (iii) Submission of the resulting draft to Members of the United Nations for observations, suggestions and proposals;
- (iv) Consideration of the above observations, suggestions and proposals as a basis of a re-draft, if necessary, by the Drafting Committee;
- (v) Consideration of the resulting draft by the Commission on Human Rights;
- (vi) Consideration by the Council of the resulting text;
- (vii) Submission of the draft bill by the Council to the General Assembly.

At its second session, which took place in Geneva from 2 to 17 December 1947, the Commission on Human Rights based its work on the report of the first session of its Drafting Committee.² Two views had there been expressed regarding the form which the draft bill should take. Some representatives thought that it should be in the form of a declaration or manifesto, others that the declaration should be supplemented by a convention or conventions on specific rights. Both documents were presented to the Commission. The draft declaration had been discussed in some detail, but consideration of the draft convention had been limited to a general examination of the possible substantive contents of a draft convention. No decision was taken by the Drafting Committee as to whether there should be a draft declaration only or a draft declaration together with a draft convention.

The Commission decided to draw up simultaneously a draft declaration, which would be a declaration of general principles, and a draft convention, which would be a convention on such specific rights as would lend themselves to binding legal obligations, and at the same time to consider the question of implementation. The three documents – to be known respectively as the Draft International Declaration on Human Rights, the Draft International Covenant on Human Rights, and Measures for

[¹] See resolution 46(IV).

[²] Document E/CN.4/21.

[34, column 2]

Implementation – would together form “The International Bill of Human Rights”.

In preparing this preliminary draft of the Bill, the Commission took into account suggestions made by its Sub-Commission on the Prevention of Discrimination and Protection of Minorities on five articles of the Draft Declaration covering subjects within the terms of reference of the Sub-Commissions.³ In accordance with resolution 46(IV) of the Council, the Chairman and Vice-Chairman of the Commission on the Status of Women were present at the second session of the Commission on Human Rights and took part in its deliberations without vote when sections of the draft Bill concerning particular rights of women were discussed.

In order to prepare the documents on the draft Declaration, draft Covenant and Implementation, the Commission established three working groups. It considered in detail the resulting draft Declaration and in somewhat less detail, the draft Covenant, but decided to take no decision on any specific principle or recommendation contained in the report on implementation. Thus it presented to the sixth session of the Council a draft Declaration and a draft Covenant prepared with unequal thoroughness, together with the report of its working group on Measures for Implementation.⁴

In the first week in January 1948, the report of the Commission was submitted to all Member States of the United Nations for observations, suggestions and proposals. The Commission requested the Secretary-General to fix the date of 3 April 1948 as the time limit for the reception of replies from Governments on the Draft International Bill.

128. At its sixth session, the Council confined its action on the Bill to directing the Commission, through its Drafting Committee, to give particular attention to the implementation aspect of the Bill of Human Rights, in order to ensure that draft articles on implementation might be submitted to Member Governments at the earliest possible date.⁵

129. Comments were received from thirteen Member Governments and were taken into consideration by the Drafting Committee⁶ at its second session, which took place at Lake Success from 3 to 21 May 1948. The Drafting Committee also

took into account the suggestions of the United Nations Conference on Freedom of Information, on articles on freedom

[3] See document E/CN.4/52, Section I.

[4] See Official Records of the Economic and Social Council, Third Year, Sixth Session, Supplement No. 1, Annexes A, B and C respectively.

[5] See resolution 116(VI)F; see records of the Social Committee, meetings 34, 35, 39; of plenary meetings 128, 159, 160.

[6] See documents E/CN.4/82, 82/Rev.1, E/CN.4/82/Add.1–10.

[35]

of information in the draft declaration and the draft Covenant,⁷ as well as suggestions made by the Commission on the Status of Women on two articles in the draft declaration.⁸ It redrafted the entire draft Covenant; but had time to re-draft only parts of the draft Declaration, and did not consider the question of implementation.

130. The Commission on Human Rights, at its third session which took place at Lake Success from 24 May to 18 June 1948,⁹ based its work on the report of the second session of its Drafting Committee.¹⁰ As this Committee had examined the draft Covenant in detail, the Commission decided to begin its work by discussing the draft Declaration, then to proceed to examine the question of implementation and finally the draft Covenant. It was able to complete a re-draft of the Declaration but had no time to consider the Drafting Committee's re-draft of the Covenant, nor to discuss implementation as requested by the Council at its sixth session. It therefore presented to the seventh session of the Council¹⁰ the draft Declaration as re-drafted at its third session, the draft Covenant as re-drafted by the Drafting Committee at its second session, but not re-examined by the Commission itself, and the report of the working group on Implementation, drawn up at the second session of the Commission, but not examined in detail by the full Commission.

Throughout its deliberations on the International Bill of Human Rights, the Commission was assisted by specialized agencies and non-governmental organizations. Representatives of the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, and the Preparatory Commission of the International Refugee Organization, and consultants from the American Federation of Labor, the International Federation of Christian Trade Unions, the Inter-Parliamentary Union, the World Federation of United Nations Associations, the Agudas Israel World Organization, the Catholic International Union for Social Service, the International Union of Catholic Women's Leagues, the Commission of the Churches on International Affairs, the Consultative Council of Jewish Organizations, the Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations, the International Alliance of Women, the International Committee of the Red Cross, International Council of Women, the International Federation of Business and Professional Women, the Women's International Democratic Federation, the World Jewish Congress, the Liaison

Committee of Women's International Organizations, the World Women's Christian Temperance Union, and the World's Young Women's Christian Assoc-

[7] Document E/CONF.6/79, Annex B.

[8] Document E/615, chapter V.

[9] See Official Records of the Economic and Social Council, Third Year, Seventh Session, Supplement No. 2.

[10] Document E/CN.4/95.

[35, column 2]

citation, took part in the proceedings of the Commission at its second and third sessions.

131. Because of pressure of business at its seventh session, the Council decided on 17 August 1948¹¹ that the report of the Commission, which had been referred to its Human Rights Committee, should be recalled to the plenary session; and that in plenary there would be an opportunity for each member to make one general statement of position, without other debate or decisions than a decision to transmit the documents to the General Assembly together with the statements of position.

Statements were made on 15 and 26 August 1948 by all members of the Council.¹² It was generally recognized that a draft Declaration in the form in which it was presented to the Council was still imperfect. Criticisms were made that it was not sufficiently universal, or precise; that sufficient time should be allowed to produce a better draft having regard to the novel and difficult character of the task; that it did not give sufficient prominence to rights which could not be enumerated in national declarations, such as the rights of stateless persons; that it was inadequate in respect of the protection of and the promotion of respect of human rights, particularly rights of an economic and social character, as in respect of the proper emphasis on duties to the State.

Amendments and suggestions relating to specific articles were also put forward. All members stressed the importance of the draft Declaration. While no formal decision was taken other than the decision of transmittal mentioned below, the majority considered that the Declaration should be referred to the next session of the General Assembly for consideration and possible adoption, recognizing at the same time that the Bill of Rights was incomplete without the draft Covenant and measures for implementation.

The Council then decided¹³ to transmit to the General Assembly the draft International Declaration of Human Rights submitted to it by the Commission on Human Rights in the report of its third session,¹⁴ together with the remainder of the report of the Commission and the records of the proceedings of the Council on the subject.¹⁵

...

[11] See records of plenary meeting 202.

[12] See records of plenary meetings 215 and 218.

[13] See resolution 151(VII).

[14] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, Supplement No. 2.

[15] See records of plenary meetings 180, 201, 202, 215 and 218.

A/632

13 September 1948

Draft International Declaration of Human Rights Report of the Economic and Social Council

1. Article 68 of the Charter provides that the Council should “set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.”

2. The Economic and Social Council, at its first session, established a Commission on Human Rights (resolution 5(I)). It decided that the work of the Commission should be directed towards submitting proposals, recommendations and reports to the Council regarding, *inter alia*, “(a) an international bill of rights . . .”

3. At its second session, the Council in its resolution 9(II), adopted on 21 June 1946, expressed the view “that the purpose of the United Nations with regard to the promotion . . . of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for the implementation of human rights and of an international bill of rights.” The Council requested the Commission on Human Rights “to submit at an early date suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms, with a view to assisting the Economic and Social Council in working out arrangements for such implementation with other appropriate organs of the United Nations”.

4. The Commission on Human Rights, at its first session, requested its Chairman, Vice-Chairman and Rapporteur to undertake, with the assistance of the Secretariat, the task of formulating a preliminary draft international bill of human rights to be submitted to the second session of the Commission (document E/259, paragraph 10).

5. At the fourth session of the Economic and Social Council, the President was informed, by a letter of the Chairman of the Commission dated 24 March 1947 (see resolution 46(IV)) that she intended to appoint a drafting committee of the Commission which would be convened prior to the second session of the Commission and which would prepare, on the basis of documentation supplied by the Secretariat, a preliminary draft of an international bill of human rights.

[2]

6. The Council, in its resolution 46(IV) adopted on 28 March 1947, approved this action and requested the Secretariat to prepare a documented outline concerning an international bill of human rights. It decided that the draft prepared by the above-mentioned drafting committee would be submitted to the second session of the

Commission on Human Rights; that the draft as developed by the Commission on Human Rights would be submitted to all States Members of the United Nations for their observations, suggestions and proposals; that these observations, suggestions and proposals would then be considered as a basis of a redraft, if necessary, by the drafting committee; that the resulting draft would then be submitted to the Commission on Human Rights for final consideration; and that the Council would consider the proposed international bill of human rights as submitted by the Commission, with a view to recommending an international bill of human rights to the General Assembly in 1948.

7. On the basis of the Secretary-General's documented outline (E/CN.4/AC.1/3/Add.1) and various proposals submitted by its members, the Drafting Committee prepared two documents (E/CN.4/21), one a draft declaration or manifesto of human rights, the second a draft convention on human rights. It also discussed the question of the implementation of human rights (see E/CN.4/AC.1/SR.1–19).

8. On the basis of the report of the Drafting Committee (E/CN.4/21), the Commission on Human Rights, at its second session, prepared a draft International Bill of Human Rights consisting of (a) a draft International Declaration of Human Rights, (b) a draft International Covenant on Human Rights, and (c) suggestions for implementation (E/600, Annexes A, B and C).

9. The Commission was assisted in this work, at both its second and third sessions, by one or more officers of the Commission on the Status of Women, who, in accordance with resolution 46(IV) of the Council, participated without vote in its deliberations when sections of the Bill concerning the particular rights of women were being considered.

10. The drafts prepared by the Commission at its second session were sent to all States Members of the United Nations on 9 January 1948. Comments, suggestions and proposals were received from the Governments of Australia, Brazil, Canada, Egypt, France, India, Mexico, Netherlands, New Zealand, Norway, Pakistan, Sweden, Union of South Africa, United Kingdom and United States of America.

11. At the request of the Council, contained in resolution 118(VI), the United Nations Conference on Freedom of Information considered and reported (E/CONF.6/79, Annex B) on articles 17 and 18 of the draft International Declaration on Human Rights and article 17 of the draft International [3] Covenant on Human Rights. Its suggestions for amendments to these articles were taken into consideration by the Commission on Human Rights at its third session.

12. At its sixth session, the Economic and Social Council (resolution 116(VI)F) directed the Commission, through its Drafting Committee and at its next session, to give particular attention to the implementation aspect of the Bill of Human Rights in order to ensure that draft articles on implementation might be submitted to Member Governments at the earliest possible date.

13. On the basis of the comments, suggestions and proposals received from Governments (E/CN.4/82 and E/CN.4/82/Add.1–12) the Drafting Committee at its second session prepared a redraft of the International Declaration of Human Rights and the International Covenant on Human Rights (E/CN.4/95, Annexes A and B), but did not have time to discuss the question of implementation.

14. The Commission on Human Rights considered the draft International Declaration of Human Rights at its third session, and forwarded it to the Economic and Social Council (E/800, Annex A). It had not time to redraft the draft International Covenant on Human Rights, but forwarded it to the Council in the form in which it appeared in the report of the second session of the Drafting Committee (E/800, Annex B). The Commission was also unable to consider in detail the various suggestions for implementation, but drew the attention of the Council to such proposals as had been made (E/800, Annex C).

15. Owing to the pressure of business, the Council decided that, at the final plenary stage, there should only be general statements of position by members regarding the draft International Declaration of Human Rights, without other debate or decisions other than a decision to transmit the documents to the General Assembly, together with statements of position.

16. At the final plenary stage, the Council accordingly adopted the following resolution:

“The Economic and Social Council

“Decides to transmit to the General Assembly the draft International Declaration on Human Rights¹ submitted to the Council by the Commission on Human Rights in the report of its third session (document E/800), together with the remainder of this report and records of the proceedings of the Council at [4] its seventh session on this subject”².

^[1] For the text of the draft Declaration of Human Rights, see *Official Records of the Economic and Social Council*, third year, seventh session, Supplement No. 2 (document E/800).

^[2] Documents E/SR.180, E/SR.201, E/SR.202, E/SR.215 and E/SR.218.

A/PV.139

23 September 1948

***Verbatim Record of the One Hundred and Thirty-Ninth
Meeting [of the General Assembly]***

Held at the Palais de Chaillot, Paris, on Thursday, 23 September 1948,
at 10.30 a.m.

President: DR. EVATT (Australia).

...

[13]

...

[GENERAL ROMULO (Philippines):] Through the Human Rights Commission and the Conference on Freedom of Information, progress has been made in defining and enlarging the scope of the rights and freedoms of man. The text of a proposed Declaration on Human Rights and the various conventions and resolutions guaranteeing freedom of information await final action by the General Assembly. They constitute a vital portion of the pattern of peace and freedom, to which I have referred, whose validity does not depend on the conflicts and prejudice of the moment. They call for immediate action, and, on no pretext whatever should they be made to await a prior political settlement.

...

[18–20]

...

MR. MARSHALL (United States of America): We are particularly happy to meet here in Paris. France has, through the centuries, nourished the arts and sciences for the enrichment of all mankind and its citizens have striven persistently for expanding freedom for the individual. It is entirely fitting that this General Assembly, meeting in France which fired the hearts of men with the Declaration of the Rights of Man in 1789, should consider in 1948 the approval of a new Declaration of Human Rights for free men in a free world.

[21]

Not only is it appropriate that we should re-affirm our respect for the human rights and fundamental freedoms but that we should renew our determination to develop and protect those rights and freedoms. Freedom of thought, conscience and religion, freedom of opinion and expression, freedom from arbitrary arrest and detention, the right of a people to choose their own government, to take part in its work, and, if they become dissatisfied with it, to change it, the obligation of government to act through law – these are some of the elements that combine to give dignity and worth to the individual.

The Charter of the United Nations reflects these concepts and expressly provides for the promotion and protection of the rights of man as well as for the rights of nations. This is no accident. For in the modern world the association of free men within a free state is based upon the obligation of citizens to respect the rights of their fellow citizens. And the association of free nations in a free world is based upon the obligation of all states to respect the rights of other nations.

Systematic and deliberate denials of basic human rights lie at the root of most of our troubles and threaten the work of the United Nations. It is not only fundamentally wrong that millions of men and women live in daily terror of

secret police, subject to seizure, imprisonment or forced labour without just cause and without fair trial, but these wrongs have repercussions in the community of nations. Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people, and are likely to seek their objectives by coercion and force in the international field.

The maintenance of these rights and freedoms depends upon adherence to the abiding principles of justice and morality embodied in the rule of law. It will therefore always be true that those members of the United Nations which strive with sincerity of purpose to live by the Charter, and to conform to the principles of justice and law proclaimed by that Charter, will be those states which are genuinely dedicated to the preservation of the dignity and integrity of the individual.

Let this Third Regular Session of the General Assembly approve by an overwhelming majority the Declaration of Human Rights as a standard of conduct for all; and let us, as Members of the United Nations, conscious of our own shortcomings and imperfections, join our effort in good faith to live up to this high standard.

...

A/PV.144

27 September 1948

***Verbatim Record of the One Hundred and Forty-Fourth
Meeting [of the General Assembly]***

Held at the Palais de Chaillot, Paris, On Monday, 27 September 1948,
at 10.30 a.m.

President: DR. EVATT (Australia)

...

[16]

...

[MR. THORN (New Zealand):] Then there is the great question of human rights, about which a convention has to be shaped. This, in the main, has been the responsibility of the Human Rights Commission which in recent months has been drafting a Bill of Human Rights. The work already done is a considerable contribution to the raising of international standards.

...

A/PV.145

27 September 1948

***Verbatim Record of the One Hundred and Forty-Fifth
Meeting [of the General Assembly]***

Held at the Palais de Chaillot, Paris, On Monday, 27 September 1948,
at 3 p.m.

President: DR. EVATT (Australia)

...

[41]

...

[MR. MALIK (Lebanon):]¹ Finally, I wish to speak about the problem of human rights. The problem of human rights is another matter concerning which I propose to dwell separately. The Economic and Social Council is transmitting to the General Assembly three types of documents in this field: a draft Declaration of Human Rights, three draft Conventions concerning freedom of information and a draft Convention on Genocide. All three documents are of the utmost importance, but I shall confine my remarks to the Declaration of Human Rights.

The problem of human rights certainly belongs to the heart of our compact as Members of this Organization. The last war was fought in part because fundamental human rights were contemptuously trampled on by Nazi Germany. This particular origination of the war was given its classical expression by the four freedoms of President Roosevelt. Nothing could be more tragic than if this partial cause of the war were now forgotten, for then indeed the war itself would have been fought in vain. We can therefore say that the United Nations is itself the outcome of a war whose whole moral planning was saturated with the issue of human rights.

Now human rights are mentioned seven times in the Charter. The first few lines of the Preamble read:

“We, the peoples of the United Nations, determined

“to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

“to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . .”

¹ A version of Malik’s remarks in the General Assembly on 27 February 1948 is reproduced in Habib C. Malik, ed., *The Challenge of Human Rights, Charles Malik and the Universal Declaration*, Oxford: Centre for Lebanese Studies, 2000, pp. 113–16. There are slight differences, of no substantive significance, with the version in A/PV.145, reproduced in this compilation.

Thus, our determination concerning human rights comes second only to our determination concerning peace and war. The Charter goes even further than that, for in Article 55 peace and war themselves are made functions of human rights.

Furthermore, apart from the five principal organs of the United Nations and the Military Staff Committee, the Commission on Human Rights is the only other organ mentioned by name in the Charter. This Commission, therefore, enjoys a unique statutory position. And the Charter does not only speak in such vague terms as “promotion” and “encouragement” of human rights; the Charter lays equal emphasis on their actual “observance”. It is thus impossible for us to disown our origin; it is impossible for other issues no matter how urgent and important, to displace the question of human rights from the centre of our vision.

But it is patent that the Charter in this respect is incomplete. For nowhere does it define human rights and fundamental freedoms. The Charter “reaffirms” our “faith in fundamental rights”; it pledges us to “promote” and encourage respect for human rights and fundamental freedoms”. But what are these rights and freedoms concerning which all this is affirmed and pledged? On this crucial question the Charter is completely silent.

The Economic and Social Council was quick to perceive this lacuna in the Charter and to set about filling it. It instructed its Commission on Human Rights to proceed at once to the elaboration of a Bill of Human Rights which will give content and meaning to the pregnant phrase of the Preamble, “the worth and dignity of man”. Under the inspiring leadership of Mrs. Roosevelt, who brings to this task dignity, authority, understanding and an unusual breadth of sympathy, the Commission has laboured for two years now on this assignment.

The first fruit of its labours is the draft Declaration on Human Rights now before the General Assembly. In my opinion this is one of the most fundamental texts so far put out by the United Nations – perhaps is even the most important such text. [43–5] After it is reviewed and adopted by the General Assembly – and my delegation believes that it should be adopted at this session – it will not be an ordinary resolution like any other resolution; it will be an integral filling out of a lacuna which was unavoidably left by the framers of our basic law. It will complete the Charter itself by defining what was intentionally left undefined in it, and thus, the ordinary citizen throughout the world will be able to say, “Now the ambiguity is removed; this is what my government pledged itself in San Francisco to have faith in and to promote and encourage and respect and observe and realize.” Decision on this Declaration of Human Rights will entail decision on some of the deepest issues of the present day.

There is first the proper dialectic between right and duty. Am I a bundle of rights unrelieved by duties? Is not my freedom precisely for the sake of certain essential duties which I ought to perform? There is next a question of my material economic rights. How far do these economic rights extend without upsetting other values? Thirdly there is the question of my relationship to society. Am I wholly socially

determined or could I criticize and rebel and say no? Fourthly there is the question of my relationship to the state. Is the state an original, uncreated, unanswerable absolute so that, in the determination of my rights and freedoms, I am wholly its creature, or is it answerable to something higher than itself? Fifthly there is a question of the intermediate institutions between the state and the individual, institutions like the trade unions, the home, the church, the university and the intimate circle of friends. Do these intermediate institutions possess a certain autonomy of their own and are they totally overwhelmed by the determinations of the state? Could I ever be free if I belonged to a society where these intermediate grounds of freedom were not themselves free? There is next the question of the order and structure of my rights? Do they all fall flat on one plane with equal validity and equal importance, or do they articulate themselves in an order of depth and hierarchy?

[46]

Finally, there is the question of their nature and their origin. Where do they come from? Are they conferred upon me by an external visible power such as the State – or now by the United Nations – that what is now granted me may some day be conceivably withdrawn from me? Or do they belong to my essence, so that if they were violated in any way, I cease to be a human being at all? If they did belong to my essence, should they not also be grounded in a supreme being who, by being the lord of history, could guarantee their meaning and their stability?

It is these final issues which will be explicitly or implicitly decided in our treatment of the Declaration of Human Rights. There is no happier augury for this decision than the fact that it will take place in Paris, this matchless city of light and freedom. I know that the topics which will be examined by the First Committee are full of excitement, but such excitement comes and goes, and what abides is the final issue of principle in the present world situation. For everybody knows by now that the ultimate issues today are all ideological, and therefore it must be clear that even the political excitement of the First Committee derives its pathos and significance from the underlying ideological conflict.

Superficial people in the late nineteenth and early twentieth century have ridiculed the classical ages of faith. They are now paying the price of their faithless superficiality by landing in the middle of the twentieth century, in one of the most fearful ages of faith the world has ever known. Faith has thus come back on man with a vengeance, the vengeance of the dark and primitive. For it is dangerous to neglect the mind and spirit of man; it is dangerous to poke fun on the logos. The neglected logos will always avenge itself by perverting both itself and the world.

The most important issue in the order of truth today is what constitutes the proper worth and dignity of man. This will be the central theme in the debate of the Declaration of Human Rights. Unless this issue is rightly settled, there is no meaning to any other settlement. Do not tell me that you are going to settle Korea, and

Germany, and Palestine, and atomic energy, and leave this central issue unsettled. For what is the use of a peace and a settlement in which man is left ambiguous, estranged from himself and from the truth?

...

A/PV.147

28 September 1948

Verbatim Record of the One Hundred and Forty-Seventh Meeting [of the General Assembly]

Held at the Palais de Chaillot, Paris, on Tuesday, 28 September 1948, at 3.15 p.m.

President: DR. EVATT (Australia)

...

[121]

...

[MR. GARCIA-SAYAN (Peru) (Interpretation from Spanish):] We have associated ourselves decisively with the efforts of the United Nations to reach international co-operation in the field of protection of human rights and implementation of basic freedoms, without regard to sex, language, religion or race.

We therefore attribute the greatest importance to the work which has culminated in the Declaration of Human Rights. But we must also consider that a declaration to the same effect has been promulgated at the Bogotá Conference. It is not enough for the Assembly to approve this declaration. We must be concerned with the patient and continuous implementation of these rights; we must watch how they are implemented in every nation throughout the world.

...

A/PV.148

29 September 1948

Verbatim Record of the One Hundred and Forty-Eighth Meeting [of the General Assembly]

Held at the Palais de Chaillot, Paris, on Wednesday, 29 September 1948, at 10.30 a.m.

President: DR. EVATT (Australia)

...

[37]

...

[MR. FERNANDEZ (Chile):] The draft declaration on human rights which the Economic and Social Council has sent to the General Assembly is perhaps somewhat imperfect. Nevertheless, it cannot be denied that the right of the individual to life, liberty and security must be recognized as an integral part of those ideas which animated those who formulated the Charter and who, in so doing, followed the guidance of those who had formulated the principles of the Four Freedoms.

[38–40]

Humanity has undergone untold sufferings. It is now asking whether these sufferings have been in vain. It wishes to have the United Nations define those rights which would constitute an answer to humanity's anxieties, to have the United Nations guarantee those rights.

...

A/C.3/SR.88²

30 September 1948

Summary Record of the Eighty-Eighth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Thursday, 30 September 1948,
at 11:45 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

[26]

...

9. Draft international declaration of human rights (E/800)¹

THE PRESIDENT drew the attention of the members of the Committee to the following documents:

The report of the third session of the Commission on Human Rights (E/800)¹ which contained, as an annex, the draft international declaration of human rights (annex A);

² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 23–32.

Resolution 151(VII) adopted by the Economic and Social Council² which transmitted to the General Assembly the draft international declaration of human rights, together with the remainder of the report of the third session of the Commission on Human Rights and the records of the proceedings of the Council on the rights of man during its seventh session; and

The report of the Economic and Social Council to the General Assembly (A/625)³ of which section

[¹] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, Supplement No. 2.

[²] See Resolutions adopted by the Economic and Social Council during its seventh session, page 15.

[³] See *Official Records of the third session of the General Assembly*, Supplement No. 3.

[27]

I of chapter III dealt with the question of human rights.

MR. SANTA CRUZ (Chile) having pointed out that the Assembly had before it not only the draft international declaration of human rights, but also the draft Covenant and the suggestions for implementation. The Chairman agreed that that was correct, since the Council resolution stated explicitly that the Council decided to transmit to the Assembly not only the draft declaration, but also the remainder of its report.

Consequently, the Assembly was obliged to consider the whole of the report of the Commission on Human Rights (E/800).

MR. RAMÍREZ MORENO (Colombia) asked that a general discussion should be held on the entire question of human rights so that each member could define his position on the question as a whole before submitting his observations on each article.

THE CHAIRMAN asked the members of the Committee to state their views on the desirability of having a general discussion.

MRS. ROOSEVELT (United States of America) could quite understand that those members who had not been represented on the Commission on Human Rights should wish to state their views, but she pointed out that the Commission on Human Rights had requested the Governments of all Member States to submit their comments in writing on the draft declaration and that all Governments had had time to do so.¹ The comments submitted had been read and weighed by the Committee.

She therefore suggested that a general debate should be held, but that it should be restricted by giving priority to the representatives of Member States which were not members of the Commission on Human Rights and to representatives of Governments which had not submitted comments on the draft declaration. It was to be hoped that the general debate would not become unduly prolonged.

MR. ALVARADO (Peru), MR. PÉREZ CISNEROS (Cuba), MR. SANTA CRUZ (Chile) and MR. COROMINAS (Argentina) supported the Colombian proposal.

MR. ALVARADO (Peru) requested, in addition, that the American Declaration of the Rights and Duties of Man signed at Bogotá by twenty-one nations, not long before should be circulated to the members of the Committee for their information.

MR. PÉREZ CISNEROS (Cuba) supported that suggestion and pointed out that the draft declaration worked out by the Commission on Human Rights had to a certain extent been inspired by the Bogotá declaration. He felt it would be useful if the Secretariat prepared a comparative table of the corresponding articles of the two Declarations.

MR. SANTA CRUZ (Chile) recalled that the Commission on Human Rights had taken note of the Bogotá declaration and, during the discussion

^[1] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement No. 1, Chapter I, paragraph 13.

[28]

in the Drafting Committee, the Chilean representative had drawn inspiration from the Bogotá text.

COUNT CARTON DE WIART (Belgium) pointed out that the Inter-Parliamentary Union, which was a non-governmental organization with category A consultative status, had held a conference in Rome two weeks previously, at the conclusion of which it had adopted a declaration on the principles which should form the basis of international morality.

He thought it might be used to request the Secretariat to circulate that document.

THE CHAIRMAN said that the Bogotá Declaration had been distributed at Lake Success under the document symbol E/CN.4/122. He would nevertheless request the Secretariat to make the text available to the members of the Committee as soon as possible. He stressed, however, that the Third Committee had before it only the draft declaration submitted by the Commission on Human Rights, and that documents such as the Declaration of Bogotá would be made available for information only. Discussion, therefore, would have to limit itself officially to the draft worked out by the Commission on Human Rights.

MR. COROMINAS (Argentina) believed that, if the Committee wished to give to the question of human rights its due importance, no restrictions should be placed on the length of the general discussion. If the current session of the Assembly succeeded in solving that problem, that, in itself, would justify the convening of the Assembly. Instead of limiting the duration of the general discussion, it seemed to him that on the contrary, the time devoted to that discussion would show the importance which the United Nations attributed to the question of human rights.

MR. SAINT-LOT (Haiti) pointed out that the discussions in committee should deal with practical matters which might lead to constructive results, and that general statements could be made at plenary meetings.

MR. COROMINAS (Argentina) observed that the Third Committee was part of the General Assembly and that all the representatives who had not yet had an opportunity to state their views should be given the opportunity to do so.

MR. ANZE MATIENZO (Bolivia) shared the views of the Argentine representative. He was of the opinion that a preliminary debate should be held to bring out the principles on which the declaration of human rights must be based.

MR. CHANG (China) suggested, as a compromise, that the discussion on the preamble might begin immediately, a procedure which would permit every member to state his principles, since the preamble set out the principles on which the declaration was based. He proposed that the discussion should be divided into two parts, a discussion on principles and a discussion on drafting, so as to ascertain what wording would best express the principles accepted by the Commission.

There followed a brief discussion on the question whether the debate should deal with the draft declaration of human rights alone, or with [29] all the drafts relating to human rights, including the covenant and the suggestions for implementation.

MR. SANTA CRUZ (Chile) recalled that, in the opinion of certain members, the study of the last two drafts was not sufficiently advanced to permit the Assembly to discuss them forthwith.

MR. GARCÍA BAUER (Guatemala) also felt that it would be premature to consider the draft covenant on human rights and the suggestions for implementation during the current session of the Assembly. He asked the Committee to decide whether the debate should be limited to the draft declaration, or whether it should also cover the other two drafts.

MRS. ROOSEVELT (United States of America) pointed out that the Commission on Human Rights intended to terminate its work on the draft covenant and the suggestions for implementation during the following spring, so as to present those two drafts to the following session of the General Assembly.

MISS BERNARDINO (Dominican Republic) considered that the Committee should first of all decide whether there would be a general discussion; since the Commission on Human Rights was not composed of all Member States, it was quite natural that those Members which were not represented on it wished to make their positions known.

MR. RAMÍREZ MORENO (Colombia) emphasized that the problem of human rights must be considered in its entirety and that the views of various countries should be ascertained.

He disagreed with the draft declaration, which too often adopted a preaching tone and was vaguely, imbued with the idea of compulsion, an idea from which a free mind sought to liberate itself. He criticized the ideas expressed in the draft declaration and emphasized the importance of differences in philosophic outlook.

In conclusion he said he wished his criticisms to be constructive; he would first have to explain his own conception of the rights of man which made him reject certain formulae adopted in the draft declaration and which would prompt the criticisms he would make about certain articles.

THE CHAIRMAN asked the Committee to decide how the draft international declaration of human rights was to be examined.

The first proposal made was that a general discussion should take place in which priority would be granted to representatives of the countries that had not taken part in the work of the Commission on Human Rights. The second proposal put forward by the representative of China, was that the draft declaration of human rights be examined forthwith, beginning with the preamble, the substance and form of which would be considered in turn.

He asked the representatives to choose between those two proposals.

[30]

MR. CONTOUMAS (Greece) supported the proposal of the representative of China.

COLONEL HODGSON (Australia) said the Committee should first examine the report as a whole, that is, the draft declaration of human rights, the covenant and the suggestions for implementation. During its session in December 1947, the Commission on Human Rights had decided that these three matters should be taken together and three working parties had been set up to study them.¹ At the session held in May 1948 at Lake Success the covenant and the suggestions for implementation had not been sufficiently studied and at the sixth session of the Economic and Social Council, the draft declaration of human rights had not been examined. The Committee was asked to continue the work on the covenant and the suggestions for implementation.

He maintained that a general discussion should take place, and that that discussion should not be limited to the preamble but should cover the three points he had enumerated in his opening remarks.

MR. COROMINAS (Argentina) asked that a vote be taken by roll-call.

MRS. BEGRUP (Denmark) agreed with the representative of the United States that it would be advisable to limit discussion to the draft declaration of human rights which should, in accordance with the recommendation of the Economic and Social Council, be adopted by the General Assembly at its current session. The covenant had not yet been sufficiently elaborated for a useful study to be made.

She supported the Chinese proposal calling for a general discussion on the preamble, to be followed by an examination of the other parts of the draft declaration.

THE CHAIRMAN pointed out that the members of the Third Committee had before them the whole report of the Commission on Human Rights, that is, the declaration, the covenant and the suggestions for implementation.

MR. PÉREZ CISNEROS (Cuba) supported the proposal of the representative of Australia but saw no reasons why certain representatives should be granted priority to speak in the course of discussion.

THE CHAIRMAN replied that it seemed natural to grant priority to the representatives of Countries that had not participated in the work of the Commission on Human Rights, in accordance with the suggestion of the representatives of the United States and Chile.

MR. ANZE MATIENZO (Bolivia) supported the Australian proposal and associated himself with the request made by the representative of the Argentine that the question be immediately put to the vote by roll-call.

MR. CHANG (China) said that as his colleagues were in favour of a general discussion he would withdraw his proposal that the Committee should start immediately by studying the preamble. He would request the President, however, to ask the representatives whether they wished the discus-

^[1] See E/CN.4/50.

[31]

sion to deal solely with the draft declaration or with the whole report, including the covenant and the suggestions for implementation.

MR. CASSIN (France) supported the proposal of the representative of Australia because a general discussion, which was in any case inevitable, was always profitable. Speakers taking part in the discussion should naturally observe some sort of discipline. The States represented in the Commission on Human Rights should give way to others in order that the work on the Commission should not be prolonged unnecessarily; it was essential that the declaration on human rights should be adopted at the current session of the General Assembly.

MR. PAVLOV (Union of Soviet Socialist Republics) was in favour of a general discussion covering all the questions in hand, but pointed out with regard to the suggestions for implementation that certain relevant documents were not yet available. Thus the question had been raised of the setting up of an international court or permanent commission on human rights, two points on which the Committee lacked information.

He was opposed to the granting of priority to certain representatives in the debate.

MR. DEHOUSSE (Belgium) wished for a discussion which would be full, general, and entirely free, in which all representatives would take part without discrimination and which would cover the whole question of the declaration, the covenant, and the suggestions for implementation, for it was impossible to separate the questions under consideration. Certain restraints would have to be applied; the Chairman might decide that the list of speakers should be closed on a certain date and that speeches be limited to, say, half an hour.

He moved the adjournment of the discussion until the afternoon meeting, so that the various delegations could reach a decision on the matter.

THE CHAIRMAN referring to rule 107 of the rules of procedure said he would immediately put the motion for adjournment to the vote.

MR. CHANG (China) asked what exactly was the proposal before the Committee and upon what question would the vote be taken.

THE CHAIRMAN stated the proposal in the following terms:

“The Third Committee

“Decides to proceed immediately to a general discussion of item 2 of its agenda (Draft international declaration of human rights: item submitted by the Economic and Social Council), which includes the report of the Commission on Human Rights in its entirety.”

He asked the representative of Belgium whether he agreed to that proposal and would withdraw his motion for adjournment.

MR. DEHOUSSE (Belgium) agreed.

MR. COROMINAS (Argentina) withdrew his request that a vote be taken by roll-call.

[32]

THE CHAIRMAN put his proposal to the vote.

The proposal was adopted.

The meeting rose at 1:15 p.m.

A/C.3/SR.89³

30 September 1948

Summary Record of the Eighty-Ninth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Thursday, 30 September 1948
at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

10. Draft international declaration of human rights (E/800) (continued)

THE CHAIRMAN declared open the general debate on the draft international declaration of human rights, prepared by the Commission on Human Rights, and on the report of the Commission's third session (E/800).

He called on Mrs. Roosevelt (United States of America), Chairman of the Commission, to present the draft declaration to the Committee.

³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 32–6.

MRS. ROOSEVELT (United States of America) stated that the members of the Commission on Human Rights considered that the draft declaration represented a great step forward in the protection and promotion of human rights and fundamental freedoms and their application. As Mr. Marshall had made clear at a plenary meeting of the General Assembly,⁴ the United States delegation attached great importance to the genuine respect for human rights in general and to the declaration in particular. The United States delegation looked forward to the adoption of the declaration by the General Assembly at its current session.

As the Commission on Human Rights had pointed out in its report, the declaration of human rights was only the first step in the elaboration of the human rights programme called for by the Charter; it was essential that it should be followed by a covenant of human rights, drafted in the form of a treaty and containing provisions for implementation. Mrs. Roosevelt hoped that the covenant, with which the Commission would deal at its following session, might be approved by the General Assembly in 1949.

The draft declaration was not a treaty or international agreement and did not impose legal obligations. It was rather a statement of basic principles of inalienable human rights, setting up a common standard of achievement for all peoples and all nations. Although it was not legally binding, the declaration would nevertheless, have considerable weight. Its adoption would commit Member States, in the words of the preamble, "to strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure the universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction". The declaration listed basic rights for all men, [33] without which the full development of the individual was impossible.

As Chairman of the Commission on Human Rights and as United States representative, Mrs. Roosevelt appealed to the Committee to strive for a majority agreement on the declaration, and urged its members not to allow themselves to be turned aside from its goal by a search for absolute perfection. Her delegation was aware that the declarations might be improved upon; it did not think, for instance, that article 14, which dealt with marriage, should be included in the declaration at all. Article 19, paragraph 2, which stated that everyone has the right of access to public employment in his country, was too broadly phrased. The United States Government did not feel that it was infringing any basic human right by excluding individuals with subversive ideas from its civil service. It did not believe that the economic, social and cultural rights listed in the latter part of the declaration implied the need for direct governmental action, except as stated in the covering article 20. Nevertheless,

⁴ A/PV.139.

the United States delegation considered the declaration, as a whole, a good document and was prepared to accept it in its existing form, without further amendment, if the majority so agreed.

Mrs. Roosevelt warned the Committee of the time which might be wasted if numerous amendments were to be considered. The declaration had already undergone minute scrutiny. Every Member State had had the opportunity to submit comments, and all comments received had been given careful attention, so that the document as it stood was widely representative of the views of Members of the United Nations. Mrs. Roosevelt expressed the hope that the Third Committee and the General Assembly would approve the product of two years' painstaking work by the Commission on Human Rights.

She supported the statement made by Mr. Marshall, at a plenary meeting, that there could be no compromise on basic principles. No such compromise was to be found in the declaration. The General Assembly should at its current session, proclaim the great principles contained in the declaration, for which the peoples of the world were waiting.

MRS. NEWLANDS (New Zealand) stated that her delegation still maintained the position it had taken at the seventh session of the Economic and Social Council.¹ While it recognized the importance granted to human rights in the Charter and was anxious to help in the early adoption of a declaration of human rights, it felt that the declaration should not be approved by itself, but together with documents which would provide means of implementation.

Mrs. Newlands pointed out that Members of the United Nations had achieved varying stages of economic and social development. Their

^[1] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 218th meeting.

[34]

internal structures did not conform to a single pattern; and the historical conditions from which they drew their philosophical ideas were not uniform. Sufficient time should therefore be allowed for each Government to consider the views and comments of other Governments, for differing points of view to be reconciled, and for the greatest possible measure of agreement to be achieved. Some delay would be preferable to the hasty adoption of a text which Member States might later have cause to regret.

The draft declaration before the Committee was only the first part of an international bill of human rights. It had been prepared by only eighteen Member States. The Economic and Social Council, at its seventh session, had not had time to deal with it thoroughly, but had merely referred it to the General Assembly together with a statement of positions taken by its representatives. The New Zealand delegation felt that the draft declaration was not yet a mature document, reflecting the views of all the Members of the United Nations. Not all Governments had as yet examined it

in relation to their systems of law. A declaration of human rights by fifty-eight States would be a great event; further study was required to make the document worthy of the occasion.

It had frequently been emphasized that the declaration would not be legally binding. The covenant, which would have such effect, was the more important document of the two, and it was highly desirable that they should be adopted at the same time. If the declaration were adopted first, there was less likelihood that the covenant would be adopted at all; by the time it was ready for adoption, some States, having already accepted the declaration, might be unwilling to vote for it.

Moreover, separate adoption of the declaration might give it greater weight than was intended. It was the opinion of the majority in the Commission on Human Rights that the declaration would not be binding; it would rather be a statement of basic human rights for the observance of which nations should strive.

Yet the French representative who had taken part in the work of the Commission had subsequently stated in the Economic and Social Council that he considered the declaration of human rights to be a complement to the Charter of the United Nations which could not be included in it because of the lengthy preparation it required, a clarification of the Charter, and an organic act of the United Nations having all the legal validity of such an act. The French representative had held that it would be dangerous to tell the peoples of the world that the declaration had no legal validity and merely showed the way towards a better future.

While the New Zealand delegation did not share the French representative's view with respect to the legal validity of the declaration, it felt that there was a real danger that, if the declaration were accepted without the covenant, undue importance might be ascribed to it; it might be used for the purpose of definition of provisions of the Charter, a purpose for which the Commission on Human Rights had never [35] intended it. The declaration should be adopted at the same time as the covenant, and it should be made clear that it was the latter document which created legally binding obligations.

Mrs. Newlands hoped that the views of her delegation would be taken into account. She urged the Committee, after a thorough discussion, to refer the draft declaration back to the Commission on Human Rights for further study in the light of additional comments by Governments. The Commission could also continue to work on the covenant, and both documents could be adopted by the General Assembly at its fourth session.

She added that should the Committee decide to undertake a detailed consideration of the declaration, the New Zealand delegation would be prepared to take part.

MRS. BEGTRUP (Denmark) observed that her country attached great importance to the clause on minority rights, which had originally appeared in the declaration, but was not to be found in the text then before the Committee. She would make a definite proposal on that subject at a later time.

MR. CASTBERG (Norway) said that his Government was anxious to see the draft declaration approved at the current session. While the declaration was designed to set moral standards rather than to impose legal obligations, it would be of practical value, since it would undoubtedly serve as a basis for the discussion in the United Nations of any question of human rights. Human rights should not be regarded as falling within the domestic jurisdiction of States.

His delegation whole-heartedly supported the declaration as it stood.

MR. COROMINAS (Argentina) stated that the declaration of human rights was perhaps the most important question with which the current session had to deal, as it was the latest step forward in humanity's march towards larger freedom.

The declaration before the Committee might require amendments and additions. It involved moral obligations only, and should be followed by a document which would impose legal obligations but which would, at the same time, be in harmony with the existing constitutions of democratic States. All those constitutions granted civil and political rights: the declaration marked an advance in that it also guaranteed social rights, and thus kept abreast of the progress made by human aspirations in the preceding half-century.

The Argentine representative said that the declaration should contain an enumeration of social rights, stated so clearly and simply that they could be readily understood by all. It should also, possibly in a separate chapter, list the social duties which men must assume if the corresponding rights were to be guaranteed. Each article it contained should be self-explanatory, self-contained and capable of enforcement. Finally, the declaration should be applicable equally to the peoples of the Member and non-member States; the tradi-[36]tions and legal systems of the latter should consequently be taken into account.

The members of the Committee were responsible to their people; they could not return from the current session empty-handed. They must respond to the civic and social aspirations of mankind and adopt the declaration of human rights for which the world was waiting.

In conclusion, the Argentine representative paid a tribute to the representative of the United States, whose untiring efforts were largely responsible for the excellence of the draft declaration.

MR. CONTOUMAS (Greece) said that there was little need for the representative of Greece to put forward his country's views on human rights; the Greek people had striven for that sacred cause since the days of antiquity. It could be said that they were still striving for the same ideal.

His delegation endorsed the general principles of the draft declaration, although it reserved the right to speak again during the detailed examination of the document.

MR. RAMÍREZ MORENO (Colombia) asked if the meeting could be adjourned, in order that he and other representatives might have the opportunity to study the draft declaration further.

MR. SANTA CRUZ (Chile) made a formal proposal for adjournment under rule 107 of the rules of procedure.

THE CHAIRMAN, having assured the representative of Argentina that he would be given an opportunity to speak again if he so desired, put the motion for adjournment to the vote.

The motion was adopted by 27 votes to 8, with 15 abstentions.

The meeting rose at 4.30 p.m.

A/C.3/214

1 October 1948

**Colombia and Cuba:
Table of Correlation of Articles of the Draft International
Declaration of Human Rights and the American Declaration
of the Rights and Duties of Man (E/800 and E/CN.4/122)**

Articles of the draft International Declaration	Corresponding articles of the American Declaration
1	Preamble
2	
3	I
4	XXVI(2)
5	XXVII
6	II
7	XXV
8	XXVI
9	XXVI
10	V–IX–X
11	VIII
12	XXVII
13	XIX
14	VIII
15	XXIII
16	III
17	IV
18	XXI–XXII
19	XX

Articles of the draft International Declaration	Corresponding articles of the American Declaration
20	XVI
21	XIV
22	XI–XVI–VII
23	XII
24	XV
[2]	
25	XIII
26	
27	XXVIII and duties
28	
Additional article	XXIV
	II
Articles of the American Declaration	Corresponding articles of the draft International Declaration
I	3
II	6
III	16
IV	17
V	10
VI	14
VII	22(2)
VIII	11
IX	10
X	10
XI	22
XII	23
XIII	24
XIV	21
XV	24
XVI	20, 22
XVII	5
XVIII	8
XIX	13
XX	19
XXI	18
XXII	18
XXIII	15
XXIV	Additional article
XXV	7
XXVI	4, 8, 9
XXVII	12

XXVIII

27(2)

Duties

XXIX

to

XXXVIII

A/C.3/SR.90⁵

1 October 1948

Summary Record of the Ninetieth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Friday,
 1 October 1948, at 10.30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

11. Draft international declaration of human rights (E/800) (continued)

MR. CARRERA-ANDRADE (Ecuador) said he had voted for the adjournment of the previous meeting because he felt the Committee had reached the core of the question of human rights and needed time for reflection. The international declaration of human rights was the most important document of the century, and, indeed, was a major expression of the human conscience. Human rights did not stop at national frontiers; hence, the supreme importance of the present debate. For the first time, fifty-eight States, representing five continents, had come [37] together to discuss the lot of man and to seek means to make his existence a fuller one.

There could be no better place than France for such a meeting, for France was the birthplace of the rights of man. From the discussions there should emerge a true charter of human rights. The international bill – the declaration and the covenant – would represent a well-constructed and indivisible whole and for that reason he was not in favour of taking the dramatic step of adopting the declaration separately.

Although the Commission on Human Rights had been assisted in its work by both intellectual and workers groups, the draft was not perfect, nor could it be expected to be. Much time would be needed to perfect the international bill; what was needed just then was the enthusiasm necessary to bring it into existence.

⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 36–45.

If to article 3, or in special clauses, there could be added the right to work, to rest, to freedom of thought and religion, the essential minimum would be guaranteed. Man was fighting for a peaceful, civilized existence. War was a barbarity and for the sake of the following generation at least, an attempt should be made to adjust the differences between the two blocs and to eliminate the possibility of atomic death.

Ecuador formed part of a new continent which derived its inspiration from the American Bill of Rights. It would therefore support the adoption of the declaration.

MRS. IKRAMULLAH (Pakistan) said her delegation fully supported the adoption of the declaration because it believed in the dignity and worth of man. It was imperative that the peoples of the world should recognize the existence of a code of civilized behaviour which would apply not only in international relations but also in domestic affairs. It was her hope that the declaration would mark a turning-point in history of no less importance than the works of Tom Paine and the American Declaration of Independence.

Whenever liberty, equality and fraternity were threatened, the divine element in men manifested itself. Such a crisis had arisen, but man, created in God's image, would save the world from bondage and ensure the birth of a new and better civilization.

MR. CAMPOS ORTIZ (Mexico) said that his Government was deeply interested in having human rights consecrated in an international document. At San Francisco, it had been suggested that a declaration of rights should be annexed to the Charter.¹ Similarly, the Latin American countries had annexed such a declaration to the Final Act of the Bogotá conference.²

Respect for human rights was an urgent necessity and to achieve it, those rights had to be defined. For that reason, his Government recognized that the draft declaration was of the greatest

^[1] See *United Nations Conference on International Organization, San Francisco 1945*, Volume I, 8th plenary session.

^[2] Sec E/CN.4/122.

[38]

importance. It would not involve legal obligations, but that would not diminish the value of the document. It would define the human rights which States undertook to recognize and would serve as a criterion to guide and stimulate them. At the moment it would be difficult to go further. He recommended the inclusion in the declaration of a provision similar to article XVIII of the declaration of Bogotá³ which would ensure that the law would defend individuals against violation of human rights. The draft before the Committee was generally acceptable and the Mexican delegation was ready to co-operate with other delegations in making the necessary improvements.

MR. PÉREZ CISNEROS (Cuba) reminded the Committee that it had been the Cuban delegation which had fought for the inclusion of a declaration of human rights in the United Nations Charter. It had taken the same position during the first session of the General Assembly. The Commission on Human Rights had carried out a detailed

technical study and the time had come for the adoption of the declaration. Mention had to be made not only of the Commission's excellent work but also of the formulation of the rights of man in the declaration of Bogotá. It was the result of careful study carried on by a legal committee for many years. Further, the representatives at Bogotá had had the advantage of being able to study the Geneva text of the declaration with most of which they had agreed.

In certain respects, however, he felt that the Bogotá text was superior to the Geneva draft and he was grateful to the Chilean representative for having tried to introduce some of the principles of the former into the latter. During the current session, the Cuban delegation would attempt to ensure that the efforts of the twenty-one Latin American Republics would be approved by the General Assembly.

He suggested that a sub-committee should be set up to study and compare the two texts. It should have a membership of perhaps eleven or fifteen, with adequate representation of Latin American countries.

He pointed out that article 1 of the draft was a statement of fact and not the statement of a right and that, owing to its importance, it would be better to insert it in a special preamble. There was also some confusion between rights and duties; to obviate that it would be desirable, as a natural consequence of article 27, for the text of the declaration to indicate clearly and precisely what the duties were.

The right of freedom of religion should be expressed in a separate article and not included along with the right to freedom of thought and conscience in article 16. Article 23, on education, was inadequate and could be improved by the insertion of the words "at least" after "elementary and fundamental education", as had been done in the Bogotá text.

[³] See E/CN.4/122.

[39]

The social rights had not been clearly defined and a reference to women's rights should also be inserted. His delegation was eager to see a provision inserted concerning the right to resist, such as the one contained in the Cuban Constitution. It had to be recognized that the instrument of justice could at times become an instrument of oppression and for that reason, the individual had to be granted the right to resist.

THE CHAIRMAN drew the Cuban representative's attention to the fact that the draft declaration had been re-drafted at Lake Success after the Ninth International Conference of American States and therefore, the relevant portions of the Bogotá declaration had already been taken into consideration.

MR. LOUW (Union of South Africa) wanted to be quite sure that, after the declaration had been adopted, there would be no unforeseen legal or moral obligations with which certain countries might not be able to comply. A declaration was not a convention and as such, had no legal significance. However, some might insist on interpreting its provisions in the light of certain passages of the Charter and might likewise insist on the existence of

legal obligations. Further, only parties were bound by a convention, while Members who abstained in the vote on the declaration still would be bound by its provisions.

The South African Government had good reason to take care before it committed itself, for in the past, clear statements had been given distorted interpretations for political reasons. The declaration should refer only to those fundamental rights the universal applicability of which was recognized all over the world. The declaration as it stood went beyond those generally accepted rights.

The South African delegation could not possibly accept the thesis that human dignity would be *impaired* if a person were told he could not reside in a particular area. Such a thesis would destroy the whole basis of the multi-racial structure of the Union of South Africa and would certainly not be in the interests of the less advanced indigenous population. It had to be remembered that large tracts of the territory in that country had been set aside for the exclusive use and development of the non-European population, and no European was permitted to acquire or occupy land in such areas.

Similarly, the right to participate in government was not universal; it was conditioned not only by nationality but also by qualifications of franchise. Certainly there were many countries which could not give effect to the terms of article 19.

The draft declaration also included a certain number of what might be described as economic rights, such as the right, not only to work, but to do useful work and to be remunerated according to ability and skill; the duty of the State to ensure employment; and the right of women to equal pay for equal work as compared with men. It was to be wondered how many States were in a position to say that they could assume any international [40] responsibility for the full exercise of such rights.

The South African delegation submitted, therefore, that the declaration should contain only such generally recognized fundamental rights as freedom of religion and of speech, the liberty of the person, the inviolability of person and property, and free access to courts of impartial justice. It was not, after all, the function of the Committee to codify a whole philosophy of life. If the observance of those fundamental rights could be secured, man would be fully protected against the inhumanities of his fellow-men. It would be wiser not to attempt too much including things which might be accepted without meaning, but rather to confine the declaration to those rights which were practical in the world as it was. It would be a tragedy if human rights became a cliché or developed into a political slogan.

MISS BERNARDINO (Dominican Republic) said that, although the draft declaration was not perfect, it was a valuable document meriting careful study. She congratulated the Human Rights Commission on its work and paid a special tribute to its Chairman, Mrs. Roosevelt, who had contributed towards the speedy acceptance of many of the suggestions made by the Commission on the Status of Women. The mention of the rights of women in a number of articles of the draft declaration greatly increased the value of the document.

In her opinion, equal rights naturally entailed equal obligations and her delegation would accept any amendment intended to make that fact clear.

The rights mentioned in the draft declaration were already embodied in the Constitution of her country, which was one of the signatories of the Bogotá agreement. Her delegation would support the draft declaration in its existing form as a working document and would be prepared to accept any suitable amendments.

MR. MAYBANK (Canada) said that previous speakers had made it clear that all representatives believed firmly and sincerely in the concept of human rights. Unless human rights and fundamental freedoms were assured throughout the world, people would have little faith in the United Nations. The Committee had the opportunity of contributing something of value to humanity's progress towards a better life. His country had no national declaration of human rights but long precedent and daily practice had established a sensitive and deep-rooted devotion to the further development of individual human rights.

As an example of the constant interest which the Canadian Government and people took in the subject, he mentioned that, a few months previously, the Canadian Senate and House of Commons had established a Joint Parliamentary Committee to examine an earlier text of the draft declaration of human rights. That Committee had reported favourably on the general objectives of the draft declaration and had suggested a number [41] of amendments to which he would refer at a later stage.

He congratulated the Human Rights Commission on its work and regretted that the Economic and Social Council had not found time, at its seventh session, to examine the draft before the Committee. The matter had been specifically referred to the Council by the Assembly; he hoped that the Council would find time to examine all the subjects referred to in it, as the United Nations machinery would, otherwise, be prevented from operating efficiently. In the absence of any recommendations from the Council, the Committee would have to study the draft declaration with more than usual care.

His delegation was in agreement with the objectives of the draft declaration. He pointed out, however, that the Canadian Constitution provided that matters relating to property and civil rights came exclusively within the competence of the various provincial legislatures. The extent to which his Government could act in the field of human rights was therefore circumscribed and the subject would have to be carefully studied by competent legal authorities at the proper time.

In conclusion, he reaffirmed his conviction that, with goodwill and a common belief in the importance of defining human rights in simple and unmistakable terms, the Committee would be able to approve a declaration which would be of real significance in the history of man's striving towards a greater measure of dignity and freedom.

MR. COROMINAS (Argentina) recalled that at the 89th meeting he had emphasized the necessity of including a definition of social rights in the draft declaration together with an enumeration of the social duties which men would have to assume if the rights were to be guaranteed. He had also stated that the declaration should be couched in simple terms and should be completely universal in character. It should also take into account the existing constitutions of the various countries so that it would have a juridical as well as a moral value.

He thought that, in studying the draft declaration, undue emphasis should not be placed on political considerations. The world was passing through a critical period; there was still evidence of the desire for conquest, not only territorial but also spiritual. It was therefore essential to proclaim fundamental human rights, especially social rights, which, in his opinion, should serve as a basis for the whole declaration. Throughout the world men should be given freedom from fear and should be assured of complete security. The whole cause of progress would be hindered if backward conditions were allowed to remain in any part of the world.

In his opinion, the chief objectives of the declaration were the promotion of culture, and the protection of the social rights of man. He felt sure that it would be possible to reconcile the conflicting ideological trends which were apparent in [42] the world. The declaration would encourage men to live according to humanitarian ideals after the terrible sufferings of the war.

In conclusion, he re-emphasized the importance of including basic social rights in the declaration, which was to be universal in its application. Only if those basic social rights were guaranteed to all men would they be able to develop spiritually and live together in harmony and concord.

MR. ANZE MATIENZO (Bolivia) congratulated the Human Rights Commission on its work. His delegation agreed in principle with the draft declaration under discussion but would make suggestions for the improvement of individual articles at a later stage.

Latin America had, at one time, prepared a document setting forth basic human rights, to be guaranteed to all people without any distinction. Since then the world had been plunged into war and the sufferings of mankind during that war had made even clearer the necessity of proclaiming and protecting human rights throughout the world. An international declaration would have immense moral and political value and it should be universal in its application. In order to maintain peaceful internal conditions in each State, the legitimate rights of citizens and the corresponding duties of Governments should be recognized.

It was one of the duties of the United Nations to proclaim fundamental human rights, but it should also ensure the implementation of the principles which it proclaimed. The declaration of human rights, when adopted, should provide effective protection against persecution. Such protection was a fundamental right and

that principle was included in the constitutions of many Latin American States. The declaration would have to go beyond national frontiers, and national sovereignty would have to be subordinated to international requirements. He emphasized the need for the right of asylum, which had been included in the agreements drawn up both at Montevideo and at Bogotá. The need for the protection of minorities and ethnical groups should also be remembered.

He regarded the draft declaration as a new international constitution, whereby the rights of States were limited in the interests of the rights of individuals and he hoped that it would become an integral part of international law.

THE CHAIRMAN said that, as well as the document prepared at Bogotá, the Committee should consider the document drawn up by the XXXVIIth Inter-Parliamentary Conference (A/C.3/221). He also drew attention to a document compiled by the United Nations Educational, Scientific and Cultural Organization which contained the opinions of eminent contemporary philosophers on the subject of human rights.⁴

MR. DE LEÓN (Panama) stated that his delegation attached great importance to the declaration of human rights: at the San Francisco Conference

[4] See UNESCO/PHS/3(Rev.).

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it had submitted a draft on the subject which had been used as a basis for discussion. It was to be hoped that the declaration would serve as a complement to the United Nations Charter.

He wished to object to the oft-repeated sophistry that the United Nations was helpless to prevent violation of human rights because under Article 2, paragraph 7 of the Charter it could not interfere in matters which were within the domestic jurisdiction of States. The Charter also included provisions concerning human rights. Article 2, paragraph 7 dealt only with questions which fell exclusively within domestic jurisdiction, and could not apply to matters covered under international law. Consequently, it could not be invoked in the case under discussion. If the Charter had any significance at all, human rights were international; they were the common property of all mankind. He reserved the right to propose certain amendments when the declaration was considered article by article.

MR. CAÑAS (Costa Rica) said that, although the Committee was meeting in a time of crisis, his delegation's attitude was an optimistic one. It was a matter for pride that, at a time when individual rights seemed fated to bow before the tyranny of State rights, an international meeting had produced a draft declaration of human rights. While the draft declaration was not perfect, and contained certain passages which required clarification, the Committee would undoubtedly improve it. Mr. Cañas was prepared to vote in favour of all amendments tending to that end.

Certain clauses and articles should be added to the declaration which would make it clear that the individual human being was not to be regarded as subordinate to the State. The Costa Rican delegation had opposed and would continue to oppose USSR proposals tending to place the interests of the State above those of the individual. The Government of a State could fall into the hands of a small group which could exploit and oppress the rest of the population. The declaration should ensure primary importance to the rights of the individual. Mr. Cañas could not agree to any compromise of that principle, nor to the exclusion of any rights already stated in the draft declaration.

He called attention to the fact that article 11 of the draft declaration was in practice disregarded in a number of countries. The same might be true of a number of other articles. It was necessary to ensure that the domestic legislation of the various States gave any men the right to live and to express themselves freely. The case of Hitlerite Germany had shown that a State which placed its interests above those of its individual citizens entered upon the path which led to war. The declaration should be a weapon with which to oppose and combat that concept.

In the struggle between man and the State, the Costa Rican delegation was proud to embrace the cause of man.

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It supported the Colombian proposal that the declaration should contain a mention of the inalienable right of all men to resist oppression.

MR. SAINT-LOT (Haiti) said that his Government nurtured in the tradition of the Declaration of the Rights of Man and of the Citizen of 1789, and practising political, economic and social democracy, wished to congratulate the Human Rights Commission on the fact that most of the rights granted by the Constitution of Haiti had found expression in the declaration.

Haiti wished to lend its support to all those who fought for freedom, equality and justice, and would do its utmost to make the declaration not an abstract document but an instrument of practical value to the oppressed everywhere. It would cooperate with all men of goodwill to ensure the universality of the application of the human rights enumerated in the draft declaration.

MR. RAMÍREZ MORENO (Colombia) said that, having studied the documents before the Third Committee exhaustively, he wished to congratulate the Human Rights Commission on its splendid work. The Chairman of that Commission, in particular, served as an example and inspiration to all those who were fighting for human rights.

The covenant on human rights was, of course, a more important document than the declaration of human rights. The declaration, good as it was, would gain in stature if its provisions were more concrete and its style were more forceful and passionate, as befitted a document of that nature.

There appeared to be basic agreement concerning the broad lines of the declaration; it was to be hoped that no rift would become evident later. The Colombian representative observed that each delegation had the right to express its opinion with respect to the draft declaration, but that direct criticism of any given country should be avoided. Personal considerations should be forgotten in dealing with the noble concepts contained in the draft declaration.

The authors of the draft declaration did not intend to interfere in relations between Governments or in relations between the Government and the citizens of any State; they intended simply to establish a set of principles, which should, if possible, be implemented. The declaration expressed the same love of mankind that had moved all great political thinkers since Plato; it should contain philosophical precepts as well as basic principles of human rights and should represent a step forward in human progress.

Mr. Ramírez Moreno proclaimed his faith in mankind and in the United Nations' ability to serve it. Eventually mankind would triumph over all the obstacles in its path. The results of the work upon which the Committee was engaged [45] should be of great significance, even though they might be merely the seed of a tree which would bear fruit at a much later time.

A great deal of painstaking and methodical work had gone into the drafting of the declaration. Nevertheless, it could still be improved. As men lived in social and family groups, the declaration ought to recognize that fact and state the rights of such groups as well as of individuals. The Colombian representative had certain criticisms to make with respect to a few articles in the draft declaration. Thus, the words "involuntary servitude" in article 4, paragraph 1, did not appear satisfactory; servitude of any kind was inadmissible. Article 10, on the other hand, combined a number of totally unrelated items. Those items should be separated and restated in clearer terms.

The draft declaration might also make mention of the right to own property jointly, and of the mutual obligation existing between capital and labour. It should deal with the whole problem of the grinding and humiliating poverty which permitted man to survive but broke his spirit. It should state the right of the worker to share in profits. If it could thus come to grips with the problem of economic insecurity, it would indeed constitute a great achievement on the part of the United Nations.

Article 21 did not go far enough; it should contain measures to prevent exploitation of workers by trade unions as well as by employers, and should protect both capital and labour. In the field of education, there should be no official interference between parents and children. The declaration could not and should not impose a standard of family relationships.

Mr. Ramírez Moreno recalled that democracy meant the rule of the majority in the interests of all. Several minority groups banding together to impose their will upon the rest could not properly be called a democratic Government; a democratic

Government was one which, chosen by the majority, gave equal opportunities to majority and minority groups.

The meeting rose at 1:30 p.m.

A/C.3/215

2 October 1948

Original Text: French

Brazil: Amendment to second part of Article 1

Amend the second sentence to read:

“Created in the image and likeness of God, they are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.”

A/C.3/216

2 October 1948

Original Text: French, Spanish

Cuba: Amendment to the Draft Declaration

Insert in the text of the Declaration an Article worded as follows:

“Any person shall have the right to offer appropriate resistance to manifest acts of oppression or tyranny.”

A/C.3/SR.91⁶

2 October 1948

Summary Record of the Ninety-First Meeting **[of the Third Committee]**

HeId at the Palais de Chaillot, Paris, on Saturday,
2 October 1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

⁶ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 45–53.

12. Draft international declaration of human rights (E/800) (continued)

MR. ALVARADO (Peru) expressed his country's keen interest in the subject of human rights, emphasizing in particular freedom of thought and of information. The principle of liberty had always inspired his country. He was, therefore, [46] pleased to welcome the draft declaration on behalf of his delegation and to congratulate the Human Rights Commission, and especially the Chairman on the important work accomplished in an extremely critical period of the world's history.

He referred to the brilliant analyses of the draft declaration made at the seventh session of the Economic and Social Council¹ by the representatives of Brazil and the United States and suggested that the Committee should take them into account in its consideration of the subject.

In his opinion the draft declaration had some defects, such as confusion between rights and obligations and the omission of any mention of the problem of minorities. The document, therefore, required careful study and he thought that a comparison with the Bogotá declaration would be helpful.

He supported the proposal made by the representative of Cuba (90th meeting) that a sub-committee should be set up to study the draft declaration in detail and to compare it with other relevant documents, especially the declaration drawn up at Bogotá.

MR. MODZIELEWSKI (Poland) said that the constitution of his country was based on the principle of equality for all citizens without any discrimination whatever. Freedom of the Press, freedom of religion and of conscience and all the social rights were fully guaranteed. The principal objective of his country's economic plan was to raise the standard of living of the workers and to guarantee full employment. Not only were the rights of the people guaranteed in the constitution, but there were also provisions in the Polish penal code whereby any incitement to a war of aggression or to national, racial or religious hatred was punishable by varying terms of imprisonment. In that field the achievements of his country went beyond the provisions of the draft declaration, which was, in his opinion, too abstract to be of much practical value. It was essential to put its principles into practice and to do away with all inequality in the social field.

The world was passing through a critical stage; in order to justify the hopes placed in it, the declaration should strengthen the forces of peace and democracy. It had been alleged that the word "democracy" was difficult to define but that had not been the case during the war when all truly democratic peoples had been united against fascism. The task of democracy was still to fight against fascism and it should be stated that the basic purpose of the declaration was to prevent any renewal of fascism. It should also be stated that anyone attempting to revive fascism and to provoke a new war should not be entitled to enjoy the rights set forth in the

declaration. The draft declaration in its existing form was unsatisfactory in that respect, as it contained only one mention of the word “democracy” and made no provision for limiting the application of the rights.

He thought that the application of article 12, granting the right of asylum, article 17 granting freedom of opinion and expression and article

^[1] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 215th meeting.

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18 granting freedom of assembly and association, should be limited so that fascists would not be able to profit by those provisions in order to overthrow democracy.

In his opinion, the draft declaration should include the following principles:

1. That the granting of political rights was useless unless social and economic rights were also guaranteed;
2. That the granting of rights was dependent on the fulfilment of obligations;
3. That the rights should be granted to all without discrimination, to the peoples of Trust and Non-Self-Governing Territories as well as to those of sovereign States;
4. That the adoption of the declaration should not entail any interference in the domestic jurisdiction of sovereign States.

Several articles of the draft were unsatisfactory in that last respect.

There were several omissions in the draft before the Committee, such as the omission of the right of nations to use their own language and to develop their own culture. The document did, however, contain many good points and it was urgent that a declaration of human rights should be adopted and implemented as soon as possible. In his opinion, many of the defects of the draft were the result of an arbitrary rejection of the proposals put forward by his delegation and that of the USSR. He therefore urged representatives to give all amendments due consideration so that a satisfactory document could be produced and speedily adopted.

SIR BENEGAL NARSINGA RAU (India), whose country had been represented on the Human Rights Commission, agreed in principle with the draft declaration as it stood.

His country's draft constitution, which would soon be considered by the Constituent Assembly, embodied most of the rights set forth in the draft declaration. Those rights could be divided into two broad categories, justiciable rights, and those requiring positive action on the part of the State but which could not be enforced through courts of law. The justiciable rights were recognized as fundamental in the new Indian constitution and other rights, such as those mentioned in article 21 of the draft declaration: “the right to work, to just and favourable conditions of work and pay and to protection against unemployment”, were included in a separate chapter. That chapter set forth the guiding principles of State policy and the rights mentioned in it, though not enforceable by law were regarded as fundamental.

The draft declaration was not strictly a legal document and it was not therefore necessary to examine the wording in great detail. Its meaning was reasonably clear and he urged its speedy adoption, for, although it would not be legally binding, it would have a certain amount of force and might help to dispel pessimism and disillusionment and to relieve the tension of the current world situation.

MR. CHANG (China) stated that the draft international declaration of human rights which [48] the General Assembly was about to adopt was a timely and noble document, for which there was urgent need. The Charter committed all Member States to the observance of human rights; the declaration stated those rights explicitly. It was only proper that their final formulation should take place in France, the birthplace of modern ideas of freedom.

In the eighteenth century, when progressive ideas with respect to human rights had been first put forward in Europe, translations of Chinese philosophers had been known to and had inspired such thinkers as Voltaire, Quesnay and Diderot in their humanistic revolt against feudalistic conceptions. Chinese ideas had been intermingled with European thought and sentiment on human rights at the time when that subject had been first speculated upon in modern Europe.

Stress should be laid upon the human aspect of human rights. A human being had to be constantly conscious of other men, in whose society he lived. A lengthy process of education was required before men and women realized the full value and obligations of the rights granted to them in the declaration; it was only when that stage had been achieved that those rights could be realized in practice. It was therefore necessary that the declaration should be approved as soon as possible, to serve as a basis and a programme for the humanization of man.

A declaration of human rights should be brief and readily understandable by all. It should be a document for all men everywhere, not merely for lawyers and scholars. It was with that object in mind that the Chinese delegation had introduced, at the third session of the Commission on Human Rights, a brief declaration containing ten articles² and it was gratified by the fact that the document had aided in making the present draft declaration clear and relatively brief.

The Chinese delegation would give its general support to the draft declaration in its existing form, and reserved the right to present suggestions during the detailed examination of that document.

COUNT CARTON DE WIART (Belgium) stated that his country and his Government welcomed the draft declaration of human rights, a document which gave full recognition to the "dignity and worth of the human person". The declaration, even when followed by the covenant, would necessitate no changes in Belgium's liberal constitution. In fact, too narrow an interpretation of article 12, dealing with the right of asylum, might present the only difficulty, as Belgium's tradition of hospitality and laws regarding extradition were perhaps more generous

than the corresponding provisions in the declaration. It was, however for each country to make its own interpretation.

The draft declaration was the result of a compromise between differing points of views. It could therefore not be perfect, but it was eminently

^[2] See E/CN.4/102.

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satisfactory. The Belgian delegation welcomed particularly the addition of social rights to those proclaimed in the Declaration of the Rights of Man and of the Citizen of 1789; the progress achieved since those days was thus put on record.

The draft declaration assigned to the institution of the family and to the rights of women the importance they deserve. The rights of the child were mentioned only in article 22; those rights had, however, been fully covered in a special declaration on the subject published some years previously.

While article 27 mentioned man's duties to the community, no mention was made of his duties towards his neighbour, his family, or himself. In dealing with that subject, mankind had as yet been unable to improve upon the precept underlying the Ten Commandments: "Thou shalt love thy neighbour as thyself".

The Belgian representative hoped that the General Assembly would adopt the draft declaration at its current session, both as a tribute to France and because it was important for the United Nations to give to the waiting world a tangible proof of its activity and usefulness. He reserved the right to make further comments at a subsequent discussion.

MR. BARODY (Saudi Arabia) briefly called attention to the fact that the declaration was based largely on Western patterns of culture, which were frequently at variance with the patterns of culture of Eastern States. That did not mean, however, that the declaration went counter to the latter, even if it did not conform to them.

MR. SANTA CRUZ (Chile) remarked that the statements made by previous speakers proved that there had been a need for a general debate.

The Chilean delegation had participated in the drafting of the declaration from the very beginning; it shared, in the main, the views of other Latin-American delegations, having been nurtured in the same traditions and therefore having a similar conception of the rights and duties of man.

According to the suggestion made by the Cuban representative at the previous meeting, Mr. Santa Cruz, as one of those who had helped to draft the declaration, was prepared to furnish explanations to other representatives concerning the reasoning which had made the declaration what it was.

Tremendous difficulties had been involved in preparing a declaration of human rights which would meet the frequently divergent views of fifty-eight States. It had been necessary to reconcile the different ideologies of the Soviet Union and other Eastern European countries and of the other Members of the United Nations; the difference between the economic and social rights recognized by Christian Western

civilization and those recognized by the Oriental civilization; the varying legal systems of Latin and Anglo-Saxon countries.

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It should not be forgotten that the draft declaration was a result of two years' painstaking effort by several organs of the United Nations to reach a compromise, acceptable at least to the majority, of all those conflicting views. The text of the Bogotá declaration had not been overlooked. While there was not complete concordance between it and the draft declaration, it had been given thorough consideration, and many of its articles had been accepted. Mr. Santa Cruz did not think, therefore, that it was advisable to form a sub-committee to effect a concordance, as had been suggested by the Cuban representative (90th meeting). Every delegation that wished to do so could, of course, propose any portion of the Bogotá text as an amendment to the draft declaration.

The Chilean representative agreed with the Chairman of the Commission on Human Rights, Mrs. Roosevelt, that the draft declaration was not perfect; in the circumstances, it could not be perfect. It was essential, however, that it should be adopted at the current session, so that the world might know what, according to the United Nations, were the basic rights of man within society and the State. An adequate statement of those rights was contained in the draft declaration.

Thus, article 3, which was the spiritual basis of the declaration, stated that everyone had the right to life, liberty and security of person. Article 20 contained a promise of social security. Article 26 stressed the need for a good international, as well as social, order. Finally, article 28 represented a guarantee against abuses.

In reply to the criticism of the representative of the Union of South Africa, who had said that the draft declaration went beyond the Charter, Mr. Santa Cruz remarked that the draft declaration merely stated, explicitly, rights granted by the Charter. Considerable emphasis had been laid on the difference between the declaration and the covenant on human rights. While he agreed that the covenant alone would be legally binding, violation by any State of the rights enumerated in the declaration would mean violation of the principles of the United Nations.

The views expressed by the Polish representative and shared by the USSR delegation resulted from a different conception of life and man. The draft declaration rested on the assumption that the interests of the individual came before those of the State and that the State should not be allowed to deprive the individual of his dignity and his basic rights. The opposing conception was that the rights of the individual must give precedence to the interests of society.

With respect to the detailed criticism given by the Polish representative, Mr. Santa Cruz remarked that article 12, far from extending protection to fascists, guaranteed freedom from persecution. Paragraph 2 of that article made clear that acts contrary to the purposes and principles of the United Nations – as fascist acts

certainly were – should be punished. The social rights which the Polish representative had championed were adequately covered in articles 20, 21 and 22. It was precisely those social rights which represented [51] a degree of progress over previous declarations of a similar nature, and the General Assembly could feel justifiable pride in approving them.

The Chilean representative reserved the right to make further comments at a later stage.

MR. AZKOUL (Lebanon) said it was perhaps superfluous to emphasize his country's concern for human rights, since from the time of the San Francisco Conference, the records of the Organization gave ample evidence of its great interest. His country was also anxious to see the declaration adopted at the current session of the General Assembly.

Most countries owed their formation to geographical, economic or political factors; Lebanon on the other hand, owed its existence to the concept of the rights of man. It was its faith in those principles that justified its existence and should it lose that faith, it would be because it had no wish to exist. This attitude gave it no feeling of superiority; on the contrary, it was a serious responsibility. Further, the fact that other countries respected those rights even though their existence had not been based upon them, aroused its admiration.

From the great Western democracies, Lebanon hoped to learn more about the implementation of civic and social rights; from the USSR, more concerning economic rights, and perhaps from other countries more about legal and political rights. However, it was not enough for men to have a belief in economic, social and political rights; they had also to have the intelligence and the will to pursue the ultimate good.

The Lebanese delegation was generally satisfied with the draft of the declaration, although it would have a certain number of amendments to put forward at the appropriate time.

Even if the declaration had to be considered as nothing more than a recommendation, it would still have more force than any other recommendation, for it was not a judgment passed by certain States on the behaviour of others. Nor was it mere pious talk, for no State could violate its principles without also violating the terms of the Charter. In actual fact, the resolution for its adoption was more than a recommendation because there already existed a place in the Charter for a declaration of human rights. Human rights were mentioned too many times throughout the Charter for that not to be so. The implicit agreement concerning human rights, which was reflected in the Charter, was stated clearly in the declaration.

If it was true that political rivalries influenced decisions in the economic and social sphere, it should be made clear that the declaration was free from any political taint. Through its adoption, the peoples of the world would be able to renew their badly-shaken faith and belief in the value of man.

MR. IMPERIAL (Philippines) said that after hearing the distinguished speakers who had preceded him and in particular, the representatives of the Latin-American countries, and after having [52] taken into consideration the documentation from the Secretariat he had come to the conclusion that a declaration on the rights of man was an absolute necessity.

The Committee in general seemed to share his point of view and the disagreement which existed related to the formulation of the various rights. In accordance with the principles embodied in the Philippine Constitution, he supported the adoption of a complete code which would include duties as well as rights.

In his opinion, the primary purpose of the declaration was not simply to achieve a moral success, but to enable man, all over the world, to develop his rights and, in consequence, his personality. It was essential that man should feel confident that executive, legislative and judicial powers could not impair his fundamental rights. To that end, he supported the adoption of a simple declaration which would not contain possible points of controversy.

The most difficult thing to achieve would not be agreement on the basic human rights but on the measures by which they were to be implemented. He hoped that members of the Commission on Human Rights would explain the reasons for the inclusion of the various articles of the draft declaration when that part of the question came before the Committee for discussion.

MR. QUADROS (Uruguay) pointed out that his country was a small one, whose strength rested on its respect for civil liberties and for international law. Since all were members of the human species, it was difficult to understand how discrimination could exist. Moreover, the State was simply a system of co-operation, to which man should never be sacrificed.

In his opinion, there were no circumstances in which a Government could be permitted to do away with individual liberties. The inviolability of the person had to be respected. The government had to safeguard the individual and his family in respect of housing, in health, old age, etc. The social order of a State would be disrupted if those fundamental rights were not recognized not only for men but also for women and for aliens.

A Government had to be established by free popular vote. There should exist a certain amount of private enterprise, regulated but not controlled by the Government.

The Uruguayan delegation supported the draft declaration in general and would submit its amendments at the appropriate time. It was convinced that the declaration would not simply remain a historic document, but that its various provisions would be implemented.

MR. KAYALY (Syria) observed that the proposal to adopt a declaration on human rights was not unprecedented, for the history of man was the story for his struggle

for liberty. An attempt was being made to formulate, in the name of the Member States and under the terms of the Charter, a code of social behaviour which would set forth the elements necessary for spiritual and material happiness.

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The State had to recognize its duty towards the individual and each individual had to come to a knowledge of his rights and duties. The adoption of the declaration would not be a useless gesture, for there would be no point in committing those principles to paper if they were not to be respected in international behaviour.

He said his delegation would support the draft declaration.

The meeting rose at 1:5 p.m.

A/C.3/SR.92⁷

2 October 1948

Summary Record of the Ninety-Second Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Saturday,
2 October 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

13. Draft international declaration of human rights (E/800) (continued)

MR. PUZA (Venezuela) stated that his delegation wished to take an active part in considering the question of human rights, one of the most important items on the Third Committee's agenda. His delegation was actuated by a sense of understanding and the desire to achieve a code of specific rules.

The rights of man were guaranteed in the Constitution of Venezuela, which was inspired by the same lofty principles as those contained in the preamble to the draft declaration of human rights. Moreover, his country had recently signed a similar declaration.

The delegation of Venezuela would confine itself to presenting its views on the best procedure for arriving at a satisfactory agreement. Previous debates had shown a unanimous desire to draw up an international instrument of definite value. The time had come to make that desire a reality. A difficulty, however, had arisen. These

⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 53–64.

were differences not only between the various national bodies of law but also between such national legislation and many of the provisions contained in articles of the draft declaration. Every point was liable to give rise to prolonged discussion, and detailed consideration article by article, would increase the length of the debates.

The delegation of Venezuela therefore made the following proposal:

“To create a working sub-committee consisting of a small number of members who, on the basis of texts on human rights submitted for the Third Committee’s consideration, would make a preliminary draft, listing the points on which the legislations of Member States coincided, and propose a draft recommendation on points with regard to which divergences existed. In drafting those texts the sub-committee would also give due consideration to the American Declaration of the Rights and Duties of Man signed at Bogotá, as well as to all other documents pertinent to the matter, such as the declaration of the XXXVIIth Inter-Parliamentary Conference held at Rome. As soon as those texts were drafted, they would be submitted for the Committee’s consideration.”

[54]

Although at first sight the proposal might appear likely to delay the Committee’s work, it would, in fact, help to speed it up by avoiding unnecessary discussion, at least in so far as points on which there was agreement were concerned. The objection might be raised that the texts before the Committee were the result of long deliberations in the course of which divergences of doctrine and law had been considered. Nevertheless, the greatly divergent views expressed during the previous two days showed the need to set up a working sub-committee where not only personal views, but also the different national legislations would be compared.

Moreover, the only completed text was that of the draft declaration of human rights. It would, of course, have to be supplemented by the covenant, in which the general principles laid down in the declaration would be further defined. In view of the need for a thorough drafting of the texts before the Committee, the creation of a working sub-committee seemed essential. Such a sub-committee would also be necessary in order to co-ordinate the texts of the amendments submitted by various delegations.

The Committee would thus have to consider two texts, one acceptable to all and the other a recommendation from countries of more advanced legislation, designed to induce less-advanced countries to review their laws on the subject.

The delegation of Venezuela requested the Chairman to submit that proposal to the Committee’s consideration immediately upon the termination of the general discussion and before the examination of any other point, in view of the fact that it concerned the method of work.

MR. DE ATHAYDE (Brazil) paid a tribute to the work of the Commission on Human Rights and its distinguished Chairman, Mrs. Roosevelt. He stressed the

importance which his Government attached to an early and satisfactory conclusion of the Committee's work so as not to disappoint the general public.

The historical development of the Brazilian people had taken place under the influence of the philosophic principles which had come to their full development in France. The draft declaration of human rights was based on the most ancient ideas of the great philosophers and on the concept that the power of the State must rest on the respect for the human person. It was a concrete expression of that trend of thought which now shaped the conscience of nations.

The delegation of Brazil pressed for the early adoption of measures to guarantee human rights on an international level, for without them it was to be feared that the principles of the Charter would remain ineffective. By making human rights international, the United Nations Charter had placed upon States positive legal obligations; it was the greatest of the victories achieved at the cost of the sacrifices made during the Second World War. Although the Brazilian delegation would like to see the declaration, the covenant and the suggestions for implementation discussed and approved together, it recognized that, at the present stage of the work, only the declaration could be adopted during the current session of the [55] General Assembly. It would demand, however, that adoption should not be postponed.

In order to safeguard the rights it proclaimed, the declaration should not be couched in too general terms. It should include, in the preamble, a reference to God as the absolute origin of the rights of man and of all rights. That would be an acknowledgment of the importance of the great spiritual trends towards the maintenance and development of international co-operation among the nations. That importance, recognized in many constitutions, was fully brought out by the current crisis in which many historians would see the crisis of a society which had permitted its ties to God to be weakened. The work of the Committee would reflect much more clearly the desires and hopes of the popular masses if, instead of being merely the expression of a barren agnostic philosophy, it also reflected the religious faith of the greater part of humanity.

The delegation of Brazil therefore suggested that the second part of article 1 of the declaration should read as follows (A/C.3/215):

“Created in the image and likeness of God, they are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.”

Without wishing to enter on a philosophic or religious discussion, the delegation of Brazil thought that its proposal corresponded to the ideals of the members of the Committee.

It would demand, however, that adoption should not be postponed.

MR. WATT (Australia) pointed out that his country had made its opinion known in the Commission on Human Rights, and that he would therefore limit his remarks to a few general comments.

The Australian delegation considered that the draft declaration of human rights represented a considerable advance towards a satisfactory definition of the “fundamental human rights” referred to in the Charter. It was not a perfect document, either in substance or form, and in both respects it was of course open to amendment in the Committee. The declaration, however, was the product of months of hard and conscientious work during which very different points of view had been taken into consideration, and for that reason the amendments proposed by the Committee should not be allowed to destroy its basic balance. While it was the right of every delegation to request a complete recasting of the document, the Australian delegation considered that, generally speaking, the draft declaration before the Committee was adequate for its purpose, and that it was advisable to “leave well enough alone”.

Furthermore, the Third Committee should examine that part of the report of the Commission on Human Rights (E/800) dealing with the work already done on a draft covenant and on the suggestions for implementation. The fact that the work on those two last instruments was not as advanced as the work on the declaration did not mean that the two former were less important than the latter. In the belief that the effective exercise of human rights was at least equal in importance to the proclamation of those rights, Australia had proposed, at the Peace Conference of 1946, the establishment of an international [56] tribunal to which individuals, or groups of individuals, could bring cases concerning infringement of their rights. In spite of doubts in some quarters as to the immediate practicability of such a suggestion, several Members of the United Nations had given their support to the idea. Furthermore, the Congress for Europe, held recently at The Hague, had adopted a resolution calling for the establishment of a court of justice to which any citizen of the associated countries could submit any case concerning violation of his rights as formulated in a bill of human rights.⁸

There could be no proper safeguard for human rights until an adequate remedy for infringement of rights had been provided. The Commission on Human Rights had itself stressed in its report the importance of that subsequent part of its work. Mr. Watt hoped that after the work on the declaration was completed, the Third Committee would be able to hear the views of the delegations on the subject of the means for ensuering the exercise of human rights.

⁸ The Congress of Europe was held in The Hague from 7 to 11 May 1948 under the auspices of the International Committee of the Movements for European Unity, with Winston Churchill as its honorary president. At the opening session, Churchill said: “In the centre of our movement stands the idea of a Charter of Human Rights, guarded by freedom and sustained by law” (cited in A. W. Brian Simpson, *Human Rights and the End of Empire*, Oxford: Oxford University Press, 2001, at p. 605). The following year, the Council of Europe was created and drafting of its central human rights instrument, the European Convention on Human Rights, begun. The Convention, which entered into force in 1953, provides for the European Court of Human Rights, although the Court was not established until 1959.

The Australian delegation expressed its appreciation of the American Declaration of the Rights and Duties of Man drawn up at Bogotá by the Ninth International Conference of American States. His delegation sympathized with the wish expressed by certain delegations that the draft declaration before the Committee should contain certain amendments based on the Bogotá declaration. It did not, however, consider it advisable to set up a small sub-committee to compare the two texts. Such a task would involve long delay and the risk of upsetting the basic balance of the draft which had been drawn up by the Commission after months of hard work, during which many national and cultural points of views had been considered as well as many texts, including the Bogotá declaration itself, which represented the point of view of the Latin-American nations. The Third Committee should not take over the work of the Commission on Human Rights. He reserved the right to submit observations later on certain specific points of the draft under discussion.

MR. INSFRAN (Paraguay) spoke highly of the work of the Commission on Human Rights and its Chairman, Mrs. Roosevelt. The practical application of the principles set forth in the declaration would be very difficult if they remained purely theoretical. The framing of the declaration and of the measures for its implementation must be carried on side by side. The delegation of Paraguay would heartily support all efforts to that end.

It also endorsed the view expressed by the representative of Argentina that the declaration of human rights should be accompanied by a similar declaration on the duties of man. A close tie existed between those two questions which should find expression in the proposed document. The lofty principles proclaimed in the declaration should be accompanied by a definite instrument providing for their application.

The delegation of Paraguay affirmed its devotion to the cause of human rights which had also been manifested in its attitude at the Bogotá [57] Conference and at the conference of the Inter-Parliamentary Union held in Rome.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the speakers who had taken part in the general discussion could be divided into three classes.

First, there were those who considered that the declaration went too far and who desired to retrace their steps. They, like the representative of the Union of South African for example, were unwilling to grant certain peoples all the rights specified in the declaration. Mr. Pavlov described such an attitude as reactionary. Another class, to which the United States representative belonged, expressed their lack of enthusiasm about certain articles and felt that the draft represented the maximum which could be accepted. They were unwilling to make any concession to progressive ideas, because that acceptable maximum was an indication of the existing state of bourgeois society.

The third class, to which the USSR belonged, felt that the draft was not sufficiently democratic and that it should go beyond the stage of incomplete and purely formal democracy which characterized bourgeois society.

He drew the Committee's attention to the opinion of his delegation, expressed in the report of the Commission on Human Rights (E/800). The three conditions which were, in the opinion of the USSR delegation, indispensable to the completion of the declaration of human rights were specified herein: a guarantee of basic freedoms for all, without distinction as to race, religion, language, occupation or sex, with due regard to the national sovereignty of States; a guarantee that human rights could be exercised with due regard to the particular economic, social and national circumstances prevailing in each country; a definition of the duties of citizens to their country, their people and their State.

He considered that the basic draft did not satisfy those three requirements. He mentioned the various defects and omissions. Many clauses (for example articles 21, 22, 24 and 25) were purely legal and formal in nature.

The declaration did not sufficiently widen the field of the democratic rights of peoples. The word "democratic" was mentioned only once in the entire document, in article 27.

A great many democratic rights were too limited, even more limited than they had been in the original draft studied in Geneva.

It was likewise to be regretted that fascism was nowhere condemned in the draft.

He deplored the fact that the declaration did not define the obligations of citizens to their State and that it did not bring out the principle of national sovereignty.

The majority of the Commission on Human Rights had rejected all the proposals which the USSR delegation had submitted with a view to *improving* the draft declaration.¹ They had

^[1] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, Supplement No. 2, appendix, page 31.

[58]

rejected the proposals for extending the democratic rights to colonial peoples and of the populations of Non-Self-Governing Territories. They had also opposed the proposal for granting equal rights to both sexes. The Soviet Union proposal that the State should ensure freedom of the Press by making available every possible facility, had been interpreted as a request for the nationalization of the Press. That was only one example of the way in which the USSR point of view was being libellously misrepresented.

He pointed out that his delegation had vainly urged that freedom of the Press and the right of assembly should not be permitted to serve the ends of fascist

propaganda. He was astonished to find that, in the capital of a country which had suffered so much at the hands of the fascists, some people went so far as to defend the principle of freedom of propaganda for fascists.

The delegation of the Soviet Union had supported the principle of free general elections by secret ballot. The United Kingdom had, however, opposed extending that right to the populations of Non-Self-Governing Territories on the pretext that they were not yet sufficiently mature from the political point of view.

The USSR delegation had likewise emphasized the right of asylum for those who were persecuted for their part in the struggle for the liberation of peoples or for their scientific activities, but that right had been rejected by the majority of the Commission on Human Rights. The colonial Powers had also succeeded in securing the rejection of the proposal which asserted that minorities had the right to national culture, although that right had been included in the original draft.

Finally, the principle that national sovereignty should be respected had also been rejected, although it was in accordance with Article 2, paragraph 7 of the Charter.

He recognized, nevertheless, that a number of rights did not appear in the declaration. That to his mind, was due to the influence on world opinion of the existence of the progressive constitutions of the Soviet Union and the new democracies. But the rights specified in the drafts were illusory as they lacked effective guarantees.

The USSR delegation felt that the draft declaration could not contribute to democratic progress, nor could it prevent the reappearance of fascism or help to strengthen world peace. His delegation therefore reserved the right to put forward numerous amendments.

He then made some observations on the draft international covenant on human rights which in his opinion was not sufficiently developed. He noted that there was no adequate definition of the right to work. He pointed out that some articles merely laid down a principle in a few lines whereas the exceptions to the right thus defined were subsequently treated at great length. That was particularly the case in article 5, on the right to life, and in article 9, on the right to freedom.

With regard to the suggestions for implementation, he observed that there was no general plan. The various plans submitted by the representatives of the United States, China, France and [59] Australia and by the Drafting Committee were far from being in agreement. They did, however, show a common tendency to appeal to existing international institutions, such as the International Court of Justice, or to set up similar institutions to implement the guarantees bearing on human rights. That procedure would represent interference in the domestic affairs of States, in disregard of national sovereignty. They would furthermore tend to transform internal disputes into international disputes, thus endangering world peace. The USSR delegation considered that those proposals were in contradiction to the Charter.

For the moment, however, the delegation of the Soviet Union felt that the Committee should restrict itself to considering the declaration on human rights.

Mr. Pavlov finally drew the Committee's attention to the Yearbook on Human Rights put out by the Secretariat, which listed the constitutional provisions in the various national legislations with regard to human rights.

BADAWI BEY (Egypt) congratulated the Commission on Human Rights and its Chairman, Mrs. Roosevelt, on the results of their work.

He stressed the difficulty of adopting a complete charter of human rights. As soon as the examination of the declaration began, differences of opinion had become evident. They would only increase when the covenant was considered. He drew the attention of the members who had advocated the drafting of a complete bill of human rights to the necessity of proceeding with care. The Charter of the United Nations had been worded with deliberate care and mentioned only faith in fundamental human rights, in the dignity and worth of the human person and in the equality of men and women. The first step should be a definition of what was meant by human rights and the adoption of a declaration of those rights.

Members of the Committee all recognized that the General Assembly should adopt, at the current session, a resolution concerning the declaration of human rights. That was to be recommended for two reasons. On the one hand, the declaration of human rights would, for the first time, be put on an international level. On the other hand, the declaration would be effective, not only in States Members of the United Nations, but also in territories over which they had jurisdiction. It was perhaps in that respect that the declaration might mark the greatest progress.

The Assembly could refer the covenant, and the measures of implementation, to the Economic and Social Council for further consideration. The Egyptian representative stated that he would then be ready to vote for the declaration.

In order to facilitate discussion, he proposed that, as soon as the general debate had ended, the Committee should take a decision on the four following questions of principle:

1. The scope of the work assigned at the current session to the Assembly. In the opinion of the Egyptian delegation, it would be preferable merely to adopt the declaration;

[60]

2. The delimitation of the sphere of the declaration on human rights and that of the declaration on the rights and duties of States respectively. The Egyptian delegation thought it would be better to omit any reference to the duties of States;

3. The nature of human rights. Those rights included public freedoms, social and economic rights. The latter must certainly be included. It was, however, very difficult to bind all States without taking into account their material potentialities.

Article 20 of the draft declaration already included a reservation on that point and, if the latter was not sufficiently explicit, a general statement might be added to the effect that the nature and scope of the measures which would have to be taken to ensure respect for all the rights included in the declaration would be specified in a subsequent instrument;

4. A statement on the duties of the individual. The Egyptian delegation felt that it would be desirable to adopt the Cuban representative's proposal. The Committee's work would be rendered easier by the setting up of a working group to consider the Bogotá declaration and also the amendments submitted by delegations before those amendments were discussed by the Committee.

His delegation would contribute to the Committee's work in the hope of reaching unanimous agreement on the draft declaration.

MR. CASSIN (France) began by expressing his delegation's gratitude to all those who, during the discussion, had recognized both France's traditional role in the definition of human rights and her share in the work of the United Nations. He also wished to pay tribute to the Secretariat's work, which had proved of great value to the Commission on Human Rights. He had no doubt that the different views expressed so far in the general discussion had helped to define the problem clearly and would make it easier to carry out the task entrusted to the Third Committee.

His delegation would, however, have desired that that task should not have been limited to the drafting of an international declaration of human rights; it would also have liked to see a complete bill of human rights prepared at the current session, comprising, in addition to the declaration, a first international convention which however imperfect, could have served as a basis for future conventions.

France, for its part, was ready to sign such a convention. His delegation had made and would continue to make a positive contribution in everything relating to the declaration, the covenant, and the measures of implementation, with a view to giving to the peoples of the world the guarantees they expected from the United Nations in the matter of their fundamental rights.

The Commission on Human Rights had unfortunately not had the necessary time to complete the whole of the programme it had mapped out. In those circumstances, he thought it prudent for the Third Committee to limit its discussion to the declaration, leaving it for the Assembly to make it understood, in one way or another, that the adoption of the declaration was merely a point of [61] departure for other measures, and that it hoped to complete in the following year the work undertaken at the current session.

His delegation, while agreeing to limit the discussion to the problem of drafting an international declaration on human rights, did not underestimate either its moral importance or its legal aspects.

From the moral point of view, it must not be forgotten that it was at the end of the San Francisco Conference that the President of the United States had, speaking in the name of the United Nations, promised the peoples of the world that respect for their essential rights would be ensured by an international bill. The time had come to fulfil that promise. The declaration of human rights was to be the expression of the rights of all the peoples of the world and not only of the fifty-eight nations then constituting the United Nations. It was therefore essential that the declaration should be universal.

The declaration was also destined to guide Governments in the determination of their policy and their national legislation. Such a declaration would not have any coercive legal force but it would, none the less, have a very real value because, on the one hand, it could be considered as an authoritative interpretation of the Charter of the United Nations and as the common standard towards which the legislations of all the Member States of the United Nations should aspire and, on the other hand, although it had no coercive power, it could not be considered as weakening in any way the pledges made by States subscribing to the Charter of the United Nations. States, for example, are compelled by the terms of the Charter to recognize the competence of the main bodies of the United Nations.

In his country's opinion, the United Nations' competence in the question of human rights was an established fact and the provisions of Article 2, paragraph 7 of the Charter, relating to matters within the domestic jurisdiction of Member States, could not be invoked against such competence when, by adoption of the declaration, the question of human rights was a matter no longer of domestic, but of international concern.

Once the competence of the United Nations was established, the latter would have to show moderation in its exercise. It was the duty of the United Nations to reassure the States which assumed the main responsibility of guaranteeing human rights within their own frontiers, without at the same time neglecting the danger represented by excessive respect for national sovereignty in questions going beyond the domestic jurisdiction of States. The violation of human rights in a given country, as shown by the precedent of Hitler, could in fact be a preliminary to an attack upon the independence of other nations. Summing up, he stated that if the competence of the United Nations should be exercised with moderation, the United Nations should not nevertheless fail to be inflexible when human rights were violated.

Regarding the guiding principles of the declaration, he observed that there could be no question of allowing the particular philosophy of one State [62] or group of States to prevail; a common denominator acceptable to all should be sought. The list of essential freedoms and rights in the draft declaration submitted to the Committee could not be considered as entirely satisfactory; but the

document was as near to being well-balanced as it could be. Analysing the draft, he showed that it was not planless, as certain members of the Committee believed. It contained both the statement of the political liberties already proclaimed in the eighteenth century and the statement of the economic, social and cultural rights asserted in the twentieth century, which it was a question of establishing on an international level.

He recalled that the implementation of those rights had been a subject of lengthy discussion. His country was ready to examine the question when the time came to do so. It was possible that for the first stage of implementation a whole series of conventions might have to be considered, which would be concluded with the assistance of the specialized agencies; the assistance of the latter in that field could be very valuable.

The Commission on Human Rights had not failed to consider drawing up, at the same time as the list of human rights, a list of human duties. It had nevertheless felt it sufficient to limit itself to mentioning those duties and to note the relationship existing between human rights on the one hand and restrictions on those rights on the other. Those reservations were contained in article 27. He did not think that that article occupied the place in the declaration that its importance deserved; for it set the problem of human rights in the framework of international democratic society. While the word "democratic" appeared only once in the body of the declaration – a fact which some had criticized – it would nevertheless have had its full value if article 27, in which it appeared, thus giving its real meaning to a declaration which proposed, while recognizing the predominance of law over arbitrary action, to affirm that law could have no other source than the will of the people.

Stressing the universal aspect of the declaration, Mr. Cassin stated that it would be the first declaration accepted by an international group having its own legal competence. In fulfilling their function, the members of the Third Committee should not forget that they were something more than representatives of all humanity. It was incumbent upon them to ensure the pre-eminence of certain rights, such as the right to asylum, and the right to nationality, which had so far been proclaimed only by certain national constitutions, but which should be granted not by the State but by human society as a whole.

Dealing with the criticisms raised in connexion with the draft submitted to the Third Committee he admitted that some were justified. For his own part, his strongest criticism related to the form rather than to the substance. The declaration, which was intended to be understood by the peoples of all the countries of the world, ought to be direct and precise. But, to take only one example the preamble, while denouncing the dreadful acts of barbarism which the world had witnessed not long previously, hesitated to assign responsibility and did not denounce with proper vigour the [63] racist and racial doctrines which had

been the cause of the last war. He thought that more boldness might be shown in drafting the preamble.

Dealing finally with the question of procedure, he said that from the experience gained in two years it did not seem desirable to set up small working committees, especially at the current stage of work on the declaration of human rights. The Committee could itself examine the amendments submitted; and as far as the inclusion of duties as well as rights was concerned, the question could be dealt with as it arose during the clause-by-clause examination of the draft declaration. Similarly, it did not seem necessary to entrust the study of the declaration of Bogotá to a sub-committee; the representatives who wished to draw inspiration from it need only submit amendments based on it.

In conclusion, he repeated his delegation's willingness to assist as much as possible in the drafting of a document which would secure the support of a majority of the Members of the United Nations.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic), while admitting the difficulties of the task entrusted to the Economic and Social Council by the General Assembly, regretted he had to say that after two years of work the Council and the Commission on Human Rights had not succeeded in submitting a satisfactory text to the Assembly. The declaration of human rights suffered in particular from defects of such a type that it could not be called "international". In that respect his delegation agreed entirely with the views expressed by the representative of the USSR.

Criticizing various particularly negative aspects of the draft submitted for the consideration of the Committee, he stressed the fact that the document proclaimed certain economic and social rights, but did not guarantee their implementation: the absence of any concrete measures formed one of the fundamental defects of the draft.

The declaration was also limited in its aims and showed a tendency to refuse to apply certain universally recognized democratic rights to certain groups; the preamble did not adequately stress the equality of mankind without distinction as to race, sex, language or religion; the cultural rights of national minorities were not safeguarded; and finally the declaration made no mention of individual or collective responsibility in the struggle against fascism and racialism. It was impossible to say that the draft had been prepared with the intention of ensuring the real defence of human rights. Democracy was not even mentioned, except in a reference to democratic society in the article dealing with restrictions on the exercise of certain rights.

Moreover, the draft did not establish the responsibilities of the individual towards the State: that seemed to be the result of an odd philosophy which endangered the very existence of all democratic society. The duties of the individual should be recognized as much as the duties of the State.

[64]

All the USSR delegation's proposals, which aimed at ensuring the really democratic character of the declaration of human rights, had been systematically rejected, both by the Commission on Human Rights and the Economic and Social Council. The result was that, as it stood, the declaration could not play an important part in the progress of humanity.

For that reason his delegation would give its full support to the amendments that the delegation of the Soviet Union proposed to submit to the Third Committee. It considered that the Committee should not depart from the path indicated to it. Its task was to draft an international declaration of human rights; only in carrying out that task could the Committee make a lasting contribution to the progress and development of democracy.

The meeting rose at 6:15 p.m.

A/C.3/217

4 October 1948

Dominican Republic: Amendments to the Draft Declaration of Human Rights⁹

Preamble

In paragraph 4, line 2, delete the word "and" and substitute a comma; line 3, after the words "human person", insert the words: "and in equality of rights as between men and women".¹⁰

Article 22

Delete paragraph 2 and substitute Article VII of the American Declaration of Rights and Duties of Man, adopted at Bogotá, which reads as follows:

"All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid."¹¹

⁹ The words "Draft Declaration of Human Rights" were changed to "Draft Declaration (E/800)" by A/C.3/217/Corr.1 of 6 October 1948.

¹⁰ The words "and in equality of rights as between men and women" were changed to "and in the equal rights of men and women" by A/C.3/217/Corr.1 of 6 October 1948.

¹¹ This sentence was changed, pursuant to A/C.3/217/Corr.1 of 6 October 1948, to "All expectant and nursing mothers and all children have the right to special protection, care and aid."

A/C.3/224**6 October 1948****Original Text: French****Cuba: Amendments to the first nine Articles
of the Draft Declaration (E/800)***Article 1*

Insert the text of this article in a Preamble worded as follows, to precede the enumeration of rights:

“All men are born free and equal in dignity and rights; being endowed by nature with reason and conscience, they should act towards one another like brothers.”

Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political, rights and duties are indissolubly linked with one another, while rights embrace individual freedom, duties express the dignity of that freedom.

Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.

It is the duty of man to practise, uphold and promote culture by all means at his disposal, for culture is the highest social and historical expression of the human spirit.

Morality being the noblest product of culture, it is the duty of all to respect it at all times.”

Article 2

This article in the following wording should become Article 2 of the Declaration:

“All men are equal before the law and are entitled to the rights, and subject to the duties, laid down in this Declaration without distinction of race, birth, sex, language, religion, political opinion, or property or other status.”

This wording would also make it unnecessary to include Article 6.

Article 3

This article in the following wording should become Article 1 of the [2] Declaration:

“Every human being has the right to life, liberty, security and integrity of person.”

Article 4

Delete the first paragraph as being unnecessary after Articles 1 and transfer the second paragraph to the section dealing with purely juridical rights (Article 26: “Right to fair trial”) in the following wording:

“No one shall be subject to cruel, degrading and non-customary punishment.”

It should be noted that the idea of Article 4 is embodied by the Cuban delegation in its proposed new draft of Article 7.

Article 5

Transfer this text, worded as follows, to the beginning of the section relating to purely juridical rights (Articles 16 and following):

“Everyone has the right to recognition everywhere as possessing rights and obligations and enjoying fundamental civil rights.”

Article 6

No longer serves any purpose in view of the re-drafting of Article 2 as proposed by the Cuban delegation, and of the wording of Article 5.

Article 7

Transfer this text, worded as follows, to the section relating to purely juridical rights (Article 25: “Protection against arbitrary detention”):

“No one maybe deprived of his freedom except in such cases as are covered by existing laws and in conformity with the procedure prescribed by them.

“No one may be detained for failure to carry out obligations of a purely civil character.

“Any person who has been deprived of his freedom is entitled to have the legality of the measures to which he has been subjected immediately confirmed by a judge, and to be tried without unjustifiable delay or, failing that, to be released.

“He is also entitled to humane treatment while under detention.”

Articles 8 and 9

Transfer these texts, worded as follows, to the section relating to purely juridical rights (Article 26: “Right to a fair trial”):

“Any person against whom a charge is made is presumed to be [3] innocent until proved guilty according to law.”

“Everyone charged with a penal offence has the right to an impartial and public hearing and trial by previously established tribunals in accordance with existing laws.

“Such person shall not be subjected to cruel, degrading or non-customary punishment.”

It is pointed out that the improvements made in Article 5 by the Cuban delegation’s amendments render Article 8 almost superfluous.

A/C.3/218

4 October 1948

Original Text: Spanish

Cuba: Draft Plan of Work

In order to make the International Declaration of Human Rights clearer, more precise and more easily accessible to all countries, the Cuban delegation proposes that the Third Committee adopt the following general plan for the final draft of the text under consideration:

A

Preamble

Fundamental Principles

B

Rights

- I. Fundamental rights of the person and the family.
- II. Social rights.
- III. Political and legal rights.
- IV. Scope of rights.

C

Duties

In accordance with the foregoing plan, the articles of the Draft and those of the Bogotá Declaration would be set out as follows:

A***Preamble****Fundamental Principles*

Freedom, equality, reason, conscience, brotherhood.

International: 1

American: Preamble

Correlation of rights and duties.

International:

American: Preamble

[2]

Supreme aims of men: spirit, culture, morality.

International:

American: Preamble

B***Rights****I. Fundamental rights of the person, the family and the home*

Life, liberty and security.

International: Art. 3

American: Art. I

Equality without distinctions as to sex, race or religion.

International: Art. 2

American: Art. II

Religion.

International: Art. 16

American: Art. III

Freedom of opinion and expression.

International: Art. 17

American: Art. IV

Protection of reputation.

International: Art. 10

American: Art. V

Protection of the family.

International: Art. 14

American: Art. VI

Mother and child.

International: Art. 22(2)

American: Art. VII

Home.

International: Art. 10

American: Art. IX

Correspondence.

International: Art. 10

American: Art. X

Health and wellbeing.

International: Art. 22(1)

American: Art. XI

II. Social Rights

Education.

International: Art. 23

American: Art. XII

Culture and intellectual interests.

International: Art. 25
 American: Art. XIII

[3]

Work and fair remuneration.

International: Art. 21
 American: Art. XIV

Leisure and its enjoyment.

International: Art. 24
 American: Art. XV

Social Security.

International: Art. 20, 22
 American: Art. XVI

III. Legal and Political Rights

Recognition as a person before the law.

International: Art. 5
 American: Art. XVIII

Nationality.

International: Art. 13
 American: Art. XIX

Participation in the government.

International: Art. 19
 American: Art. XX

Movement and resident.

International: Art. 11
 American: Art. VIII

Assembly.

International: Art. 18

American: Art. XXI

Association.

International: Art. 15

American: Art. XXIII

Right of petition.

International: Additional Art.

American: Art. XXIV

Protection against arbitrary arrest.

International: Art. 6, 7

American: Art. XXV

Proper trial.

International: Art. 4, 8, 9

American: Art. XXVI

[4]

Asylum.

International: Art. 12(1)

American: Art. XXVII

IV. Scope of Human Rights

International: Art. 27(2)

American: Art. XXVIII

C***Duties***

Society.

International: Art. 27(1)

American: Art. XXIX

Family.

International:

American: Art. XXX

Education.

American: Art. XXXI

Suffrage.

American: Art. XXXII

Law and Authority.

American: Art. XXXIII

Public Service.

American: Art. XXXIV

Social Security and Welfare.

American: Art. XXXV

Taxes.

American: Art. XXXVI

Work.

American: Art. XXXVII

Political Activities in Foreign Countries.

American: Art. XXXVIII

Note:

All the Articles of the International Declaration have been taken into account in drafting the foregoing scheme, with the exception of Articles 26 and 28, which the Cuban Delegation considers rather as duties of the State than as human rights.

A/C.3/219**4 October 1948****Netherlands: Amendment to the first paragraph of the preamble**

Insert after the words “human family” the following text:

“based on man’s divine origin and immortal destiny.”

A/C.3/220**4 October 1948****Panama: Amendments to the first nine articles of the Draft Declaration*****Article 1***

It is proposed that it be eliminated.

Article 2

It is proposed that this article be merged with Article 6 in order to have one single article dealing with the right to equality, as proposed in connection with Article 6.

Article 3

Its total elimination is proposed.

It is proposed that the rights to life and liberty be defined as follows:

Article – Every human being has the right to exist and to maintain, develop, protect and defend his existence.

Article – No one shall be subjected to arbitrary arrest or detention. Every person who has been detained has a right to have the legality of his detention judicially without any delay.

Neither shall anyone be held in slavery or involuntary servitude (Paragraph 1, Article 4 of Draft).

An additional article is proposed containing the text of Paragraph 2 of Article 4 of the Draft, as follows:

Article – No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment.

Article 4

It is proposed that this article be suppressed in its present form and that its text be used as stated above.

Article 6

It is proposed to have the text of this article combined with those of Articles 2 and 8, as follows:

[2]

Article – All are equal before the law and are entitled to equal protection of the law and to enjoy all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, property or other status or national or social origin.

Article 7

It is proposed that this article be replaced in the manner above stated in connection with Article 3.

Article 8

It is proposed that the phrase “in full equality” be eliminated from this article inasmuch as the subject of *equality* is covered by another article.

It is further proposed that an *article* dealing *in toto* with the subject of *fair trial* be made up of Article 8, modified as stated above, and the first paragraph of Article 9, as follows:

Article –

1. In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled a fair hearing by an independent and impartial tribunal.
2. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Article 9

It is proposed that the second paragraph of this article be made part of a separate article dealing with the right to security against *ex post facto laws*, as follows:

Article – No one shall be held guilty of an offence on account of any act or omission which did not constitute an offence under national or international law, at the time when it was committed. Neither can anyone be imposed a heavier penalty than the one that was applicable at the time the offence was committed.

A/C.3/SR.93

4 October 1948

Original Text: French

Summary Record of the Ninety-Third Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Monday, 4 October 1948,
at 3:15 p.m.

Chairman: MR. C. MALIK (Lebanon). *Vice-Chairman:* MRS. B. BEGTRUP (Denmark).
Rapporteur: Mr. E. SAINT-LOT (Haiti).

[2]

Draft international declaration of human rights (A/632, E/800)
(continuation of the general discussion)

MR. MAYHEW (United Kingdom) thanked Mrs. Roosevelt, Chairman of the Commission on Human Rights, for her important contribution to the preparation of the draft declaration.

After reviewing the work that had been accomplished, the United Kingdom representative stated that human rights and fundamental freedoms would have to be clearly laid down in a covenant which would legally bind its signatories. While awaiting the completion of such an international instrument, the Declaration of Human Rights would have great moral authority, through the proclamation of an ideal even though it could not impose specific obligations. He did not agree with Professor Cassin that the declaration could be considered to have legal authority as an interpretation of the relevant provisions of the Charter. No General Assembly resolution could establish legal obligations. The moral authority of the document that would be adopted by the Assembly, however, would serve as a guide to Governments in their efforts to guarantee human rights by legislation through their administrative and legal practice. In that connexion, he pointed out that the United Kingdom applied all those rights even though they did not form

part of a written constitution. Further, his Government was firmly resolved to extend the sphere of application of the declaration to all of its dependent territories and had entered into consultation with their authorized representatives with that end in view.

While regretting that it would not be possible to sign a convention on human rights at the same time as the declaration, the United Kingdom representative emphasized the value of the latter document. A great number of countries had approved its aim, either in the Commission on Human Rights or in the Third Committee of the Assembly.

He agreed with the representatives of Chile and Australia that the best procedure to follow would be to take the present draft as a basis for discussion, it being understood that most of the basic rights incorporated in the Bogotá declaration were already incorporated in the text under discussion. He did not think it would be necessary to follow the precedent established at Bogotá and include a list of human duties. The Committee would be doing useful work if it concentrated its efforts on producing a short document, without too many amendments, and without a prolonged discussion on details, which always proved to be more controversial than questions of principle.

[3]

The United Kingdom delegation did not support the proposal for a special committee. It thought that the Committee should determine the broad lines of the draft, after which, several drafting committees could be set up to perfect the various articles.

The USSR representative had indulged in a polemic of completely unjustified accusations with respect to the United Kingdom. It was not the first time that such distortions of the truth had been heard, accompanied by an equally unrealistic picture of the USSR. The authors of those statements apparently hoped that at least one part of that enormous edifice of fiction would remain and that the truth would be unable to penetrate the secrecy with which the communist countries were surrounded.

Mr. Mayhew observed that those who believed sincerely in human rights would not be able to remain silent much longer. Communism was one of the cruelest forms of political and economic dictatorship that the world had ever known. That was not an expression of propaganda but simply a conclusion drawn from observing current events. The representatives of the communist countries had cited many articles from the USSR Constitution which explicitly guaranteed all the rights of the individual. Nevertheless, the fact that thousands of democrats, socialists, peasant or trade union leaders, men who had distinguished themselves in the struggle against fascism, had now fled, from countries under

communist control, was sufficient to reduce the mountain of USSR legends to nothingness.

Communist speakers depicted the countries of the West as hotbeds of oppression and exploitation. Why, then, if that were so, was there not a flood of refugees in the other direction? In the United Kingdom, alone, there were more Poles who refused to return to their own country than there were letters in the “democratic” text of the Polish Constitution. Displaced persons had preferred to commit suicide rather than return to their countries of origin.

As with Hitlerite Germany, the communist countries had a one-party government. USSR propaganda stated that once the bourgeoisie was liquidated, the interests of the workers and the peasants would coincide, depriving the opposition of any reason for existence. That explanation was ridiculous. It was only necessary to mention land collectivization to realize that the attitude of the peasants could differ greatly from that of the regime without those agrarian elements being allowed to express their views on a measure that had turned their life upside down.

However, it was never possible for the people to express its opinion in communist countries.

[4]

Mr. Mayhew then cited the case of Soviet women who had married British subjects and who were not allowed to accompany their husbands home. No newspaper, no representative of the people, no USSR court had taken the grievance of those women into consideration. Millions of citizens of communist countries were thus dumb, deprived of all rights and all recourse, before a resounding Constitution which was nothing but a mockery to them. If there were no signs of opposition at meetings, in the press or in speeches, it was not because the opposition had no reason to exist, it was because it had been smothered by the secret police.

It was claimed that at least the communist countries were in the vanguard with respect to “new-rights”, in contrast with the reactionary western nations. The United Kingdom representative declared that there was nothing in any one of the communist countries which would bear comparison with the social security system of the United Kingdom. The old age pension of a soviet miner was 240 rubles per month at the most; that of a railway worker or a metallurgical worker, 225 rubles, and that of other categories of workers, 190 rubles. It was absolutely impossible to live on those amounts. Old people had the choice of being a burden to their already sorely-trying children or of continuing to work until the point of complete exhaustion. The most obvious proof of a lack of social security was the great number of beggars who wandered the streets of Soviet cities.

The right to work was also an illusion. There was no system of protection against unemployment, unless the forced labour camps could be considered reception centres for the unemployed.

Freedom of work did not exist. No trade union in a western country would accept the heavy work discipline which was borne by Soviet workers.

As regards the right to education in the USSR, Mr. Mayhew quoted from the remarks of a high USSR official of the revolutionary propaganda bureau, in the review "Culture and Life" of 11 July 1948 to the effect that the local authorities showed a "complete indifference to the fate of the rising generation".

Finally, the United Kingdom representative drew attention to the frequent use of the words "democracy" and "fascism" in the speeches of the USSR representatives and recalled that during the second session of the Assembly, the USSR representative had included Mr. Churchill in the list of "fascists".¹² Mr. Hector McNeil had been forced then to point out that Mr. Churchill had contributed more to the struggle against fascism than any communist in any country.¹³ Everyone realized that by "democracy", the communists meant "people's democracy", which was nothing [5] more than the communist oppression of the people.

The spokesmen for the USSR posed as champions of the liberty of the masses. Yet, was it not the USSR which, in the space of a few years, had annexed an immense amount of territory and had imposed her authority over the Lithuanians, the Estonians, the Letts, the Czechoslovaks, the Hungarians, the Romanians and the Albanians? The representatives of communist countries had frequently criticized the regime in territories under British administration. The least that could be said in that respect was that those countries were evolving from colonial status to complete independence; the exact opposite was true for the peoples under Soviet control.

In spite of the fact that he had little taste for polemics, the United Kingdom representative felt that there were occasions when it was necessary to use clear and precise language in the defence of liberty.

In making an historical analysis of the struggle for human rights, MR. GARCÍA BAUER (Guatemala) drew a distinction between on the one hand, the classical doctrine of natural rights which derived from the teachings of the Stoics and had been translated into positive rights by the Declaration of the Rights of Man of the French Revolution and by the United States Bill of Rights, and, on the other hand, the contribution of socialist thought which had led to the inclusion of guarantees of the social rights of the individual in most modern constitutions. The Atlantic Charter, which had proclaimed the four fundamental freedoms, and the United Nations Charter, which affirmed again the rights of man, showed it was a question which at the present moment, preoccupied the whole world.

The Guatemalan delegation felt that the draft Declaration submitted for the consideration of the Committee, while not perfect, provided a good basis for discussion. He shared the opinion of the Cuban representative that it would be

¹² A/PV.84. ¹³ A/PV.88.

more appropriate to transfer the general principles set forth in the first article of the draft to the preamble. He also thought that the Third Committee should draw inspiration from the Bogotá Declaration on the Rights of Man for the improvement of the present text, even though that document had already been used in the work of the Commission on Human Rights.

The Guatemalan representative emphasized the necessity of asking the Economic and Social Council to continue the work of drawing up a convention on human rights and also on measures of implementation. He congratulated the Commission on Human Rights on the very useful work [6] it had accomplished.

MR. BAKARIC (Yugoslavia) recalled that after the Second World War his country had been among the first to request the drafting of a declaration on human rights and that Yugoslavia had taken an active part in the work of the Commission on Human Rights. Nevertheless, since the delegation of Yugoslavia had not been completely satisfied with the draft adopted by the Commission on Human Rights, it had abstained when the Commission had voted on the text as a whole.¹⁴

The international declaration on human rights should have been the work of forces fighting for progress, as in the case of the Declaration of the Rights of Man during the French Revolution and the Declaration of Independence in the United States. In modern times, and particularly during the Second World War, fascism had trampled on the rights of individuals and of nations. The German doctrine of the “master race” was aimed at the enslavement of peoples and even at the physical destruction of certain people. Fascist tendencies had not been destroyed, as was evident from the continued attacks on the rights of man and the campaigns of incitement to war.

The primary task of the United Nations was to defend man against the dangers of war, which would again lead to unspeakable suffering, and to direct the efforts to all nations in the struggle against the enemies of liberty and peace. That was the objective which should have been striven for by an international declaration on human rights.

The representatives of certain countries had, however, taken advantage of the discussions on the draft declaration to give way to propaganda campaign against another group of countries, and particularly against the USSR. That attitude was dangerous, because it deprived the declaration of the significance which it should have had. Certain essential questions did not appear in the current draft while still others were presented in a deformed manner.

Mr. Bakaric stated that certain speakers had defended traditional forms of racial discrimination.

While paying tribute to the goodwill and to the untiring efforts of Mrs. Roosevelt, the representative of Yugoslavia pointed out that the representative of the United

¹⁴ E/CN.4/SR.81.

States had used expressions which recalled the classic forms of political discrimination in the field of the rights public office.

The representative of Yugoslavia expressed the fear that through [7] the lack of real content the declaration might be forgotten even before the ink of the signatures affixed to the document had dried. For that reason he urged the members of the Committee to exert every possible effort to draw up a text which would fulfil the legitimate aspirations of the peoples.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) expressed the opinion that a declaration of human rights should not only recognize fundamental liberties for all men regardless of race, nationality, social status, religion or language, in accordance with democratic principles, but should also guarantee respect for those liberties while taking economic and social conditions into account. In addition it should define the obligations and duties of the citizen towards his country and his people. As the Ukrainian delegation had already pointed out in the course of the work of the Commission on Human Rights, the draft declaration did not fulfil those requirements. Therefore, Mr. Demchenko was of the opinion that the draft required extensive modification on the basis of the statement made by the delegation of the USSR in the Commission on Human Rights on 18 June 1948. That statement appeared as an appendix to the draft (E/800, page 29).

The representative of the Ukrainian SSR recalled that in a previous speech the representative of the Union of South Africa had championed the theory of discrimination in discussing the indigenous populations of Africa. In colonial and non-self-governing territories millions of human beings were deprived of the most elementary rights. On the other hand, the constitution of the USSR guaranteed equal rights and equal privileges to all without distinction as to nationality, race, language or sex.

Mr. Demchenko considered that the draft declaration contained a purely formal enumeration of rights without any guarantee of their enforcement. For example, the right to work was listed, but there was no statement as to how that right would be ensured. Unemployment existed in several States which provided no protection for the unemployed, while in socialist countries not only was there no unemployment, but unemployment was not even remembered. A planned economy eliminated unemployment. There was no lack of work but rather a lack of workers in certain areas.

Mr. Demchenko pointed out another important omission in the draft declaration: it contained no reference to the indispensable measures which had to be taken against fascism and against the revival of Nazi propaganda. Replying to the representative of [8] Costa Rica who had found it impossible to define fascism exactly, the representative of the Ukrainian SSR recalled the suffering of the peoples of the USSR and the occupied countries of Europe. Those peoples knew all too well what fascism was. The

representative of the United Kingdom had stated that the current danger which threatened Europe was not fascism but communism. How was it, then, that during the struggle against Hitlerite Germany his Government had not hesitated to ally itself with the Union of Soviet Socialist Republics? Could it be said that fascism no longer constituted a danger when it was rife¹⁵ in Spain, was trying to raise its head again in Greece and when in many countries fascist tendencies still remained?

Mr. Demchenko repeated that the statements of the USSR delegation referred to above should appear in the declaration of human rights which would then be of concrete value and make a useful contribution to historical progress.

In reply to the representative of the United Kingdom, Mr. Demchenko stated that the constitution of Lenin was not merely theoretical. It was a set of real and concrete rights for the entire working population of town and country. Could the USSR be criticized for not having an opposition party? That merely proved that the entire population was united behind its Government. Could it be maintained that individual liberty was not respected in the USSR? If that was a reference to Russian nationals who had married foreigners, many of them had returned to their country because it had been impossible for them to be assured a suitable life elsewhere. The Union of Soviet Socialist Republics did not need the advice of anyone regarding the enforcement of its laws.

If the question of refugees was involved, could that term be applied to individuals who had betrayed the new democracies? And if “displaced persons” were involved, should not their refusal to return to the countries of their origin be regarded as an indication of propaganda and pressure exerted on them in that direction? Finally, to claim that socialist countries practised interference in the internal affairs of other countries was a false allegation which the USSR had long ago refuted.

[9]

MR. KURAL (Turkey) stated that the Turkish delegation most sincerely supported the draft declaration of human rights as submitted to the Committee, particularly as the rules contained in the declaration were in accord with the Charter of the United Nations. Turkish legislation was based on the principles which had inspired the draft. Finally that declaration would contribute effectively to the maintenance of world peace.

Certain parts, however, could be improved. The Turkish delegation would like to see the principle of free education extended so that it should not be limited to primary instruction.

Certain delegations had requested that the declaration should take into account not only the rights but also the duties of the individual. It would obviously be useful to have those duties clearly defined. However, because of differences of opinion which existed between the various juridical and social systems as well as between

¹⁵ There is a blank in the original. The word “rife” is added in *Official Records of the General Assembly*, Third Session, 1948, p. 69.

various countries, Mr. Kural considered it very unlikely that an agreement could be reached regarding the nature of the scope of the duties of the individual towards the State. Article 27 of the draft therefore constituted an acceptable minimum which could be considered as satisfactory. The question of duties of the individual towards his community did not involve any particular issue of urgency. The legislation of States was currently composed of provisions which defined the duties of citizens. Those duties could not be considered as equitable in so far as they did not depart from the standards set by the declaration of human rights.

The Turkish delegation reserved the right to intervene in the discussions which would follow and to present amendments which might improve certain parts of the draft.

MR. HOFFMEISTER (Czechoslovakia) noted the similarity between the draft declaration now under discussion and the Declaration of Rights of Man and the Citizen voted by the French Constituent Assembly on 26 August 1789 at Versailles. That Declaration had in fact been the death certificate of the Old Regime and, inspired by the doctrine of the philosophers, had embodied the ideals of the rising social class. Ratified by the King under pressure of a popular movement, it stood for the ideal of the rights of the middle class, a circumscribed ideal which was to be subjected to the searching criticism of Karl Marx and of Frederic Engels in the Communist Manifesto. The authors of the Manifesto had analysed the problem of human rights with acumen and had expressed ideas, as for instance on the Jewish question, which retained all their relevance today. Marx criticized the conception of freedom as stated in the Declaration of 1789; he perceived its ambiguity in that it considered man [10] as an isolated monad; man's right was that of the individual within the individual's limitations; the practical application of the right to freedom was the right to private property, that was, the right to selfishness. That individual liberty and its applications serving as the foundations of bourgeois society, revealed to each individual the limitations in the freedom of another individual. The draft declaration now being examined by the Third Committee harked back to the Declaration of the Rights of Man and was equally far from ensuring the rich and complete freedom that millions of men desired, but which some feared.

In Mr. Hoffmeister's view, the draft declaration was no more than an abstract idea and merely reaffirmed the existing order. The representative of Czechoslovakia was not opposed to the codification of the rights acquired by citizens in the majority of the civilized countries of the world, but he held that what was most fitting to proclaim was such fundamental human rights as had already been proclaimed by certain States, or been provided in certain constitutions. The fundamental right of man to a free and full life, to security, and to peace must be formulated. Furthermore, a declaration of human rights born of the concrete realities of the post-war period must include the right to annihilate fascism by ensuring the defence of democratic rights – and those rights were still being threatened – against reactionary aggression.

The Czechoslovak delegation would not be able to append its signature to a declaration which failed to guarantee the application and the enjoyment of those rights, the obligations deriving therefrom being taken into account, and that for all persons without distinction as to race, nationality, religion, social position, sex and language. The draft declaration was too abstract. How, for instance, could a Government apply Article 22 on the standard of living if there existed no guarantees with regard to economic equality? Mr. Hoffmeister considered that Article 21 had only a theoretical value. He contrasted it with Article 3 of the Czechoslovak Constitution, an article, in his opinion, far more concrete. The Declaration on Human Rights, which evolved from the present discussion, must be clear, concrete, and must take into account humanity's revolutionary aspirations. The Declaration drawn up in the year 1948 was to serve for the years to come.

The Czechoslovak delegation reserved its right to submit amendments when the Committee began its discussion of the draft chapter by chapter.

MR. PAVLOV (Union of Soviet Socialist Republics), having raised his hand, THE CHAIRMAN asked whether, since the general discussion was closed, he wished to speak on a point of order.

[11]

MR. PAVLOV (Union of Soviet Socialist Republics) asked for the right of reply in accordance with the provisions of Article 104 of the rules of procedure.

THE CHAIRMAN drew attention to the fact that Article 104 did not impose an obligation on the Chairman to grant the right of reply, but merely allowed him to do so. He regretted that he was unable to grant the request of the representative of the USSR because the speech of the representative of the United Kingdom was already a reply to a preceding statement by Mr. Pavlov. Furthermore, three representatives of the Slav countries had already taken part in the discussion after the representative of the United Kingdom had spoken, and had consequently had the opportunity of replying to the latter.

MR. PAVLOV (Union of Soviet Socialist Republics) drew attention to the fact that Article 104, referred to by the Chairman, had been drafted expressly to guarantee the right of reply after the closure of the debate. He demanded that the right of reply be granted him.

THE CHAIRMAN replied that he would not have failed to accede to the request of Mr. Pavlov had the application of Article 104 been a case in point in the present instance. But Mr. Mayhew's statement was a reply to the statement of the representative of the USSR and did not constitute an attack against the latter country. The Chairman therefore maintained his ruling and reiterated that the general debate was closed.

The Chairman was authorized by the Third Committee to discuss with the Chairman of the Second Committee the filling of the positions of Chairman and Rapporteur at the meetings which the two Committees would hold jointly.

The Chairman recalled that the Committee must now choose between the two methods of procedure proposed with regard to the examination of the Draft International Declaration of Human Rights. The proposal of the delegation of Cuba, seconded by that of Venezuela, was that a drafting committee be set up in order to harmonize the two different texts; the text drawn up by the Commission on Human Rights and that deriving from the Conference at Bogotá. That drafting committee would in due course make recommendations to the Third Committee. The second proposal was that the draft be examined by the Committee in a plenary meeting and that any points upon which amendments might be submitted should be referred to a small drafting committee.

[12]

MR. PÉREZ CISNEROS (Cuba), believing that his proposal might have been wrongly interpreted and might, for instance, have been taken as implying a criticism of the text drawn up at Geneva, wished to explain the reasons underlying it. He explained that the work done at the Conference of Bogotá had not been intended to lead to a rejection of the text drawn up at Geneva, but to form a supplement it. He therefore merely suggested that both texts should be studied, the Geneva text being naturally considered as the basic working paper; the Bogotá text seemed in his opinion to have the advantages of better structure and a clearer statement of issues.

THE CHAIRMAN reminded Mr. Pérez Cisneros that the only question before the Committee was the choice between the setting up of a drafting committee or the examination of the draft by the plenary Committee sitting as a drafting committee.

MR. COROMINAS (Argentina) noted that there were two conflicting proposals, the aim of the Cuban delegation's proposal being that the work should be done by a more limited body than the whole Committee. That proposal was valuable. He suggested that the Committee proceed straightaway to a vote.

BADAWI BEY (Egypt) recalled that it behoved the Committee also to come to a decision on certain questions of principle. The Committee must, for instance, decide whether it proposed to limit its study solely to the International Declaration of Human Rights, without touching the Covenant and the Suggestions for Implementation, whether the Committee wished to examine the Declaration alone without reference to the obligations of States or, lastly, whether the Committee proposed to decide that the declaration must deal not only with the rights but also with the duties of man.

MRS. ROOSEVELT (United States of America) considered that there had arisen yet another misunderstanding. Thus, members of the Committee did not seem clearly to be aware of the fact that the draft now before the Committee represented the most advanced stage reached in the work since it took into consideration the work of the Conference of Bogotá. It was desirable to avoid doing again work which had already been done. The Committee should therefore examine the draft submitted to it,

paragraph by paragraph, and refer to a drafting committee those points with regard to which differences of opinion might arise.

[13]

MR. PÉREZ CISNEROS (Cuba) again assured the Committee that his criticisms of the Geneva text had referred solely to the form of the draft. In his opinion the declaration must have a logical structure and order. It should include a preamble in which the essential premises would be enunciated; it should then proceed to state the rights deriving from the premises, those rights being grouped in their proper order according as they fell within the social, political or legal categories; finally, the declaration should explain the extent of those rights and define the duties arising therefrom. However complete the Geneva text might be, it seemed to lack clarity, whereas the plan that he advocated¹⁶ would have the advantage of being intelligible to everyone.

He added that his statement was intended to avoid the creation of a drafting sub-committee which, while offering obvious advantages, would also have certain drawbacks. He thought that if the plan of work he had prepared could be approved by the Committee, there would no longer be any need to set up a sub-committee. That was why he felt it necessary to make those observations.¹⁷

The representative of Cuba drew attention to the fact that his draft included all the provisions of the Geneva text with the exception of articles 26 and 28. He requested that that document, which he proposed as a basis for discussion, should be distributed to the delegations, and, pending distribution of it, moved that the meeting be adjourned.

THE CHAIRMAN stated that the only question before the Committee was to decide before which body – a drafting committee or plenary Committee sitting as a drafting committee – Mr. Pérez Cisneros should have stated his point of view as, infringing upon the rules of procedure, he had just done.

MR. PLAZA (Venezuela) assured the committee that his delegation, in supporting the point of view expressed by the representative of Cuba, was actuated solely by a desire to facilitate the work of the Committee. He believed that the text that Mr. Pérez Cisneros had been good enough to draft would be most useful to members of the Committee.

MR. GARCÍA BAUER (Guatemala) pointed out that the representative of Cuba had asked that the meeting be adjourned and that, in accordance with the rules of procedure, the motion of adjournment should be put to the vote immediately.

The Committee decided by 21 votes to 1 with 11 abstentions to adjourn the discussion.

The meeting rose at 6 p.m.

¹⁶ Later distributed under the document symbol A/C.3/218.

¹⁷ This paragraph was added by A/C.3/SR.93/Corr.1 of 9 October 1948.

A/C.3/221

5 October 1948

Original Text: English, French

**Principles of International Morality Adopted at the
XXXVIIth Inter-Parliamentary Conference
Rome, 6–11 September 1948**

Seeing that the work of codification of international law, which has repeatedly figured on the agenda of Inter-Parliamentary Conferences since 1899, has now, under present international circumstances, again taken on increased importance;

Seeing that members of Parliament in all democratic countries play a foremost part in the direction and control of their country's international policy, and that, in the interests of the peoples who elected them, as in the collective interests of humanity, it is their duty to bring their contribution to, and to keep watch over, the application of the same principles of morality in relations between the nations as in relations between individuals;

Seeing that, during the second world war, declarations of paramount importance for the evolution of international law were made by the spokesman of victorious democracies;

Seeing that the Nuremberg Charter for the prosecution and punishment of the main war criminals has endowed international penal law with principles that are also worth codifying;

Seeing that those various declarations deserve to be preserved from oblivion and must continue to inspire the work of codification of international law undertaken by the United Nations;

Seeing that, moreover, such a vote would imply that the members of the various Parliaments affiliated to the Union endorsed those declarations (which, in most cases, were made by Governments), regarded themselves as directly bound by their terms and declared themselves ready to direct the foreign policy of their respective countries on the lines thus indicated;

Consequently, the XXXVIIth Conference recalls the leading principles of international morality contained in the Declaration of the Four Freedoms, the Atlantic Charter, the Moscow, Teheran¹⁸ and Yalta Declarations, the United [2] Nations Charter, the Potsdam Declaration, the Act of Chapultepec, the Nuremberg Charter, the Bogotá Charter, and similar international documents, as also in the main

¹⁸ The first meeting between Stalin, Roosevelt and Churchill was held in Tehran from 28 November to 1 December 1943. Agreement was reached to open a second front against Nazi Germany and on a range of other matters. A declaration was adopted concerning the independence of Iran.

international statements made during hostilities by the spokesmen of the great democracies, and transmits to the United Nations, as the contribution of the Inter-Parliamentary Union to the work of codification provided for in Article 13 of the Charter, the Declaration joined to the present text, in which the Inter-Parliamentary Union has endeavoured to summarize those principles.

The Conference also recommends that the Inter-Parliamentary Committee on Juridical Questions continue its efforts for the development of the work it has undertaken with a view to proclaiming the principles of international morality.

Declaration on the Principles of International Morality

1. Relations between states are governed by principles of morality as are relations between individuals.

2. All states are solidary and form a *de facto* community of which it is desirable that the United Nations should, as soon as possible, become the universal juridical expression.

3. The members of the community of states are equal before the law, without prejudice to the limitation of sovereignty required for the benefit of the international community, in the interests of peace and security.

4. States have the strict duty to respect the obligations resulting from international conventions.

A Treaty may only be annulled or modified with the consent of the states concerned or in accordance with the provisions of the United Nations Charter.

5. No state may claim to be judge in its own cause. Every dispute between states which cannot be settled amicably must be settled by conciliation, arbitration, or in accordance with the provisions of the United Nations Charter. All states must carry out in good faith the decision reached.

6. The independence of states is inviolable. Respect for that independence excludes the use of political, economic, or other pressure on the part of the state for the purpose of modifying the political or social structure of another state, without prejudice to measures taken as a result of decisions of the United Nations Organization to safeguard peace and democracy.

7. No state may use its armed forces on the territory of another independent state except with the agreement of the state concerned for military action authorized by the terms of the United Nations Charter.

[3]

8. As all propaganda in favour of war and all forms of incitement to aggression constitute a threat to that peace towards which the efforts of all states should be directed, all governments should take active steps to implement the resolution condemning such propaganda voted unanimously at the second General

Assembly of the United Nations in 1947 and at the Conference on Freedom of Information in 1948.

Furthermore, in the interests of peace, all states are required to encourage by publicity and propaganda and by any other means at their disposal friendly relations between peoples based on the aims and principles of the United Nations Charter.

9. As, under the terms unanimously adopted by the Conference on Freedom of Information which met in Geneva in March and April 1948, “the attainment of a just and lasting peace depends in great degree upon the free flow of true and honest information to all peoples and upon the spirit of responsibility with which all personnel of the press and other agencies of information seek the truth and report the facts”, it is in particular the duty of all governments to see that all official communications issued by foreign governments relating to international disputes in which they are concerned should be disseminated on their territory effectively and on a basis of reciprocity.

As the attainment of a just and lasting peace depends largely on freedom of opinion, it is the duty of states to give their nationals the right to express different opinions, including even opinions contrary to those of the party in power.

10. Since aggression is a crime, those who prepare, promote and execute it must be prosecuted and punished by joint action of states.

The collectivity of states must adopt as soon as possible an international penal code and create an international penal court for the punishment of crimes against peace, war crimes and crimes against humanity, including in particular the crime of genocide.

Mutual assistance between states in the matter of prosecution and punishment of war criminals and persons guilty of genocide or other crimes against humanity must take place without restrictions and without time limits contrary to the spirit set forth above.

A state victim of aggression has the right of legitimate defence and the community of states must lend its support.

11. Armaments, which are a heavy burden on world economy, cannot legitimately serve any other purpose than that of protecting the nations individually and collectively against aggression. Their arbitrary fixation by sovereign states and the competition arising between those states in this [4] field have often been stigmatized as a cause of insecurity. It is therefore the urgent duty of states to collaborate for their limitation and progressive reduction under international control, inspection, and supervision.

Under that same guarantee, international morality makes it the duty for states to agree upon international control, inspection and supervision of atomic weapons, as also other instruments of war making possible mass destruction of human life and material wealth, in view of the final abolition of those arms.

12. Peoples have the inalienable and imprescriptible right of free self-determination and the international community the duty to secure the exercise of that right.

13. States must not exploit for their own profit populations of a different civilization placed under their trusteeship. It is their duty to co-operate for the improvement of their material, moral and intellectual condition in such a way as to lead them as rapidly as possible towards autonomous administration, independent government, or any other solution desired by those populations. In the territories inhabited by them no privilege must be granted, of a commercial or industrial nature, to nationals of the state responsible for administration.

14. It is the duty of states to collaborate for the general welfare of mankind. They must grant one another mutually, as regards access to raw materials and foreign trade, the facilities necessary to the economic prosperity of each one of them.

15. In every state there should be granted to all citizens, without distinction of religion, race, sex or nationality, the exercise of rights which will ensure the free development of their individuality.

16. Since every human being has a right to life it is the duty of states to bear, within the limits of their respective means, the burden resulting from the harbouring of displaced persons, refugees, stateless persons or persons fleeing from war pestilence or natural catastrophes.

Except in the case of persons guilty of crimes of common law and in the case of war criminals, a state has the right to give asylum on its territory to individuals, without distinction of age, who have fled from their own country through fear of political, religious or racial persecution.

17. Further, states having on their territories, or on territories occupied or controlled by them, displaced persons, refugees, émigrés, etc., shall refrain from any form of propaganda the aim of which is to influence the said persons in a tendentious manner with a view to preventing them from taking a decision to return to their own country, and they shall use all the legal means at their disposal to combat propaganda of this sort.

[5]

The removal of children from their own country without the consent of their parents or legal guardians and the placing of obstacles in the way of their repatriation are a flagrant violation of international morality.

Any displaced person or refugee wishing to return to his home has the right to do so; it is the duty of the international collectivity and, particularly, of the state concerned to lend them all effective aid and assistance.

18. Each state must endeavour to secure for all manual and intellectual workers respect for their dignity, their right to work, to rest and leisure, and a fair remuneration for their labours.

A/C.3/222

5 October 1948

Original Text: French

Egypt: Proposal

1. With regard to Item 2 of its Agenda, the Third Committee decides to examine only the Draft International Declaration of Human Rights transmitted by the Economic and Social Council with a view to preparing a text for adoption by the General Assembly during the present Session, without thereby ruling out statements of opinion on the other Sections of the International Bill of Human Rights or any decisions which may be reached concerning existing connections between the Declaration and the other sections of the Bill.

(proposal adopted on 5 October 1948)

2. The Third Committee decides that the Declaration of Human Rights shall be limited to the formulation of principles relating to human rights which presuppose the existence of corresponding duties on the part of states and defers the foundation of principles relating to the duties of States for incorporation in an appropriate instrument.

3. The Third Committee decides that the Declaration of Human Rights shall deal both with human rights and with the duties corresponding thereto.

A/C.3/223

5 October 1948

United States of America: Amendments to the Draft Declaration of Human Rights

Article 9

Insert the word “penal” before the word “offence” in the second paragraph of Article 9, so as to read:

Article 9

* * * *

2. No one shall be held guilty of any *penal* offence on account of any act or omission which did not constitute a *penal* offence, under national or international law, at the time when it was committed.

Article 18

Substitute the following text for the present text of Article 18:

Article 18

Everyone has the right to freedom of assembly and association, *especially for the promotion and protection of the rights and freedoms set forth in this Declaration.*

Article 21

Substitute the following text for the present text of the second paragraph of Article 21:

Article 21

* * * *

Men and women have the right to equal pay for equal work.

Article 27

Amend the second paragraph of Article 27 to read as follows:

Article 27

* * * *

2. In the exercise of his rights *and freedoms*, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

A/C.3/SR.94¹⁹

5 October 1948

Summary Record of the Ninety-Fourth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday, 5 October 1948,
 at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon)

¹⁹ The text of the document is from *Official Records of the General Assembly, Third Session, 1948*, pp. 74–83.

15. Draft international declaration of human rights (E/800) (continued)

THE CHAIRMAN drew attention to the fact that the Committee had to decide whether it would itself act as a drafting committee or whether it would adopt the suggestion of the representative of Cuba that a sub-committee should be set up.

The Committee had also to decide on the questions raised by the Egyptian representative, namely, whether or not it should examine only the draft declaration and not the covenant and measures for implementation; whether the draft declaration should formulate principles relating to the duties of States as well as principles relating to the rights of the individual; and finally, whether the draft declaration should mention the duties of the individual as well as his rights.

MR. SAINT-LOT (Haiti) thought that the questions raised by the representative of Egypt should be settled first. The Committee should decide whether it should consider only the draft declaration of human rights or whether it should include also the international covenant and the suggestions for implementation. In his opinion the draft covenant was not yet complete and a sub-committee should be set up in order to elaborate it.

He opposed the proposal made by the representative of Cuba, but would state his attitude towards it when it came up in the discussion.

MR. ANZE MATIENZO (Bolivia) said that the tendency to form sub-committees only complicated the issue. The text should be examined by the full Committee, and the plan of work proposed by Cuba (A/C.3/218) should be adopted as a basis.

BADAWI BEY (Egypt) said that time would be lost if the text were considered article by article by the Committee and he repeated his desire for [75] a working group (92nd meeting). The Committee should also decide whether it wished to include duties as well as rights in its discussion. The question whether the draft declaration alone should be considered had logically to be decided first.

MR. CASSIN (France) thought the proposal made by the representative of Egypt should be dealt with first and agreed that the Committee must decide whether or not the questions of rights and duties were to be dealt with in separate chapters. If so, the Bogotá declaration might serve as a useful guide.

COUNT CARTON DE WIART (Belgium) agreed with the representative of Egypt and asked that the substance of the debate should be defined. It was necessary for the Committee to know whether the draft declaration alone was to be considered or whether the question of duties and rights was to be included. The Committee should limit itself to the draft declaration, for that was the task entrusted to it by the General Assembly and anything which tended to widen the debate should be excluded.

MR. WATT (Australia) had no objection to a decision being taken on whether only the draft declaration was to be considered. But if the Committee limited itself in that way, it might be thought that it did not want to complete the draft covenant and

was overlooking the view of the Assembly. His delegation had stated earlier that the Committee should not preclude members from stating their opinions on the question of implementation as a guide to the Commission on Human Rights.

THE CHAIRMAN hoped that a resolution might be formulated which would combine the views of the representatives of both Egypt and Australia.

MR. PAVLOV (Union of Soviet Socialist Republics), speaking first on the question of what the Committee should consider, noted that the Committee had previously almost reached unanimity on that point. The Declaration of Human Rights should be used because it was the only developed document available, unless members wished the whole bill of human rights to be redrafted, and that was impossible.

Concerning the question of what basis should be used in considering the draft declaration, he said that some members had shown dissatisfaction with the draft declaration. It would be useless, however, to consider the Bogotá declaration, as it had already been examined and parts of it incorporated in the draft declaration before the Committee. Although the draft declaration was by no means perfect, the Committee should consider it. It should also examine the USSR amendments (E/800, page 31); his delegation was formally presenting them again as amendments.

With regard to the way in which the draft declaration and the amendments were to be considered, he opposed the creation of a sub-committee; although it would imply, quite correctly, that the work of the Commission on Human [76] Rights had been inadequate, it would only mean a postponement of discussion followed by a repetition in full Committee of what had already been discussed in the sub-committee. The proposal made by the representative of France was perfectly logical and the draft declaration should be dealt with article by article. If at any point they encountered any difficulty, they could still set up a sub-committee to deal with it.

In the general debate (93rd meeting) the United Kingdom representative had attacked the social structure in the Soviet Union and the latter had not been given the opportunity to defend itself. He wished to point out that in his own speech in the general debate (92nd meeting), he had not attacked the social structure of the United Kingdom in any way.

He thought it unnecessary for the Committee to vote each time it wished to adjourn the meeting at the usual hour.

THE CHAIRMAN assured the representative of the USSR that the amendments submitted by his delegation were before the Third Committee and would be considered when the draft declaration was examined article by article.

He then read the text of the resolution submitted by the representative of Egypt:

“With regard to item 2 of the agenda, the Third Committee decides to examine only the draft international declaration of human rights transmitted by the Economic and Social Council with a view to preparing a text for adoption by the General Assembly during the present session, without thereby ruling out statements of opinion on the other sections of the international bill of human rights.”

MR. PLAZA (Venezuela) said that the basic document should be the draft declaration. If the proposal submitted by the representative of Cuba (A/C.3/218) were adopted, it would mean a change only in the order in which the articles were considered.

A sub-committee should be set up, not in order to express dissatisfaction with the draft declaration but in order to study the text in the best and most effective way.

His delegation favoured the adoption of the Cuban proposal and the creation of a sub-committee.

THE CHAIRMAN hoped that the representative of Venezuela would agree to his putting the Egyptian proposal to the vote.

MR. PLAZA (Venezuela) replied that he would have no objection to his doing so.

MR. DE ALBA (Mexico) approved of the Egyptian proposal that the Committee should examine only the draft declaration at the current session.

He also supported the Australian point of view that the way should be left open for a general discussion later, if possible, of the draft covenant and suggestions for implementation.

The full Committee should use the draft declaration prepared by the Commission on Human [77] Rights as a basis for discussion and should itself consider that document article by article. It should not shirk its responsibility by referring the draft to a sub-committee.

The Cuban delegation's proposal contained important suggestions regarding changes in the structure of the draft declaration and deserved careful attention. Those suggestions could, however, be dealt with, perhaps by a small drafting sub-committee, after the substance of the declaration had been agreed upon.

MR. CASSIN (France), while accepting in general the Egyptian proposal, suggested adding at the end of the text which the Chairman had just read the words: "or any decisions which may be reached concerning existing connexions between the declaration and the other sections of the bill". In order to ensure that the Committee would have an opportunity to express itself fully on that point.

BADAWI BEY (Egypt) accepted the French amendment.

MR. KURAL (Turkey) agreed with the first part of the Egyptian proposal but had some doubts regarding the procedure to be followed if the second part were adopted. He therefore asked that the Chairman should put the proposal to the vote in parts.

MR. SANTA CRUZ (Chile) fully supported the proposal under discussion, the second part of which he interpreted to mean that after the text of a declaration had been agreed upon, the Committee would freely debate the question of the connexion between the declaration and the other parts of the international bill of human rights. Such a debate would undoubtedly be very useful to both the Commission on Human Rights and the Economic and Social Council in their consideration of the draft covenant and suggestions for implementation.

The Chilean delegation thought that the draft declaration was the only part of the bill of human rights that could be fully examined at the current session, as the preliminary work on the other parts had not been completed. The declaration should, moreover, be dealt with separately, for the proposed covenant would be legally binding and therefore involved very delicate problems which could not be solved quickly.

MR. PÉREZ CISNEROS (Cuba) expressed his delegation's approval of the Egyptian proposal as amended by the French representative.

He wondered, however, whether a decision to accept the draft declaration prepared by the Commission on Human Rights as the sole basis for discussion would preclude the possibility of adding a section concerning duties, which he considered highly desirable.

THE CHAIRMAN explained that the point raised by the Cuban representative would be covered by a later part of the Egyptian proposal, not yet under consideration by the Committee.

[78]

MRS. ROOSEVELT (United States of America) agreed completely with the Egyptian proposal as amended by France. She emphasized, however, that the amendment referred merely to the question of the connexion between the draft declaration and the other parts of the proposed bill of human rights and in no way implied that any decision would be taken on the draft covenant or on the suggestions for implementation.

THE CHAIRMAN confirmed that the representatives of Chile and the United States had correctly interpreted the proposal under discussion.

MRS. NEWLANDS (New Zealand) explained that her delegation would abstain from voting on the Egyptian proposal because it felt that the General Assembly would be acting too hastily if it adopted a declaration of human rights at the current session. The fact that New Zealand had abstained in the vote would not commit that country with regard to the action it would take when the final text of the draft declaration was presented for the Committee's approval.

MR. SAINT-LOT (Haiti) made a plea for action that would meet the needs of the millions of human beings who, for so long, had been looking to the United Nations to carry out the promises made in the Charter and who were expecting more than empty words. The task originally assigned to the Commission on Human Rights by the General Assembly had been threefold: the preparation of a declaration, a covenant and means of implementation. The Third Committee should see that the entire task was carried out. If the declaration were dissociated from the rest of the proposed international bill of human rights, it might give States an opportunity to limit themselves to a mere declaration of human rights and to avoid the implementation which was the essential goal.

He therefore formally proposed that the Committee should defer consideration of the draft declaration until such time as the preliminary work on the draft covenant and the suggestions for implementation might be considered at the same time.

MR. PAVLOV (Union of Soviet Socialist Republics), referring to the Egyptian proposal, which the Chairman had read, asked that it should be put to the vote in three parts: first, the part ending with the words “a text for adoption by the General Assembly during the present session”; secondly, the phrase, “without thereby ruling out the statements of opinions on the other sections of the international bill of human rights”; and thirdly, the amendment proposed by the French representative.

The French amendment particularly should be voted on separately, as its adoption would seem to commit the Committee in advance to acceptance of the principles that the declaration and the other parts of the bill of human rights were necessarily interdependent. The connexion between them could not be fully understood, however, until the bill of human rights had been completed. The draft declaration, if it stood alone, might be acceptable to many delegations that would not later be able to agree to the covenant. His Gov-[79]ernment, certainly, disagreed with much that was included in the draft covenant which, by omitting social rights, might actually restrict human rights.

Since the Committee had to decide between the Egyptian proposal and the proposal just submitted by the representative of Haiti, Mr. Pavlov requested that both should be put in writing and circulated to members of the Committee before a vote was taken on either. Moreover, as the Haitian proposal involved an important new point of principle, members of the Committee should have time to consider it further and to get in touch with their Governments before voting on it.

THE CHAIRMAN did not think the submission of the Haitian proposal should delay action on the Egyptian proposal, which had been presented first.

MR. AZKOUL (Lebanon) sympathized fully with the views that had been expressed by the Haitian representative as he, too, was anxious to see all parts of the bill of human rights adopted. He pointed, however, to the danger of linking too closely the three parts of the bill. States determined to evade their obligations would surely find a way to do so even though they had signed a covenant that should be legally binding. If the declaration and the covenant were inalterably linked, the declaration would share with the covenant the discredit caused by such action on the part of States. It might well be that the declaration would become part of the bill of human rights which would have the greatest effect on public opinion and on the conscience of the world.

MR. JIMÉNEZ DE ARÉCHAGA²⁰ (Uruguay) understood the Haitian representative's anxiety lest failure of the General Assembly to take concrete action, such

²⁰ Eduardo Jiménez de Aréchaga (1918–94) was a distinguished international lawyer who sat as judge on the International Court of Justice from 1970 to 1979 and served as its President from 1976 to 1979.

as was provided for in the draft covenant, would cause bitter disappointment among the peoples of the world. Even though the preliminary work on the draft covenant and the suggestions for implementation had not been completed, tentative solutions for almost all of the difficult points had been suggested. The Uruguayan delegation still hoped, therefore, that the General Assembly, at its current session, could agree to a covenant that would be strong enough to be effective.

For that reason his delegation could not vote for either the Egyptian resolution or the French amendment.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the USSR's request that no decision should be taken on either the Egyptian or the Haitian proposal at the current meeting, as adoption of the one would automatically exclude the other.

He did not agree with the Chairman that the Egyptian proposal could be voted on before both proposals had been circulated in writing to the members of the Committee.

THE CHAIRMAN ruled that, according to rule 83 of the rules of procedure, the Egyptian proposal, having been presented first, should be put to the vote first.

[80]

MR. SAINT-LOT (Haiti) explained that his proposal did not contradict the Egyptian proposal, but rather supplemented it. The Egyptian representative wanted the Committee to decide first just what its work would be and whether it should deal with all parts of the draft bill of human rights or merely with the draft declaration. Mr. Saint-Lot felt that the declaration should not be isolated from the rest of the bill, but that all parts should be considered together. If the declaration alone were adopted, States and peoples would come to the conclusion that the United Nations was merely formulating principles which were meaningless, as no provisions had been made for their implementation. Only if all three parts of the draft bill were adopted at the same time could conditions really be changed and therefore the Committee should not agree to recommend the adoption of one part alone. He recalled, moreover, that the Economic and Social Council had transmitted to the General Assembly not only the draft declaration but the draft covenant and the suggestions for implementation as well.

With regard to the draft covenant, he thought the General Assembly should not hesitate to propose a covenant that might require that changes be made in national legislation as Member States had voluntarily renounced their absolute sovereignty when they signed the Charter.

COUNT CARTON DE WIART (Belgium), speaking on a point of order, called for closure of the debate and asked that, under rule 120 of the rules of procedure, the two proposals before the Committee be put to the vote in the order in which they had been submitted.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) opposed closure of the debate. Concerning the order in which the proposals should be put, he believed that rule 119, rather than rule 120, was applicable, inasmuch as the Haitian representative appeared to consider his proposal as constituting an amendment to the Egyptian proposal. Moreover, previous to the Belgian motion, the USSR representative had requested, in accordance with rule 109, that the Haitian proposal should be submitted in writing and circulated. He asked that the debate be continued.

MR. PAVLOV called the Chairman's attention to the fact that rules applying to the work of Committees rather than those applying to the plenary meetings of the General Assembly should be followed.

THE CHAIRMAN assured the USSR representative that the Haitian proposal would not be voted upon at the current meeting. As it constituted a separate proposal, the latter would be put to the vote first.

[81]

MR. SAINT-LOT (Haiti) accepted that procedure.

THE CHAIRMAN put to the vote the motion for closure of the debate.

The motion was adopted by 42 votes to none, with 12 abstentions.

THE CHAIRMAN put to the vote the second part of the Egyptian proposal to the vote in parts as requested by the USSR representative.

He put the first part to the vote.

That part was adopted by 42 votes to 5, with 4 abstentions.

THE CHAIRMAN put to the vote the second part of the Egyptian proposal.

That part was adopted by 47 votes to none, with 3 abstentions.

THE CHAIRMAN put to the vote the third part of the Egyptian proposal.

That part was adopted by 36 votes to none, with 13 abstentions.

THE CHAIRMAN put to the vote the Egyptian proposal as a whole.

The proposal was adopted by 41 votes to 3, with 7 abstentions.

MR. SAINT-LOT (Haiti) thereupon withdrew his proposal.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) maintained that violation of the rules of procedure had made it impossible for representatives to put forward and maintain proposals which they had every right to make. He felt that numerous instances of such violation had occurred.

THE CHAIRMAN denied categorically that any breach of the rules of procedure had taken place.

MR. SAINT-LOT (Haiti) called attention to the fact that the proposal stated orally by the Egyptian representative at the 93rd meeting had merely consisting in asking whether the declaration alone was to be considered by the Committee, or all three documents relating to human rights. The written proposal which had been put to the vote had been radically different. As it had been accepted by the Egyptian representative, he could make no formal objection; he felt, however, that in the course of the meeting far more sacred matters than rules of procedure had been violated.

THE CHAIRMAN put before the Committee, the second proposal of the Egyptian representative, which read as follows:

“The Third Committee decides that the international declaration of human rights shall confine itself to the formulation of principles concerning the rights of man, leaving aside the rights and duties of States.”

MR. PÉREZ CISNEROS (Cuba) enquired whether the second part of that proposal meant that all mention of the duties of man was also to be excluded from the declaration. His delegation was not in favour of such exclusion.

THE CHAIRMAN replied that the point raised by the Cuban representative was dealt with in the [82] third proposal submitted by the representative of Egypt.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) observed that the text before the Committee went considerably further than the Egyptian representative had done in his statement. It was one thing to say, as had frequently been said, that the declaration imposed no legal obligations upon States, and quite another to maintain that all mention of the duties of States towards individuals should be excluded from it. Such a declaration would be a document of less than academic value. The distinction between the declaration and the covenant with regard to legal obligations had been sufficiently stressed; the present Egyptian proposal was consequently unnecessary.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the Egyptian proposal went counter to accepted practice. The Committee was asked, before it had so much as glanced at the draft declaration, to take a decision which would pre-judge the contents of that declaration. Although the document drafted by the Commission on Human Rights was not satisfactory in all respects, it did represent a basis for discussion. If the Egyptian proposal were accepted, the Committee would have to begin the task of drafting a declaration all over again.

Moreover, it was clear that a declaration of human rights must contain some mention of the duties of States, as the former necessarily implied the latter. Any human rights – such as the right to vote – implied an obligation on the part of the State to ensure conditions under which it could be exercised. That the declaration would have moral and political rather than legal weight was a different question entirely. The Egyptian proposal was aimed not at the nature, but at the contents of

the document. It was quite impossible to draft a declaration of human rights without enumerating the duties of States which correspond to those rights.

Further, if all mention of the rights of States were omitted, it would be impossible to include in the declaration any reference to the duties of individual citizens. The declaration already stated some of those duties, although others should be added, to ensure that selfish interests of individuals did not infringe the interests of society.

Mr. Pavlov urged that the Egyptian proposal should be rejected on the grounds that it pre-judged a question which had not yet been discussed. Decisions concerning human rights and duties, as well as the rights and duties of States, should be taken on *a priori*, but during the detailed discussion of each article, on the merits of each separate case. If the Egyptian proposal were [83] accepted, it would be impossible to adopt a declaration, since, in practical life, rights and duties were inextricably bound together.

He expressed the hope that the Egyptian representative would withdraw his proposal.

MR. CASSIN (France) thought that there was a misunderstanding. The Egyptian representative had merely wanted to confine the discussion to the subject of human rights, excluding rights and duties of States which were extraneous to that subject. However, as some fear had been expressed that too narrow an interpretation might be put on the Egyptian proposal, he suggested, as an amendment, the addition at the end of some such phrase as "having no relation to human rights". The effect would be to exclude relations between States and problems of international law only.

BADAWI BEY (Egypt) observed that, in his opinion, the declaration should contain a statement of human rights alone. All the duties of States should be enumerated in another document, such as the covenant on human rights, or a separate covenant on the rights and duties of States.

THE CHAIRMAN asked the French and Egyptian representatives to submit a joint proposal at the following meeting.

The meeting rose at 1:5 p.m.

A/C.3/225

6 October 1948

Peru: Amendment to the draft Declaration (E/800)

Delete Article 16 of the text as it appears in document E/800 and insert instead the following:

"Every person has the right freely to profess a religious faith, and to express it in thought and in practice, both in public as well as in private."

A/C.3/226

6 October 1948

**Union of South Africa: Amendments to the Draft
Declaration (E/800)**

Preamble

In paragraph 3, delete the words “protected by a regime of law”, and substitute the words “respected and observed”.

In paragraph 4, delete the words “and to promote social progress and better standards of life in larger freedom”.

Article 1

Delete the words “in dignity and rights”, and substitute the words “in fundamental human rights and freedoms”.

Article 6

Delete the words “against any discrimination in violation of this Declaration and against any incitement to such discrimination”.

A/C.3/227

6 October 1948

Original Text: French

Bolivia: Amendment to the Draft Declaration (E/800)

Add to Article 11, paragraph 1 a second sentence reading as follows:

“This right shall extend to asylum in embassies or legations.”

A/C.3/228

6 October 1948

Original Text: French

Guatemala: Amendment to the Draft Declaration (E/800)

Articles 1 and 2

Delete Articles 1 and 2 of the Draft Declaration and transfer their contents to the Preamble.

A/C.3/229

6 October 1948

**Mexico: Amendment to article 7 of the draft
Declaration (E/800)**

“All human beings are born free and equal in dignity and rights. The right of sustenance, health, education and work is considered essential in order to guarantee social justice and the full development of the human being.”

A/C.3/230

6 October 1948

Original Text: English, French

**Compilation of Amendments to the Draft
Declaration of Human Rights Submitted to the
Third Committee before 4 p.m. 6 October
in Chronological Order**

Draft International Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights resulted, before and during the Second World War, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, [2] to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Amendments:

Netherlands: Amendment to the first paragraph of the preamble (Document A/C.3/219)

Insert after the words “human family” the following text: “based on man’s divine origin and immortal destiny”.

Dominican Republic (Document A/C.3/217)

In paragraph 4, line 2 delete the word “and” and substitute a comma; line 3, after the words “human person”, insert the words: “and in equality of rights between men, and women”.

Union des Républiques Socialistes Soviétiques (Document E/800)
(Draft Preamble)

“In accordance with the principles proclaimed in the Charter of the United Nations of respect for human rights and basic freedom for all without distinction as to race, sex, language and religion and for the dignity and value of the individual;

In order to ensure observance of all those rights and freedoms with a view to promoting social progress and improving living conditions of the peoples;

With a view also to promoting the development of friendly relations between nations;

The General Assembly recommends the following “Declaration of Human Rights” to all States Members of the United Nations to be used at their discretion both in adopting appropriate legislative and other measures, and in their systems of upbringing and education and in extending the provisions of this Declaration to the peoples of State Members themselves and to the populations of all the territories in respect of which the States concerned discharge the function of the guiding and administering authority (populations of trust and other non-self-governing territories).”

Cuba (Document 4/C.3/224)

Before the enumeration of Rights insert the following text:

“All men are born free and equal in dignity and rights; being endowed by nature with reason they should act towards one another like brothers.”

Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political rights and duties are indivisibly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom.

[3]

Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.

It is the duty of man to practise, uphold and promote culture by all means at his disposal, for culture is the highest social and historical expression of the human spirit.

Morality being the noblest product of culture, it is the duty of all to respect it at all times.”

Union of South Africa (Document A/C.3/226)

In paragraph 3, delete the words “protected by a regime of law”, and substitute the words “respected and observed”.

In paragraph 4, delete the words “and to promote social progress and better standards of life in larger freedom”.

*Article 1**Text adopted by the Commission on Human Rights*

All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

*Amendments:**Brazil* (Document A/C.3/215)

Amendment to the second part of Article 1

Amend the second sentence to read:

“Created in the image and likeness of God, they are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.”

Panama (Document A/C.3/220)*Article 1*

It is proposed that it be eliminated.

*Amendments:**Cuba* (Document A/C.3/224)

Delete this article and insert its substance in the preamble (see “Preamble”).

Union of South Africa (Document A/C.3/226)

Delete the words “in dignity and rights”, and substitute the words “in fundamental human rights and freedoms”.

Guatemala (Document A/C.3/228)

Delete articles 1 and 2 of the Draft Declaration and transfer their contents to the Preamble.

[4]

Mexico: (Document A/C.3/229)

“All human beings are born free and equal in dignity and rights. The right of sustenance, health, education and work is considered essential in order to guarantee social justice and the full development of the human being.”

Article 2

Text adopted by the Commission on Human Rights

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

*Amendments:**Panama* (Document A/C.3/220)*Article 2*

It is proposed that this article be merged with Article 6 in order to have one single article dealing with the right to equality, as proposed in connection with Article 6.

Union of Soviet Socialist Republics (Document E/800)

Addition to Article 2

After the words “property or other status”, add “class”.

*(Amendments)**Cuba* (Document A/C.3/224)

Replace this article by the following text:

“All are equal before the law and are entitled to the rights, and subject to the duties, laid down in this Declaration without distinction of race, birth, sex, language, religion, political opinion, or property or other status.”

The wording would make it unnecessary to include Article 6.

[5]

Article 3*Text adopted by the Commission on Human Rights*

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

Amendments:

Panama (Document A/C.3/220)

Article 3

Its total elimination is proposed.

It is proposed that the rights to life and liberty be defined as follows:

Article – Every human being has the right to exist and to maintain, develop, protect and defend his existence.

Article – No one shall be subjected to arbitrary arrest or detention. Every person who has been detained has a right to have the legality of his detention [*sic*] judicially without any delay. Neither shall anyone be held in slavery or involuntary servitude. (Paragraph 1, Article 4 of Draft).

An additional article is proposed containing the text of Paragraph 2 of Article 4 of the Draft, as follows:

Article – No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment.

(Amendments)

Cuba (Document A/C.3/224)

“Every human being has the right to life, liberty, security and integrity of person.”
[6]

Article 4*Text adopted by the Commission on Human Rights*

1. No one shall be held in slavery or involuntary servitude.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Amendments:

Panama (Document A/C.3/220)

It is proposed that this article be suppressed in its present form and that its text be used as stated above.

Union of Soviet Socialist Republics (Document E/800)

Addition to Article 4

“Slavery and the slave trade are prohibited in all their aspects; and all violations or this principle, whether they be of an overt or clandestine nature, must be punished according to law.”

*Amendments**Cuba* (Document A/C.3/224)

Delete the first paragraph.

Replace the second paragraph by the following text:

“No one shall be subject to cruel, degrading and non-customary punishment.”

Insert this text in the part related to the purely juridical rights (see Article 26).

Article 5*Text adopted by the Commission on Human Rights*

Everyone has the right to recognition everywhere as a person before the law.

*Amendment**Cuba* (Document A/C.3/224)

Replace this article by the following text:

“Everyone has the right to recognition everywhere as possessing rights and obligations and enjoying fundamental civil rights.”

Place this text at the beginning of the part related to the purely juridical rights (see Article 16).

Article 6*Text adopted by the Commission on Human Rights*

All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

[7]

*Amendments:**Panama* (Document A/C.3/220)

It is proposed to have the text of this article combined with that of Articles 2 and 8, as follows:

Article – All are equal before the law and are entitled to equal protection of the law and to enjoy all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, property or other status, or national or social origin.

Article 6*Cuba* (Document A/C.3/224)

Delete this article.

Union of South Africa (Document A/C.3/226)

Delete the words “against any discrimination in violation of this Declaration and against any incitement to such discrimination”.

*Article 7**Text adopted by the Commission on Human Rights*

No one shall be subjected to arbitrary arrest or detention.

*Amendments:**Panama* (Document A/C.3/220)

It is proposed that this article be replaced in the manner above stated in connection with Article 3.

Union of Soviet Socialist Republics (Document E/800)

Addition to Article 7

“Anyone deprived of his liberty has the right to be informed without delay of the grounds for his detention. Anyone who is arrested, detained or imprisoned is entitled to have immediately established by the judicial authorities the legality of his deprivation of liberty, and also to have his case brought before the court without undue delay or to be liberated.

No one may be imprisoned on account merely of failure to carry out his contractual obligations.

Everyone is entitled to compensation for illegal arrest or deprivation of liberty.”

*Article 7**Cuba* (Document A/C.3/224)

Replace the following text:

“No one may be deprived of his freedom except in such cases as are covered by existing laws and in conformity with the procedure prescribed by them.

[8]

“No one may be detained for failure to carry out obligations of a purely civil character.

“Any person who has been deprived of his freedom is entitled to have the legality of the measures to which he has been subjected immediately confirmed by a judge, and to be tried without unjustifiable delay or, failing that, to be released.

“He is also entitled to humane treatment while under detention.”

Insert this text in the part related to the purely juridical rights (Article 25: Protection against arbitrary arrest).

Article 8*Text adopted by the Commission on Human Rights*

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

*Amendments:**Panama (Document A/C.3/220)*

It is proposed that the phrase “in full equality” be eliminated from this article in as much as the subject of *equality* is covered by another article.

It is further proposed that an article dealing *in toto* with the subject of *fair trial* to be made up of Article 8, modified as stated above, and the first paragraph of Article 9, as follows:

Article –

1. In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled to a fair hearing by an independent and impartial tribunal.

2. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Union of Soviet Socialist Republics (Document E/800)

Alterations and Supplements to Article 8:

Insert the following before the text as adopted by the Commission:

“All people are equal before the law. Judges must be independent and answerable only to the law. Legal procedure in all States must be based on democratic principles.

Hearings in all courts must be public, with the exception of cases for which provision is made by law for the purpose of complying with public morality or in the interests of national security. The accused shall be entitled to the services of a defence counsel in court.

[9]

Should the accused be unfamiliar with the national language, he must be enabled to acquaint himself with all the details of the case by means of an interpreter, and he must be given the right to speak in court in his native language.”

Articles 8 and 9*Cuba (Document A/C.3/224)*

Replace by the following text:

“Any person against whom a charge is made is presumed to be innocent until proved guilty according to law.

“Everyone charged with a penal offence has the right to an impartial and public hearing and trial by previously established tribunals in accordance with existing laws.

“Such person shall not be subjected to cruel, degrading or non-customary punishment.”

Insert these texts in the part relating to the purely juridical rights (see Article 26).

Article 9

Text adopted by the Commission on Human Rights

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

Amendments:

Panama (Document A/C.3/220)

It is proposed that the second paragraph of this article be made part of a separate article dealing with the right to security against *ex post facto* laws, as follows:

Article – No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed. Neither can anyone be imposed a heavier penalty than the one that was applicable at the time the offence was committed.

Union of Soviet Socialist Republics (Document E/800)

Before the word “trial” delete “public”, and after the word “defence” add: “. . .and which must be public except in cases involving considerations of the protection of public morality or national security.”

[10]

United States of America (Document A/C.3/223)

Insert the word “penal” before the word “offence” in the second paragraph of Article 9, as to read:

Article 9

2. No one shall be held guilty of any *penal* offence on account of any act or omission which did not constitute a *penal* offence, under national or international law, at the time when it was committed.”

Article 10*Text adopted by the Commission on Human Rights*

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Amendment:

Union of Soviet Socialist Republics (Document E/800)

Supplement to the text as adopted “and everyone is entitled to legal defence against such interference”.

Article 11*Text adopted by the Commission on Human Rights*

Everyone has the right to freedom of movement and residence within the borders of each State.

Everyone has the right to leave any country, including his own.

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Paragraph 1. After the words “residence within the borders of each State”, add “in accordance with the laws of that State”.

Paragraph 2. After the words “to leave any country, including his own”, add “in accordance with the procedure laid down in the laws of that country”.

Article 12*Text adopted by the Commission on Human Rights*

Everyone has the right to seek and be granted, in other countries, asylum from persecution.

Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Replace paragraph 1 by the following:

“The right of asylum is guaranteed to all persons persecuted in connexion with their activity in defence of the interests of democracy [11] or for their scientific activity or for their participation in the struggle for national liberation.”

Article 12

Bolivia (Document A/C.3/227)

Add to Article 12, paragraph 1, a second sentence which reads as follows:

“The right shall extend to asylum in embassies or legations.”

Article 13

Text adopted by the Commission on Human Rights

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

Amendments:

Union of Soviet Socialist Republics (Document E/800)

The following wording is proposed:

“No one shall be arbitrarily deprived of his nationality, i.e. in any other manner or in any other case than as provided for in the laws of the country concerned.”

Article 14

Text adopted by the Commission on Human Rights

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the full consent of both intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection.

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Paragraph 2. Add after the first sentence of the text as adopted: “Men and women shall enjoy equal rights both during marriage and when divorced.”

Paragraph 3. At the end of the third paragraph add the words “by society and the State.”

[12]

Article 15

Text adopted by the Commission on Human Rights

1. Everyone has the right to own property alone as well as in association with others.

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

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Replace the text as adopted by:

Everyone has the right to own property alone as well as in association with others in accordance with the laws of the country where such property is situated.

No one shall be arbitrarily, i.e. illegally, deprived of his property.”

Article 16

Text adopted by the Commission on Human Rights

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Replace the text as adopted by the following:

“Everyone must be guaranteed freedom of thought and freedom to perform religion services in accordance with the laws of the country concerned and the requirements of public morality.”

Amendments:

Cuba (Document A/C.3/224)

Place the text replacing article 5 before this article.

Peru (Doc.²¹)

Delete article 16 and replace it by the following text:

“Every person has the right freely to profess a religion faith, and to express it in thought and in practice, both in public as well as in private.”

Article 17

Text adopted by the Commission on Human Rights

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

[13]

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Replace the text as adopted by the following:

“1. In accordance with the principles of democracy and in the interests of strengthening international collaboration and world peace, everyone must be legally guaranteed the right

²¹ The original text omits the document number.

freely to express his opinions and, in particular, freedom of speech and the Press and also freedom of artistic expression. Freedom of speech and the Press shall not be used for purposes of propagating fascism, aggression and for provoking hatred as between nations.

“2. For the purpose of enabling the wider masses of the people and their organizations to give free expression to their opinions the State will assist and co-operate in making available the material resources (premises, printing presses, paper, etc.) necessary for the publication of democratic organs of the Press.”

Second Amendment:

The following changes should be introduced into the text as adopted:

“Everyone has the right to freedom of thought and its expression; wherein is included freedom of conviction and freedom of access to sources of information and means of communication for the transmission of information in the territory of his own country and also in other countries, within limits corresponding to the interests of national security.”

Article 18

Text adopted by the Commission on Human Rights

Everyone has the right to freedom of assembly and association.

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Replace the text as adopted by the following:

“In the interests of democracy a legal guarantee must be provided for freedom of assembly and meeting, street processions, demonstrations and the organization of voluntary societies and unions. All societies, unions and other organizations of a fascist or anti-democratic nature, as well as their activity in any form, are forbidden by law under pain of punishment.”

United States of America (Document A/C.3/223)

Substitute the following text for the present text:

“Everyone has the right to freedom of assembly and association, *especially for the promotion and protection of the rights and freedoms set forth in this Declaration.*”

[14]

Article 19

Text adopted by the Commission on Human Rights

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.
2. Everyone has the right of access to public employment in his country.
3. Everyone has the right to a government which conforms to the will of the people.

*Amendments:**Union of Soviet Socialist Republics* (Document E/800)

Include the following in paragraph 3:

“The State shall consider the will of the people as expressed in elections, which shall be conducted periodically and must be universal and equal and be held by secret ballot.”

Article 20*Text adopted by the Commission on Human Rights*

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.

*Amendments:**Union of Soviet Socialist Republics* (Document E/800)

Replace the text as adopted by the following:

“It is the duty of the State and society to take all the necessary measures, including legislative measures, to ensure for every individual a real opportunity to enjoy all the rights mentioned in the Declaration. In view of the special importance of the economic, social and cultural rights enumerated in Articles 21 to 26 of the Declaration and, in particular, of the right to social security, it is considered desirable that they be implemented by means of both national efforts and international co-operation, due regard being had to the social, economic and political organization and resources of each State.”

Article 21*Text adopted by the Commission on Human Rights*

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.
2. Everyone has the right to equal pay for equal work.
3. Everyone is free to form and to join trade unions for the protection of his interests.

Amendments:

[15]

Union of Soviet Socialist Republics (Document E/800)

After the words “right to work . . . and pay” add “and the right to protection against unemployment. The State and society shall guarantee this right by measures calculated to provide everyone with the broadest of opportunities for useful work, and to prevent unemployment.”

Second amendment

Add:

“Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work.”

Proposed supplementary clause to article 21.

“Women shall enjoy equal advantages in their work with men and shall receive equal pay for equal work.”

United States of America (Document A/C.3/223)

Substitute the following text for the present text of the second paragraph:

“2. Men and women have the right to equal pay for equal work.”

*Article 22**Text adopted by the Commission on Human Rights*

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care and to social services, adequate for the health and wellbeing of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

2. Mother and child have the right to special care and assistance.

*Amendments:**Dominican Republic (Document A/C.3/217)*

Delete paragraph 2 and substitute Article VII of the American Declaration of the Rights and Duties of Man, adopted at Bogotá, which reads as follows:

“All expectant and nursing mothers and all children have the right to special protection, care and aid.”

Union of Soviet Socialist Republics (Document E/800)

Include the right to social insurance by inserting in paragraph 1 (after the words “. . . in circumstances beyond his control”) the words “and also (if he is gainfully employed) to social insurance at the expense of the State or of his employers, in accordance with the legislation of each country”.

In addition, add the following points also to article 22 in the form of two independent sentences:

“2. Everyone has the right to medical care and assistance in case of illness.

“3. Everyone has the right to decent housing.

“It is the duty of the State and society to take all necessary steps including legislation, to ensure that everyone has a real opportunity of enjoying all these rights.”

[16]

Article 23*Text adopted by the Commission on Human Rights*

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.

2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

*Amendments:**Union of Soviet Socialist Republics* (Document E/800)

Add in paragraph 1 after the first sentence:

“Access to education must be open to all without any distinction as to race, sex, language, material status or party allegiance.”

Article 24*Text adopted by the Commission on Human Rights*

Everyone has the right to rest and leisure.

*Amendments:**Union of Soviet Socialist Republics* (Document E/800)

Add to the text adopted:

“Everyone shall be guaranteed rest and leisure either by law or by contractual agreements, particular provision being made for the reasonable limitation of working hours and for periodical paid holidays.”

Article 25*Text adopted by the Commission on Human Rights*

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

*Amendments:**Union of Soviet Socialist Republics* (Document E/800)

Add to the text adopted:

“The development of science must serve the interests of progress and democracy and the cause of international peace and co-operation.”

Cuba (Document A/C.3/224)

Insert in this article the text replacing Article 7.

Article 26*Text adopted by the Commission on Human Rights*

Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

[17]

Amendments:

Union of Soviet Socialist Republics (Document E/800)

At the beginning of the sentence: “Everyone is entitled to a good social and international order in which . . .” delete the word “good” (or, in the second variant of the text, the word “just”).

Cuba (Document A/C.3/224)

Insert in this article the texts replacing Articles 4, 8 and 9.

Article 27*Text adopted by the Commission on Human Rights*

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

Amendments:

Union of Soviet Socialist Republics (Document E/800)

Add (after the words “democratic society”):

“ . . . and also the corresponding requirements of the democratic State”.

United States of America (Document A/C.3/223)

Amend the second paragraph of this article to read as follows:

“Article 27

2. In the exercise of his rights *and freedoms*, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.”

Article 28*Text adopted by the Commission on Human Rights*

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

NOTE:

The Commission has not considered the following article since measures of implementation were not in its third session:

“Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.”

[18]

Additional Articles

Cuba (Document A/C.3/216)

Insert in the text of the Declaration an Article worded as follows:

“Any person shall have the right to offer appropriate resistance to manifest acts of oppression or tyranny”.

Union of Soviet Socialist Republics (Document E/800)

Add to the text adopted a separate new paragraph in place of the corresponding Article 31 of the Geneva text rejected by the Commission:

“All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the courts and in other official premises.”

A/C.3/SR.95²²

6 October 1948

Summary Record of the Ninety-Fifth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Wednesday,
6 October 1948 at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

16. Draft international declaration of human rights (E/800) (continued)

THE CHAIRMAN read paragraphs 2 and 3 of the Egyptian delegation’s proposal (A/C.3/222), paragraph 1 having already been adopted at the 94th meeting:

²² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 83–95.

“2. The Third Committee decides that the declaration of human rights shall be limited to the formulation of principles relating to human rights which presuppose the existence of corresponding duties on the part of States and defers the formulation of principles relating to the duties of States for incorporation in an appropriate instrument.

“3. The Third Committee decides that the declaration of human rights shall deal both with human rights and with the duties corresponding thereto.”

BADAWI BEY (Egypt) stated that he did not intend to question the close relationships between human rights and the duties of States. The Egyptian representative read a passage from a statement he had made at the Committee’s 92nd meeting, in which, while admitting the relationship, he had felt it advisable to omit from the declaration any allusion to the duties of the State, because that would demand more direct and closer consideration.

[84]

The question was whether the duty of States to respect human rights belonged exclusively to internal legislation or whether it should be ratified by international law. The United Nations Charter had made the respecting of human rights a matter of concern to the entire international community (Articles 1 (paragraph 3), 13 (paragraph 1 b), 55 (paragraph c) and 76 (paragraph c)).

Furthermore, the statement on the “Principles of international morality adopted at the XXXVIIth Inter-Parliamentary Conference” (A/C.3/221) specifically mentioned some duties of the State, for example, the duty that “there should be granted to all citizens . . . the exercise of rights which will ensure the free development of their individuality” (article 15), the duty to grant asylum to refugees (article 16), and the duty to secure for manual and intellectual workers “respect for their dignity, their right to work, to rest and leisure, and a fair remuneration for their labours” (article 18).

The Egyptian representative thought that all the other duties of the State, corresponding to each of the various human rights, should be specified in a separate international document which would be a necessary complement to the declaration of human rights.

If a mere mention were made of some of the duties of the State, that would have the disadvantage of giving the impression that it was a comprehensive list. Moreover, the reference to the duties of States had a detrimental effect on the harmony of the declaration of human rights. Thus article 20 of the draft stated that the exercise of economic, social and cultural rights depended upon the resources of each country. That question, referring as it did to practical measures for implementation, should not appear in a text which aimed at defining an ideal.

The Egyptian delegation had submitted its proposal with the intention of fitting human rights into the international framework provided for by the Charter. The proposal was also intended to facilitate the Committee’s work. The Egyptian delegation did not therefore wish to have a rigid formula imposed. It had accepted

the amendment submitted by the representative of France at the previous meeting, it being understood that that would in no way prejudice any decisions which the Committee on the Progressive Development of International Law and its Codification might make concerning the international duties of States.

MR. SANTA CRUZ (Chile) stated that, as it was drafted, paragraph 2 of the Egyptian proposal left no doubt that the human rights, with which the draft declaration dealt, necessarily implied duties on the part of States, as had been emphasized by the Uruguayan, USSR and French representatives.

Paragraph 3 of the Egyptian delegation's proposal touched on a question on which there had been divergences of opinion in the Committee. On the one hand, the countries of Latin America wanted the declaration to include a list of the duties of the individual; on the other hand, some members, among them Professor Cassin, felt that the reference, in article 27 of the draft, was adequate. So as not to prejudice the outcome of the discussion, Mr. Santa Cruz suggested that the wording of paragraph 3 of the proposal should be rendered less imperative, as follows: "the declaration of human rights may deal with . . . rights . . .", instead of saying: "the declaration . . . shall deal . . ."

MRS. ROOSEVELT (United States of America) pointed out that each human right implied a corresponding duty on the part of the State. The exact definition of the duties of States was a legal question, which necessarily placed it outside the scope of the international declaration of human rights.

With regard to paragraph 3 of the Egyptian proposal, the Commission on Human Rights had discussed at length whether the declaration should be completed by listing the duties of the individual. It had come to the conclusion that it was preferable to list the rights only, while making an explicit reference to the duties of the individual to society. Article 27 of the draft dealt with that matter.

The United States delegation was opposed to the adoption of paragraphs 2 and 3 of the Egyptian proposal.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that paragraph 1 of the Egyptian proposal, which had already been adopted by the Third Committee, excluded the possibilities visualized in paragraphs 2 and 3 of the same proposal, since it had been decided to use the draft declaration as a basis for discussion.

The Committee should not lose itself in abstractions. Delegations which wished to have additional clauses inserted could do so when the draft was discussed article by article. If, however, the Egyptian proposal were accepted, the question as to which documents should embrace the rights and duties of States would be prejudged. That was an entirely new question, of which the Assembly had not been seized.

The USSR representative thought that the discussion of the draft article by article should be begun and that the Committee should not become involved in a discussion of principle which would involve reconsideration of all the work done so far.

THE CHAIRMAN expressed his satisfaction at the agreement reached on that question between the United States and USSR delegations. He asked the Egyptian

representative if he would withdraw his proposal so that the Committee might benefit by that favourable circumstance.

BADAWI BEY (Egypt) remarked that item 2 of his proposal did not prejudice the question whether the duties of States should be included in the declaration or whether, on the contrary, they should be defined in a separate declaration.

With regard to the duties of the individual, any delegation was perfectly entitled to submit appropriate proposals when the matter was being discussed article by article. He had thought that he was giving the Committee the opportunity of clarifying the debate at the very outset by having it take a decision of principle on the matter.

[86]

MR. PÉREZ CISNEROS (Cuba) thought that the discussion would become clearer if paragraphs 2 and 3 of the Egyptian proposal were examined separately.

He agreed with the Chilean representative that proclaiming the rights of man was tantamount to a statement of the corresponding duties on the part of States. That was beyond discussion.

Mr. Pérez Cisneros also agreed with the United States representative that the declaration could not be likened to a legal commitment. That document would, however, have to be worded in such a way as to eliminate any confusion and to impress the greatest number of people in all countries. In conclusion, the Cuban representative said he felt there was no need to put paragraph 2 of the Egyptian proposal to the vote.

Mr. Pérez Cisneros then went on to say that the declaration should list the obligations of the individual since his rights could exist only in correlation with its duties. The declaration should not convey the impression that it was fostering anarchic tendencies.

THE CHAIRMAN announced that the discussion would deal only with paragraph 3 of the Egyptian proposal.

MR. CASSIN (France) agreed with the USSR representative that the Committee's terms of reference were clear-cut; its task was to study human rights. The question of the duties of the individual covered an extremely large field, since it included not only duties to the State but also the individual's duties to all the social groups of which he was a part. The proposal under discussion did mention the duties of the individual explicitly in article 27. If the Committee were to follow the proposal of the Egyptian representative, however, it would become necessary to draft a declaration of duties corresponding to the declaration of rights. It was obviously impossible to complete such a task during the current session.

The French representative said he would vote against paragraphs 2 and 3 of the Egyptian proposal.

MR. SANTA CRUZ (Chile) asked The Chairman whether, in the event of the rejection of the Egyptian proposal, the concrete proposals indicating the duties of the individual in relation to various articles of the draft would be acceptable.

THE CHAIRMAN made it clear that the proposal did not bind the Committee with regard to the drafting of separate articles. Rejection of the proposal would mean that the Committee would make no decision of principle concerning the duties of the individual before starting to examine the draft.

MR. ALFARO (Panama) pointed out that the Charter of the United Nations, and the three instruments which were to form the Charter of Human Rights, were intended to meet the desire to have a definition of the duties of States. The Preamble and seven Articles of the Charter drawn up at San Francisco bound States to respect human rights. The preamble to the international declaration of human rights reiterated that commitment.

[87]

The practical task facing the Committee was to examine the articles of the existing draft. The representative of Panama would vote against the Egyptian proposal. That did not mean he did not appreciate the need for defining the duties of the individual but he felt that that should not be done at that stage.

MR. WATT (Australia) believed that the decision of principle recommended by the Egyptian delegation would be justified if it succeeded in shortening the discussions, but the contrary was the case.

The Australian representative suggested examining the articles of the draft one by one.

COUNT CARTON DE WIART (Belgium) also thought that the question of the rights and duties of States was different from the task assigned to the Committee. Article 27 of the draft declaration was well-worded, for it did not mention exclusively the obligations of the individual to the State. Indeed, man had duties to his family, to his neighbour, and to himself. The Belgian representative proposed that that article should be taken as a basis for discussion.

BADAWI BEY (Egypt) recalled that the aim of his proposal was to facilitate the work of the Committee but did not press for its adoption.

MR. PLAZA (Venezuela) also withdrew his proposal for the setting up of a special committee (92nd meeting).

MR. CHANG (China) expressed his sympathy with the feelings which had motivated the proposal of the Egyptian representative.

It was not sufficient to resolve the question by invoking formal considerations such as that of the Committee's terms of reference. The Chinese representative felt that ethical considerations should play a greater part in the discussion. The question was not purely political. The aim of the United Nations was not to ensure the selfish gains of the individual but to try and increase man's moral stature. It was necessary to proclaim the duties of the individual for it was a consciousness of his duties which enabled man to reach a high moral standard.

THE CHAIRMAN asked the Cuban representative if he still pressed for the immediate examination of his draft plan of work (A/C.3.218).

MR. PÉREZ CISNEROS (Cuba) thanked the Chinese representative for raising the level of the debate by his last intervention. He felt that the Committee should recommend that the Commission on Human Rights should prepare for the following session of the General Assembly a draft text relating to the duties of the individual, which would draw its inspiration from the noble principles recalled by the Chinese representative. The Cuban delegation furthermore reserved the right to present a draft resolution on that subject.

The Cuban representative was glad to note that the Committee was ready to begin the productive phase of its work, that was to say to examine the draft declaration of human rights in detail. He had proposed the adoption of his plan of work – and he outlined its principles and advantages once [88] more – in order to gain time. The only aim of that proposal was to associate the Committee with the work of the Commission on Human Rights. He asked the Committee to express its opinion on the matter.

MR. COROMINAS (Argentina) felt it was his duty to ask two very important questions.

One was whether the Third Committee, which had been specially entrusted by the General Assembly with the task of examining social, humanitarian, and cultural questions, refused to consider the possibility of improving the incomplete document submitted by the Commission on Human Rights; whether it refused to express an opinion between human rights and human duties; and whether members of the Committee fully realized the importance of ensuring that those rights were guaranteed.

The second question was whether the Committee would have courage to alter an incomplete document or whether it would rest content with examining the text it received without showing any creative spirit and noble inspiration, and without attempting to give mankind the satisfaction it expected from the draft declaration.

It seemed as if the work of the Committee had had a different aim, but if its members had not recognized their duty, Argentina was ready to prepare a draft charter on the duties of the individual.

Mr. Corominas drew the Chairman's attention to the danger of an unduly strict interpretation of rule 109 of the rules of procedure which stated that: "As a general rule, no proposal shall be discussed or put to the vote at any meeting of the committee unless notice of it has been circulated to all delegations not later than the day preceding the meeting." If the Chairman followed the letter of the rule, the Committee's work might be delayed indefinitely.

He concluded by saying that the Committee would bear before the world the responsibility of not wishing, in the course of the discussion on human rights, also to examine the duties corresponding thereto.

Replying to the representative of Argentina, THE CHAIRMAN pointed out that the Committee had not yet taken any formal decision regarding the first part of the survey made by the representatives. He also pointed out that he would enforce rule 109 only when the examination of draft amendments entailed difficulties for the members of the Committee. Otherwise, such amendments would be read and

discussed immediately. In that connexion he would abide by the wishes of the Committee.

MR. SANTA CRUZ (Chile) spoke of the respective merits of the drafts put forward by the Commission on Human Rights and by the Cuban delegation.

Regarding the order of the various articles in the declaration, he suggested accepting the previous Mexican proposal (94th meeting) to examine the articles first and then to arrange them [89] in a rational order. He wanted articles that had points in common to be grouped together.

Lastly, as the preamble depended on the contents of the declaration, he suggested that it should be examined last along with articles 1 and 2, which formed a prefatory statement and to begin the examination of the draft at article 3.

MR. DE ALBA (Mexico) thanked the Cuban representative for the well-ordered, logical, clear and precise draft that he had made and for adding to it the text of the Bogotá declaration so that members of the Committee might consider what points there were in common between that declaration and the draft they were considering.

He supported the Chilean representative's proposal so far as consideration of the preamble was concerned but thought, on the other hand, that articles 1, 2 and 3, which were the keystone of the whole, should be considered each in their place.

It seemed possible that the Cuban representative might be willing that consideration of his plan should be deferred to the end of the work, when it might be given over to a drafting committee which could arrange the order of the articles of the declaration.

Mr. de Alba agreed with the USSR, United States and French representatives that the Committee should go on to consider the draft article by article.

MR. GARCÍA BAUER (Guatemala), supported by the representatives of India and Ecuador, also asked the Cuban representative to agree to refer his proposed plan of work (A/C.3/218) to the committee which would be entrusted with the final drafting of the declaration.

Unlike the Chilean representative, he thought that consideration of the draft should begin not with article 3 but with article 1. He agreed with Mr. Santa Cruz, however, that it would be necessary to consider the preamble after the various articles of the declaration.

MR. PÉREZ CISNEROS (Cuba) agreed temporarily to withdraw his proposal. He had achieved his aim as his plan of work would be used if it was felt that it provided for a more logical sequence than that adopted by the Commission on Human Rights.

He agreed with the representative of Chile regarding the examination of the preamble, but not regarding articles 1, 2 and 3. Those articles stated fundamental rights. Article 1 was almost like a *credo* of the whole of the declaration and he felt it should be used as a foreword to the final document.

THE CHAIRMAN thanked the representative of Cuba for agreeing to postpone consideration of his proposal. The Chairman said that the time had come for the

Committee to proceed with the examination and preparation of the international declaration of human rights.

MR. SANTA CRUZ (Chile) was quite willing to begin by studying Article 1, but he maintained [90] that the preamble should be considered at the conclusion of the discussion of the various articles.

Replying to MR. PAVLOV (Union of Soviet Socialist Republics), who wished the preamble to be considered first, THE CHAIRMAN asked if he would give way on that point for the sake of unanimity.

MR. PAVLOV (Union of Soviet Socialist Republics) thought unanimity was of value if it did not prejudice the orderly conduct of the work. The preamble must clarify an important question: it should define not only the principles of the declaration but also the extent of its application. The USSR delegation intended to propose that the rights should apply not only to the peoples of metropolitan territories but also to those of Non-Self-Governing Territories. A decision should therefore be taken on that important point at the outset.

The Human Rights Commission had drafted the preamble after the various articles of the declaration in order to make sure that the text of the preamble would be in conformity with the rest of the document. The situation was no longer the same since the preamble had already been drafted and it would seem more logical to start by considering it.

It was decided by 43 votes to 6, with 7 abstentions to start by discussing article 1.

Article 1¹

THE CHAIRMAN read article 1 and said that it was the basis of the Committee's work. There were six amendments to that article submitted by the delegations of Panama (A/C.3/220), Brazil (A/C.3/215), Cuba (A/C.3/224), Mexico (A/C.3/229), the Union of South Africa (A/C.3/226) and Guatemala (A/C.3/228).

MR. ALFARO (Panama) thought that article 1 did not give a clear definition of the right to equality and individual freedom, a right which was mentioned in other articles, such as articles 2, 6 and 7. His proposal was, therefore, that article 1 should simply be deleted (A/C.3/220).

He agreed with the suggestion, made by the representative of Cuba among others, that the second part of article 1 should be included in the form of a principle in the preamble, as the rights to equality and individual freedom were inherent in the statement that all men are born free and equal.

Article 1 was therefore incomplete and unnecessary and it did not, in its existing form, constitute an operative or substantive part of the declaration.

THE CHAIRMAN said that, as motions for deletion always seemed slightly ambiguous, they could not be put to the vote until the conclusion of the discussion.

MR. ALFARO (Panama) agreed that his proposal should be considered as an amendment to the preamble.

^[1] Article 1 of the draft declaration of human rights (A/777).

[91]

MR. DE ATHAYDE (Brazil) said that he did not wish to start a discussion on religious or philosophical matters but the amendment submitted by his delegation (A/C.3/215) was simply intended to express the religious sentiments of the Brazilian people, sentiments which were, moreover, shared by the peoples of countries represented on the Third Committee. He would leave it to the members to decide in accordance with their conscience and sense of responsibility whether to support or oppose his amendment, which he felt sure would be welcomed by an overwhelming majority of the peoples of the world.

MR. DE ALBA (Mexico) proposed that article 1 should read as follows (A/C.3/229):

“All human beings are born free and equal in dignity and rights. The right of sustenance, health, education and work is considered essential in order to guarantee social justice and the full development of the human being.”

That text corresponded to the ideals of the Mexican revolution.

It derived its inspiration from the ideas of Jefferson on the sanctity of the individual, from the principles of the French revolution, from the ideas of the eighteenth and nineteenth centuries in general, especially those compounded during the emancipation movements which took place at the beginning of the nineteenth century, and from the principles expressed during the two world wars.

Mr. de Alba pointed out that the various declarations of human rights had been concerned in turn with the physiological, biological and juridical personality of man and with his development in the community. Jefferson had stated, in his declaration, that man was always striving towards happiness and the Declaration of the Rights of Man and of the Citizen drawn up during the French Revolution contained the idea of equality in the economic and social fields.

He emphasized the fact that the ideas of equality and fraternity implied the possibility of equal biological development; they were therefore in conformity with concrete requirements. He praised Franklin Delano Roosevelt for his great work and said that the four freedoms which he had enumerated should form a valuable source of inspiration. He mentioned in particular, the declaration adopted in 1944 at Philadelphia by the International Labour Conference,² a declaration which Roosevelt had considered as a climax in the development of

ideas on human rights and freedoms. He hoped that the international declaration of human rights would give a specific approbation to the Philadelphia declaration.

THE CHAIRMAN pointed out that the Mexican amendment amounted to a proposal that the first sentence of article 1 of the draft declaration should be retained and that the second sentence should be replaced by an enumeration of the rights set forth in other articles.

MR. TE WATER (Union of South Africa) proposed that the first sentence of article 1 should be amended (A/C.3/226) to read as follows:

[2] "Declaration concerning the Aims and Purposes of the International Labour Organization", adopted by the Conference at its 26th session.

[92]

"All human beings are born free and equal in *fundamental rights and freedoms*."

The South African representative explained that as far as fundamental human rights were concerned the universality of the principle of equality set forth in the first sentence of article 1 of the draft could not be denied. But the article's reference to equality of rights was an enunciation of the principle of equality in respect of all rights, personal, economic and political, whether or not those rights were fundamental. That, enunciated as a general principle, did not and could not correspond with the actual conditions in different countries, with their different legal, social, economic and political systems. Men and women had and always would have different rights. There were, for instance, marked divergences in the property rights as well as in the political rights of women.

There was no need to give examples of those differences in the modern world, which was divided between widely divergent economic and social systems. His delegation, therefore, felt that the article should be limited in its language and its scope to *fundamental* human rights. It wished once more to defend a realistic point of view.

If that principle were accepted, the word "dignity" would imply the equal enjoyment of the rights and freedoms. By the observance of those rights and freedoms, human dignity would be automatically protected to the full extent envisaged by the Charter.

As, in the opinion of the South African delegation, there could be no universality in the concept of equality, there could not be, neither was there, any universal standard among the peoples of the world in their different concepts of human dignity, which were, surely, determined by the differences in religious and social systems, usages and customs.

MR. DEDIJER (Yugoslavia) asked for the circulation of the complete text of the speech by the representative of the Union of South Africa, which had aroused his indignation.

THE CHAIRMAN mentioned that the word “dignity” had been inserted in the Charter of the United Nations on the suggestion of Field-Marshal Smuts.²³ He assured the representative of Yugoslavia that the complete text of Mr. Te Water’s speech would be circulated.

MR. SANTA CRUZ (Chile) pointed out that the need for verbatim reports was again being felt, as was shown by the request just made by the representative of Yugoslavia.

He recalled the fact that his delegation had requested verbatim reports of the discussions of the Third Committee and stated that the summary records were extremely condensed. He asked for fuller summary records on the pattern of those provided at the seventh session of the Economic and Social Council.

THE CHAIRMAN thought that the remarks made by the representative of Chile would give [93] rise to some discussion. He therefore interrupted the discussion of article 1 of the draft declaration of human rights and gave priority to the question of procedure.

...

A/C.3/231

7 October 1948

Original Text: French

Uruguay: Amendment to Article 1 of the Draft Declaration (Document E/800)

Article 1

Replace this Article by the following which will figure in a *Preliminary Declaration*:

“The rights set forth in this Declaration must be respected in order that men may live in conformity with their state as human beings endowed with reason and conscience and seek happiness in a spirit of brotherhood.

All the provisions of the present Declaration shall be construed in accordance with this principle.”

²³ Jan Christiaan Smuts (1870–1950) was Prime Minister of South Africa from 1939 to 1948. He played an important role in drafting the preamble of the Charter of the United Nations.

A/C.3/232

7 October 1948

Original Text: French

Cuba: Amendments to Articles 10–22 of the Draft Declaration

Article 10

Break up this article, which is too complex to be clear, and amend to read as follows:

(a) Protection of honour

Article No

“Every person has a right to the protection of the law against abusive attacks upon his honour and reputation and against unreasonable interference with his private and family life.”

(b) Inviolability of the home

Article No

“Every person has a right to the inviolability of his home.”

(c) Right of correspondence

Article No

“Every person has a right to the inviolability and unhampered transmission of his correspondence.”

Article 11

Amend this article to read as follows:

“Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory and not to leave it except by his own will”.

Article 12

Amend this article to read as follows:

“Every person has the right to seek and receive asylum in foreign territory, in case of persecution not resulting from common law crimes.”

[2]

Article 13

Amend to read as follows:

“Every person has a right to the nationality to which he is entitled by law and the right to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.”

Article 15

Amend to read as follows:

“Every person has the right to own such property, alone as well as in association with others, as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.”

“Every person has the right to legal protection against arbitrary confiscation of his property.”

Article 16

Amend to read as follows:

“Every person has the right freely to profess a religious or philosophical belief. This right includes . . .”

Article 17

Amend to read as follows:

“Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of thought through any media and regardless of frontiers.”

Article 18

Break up and amend to read as follows:

(a) Right of assembly

Article No

“Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.”

(b) Right of association

Article No

“Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, trade union or other nature.”

Article 19 (1)

Amend to read as follows:

“Every person having legal capacity is entitled to participate [3] in the government of his country, directly or through his representatives chosen by free and periodic elections, which shall be by secret ballot.”

Article 20

Delete “set out below” and substitute the words:

“... essential for his dignity and the free development of his personality”.

Article 21

21 (1): Break up and amend to read as follows:

“Every person has the right to work, under proper conditions, and to follow his vocation freely, in so far as existing conditions of employment permit.”

“Every person has the right to protection against unemployment.”

“Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and his family.”

21 (3): Delete, if the Cuban amendment to Article 18 is adopted.

Article 22

22 (1): Break up and amend to read as follows:

(a) Right to health and wellbeing

Article No

“Every person has a right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”

(b) Right to social security

Article No

“Every person has the right to social security which will protect him from the consequences of unemployment, illness, old age, and any disabilities arising from causes beyond his control that make it impossible for him to earn a living.”

22 (2): Amend as follows, to form a separate article:

Article No

“All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.”

A/C.3/233

7 October 1948

**Yugoslavia: Amendments to the draft
Declaration (E/800)**

After article 19, add the following

A

Any person has the right to the recognition and protection of his nationality and to the free development of the nation to which he belongs. National communities, which are in a state community with other nations, are equal in national, political and social rights.

B

Any national minority, as an ethnical community, has the right to the full development of its ethnical culture and to the free use of its language. It is entitled to have these rights protected by the State.

C

The rights proclaimed in this Declaration also apply to any person belonging to the population of Trust and Non-Self-Governing Territories.

Article 22 – add paragraph 1

According to the rights proclaimed in this Declaration illegitimate children are equal to legitimate children and have the same right to social protection.

A/C.3/234

7 October 1948

Original Text: French

**Belgium: Amendment to Article 1
of the Declaration (E/800)**

Article 1

In the second sentence of this article, delete the words “by nature”.

A/C.3/235

7 October 1948

Original Text: French

**Lebanon: Amendment to Article 1 of the Draft
Declaration (E/800)**

Article 1

Delete the word “born” in the first line.

A/C.3/236

7 October 1948

**China: Amendment to Article I of the draft
Declaration (E/800)**

Delete:

– the word “born” in the first sentence;

- the words “by nature” in the second sentence;
- the comma between the words “conscience” and “and” in the second sentence.

A/C.3/237

7 October 1948

Iraq: Amendment to Article 1 of the draft Declaration (E/800)

Amend article 1 to read:

“All human beings should be free and equal in dignity and worth, and should be entitled to similar treatment and equal opportunities.”

A/C.3/238

1 October 1948

Original Text: French

Greece: Amendment to Article 1 of the Draft Declaration (Document E/800)

Article 1

The second sentence of Article 1, beginning with the words: “They are endowed . . .” to be included separately, as applying to human duties, in order to form an independent Article preceding or following Article 27 and reading as follows:

“Men, endowed by nature with reason and conscience should act towards one another in a spirit of brotherhood.”

A/C.3/239

7 October 1948

Philippines: Amendment to Article 24 of the Draft Declaration (E/800)

Everyone has the right to good health and is entitled to due rest and leisure.

A/C.3/240
7 October 1948

**Saudi Arabia: Amendment to Article 14
of the Draft Declaration (E/800)**

Article 14

It is proposed that paragraph 1 be modified in the following manner:

“Men and women of legal matrimonial age within every country have the right to marry and to found a family and are entitled to the full rights as defined in the marriage laws of their country.”

A/C.3/241
7 October 1948

**Saudi Arabia: Amendment to Article 12
of the Draft Declaration (E/800)**

Article 12

Delete from paragraph 1 the words: “and be granted”.

A/C.3/242
7 October 1948
Original Text: French

Ecuador: Amendment to Article 1

All men have the right, from birth, to be free and equal before the law and the State should enact the provisions necessary to ensure the enjoyment of that right.

A/C.3/243

7 October 1948

Recapitulation of Amendments to Article 1 of the Draft Declaration (E/800)

(In the chronological order, of their submission to the Third Committee)

Article 1

(Text adopted by the Commission on Human Rights)

All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

Amendments:

Brazil (document A/C.3/215)

Amend the second sentence to read:

“Created in the image and likeness of God, they are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.”

Panama (A/C.3/220)

It is proposed that this article be eliminated.

Cuba (A/C.3/224)

Insert the text of this article in a Preamble worded as follows, to precede the enumeration of rights:

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

“Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political, rights and duties are indissolubly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom.

“Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.

[2]

“It is the duty of man to practise, uphold and promote culture by all means at his disposal, for culture is the highest social and historical expression of the human spirit.

“Morality being the noblest product of culture, it is the duty of all to respect it at all times.”

Guatemala (A/C.3/228)

Delete articles 1 and 2 of the draft Declaration and transfer their contents to the Preamble.

Mexico (A/C.3/229)

“All human beings are born free and equal in dignity and rights. The right of sustenance, health, education and work is considered essential in order to guarantee social justice and the full development of the human being.”

Belgium (A/C.3/224)

Delete the words “by nature”, in the second sentence of this article.

Lebanon (A/C.3/235)

In the first line of this article, replace the words “are born” by the word “are”.

Iraq (A/C.3/237)

Amend this article to read:

“All human beings should be free and equal in dignity and worth, and should be entitled to similar treatment and equal opportunities.”

Greece (A/C.3/238)

The second part of this article beginning with the words: “they are endowed” should be separated as it applies to duties, and constitute a special article to be inserted before or after article 27.

Uruguay (A/C.3/231)

Replace this article by the following text to be inserted in a *preliminary statement*:

“The rights contained in this Declaration shall be necessarily recognized in order to allow all human beings to live in accordance with their condition of beings endowed with conscience and reason to pursue happiness in a spirit of brotherly solidarity.

All the provisions of the present Declaration shall be interpreted in accordance with this principle.”

China (A/C.3/236)

Delete:

- the word “born” in the first sentence,
- the words “by nature” in the second sentence,

[3]

- the comma between the words “conscience” and “and” in the second sentence,

to read this article as follows:

“All human beings are free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Ecuador (A/C.3/242)

Amend the first sentence to read:

“All human beings have the right from their birth to be free and equal before the law, and in order to make this right effective the State should take the necessary measures.”

A/C.3/SR.96²⁴

7 October 1948

***Summary Record of the Ninety-Sixth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Thursday,
7 October 1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

18. Draft international declaration of human rights (E/800) (continued)

Languages to be used in submitting amendments

MR. GARCÍA BAUER (Guatemala), referring to an amendment to article 1 of the draft declaration of human rights submitted by his delegation, stated that the original text had been in Spanish. He wondered why, in document A/C.3/228, it was stated that the original text was in French.

MR. HESSEL²⁵ (Secretary of the Committee) reminded the Committee that according to the procedure agreed upon by all delegations, all amendments to proposals must be submitted in one of the two working languages of the Organization. The original Spanish text of the Guatemalan amendment had been translated into French and the translation had been shown to the representative of Guatemala for approval. For that reason the French translation had been considered to be the original text of the draft amendment.

MR. GARCÍA BAUER (Guatemala) thought that an important point of principle was involved. Until such time as the General Assembly had itself taken a decision to the contrary, any delegation should have the right to submit an amendment in any of the five official languages.

²⁴ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 95–102.

²⁵ Stéphane Hessel (1917–) is an eminent French advocate for human rights. As recently as 2012, he was still lecturing and writing. Hessel described the adoption of the Universal Declaration of Human Rights on 10 December 1948 as “un des instants les plus émouvants de ma vie” (Stéphane Hessel, *Danse avec le siècle*, Paris: Seuil, 1997, p. 177).

[96]

He did not wish to press the point at the current meeting, but his delegation could not accept the procedure that was being followed.

THE CHAIRMAN pointed out that in the case of original proposals, not amendments, texts could be submitted in any of the five official languages.

Article 1 (continued)

MR. GARCÍA BAUER (Guatemala) explained why his delegation had proposed in its amendment (A/C.3/228), that article 1 should be deleted and its contents incorporated in the preamble of the draft declaration.

Article 1 stated a fact, namely that all human beings were born free and equal in dignity and rights. On that fact the rights enumerated in the various articles of the draft declaration were based. As the whole declaration was a declaration of rights, the fundamental statement of fact should not be listed among the rights, but should be a part of the preamble to the document. A decision regarding the proper place for the subject matter contained in article 1 should be made before it could be decided what amendments to the text were necessary.

MR. TE WATER (Union of South Africa) agreed with the Guatemalan representative that the substance of article 1 should be incorporated in the preamble. He therefore withdrew the amendment (A/C.3/226) he had submitted at the previous meeting in favour of the Guatemalan amendment, but at the same time he wished to clarify a misunderstanding that had arisen in connexion with the South African amendment.

The South African delegation sincerely desired to collaborate closely in the important work of drafting the declaration of human rights and was particularly concerned with the principle of human dignity. In trying to be realistic, however, it had questioned the advisability of the reference to dignity in article 1, since the various articles should be devoted to statements of fundamental rights whereas the dignity of the individual was actually a deeper and broader concept than a right. If the fundamental human rights were respected, the dignity of the individual person would be automatically recognized.

Mr. Te Water hoped that his explanation would reassure his colleagues who had seemed to feel some surprise at the position he had taken at the 95th meeting.

COUNT CARTON DE WIART (Belgium) could not agree with the draft amendment proposed by Guatemala and supported by the Union of South Africa. Article 1 was important as a first article of a solemn document, since it affirmed a principle which in some measure summed up the articles that followed.

The text of the article as it stood stated that human beings were endowed “by nature” with reason and conscience. Those words might be ambiguous and lead to long, philosophical arguments, and certain proposed amendments to them, such as the Brazilian proposal (A/C.3/215) to state that all human beings were “created in the image and likeness of God”, were of a particularly delicate character. The Belgian delegation, [97] therefore, proposed to simplify the text by deleting the words “by nature”, which were unnecessary, with the hope that the resultant wording would find general acceptance.

MR. PÉREZ CISNEROS (Cuba) observed that the Cuban proposals (A/C.3/224) were also submitted for the purpose of finding a common area of agreement.

He hoped that the draft of article 1 might be changed so that it would make clear that by man’s very nature he was endowed with reason and conscience. The Spanish text could be easily changed to give that idea, and he thought that could be done in the other languages as well. He agreed with the Belgian representative that there should be no question of implying that nature, as opposed to God, was the source of man’s reason and conscience.

Mr. Pérez Cisneros thought that the substance of article 1 should stand alone and so be given particular emphasis. It would be better to place it, not in the preamble, but between the preamble and the articles of the draft declaration.

A new wording of article 1 was suggested by the Cuban delegation in its draft amendment. Mr. Pérez Cisneros drew the Committee’s attention to the proposed new text which had the important advantage of stressing the close connexion between rights and duties.

The Cuban delegation also felt that the entire draft declaration would be strengthened if each article began with the words “Everyone has the right to . . .”. The value of repetition had been proven by its frequent use in ancient and sacred literature, and should not be ignored.

THE CHAIRMAN recalled that, in drafting article 1, the intention of the Commission on Human Rights had not been to imply that man had been endowed with reason and conscience by some entity beyond himself. The English text would be clearer if the order of the words were changed so that they read: “They are by nature endowed . . .”

MR. ALFARO (Panama) proposed that the Committee should first take a decision on the question whether or not the contents of article 1 should remain where they were or be transferred to the preamble. If it were decided to transfer them, the final text could be agreed upon when the preamble came up for discussion.

THE CHAIRMAN agreed that the question of the position of the substance of article 1 was preliminary to a decision on its final text. The Committee would be better able to take even that preliminary decision, however, after it had heard all the speakers who wished to present amendments.

MR. AZKOUL (Lebanon) proposed that article 1 should be amended to read: "All human beings are free and equal . . ." There should be no implication that people, though born equal, might lose that equality for any reason.

[98]

Referring to the suggestion that the English text should be amended to read: "They are by nature endowed . . .", Mr. Azkoul said that a French translation might be: *Ils sont doués de par leur nature de . . .*

MR. ROZAKIS (Greece) drew attention to the solemnity of the statement in the first sentence of draft article 1 which seemed to summarize the whole contents of the draft declaration. In order not to weaken the effect of that statement, he proposed that it should be separated from the second sentence and that the latter should be included as an additional paragraph under draft article 27, which referred to duties. That arrangement seemed logical and, moreover, might facilitate the work of the Committee.

MR. CHANG (China) felt that article 1 of the declaration should remain where it was, and that the two sentences which made up that article should not be separated. A happy balance was struck by the broad statement of rights in the first sentence and the implication of duties in the second. Should article 1 be taken out of the body of the declaration, it would not claim as much of the reader's attention as it deserved to do; moreover, the various rights would appear more selfish if they were not preceded by the reference to "a spirit of brotherhood". Similar reasoning applied to Article 27, which contained a statement of duties. Statements of rights and duties should form an integral part of the declaration.

Mr. Chang supported the deletion of article 1 of the words "by nature", as suggested by the Belgian representative. That measure would obviate any theological question, which could not and should not be raised in a declaration designed to be universally applicable.

While the declaration would no doubt be accepted by a majority vote of Member States, in the field of human rights popular majority should not be forgotten. The Chinese representative recalled that the population of his country comprised a large segment of humanity. That population had ideals and traditions different from those of the Christian West. Those ideals included good manners, decorum, propriety and consideration for others. Yet, although Chinese culture attached the greatest importance to manners as a part of ethics, the Chinese representative would refrain from proposing that mention of them should be made in the declaration. He hoped that his colleagues would show equal consideration and withdraw some of the amendments to article 1 which raised metaphysical problems. For Western civilization, too, the time for religious intolerance was over.

Mr. Chang agreed with the Lebanese representative that the word "born" in the first sentence of the English text of article 1 should be deleted; without that amendment, the

sentence was reminiscent of Rousseau and the theory that man was naturally good. For the purposes of the declaration it was better to start with a clean slate.

[99]

He also welcomed the fact that the delegation of the Union of South Africa had withdrawn its amendment to article 1 (A/C.3/226).

The second sentence of article 1 called upon men to act towards one another in a spirit of brotherhood. That attitude was perfectly consistent with the Chinese attitude towards manners and the importance of kindly and considerate treatment of others. It was only when man's social behaviour rose to that level that he was truly human. Decorum was an ideal which should not be lost sight of – as unfortunately it often was – in the struggle to uphold noble principles.

In conclusion, Mr. Chang urged that articles 1, 2 and 3 should be left where they were.

MR. MAYHEW (United Kingdom) suggested that, to save time, the Chairman might put to the vote first the question whether or not article 1 should be transferred to the preamble. If the Committee decided to transfer it, it could proceed immediately to a discussion of article 2, on the understanding that all the amendments submitted to article 1 would be taken into account during the consideration of the preamble.

MR. CASSIN (France) observed that only the Chinese representative had as yet spoken against such a transfer, and that others, himself included, also wished to submit arguments against it.

He felt strongly that if article 1 were transferred to the preamble, the whole conception of the declaration would be upset thereby. The declaration had to begin with a statement of the framework within which all the rights that followed were contained; article 1 represented that framework.

The objection that the principles contained in article 1 were too well known to need repetition was invalid in the light of recent events. Within the preceding ten years, millions of men had lost their lives precisely because those principles had been ruthlessly flouted. Barbarism, which men had thought safely buried, had risen once more to stalk the world. It was essential that the United Nations should again proclaim to mankind those principles which had come so close to extinction and should explicitly refute the abominable doctrine of fascism.

Mr. Cassin urged that the word "born" should be maintained. Men were born free and equal, although they might later lose those attributes. The sentence in its existing wording proclaimed the rights of human beings to freedom and equality, a right which was theirs from birth.

There was a direct connexion between articles 1 and 2 and article 27; the French delegation would later propose that article 27 should come immediately after the other two. Those three articles could then, if it was so desired, constitute a separate

chapter, but it was essential that they should remain in the body of the declaration, instead of being relegated to the preamble.

MR. ABADI (Iraq) found article 1, as drafted, unsatisfactory. The declaration was not a piece of oratory, but a written document, which consequently required precise and meticulous phrasing. [100] It was not clear whether article 1 was a statement of rights or of fact. If the former, it should be in the imperative; if the latter, its place was elsewhere than in the body of the declaration.

The authors of the article had been apparently carried away by its emotional content. It was reminiscent of Rousseau and of the French Revolution; it was lacking both in clarity and originality. Logically, it was impossible for men to be both free and equal, for if they were free to develop all their latent possibilities, inequality would result. The change in the second sentence from the present tense to the conditional, in the English text was equally illogical. That sentence should be couched in the terms of a commandment.

Mr. Abadi agreed with the statement made by the Chinese representative at a previous meeting concerning the ethical content of article 1. He suggested replacing the text before the Committee by the following wording (A/C.3/237) which placed the whole article on an ethical plane:

“All men should be free and equal in dignity and worth and should be entitled to similar treatment and equal opportunities.”

MR. CARRERA ANDRADE²⁶ (Ecuador) observed that article 1 was a doctrinal statement, rather than a statement of human rights. In many parts of the world, men were not born free and equal; it was to remedy that situation that the United Nations was preparing the declaration of human rights.

He proposed that article 1 should be amended to read as follows (A/C.3/242):

“All human beings have the right from birth to be free and equal before the law and the State should enact the provisions necessary to ensure the enjoyment of that right.”

With respect to the Brazilian amendment (A/C.3/215), the representative of Ecuador said that the Committee should distinguish between the divine and the human, and should refrain from placing the divine on the political plane by introducing it into the declaration. That document was, moreover, intended for people of all faiths; in it, man was regarded in relation to the social structure.

Inasmuch as it was hoped that States would adopt laws to ensure the rights proclaimed in the declaration, the latter should contain not beautiful phrases, but principles readily translatable into legal terms. The declaration should not be a

²⁶ Jorge Carrera Andrade (1902–78), in addition to his very distinguished diplomatic career, was one of Latin America's great poets.

philosophical treatise but a document containing a minimum guarantee of human rights.

THE CHAIRMAN said that his list of amendments to article 1 seemed to be complete. The amendment furthest removed from the original text was obviously the one which suggested the transference of the article to the preamble.

In the absence of any objection he ruled that the immediate question before the Committee was to decide on that amendment, and he asked members to confine their remarks to that point [101] only. If article 1 were transferred to the preamble, no decision on the substance of the article would be taken at the current stage.

MR. GARCÍA BAUER (Guatemala), referring to that amendment, said that it should be made clear that a decision should be taken on the basis of the proposal submitted by Guatemala. He agreed that the debate should be confined to a discussion on whether article 1 should be transferred to the preamble or not.

MR. ALFARO (Panama), in agreement with the proposals made by the delegations of Guatemala and Cuba, favoured the transference of article 1 to the preamble.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that the Committee could not decide what to put into the preamble unless it knew what the final wording of article 1 was to be. Moreover, if article 1 were to be discussed in connexion with the preamble, that would involve a repetition of the discussion.

He consequently suggested that article 1 should be modified and that it should stand neither as article 1 nor as a part of the preamble but should be given a position before article 1; it would thus serve as a basis for interpretation of the subsequent provisions.

Referring to the words "by nature", he said that rights were derived from the nature of man and not from the acts of States. As it stood, the article could give rise to objections on dogmatic grounds. It might be thought to imply nature as distinct from God. No reference to a godhead should be made in a United Nations document, for the philosophy on which the United Nations was based should be universal. The declaration was a legal document and therefore no transcendental source of rights should be stated.

Relations between people were determined not only by legal standards but also by social and moral principles. With regards to those, a common denominator had yet to be found between peoples of the world.

As the representative of Panama had already pointed out, the text was repetitious. The representative of France had said that article was of great value and should therefore be retained. In article 1 it was stated that men were equal in their

right to freedom and security, but article 2 said the same, and therefore article 1 could be transferred without upsetting the balance. The representative of Mexico had suggested that certain other rights should be added in order to endow the declaration with a topical character. These rights were of a legal nature and should therefore be included in article 3 rather than article 1.

In reply to the representative of Belgium, who asked that priority should be given to his proposal, THE CHAIRMAN said that he had before him amendments which completely changed whole passages and were consequently more far-reaching. He ruled that the one to be discussed first was the amendment concerning the transfer of article 1 to the preamble.

[102]

MR. GARCÍA BAUER (Guatemala) said that the Committee should first debate whether article 1 should be transferred into the preamble. If that were done there would be no need to debate the wording of article 1 at the current stage as its substance would be discussed later when the preamble came up for discussion. If the Committee wished to consider the substance of article 1, it should first decide whether or not it was to remain where it was.

MR. CHANG (China) said that it would not be necessary to put that amendment to a vote because he could suggest another way of dealing with it. He wished to reserve the right to make that suggestion later.

MR. COROMINAS (Argentina) objected to the ruling made by the Chairman, and said that the debate on article 1 should have been exhausted before that ruling was made. Speakers who wanted to discuss amendments should be allowed to do so.

In order to save time, he suggested that a working committee should be set up.

THE CHAIRMAN said that the ruling had not been his decision but that of the Committee, as no objection had been raised at the time. The only matter before the Committee was the question whether article 1 was to be transferred to the preamble or whether it should remain where it was.

MR. DEDIJER (Yugoslavia) said that in accordance with rule 109 of the rules of procedure, amendments should be circulated twenty-four hours before their consideration. That rule had not been observed recently and he asked that it should be observed in future.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to make a proposal. He asked whether a document could be drawn up which would include a complete list of the amendments submitted, before the next meeting. It would then be much easier to consider the amendments.

THE CHAIRMAN said that the USSR representative had anticipated a suggestion he had wished to make himself. Members would be supplied with a document containing all the amendments by the afternoon of the following day.

The meeting rose at 1:25 p.m.

A/C.3/244

8 October 1948

Original Text: French

**France: Amendments to the Draft
Declaration (Document E/800)**

Between Articles 2 and 3

Insert Article 27 of the Draft.

Note: It is essential that the social framework in which man lives and the limitations of his rights should appear in the first group of general theses, before enumeration of the rights themselves.

Article 7

Add a Paragraph 2 worded as follows:

“Any person arrested or detained is entitled to have the legality of the action taken against him confirmed without delay by a judge. He is also entitled to demand a verdict or release within a reasonable period.”

Article 9, Paragraph 2

This amendment does not apply to the English text.

Article 12, Paragraph 1 (Right of Asylum)

Add the following sentence: “The United Nations, in concert with Countries concerned, is required to secure such asylum for him.”

Note: There is no point in proclaiming a right without at the same time stating whose duty it is to give effect to that right.

Article 13

(a) Begin with a new paragraph 1 worded as follows:

“Every human being has the right to a nationality.”

(b) The present Paragraph 1 should become Paragraph 2.

(c) Add a new paragraph 3 worded as follows:

“It is the duty of the United Nations to approach states for the purpose of preventing statelessness and, where necessary, to concern itself with the fate of stateless persons.”

Article 14

Word Paragraph 2 as follows:

“Marriage may be contracted only with the full consent of the intending spouses.”

Note: There is no point in specifying “both” spouses.

[2]

Article 19

Reword Paragraph 3 as follows:

“The authority of the law and of any government is founded on the will of the people as expressed at free and genuine periodic elections.”

Article 25

Add a Paragraph 2 in the following terms:

“Everyone has the same right to the protection of the moral and material interests that he may acquire through any inventions or literary, scientific or artistic works of which he is the author.”

A/C.3/SR.97²⁷

8 October 1948

Summary Record of the Ninety-Seventh Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Friday, 8 October 1948,
at 4.15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

19. Draft international declaration of human rights (E/800) (continued)

Article 1 (continued)

THE CHAIRMAN recalled that, at the preceding meeting, the Committee had decided to settle the question whether the substance of article 1 should remain in

²⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 102–98.

the position it then occupied in the declaration or whether it should be incorporated [103] in the preamble, as proposed by the delegations of Cuba (A/C.3/224) and Guatemala (A/C.3/228).

MR. WATT (Australia) concurred in the opinion of the representative of France that article 1 should remain where it was. Moreover, a similar discussion could occur subsequently in connexion with each article. Such might also be the case with the Sixth Committee which was examining the draft convention on genocide.

In order to avoid a confused debate on the content as well as the arrangement of the articles, he proposed that a co-ordinating committee should be set up composed of a small number of members, including representatives who had taken part in the work of the Commission on Human Rights. It would deal solely with the final arrangement of the declaration.

For the time being the Third Committee should restrict itself to a study of the content of the various articles without concerning itself with their position in the final text.

Stressing the importance of the question, MR. ANZE MATIENZO (Bolivia) agreed with the representative of France, whose arguments he considered most apposite. The statement of the principles in question would certainly carry greater weight if it constituted the first article of the declaration rather than if it formed part of the preamble.

He supported the Australian representative's suggestion but felt that the Cuban proposal should be put to the vote first.

THE CHAIRMAN thought the Australian proposal a useful one, but reminded the Committee that it must first proceed with the consideration of the Cuban proposal (A/C.3/224).

MR. CHANG (China), speaking on a point of order, proposed a vote on the establishment of a co-ordinating committee before continuation of the discussion of article 1.

THE CHAIRMAN interpreted the proposal of the representative of China as a motion for closure of the debate on article 1.

MR. GARCÍA BAUER (Guatemala) opposed the motion of closure because he thought the Committee should respect the decision it had already made to settle first of all the position of article 1.

While sympathizing with the Australian proposal, MR. CASSIN (France) was likewise opposed to the motion for closure of the debate. The Commission should not fail to profit from the discussions on the position of article 1 in the declaration.

MR. CHANG (China) withdrew his motion for closure of the debate.

Speaking on a point of order, MR. PÉREZ CISNEROS (Cuba) also proposed postponement of the discussion on the position of article 1. He felt that, to avoid a confused discussion, it was urgent first to settle the procedural question in the manner indicated by the Australian representative.

[104]

MR. DE ALBA (Mexico) pointed out that the various motions on points of order, no matter how pertinent, prolonged the discussion instead of simplifying it. Since the Committee had already decided on the question of the position to be given to the substance of article 1, he opposed the motion for postponement.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed a compromise: as the tenor of article 1 was undeniably linked to that of the preamble, it would be preferable to postpone the entire discussion on article 1 until the end so that those two texts could be considered together.

He therefore supported the motion for postponement.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) also supported the motion for postponement, while MR. ANZE MATIENZO (Bolivia) opposed it.

THE CHAIRMAN put the motion for postponement to the vote.

The motion was rejected by 25 votes to 11, with 4 abstentions.

MR. BEAUFORT (Netherlands) did not agree with Mr. Cassin, that the statement of principle contained in article 1 would gain in forcefulness if presented as one of the articles of the declaration rather than if it were included in the preamble. To think so would be to misjudge the significance of the preamble.

The San Francisco Conference had had to consider a draft Charter without a preamble, the latter having been added only later, upon the intervention of Marshal Smuts; the Commission was acting under different circumstances, for it had already recognized the need for a preamble to the declaration. The function of the preamble was to furnish a basis upon which the whole structure of the declaration could be erected. It was, consequently, the logical place for the insertion of fundamental principles which would justify the existence of that international instrument.

The Netherlands representative therefore suggested that the text of article 1 should be transferred to the preamble.

MR. CASTBERG (Norway) pointed out that in the interpretation of texts of international law a distinction was always made between the preamble of the document and the clauses themselves. The provisions of the articles had, no doubt, greater weight, being as they were, definite pledges.

Any measure which might contribute to strengthen the position of the individual in relation to society and add to his dignity would be welcome; but on the other hand, the Committee must be careful not to upset the equilibrium of the structure so carefully planned by the Commission on Human Rights.

Mr. Castberg concluded that article 1 should remain where it was in the draft.

MR. PLAZA (Venezuela) considered that the logical place for article 1 was in the preamble, as the representative of Uruguay had pointed out. The principles stated in it constituted the very foundation for rights later defined in the other articles.

[105]

He supported the proposal for the creation of a working group to decide whether article 1 should be included in the preamble or not, and asked for an immediate discussion on the substance.

THE CHAIRMAN pointed out that the discussion must only deal with the question whether or not article 1 should become part of the preamble; any other question would be considered out of order.

MR. DE ALBA (Mexico) thought that article 1 should not be inserted in the preamble. The document in question was a declaration, not an act or a convention, and since it was a declaration of rights, all the basic rights from which the others evolved should be enunciated first, as the representative of France had said. Article 1, as such, was essential and he suggested it should be studied forthwith. The Committee must decide whether to view the article as a separate entity, or as a basis for the other articles.

Once the article had been considered in principle and in form together with all the amendments, the Committee could, as had been suggested, set up a co-ordinating committee, that is a working group which would consider the article in the light of all the others; but it was for the Committee to discuss and adopt article 1.

MR. PÉREZ CISNEROS (Cuba) explained that when he had proposed the transfer of article 1 to the preamble, his intention was not to add an additional paragraph but to draft a sort of separate preamble, to precede the other articles.

The Cuban delegation would therefore propose that article 1, which was of special significance, should become a special chapter, which might be entitled for instance, "Essential Principles".

MR. SAINT-LOT (Haiti), Rapporteur, wished to recall that the Committee had decided that a sub-committee would later be set up to decide on the arrangement of the text of the draft declaration. That body would have to decide on the position of article 1. For the time being therefore, it would be advisable to discuss the substance of the question. A final draft of article 1 had not yet been made.

MR. ALFARO (Panama) thought article 1 was part of the preamble. Technically and juridically, the articles of a declaration were presumed to contain definitions of

rights and freedoms, not philosophical postulates. Some representatives were opposed to the insertion of article 1 in the preamble because they feared that the recognition of rights contained in the article might lose value and effectiveness if it were not made the subject of a separate article; those fears must be dispelled.

A precedent had been set by the Preamble of the Charter of the United Nations. When the drafting of the Charter was being discussed at San Francisco, the delegations of Belgium, Chile and Panama has insisted that the principle of “respect [106] for the obligations arising from treaties and other sources of international law” should be stated as a separate article. The five great Powers objected, and the above-mentioned three delegations asked for a vote on their proposal. The proposal was rejected and the principle of respect for the obligations arising from treaties was included in the third paragraph of the preamble of the Charter. That paragraph was as important as any Article of the Charter.

There was no reason to believe that a preamble was less juridically important than an article. Each of the remaining articles of the declaration of human rights defined a right, whereas article 1 recognized a principle. That was why it belonged to the preamble, where in accordance with the precedent set by the United Nations Charter, it would lose none of its significance.

MR. GARCÍA BAUER (Guatemala) was in full agreement with Mr. Alfaro; nevertheless, he wished to add, in order to dispel the doubts expressed by some of his colleagues, and particularly by the representative of Cuba, that his delegation had proposed by an amendment (A/C.3/228) to delete articles 1 and 2 of the draft declaration and to transfer their contents to the preamble, so that the latter should include a second part, like the preamble of the Bogotá declaration. Each article should state a right. Article 1 did recognize a principle which must serve as a basis for the rights stated in the other articles. Moreover, the representative of Panama had shown that transferring an article to the preamble did not mean lessening its importance.

MR. CASSIN (France) had a technical objection to the argument of the representative of Panama. The precedent of the Charter did not apply to the declaration, for the Charter was a legally binding convention, whereas a declaration was a document of a different kind, as the representatives of Norway had shown. There was, moreover, the danger of setting up a real prejudice against the contents of the declaration, not only in the case of article 1, but also in the case of the other articles which did not merely list rights. For example article 27 dealt with limitations of rights. If the principles laid down in article 1 were included in the preamble, why not include also the limitations of rights? Such a preamble would then become disproportionate.

He reminded the Committee of the serious responsibility it would incur if it hesitated to formulate in article 1 – the article which would cause most impression on public opinion – a declaration of principles which might meet with general agreement, despite all differences of doctrine. It was a declaration of vital

importance. If it were set out in a long preamble, public opinion of say that the United Nations General Assembly had been afraid to proclaim its ideals.

MRS. NEWLANDS (New Zealand) agreed with the representative of Panama that article 1 should be a part of the preamble. She suggested that the amendments to article 1 should not be examined before article 2 and the following articles had been studied. Article 1 should not be transmitted to a sub-committee, which would be likely to examine that article separately, whereas it [107] ought to be examined within the framework of the preamble as a whole, and as forming part of it.

MR. RAMÍREZ MORENO (Colombia) proposed the closure of the discussion.

MR. IMPERIAL (Philippines) opposed the motion for closure. A decision of such importance should not be postponed. The two conflicting arguments could be reconciled by converting article 1 into a chapter headed "Chapter 1", with the sub-title: "Statement of Principles". It would in fact amount to a special preamble.

MR. AZKOUL (Lebanon) opposed the closure of the debate and requested that the third possibility, proposed by the representative of the Philippines, should be examined.

THE CHAIRMAN put to the vote the motion for the closure of the debate.

The motion was adopted by 16 votes to 12, with 12 abstentions.

THE CHAIRMAN put to a vote the amendment proposed by the delegation of Guatemala (A/C.3/228).

MR. GARCÍA BAUER (Guatemala) requested that the vote should be taken by roll-call.

He explained that his proposal that the contents of article 1 should be transferred to the preamble did not prejudice any decision which might be taken subsequently to make that article a separate chapter, as had been done in the Bogotá declaration. Those representatives who thought that the principles set out in article 1 should form part of a separate chapter could therefore support the Guatemalan amendment.

A vote was taken by roll-call as follows:

Panama, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Panama, Union of South Africa, Venezuela, Guatemala, Netherlands, New Zealand.

Against: Paraguay, Peru, Siam, Syria, Turkey, United States of America, Australia, Belgium, Bolivia, Brazil, Canada, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, France, Greece, Haiti, India, Iran, Lebanon, Liberia, Mexico, Norway.

Abstaining: Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, Yugoslavia, Afghanistan, Burma, Byelorussian Soviet Socialist Republic, Egypt.

The amendment was rejected by 26 votes to 6, with 10 abstentions.

THE CHAIRMAN pointed out that questions concerning the order in which articles were to be placed were not a matter for the Committee. They would have to be reviewed by the special sub-committee which would be set up for the purpose.

With regard to document A/C.3/243, which contained a recapitulation of amendments to article 1 of the draft declaration, he ruled that the amendments proposed by Guatemala, Panama (A/C.3/220) and Greece (A/C.3/238) had been eliminated. There were thus nine amendments before the Committee which would be examined [108] in the following order: Cuba (A/C.3/224), Mexico (A/C.3/229), Iraq (A/C.3/237), Ecuador (A/C.3/242), Brazil (A/C.3/215), Uruguay (A/C.3/231), China (A/C.3/236), Belgium (A/C.3/234), Lebanon (A/C.3/235), that is, beginning with those furthest removed from the text of the draft of article 1.

MR. GARCÍA BAUER (Guatemala) pointed out that his amendment was still before the Committee in so far as it affected article 2.

THE CHAIRMAN explained that the Guatemalan amendment would be discussed when the Committee began examining article 2, but that at the moment only article 1 was under discussion. Nevertheless, in so far as that amendment dealt with transferring the contents of article 2 to the preamble, it should be submitted to the special sub-committee responsible for the order of the articles.

The meeting rose at 6:20 p.m.

A/C.3/217/Corr.2

9 October 1948

Dominican Republic: Amendment to article 22 of the Draft Declaration (E/800)

Delete paragraph 2 and substitute the following:

“Expectant and nursing mothers and all children have the right to special care and assistance.”

A/C.3/245

9 October 1948

New Zealand: Amendment to Article 1 of the Draft Declaration (E/800)

Article 1

All human beings are born free and equal in dignity and rights, endowed with reason and conscience and bound in duty to one another as brothers.

A/C.3/246

9 October 1948

Original Text: English, French

**Venezuela: Amendment to Article 1
of the Draft Declaration (E/800)**

All human beings have the right to be free and equal. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

(Text intended to conciliate the amendments submitted by Belgium, Lebanon, Iraq, China and Ecuador)

A/C.3/247

9 October 1948

**Saudi Arabia: Amendment to Article 16
of the Draft Declaration (E/800)**

Delete the second part of this article, which begins with the words: “this right includes” etc., retaining only the first part which reads: “Everyone has the right to freedom of thought, conscience and religion”.

A/C.3/248

9 October 1948

**Colombia and Costa Rica: Amendment to Article 19
of the Draft Declaration (E/800)**

Add a fourth paragraph:

4. “Every man has the right to make opposition to the Government of his country and to promote its replacement by legal means with equality of electoral opportunities and of access to the means of propaganda.”

A/C.3/249**9 October 1948****Chile: Amendment to Article 15 of the Draft Declaration (E/800)**

Replace article 15 by article 14 of the text adopted by the drafting Committee of the Commission on Human Rights to read as follows:

“Everyone has the right to own such property as meets the essential needs of decent living that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.”

A/C.3/250**9 October 1948****Denmark: Amendment to Article 23 of the Draft Declaration (E/800)**

Add as paragraph 3:

“All persons belonging to a racial, national, religious or linguistic minority have the right to establish their own schools and receive teaching in the language of their own choice.”

A/C.3/251**9 October 1948****Original Text: English, French****Argentina: Amendments to Articles 20, 21, 22, 23 and 24 of the Draft Declaration (E/800)**

Article 20 – substitute the following:

“Every person has the right to social security which will protect him from the consequences of unemployment, old age and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.”

Article 21

Paragraph 1 – amend as follows:

“Every person has the right to work, to be protected by society and to be treated with his rightful dignity in society, so that the spiritual and material needs of the individual and the community may be satisfied and that he may follow his vocation freely, in so far as existing conditions of employment permit.”

Paragraph 2 – substitute the following:

“Every person has the right to a fair remuneration for the work which he performs on the basis of equal pay for equal work.”

Paragraph 3 – substitute the following:

“Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, trade union or other nature.”

Article 22 – substitute the following:

“Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and care, to the highest extent permitted by public and community resources.”

Add thereafter the following paragraph:

“All women, during pregnancy and the nursing period, and all children have the right to such careful protection and special aid as will strengthen the spiritual and moral principles which form the basis of continual life in society.”

[2]

Article 23 – substitute the following:

“Every person has the right to an education, which should be based on the principles of liberty, ethics and human solidarity.

“Furthermore, every person has the right to an education that will prepare him to lead a decent life, to raise his standard of living and to be a useful member of society.

“The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit, and the desire to utilize the resources that the state or the community is in a position to provide.

“Every person has the right to receive free primary education.”

Article 24 – substitute the following:

“Every person has the right to leisure time, to wholesome recreation and to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.”

We consider that the numbers of the articles should be those under which they will figure in the final draft of the document which is to be prepared by the Rapporteur of the Third Committee.

A/C.3/252

9 October 1948

**Sweden: Amendments to Articles 16, 19 and 21 of the draft
Declaration (E/800)**

Article 16

In order to protect the individuals, who have religious beliefs, different from the officially acknowledged religion, or have no religious belief whatever, against manifestations of religious fanaticism, it is proposed that the following words be added to the end of this article after “. . . worship and observance”.

“provided that this does not interfere unduly with the personal liberty of anybody else”.

Article 19

To make more clear how the will of the people shall find its right expression, so that one can be sure that this will is the real basis of the government, the Swedish declaration proposes to add the following words to the sentence in paragraph 3:

“Everyone. . . to the will of the people, manifested in general and free elections or in equivalent, free voting procedures.”

Article 21

Being of the opinion, that freedom of organization is important as a citizenship freedom, only if completed by the natural liberty to abstain from work, when the individual worker feels that he should not go on working on the economic terms existing or offered, the Swedish delegation proposes adding the following sentence to the end of paragraph 1:

“Everyone has the right to cease work, when finding it impossible to work on the economic terms existing or offered.”

A/C.3/SR.98²⁸

9 October 1948

Summary Record of the Ninety-Eighth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Saturday,
9 October 1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK

²⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 108–15.

20. Draft international declaration of human rights (E/800) (continued)*Article 1 (continued)*

THE CHAIRMAN stated that, in the future, the order in which the various articles were to appear in the draft international declaration of human rights would not be before the Committee during discussions on substance. A sub-committee might later be appointed to consider the order.

The question before the Committee was the substance of article 1.

MISS BERNARDINO (Dominican Republic) remarked that her delegation would have an amendment to propose to the preamble when the latter was discussed.

As one who had taken an active part in the international feminist movement, she thought it appropriate to remind the Committee that the question of equality between men and women had been raised at the San Francisco Conference, and that the delegations of Brazil, Mexico, the Dominican Republic and several other countries, had submitted amendments the result of which had been the explicit recognition of that equality in the Charter of the United Nations. That had not been achieved without a certain amount of controversy; a group of delegations had held that women were included by implication in any reference to men. The fact that the Charter explicitly proclaimed the equality of the sexes was a triumph for the women of the world. It was not an empty triumph; legislators in various countries were proceeding to implement those provisions of the Charter.

Nevertheless, some States still had constitutions which granted rights, in particular suffrage, to men alone. Consequently, if the declaration of human rights were to be of practical value for [109] mankind, it should proclaim in the most explicit manner possible, leaving no room for doubt, that men and women were equal before the law. Discrimination against any group of human beings was wrong not only because it hurt that particular group but because, in the final analysis, the fact of its existence hurt all groups of society.

The delegation of the Dominican Republic was prepared to support article 1 in any version which made it clear that there was to be no “distinction as to race, sex, language or religion”.

MR. COROMINAS (Argentina) warmly supported the Brazilian amendment (A/C.3/215). That amendment introduced a philosophical question the full answer to which was beyond human knowledge. He wished to make it clear that in supporting that amendment he had no intention of imposing any one philosophy of faith on any group of human beings. To say that men were “created in the image and likeness of God” was to refer to a belief which all men held in common; the statement could be given the widest possible interpretation.

All men existed and struggled in the same world; their struggle was the basis of history and philosophy. The Argentine delegation felt strongly that there was no

conflict between religion and politics. On the contrary, religion gave man the inspiration he needed to follow in the paths of peace; politics and religion should be harmonized and mankind should be guided in its pursuits by evangelical principles. It could properly be said that the Ten Commandments were the first declaration of human rights.

Article 1 of the draft declaration constituted a dogma rather than a statement of rights. That basic article would be given additional strength by the reference to God; it would then rise above mere politics and bring peace and tranquillity to the soul of man. There was no need to fear the results of the inclusion of such a reference: freedom of religion was guaranteed in one of the subsequent articles. All groups of human beings could still profess whatever faith or philosophy they chose. The Brazilian amendment would, however, give to article 1 an element of universality, a breath of the divine.

Mr. Corominas was prepared to bow to the will of the majority; but he recalled that in the past it had frequently been the minority that had espoused the highest causes, and he urged that the sentiments of the minority should be respected.

He stated in conclusion that his remarks had been made in the name of his country, its Constitution and its traditions.

MRS. ROOSEVELT (United States of America) said in reply to the representative of the Dominican Republic that the point raised by the latter had been discussed at length by the Commission on Human Rights. The words "all human beings" had been used in article 1 precisely in order that both men and women might be included.

[110]

The word "dignity", regarding which there was some question in the Committee, had also been considered at great length; the Commission had decided to include it in order to emphasize the inherent dignity of all mankind.

The Belgian and Chinese representatives were in favour of the deletion of the words "born" and "by nature". Mrs. Roosevelt stressed the fact that all those suggestions had already been discussed by the Commission on Human Rights, and that the text before the Committee was the result of careful thought and of compromise. It was of course to be expected that the Committee, composed as it was of the representatives of all the Member States, might introduce improvements in wording; but the Committee should remember that some of the imperfections in the text before it had resulted from the need to draft an article on which eighteen nations could agree.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that the theory that all men were born free and equal represented a somewhat shaky basis for the declaration. He laid emphasis on the fact that equality of rights before the law was determined not by the fact of birth but by the social structure of the State, which

had to promulgate laws to ensure that equality. Thus, it was obvious that in the days of feudalism men had not been born free and equal.

Mr. Pavlov questioned whether the declaration was the proper place to deal with the origin of human rights. If that was the intention of the Committee, however, it should be remembered that, for the purposes of the declaration, man had to be considered as a member of society. At the current level of development, it was that status which determined his rights and duties.

Consequently, it appeared that the Iraqi amendment (A/C.3/237), which stated that men “should be free and equal”, was preferable to the text before the Committee. Mr. Pavlov would, however, say more on the subject when that amendment was discussed.

The second sentence of article 1, with its mention of the “spirit of brotherhood”, was too far divorced from the realities of the modern capitalist world to be acceptable. The relations between the United Kingdom and Malaya, between the Netherlands and Indonesia, between different groups in Spain, between the rich and poor everywhere could not be described as brotherly unless the brothers referred to were Cain and Abel.

A real spirit of brotherhood was possible only in the absence of exploitation of men by their fellow men, of weak nations by strong nations. In a socialist society, where such exploitation had been abolished, the very basis for oppression had disappeared. The precept “Dog eat dog” had given way to the nobler motto, “One for all and all for one”.

It could be said that article 1 was meant to be a goal for the future; but the declaration would in effect be a recommendation of the General Assembly. It should therefore be realistic, and state only what existed or could be attained at the current stage of human development. The [111] United Nations should not lay itself open to accusations of wishful thinking or hypocrisy.

The USSR representative opposed the Brazilian amendment. In his opinion that amendment should be considered first, as being furthest removed from the original text; the two were, in fact, as far apart as heaven and earth. The declaration should not include statements of a theological nature because such statements were not acceptable to a number of delegations. In view of the separation of Church and State in many countries, the Brazilian amendment might conflict with the constitutions of those countries. It represented the viewpoint of some nations; but the declaration should be a document to which all the nations, or at least the majority, could subscribe.

One of the rights explicitly stated in the declaration was that of the freedom of conscience; the basic article of the declaration should therefore not contain matters which were for each individual to determine. To try to force one’s own faith or philosophy upon others would be to revert to concepts current at the time of the Crusades. Moreover, there was no need for a statement of a theological nature in the declaration of human rights; it could, and should, be dispensed with.

MR. PLAZA (Venezuela) supported the Lebanese amendment (A/C.3/235) which proposed deleting the word “born”, leaving only the word “are”; the latter might imply that equality existed only at birth. Venezuela was particularly interested in the rights of the individual and its Constitution guaranteed the protection of the child from its conception until its development had been completed. The text as amended would have a more modern character.

He also supported the amendment of Ecuador (A/C.3/242) to the effect that States should enact the provisions necessary to ensure enjoyment of the right to equality. When the United Nations declared that all men had a right to be equal, it implied that all States should strive to fulfil their obligations in that respect.

Mr. Plaza supported the Belgian amendment, which proposed the elimination of the words “by nature” for the same reasons as those given by that country’s delegation. He then submitted a text (A/C.3/246) which, he hoped, would reconcile the amendments proposed by Belgium (A/C.3/234), Lebanon (A/C.3/235), Iraq (A/C.3/237), Ecuador (A/C.3/242) and China (A/C.3/236). The text read:

“All human beings have the right to be free and equal. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

The other amendments appeared to be so different from the original text that a sub-committee should be set up to study them.

MR. RAMÍREZ MORENO (Columbia) agreed that the philosophical basis of the phrase “all human beings are free and equal” was fragile. A certain materialistic school of thought considered man only as the material expression of evolution and denied that his rights were inherent. It might therefore wish to give him the same treatment as [112] it would to an animal. There was, however, another school of thought which believed that men were of spiritual origin. Those who wished to refute that school had no facts to bear out their argument.

It could be alleged that no equality existed, as men were not equally gifted or talented. Human equality, however, should be considered at a deeper level. It had been maintained moreover that there could be no brotherhood because imperialistic countries exploited Native tribes in their colonies; but it should be remembered that the document under discussion was designed to be not a chronicle of crime but an affirmation of a doctrine.

Exploitation of man by man had been mentioned in the debate. He wished to point out that as the representative of a Christian country, he could never be the mouthpiece of capitalism. He was speaking in the name of the worker of the future, of the man of the South American Continent who desired to place social consideration above economic ones. Man could be exploited in more than one way; it was possible to exploit his ignorance, his hunger, his resentment, and his desire to follow his instincts. A certain school of political thought advocated that States should spread suffering to the greatest

possible number. But only one group of people – those who had come to power through a class war – was trying to bring about a dead uniformity of poverty and misery. Other countries advocated different political principles. Some had been guided by humanity and fraternity and had found strength in heroism and martyrdom. They did not defend capitalism, but they claimed prosperity for all and sought to abolish for ever the inequalities of men's rights. The conception of the divinity of man implied his capacity for suffering and for progressing through martyrdom; yet after centuries, that aim had still not been achieved.

The United Kingdom Foreign Secretary had said that the concepts of certain contemporary schools of thought were closer to those of the caveman than to those of the men of the twentieth century. Western thought would never break away from its high spiritual ideals and adhere to the reactionary principles which sought to demolish the soul and destroy idealism.

It had been said that no mention of God should be made in the declaration since there was a separation of Church and State in some countries. That argument had little foundation, for a reference to God would in no way contradict that separation. No one country should impose its religion upon another country but the reference to God could be interpreted by each country in accordance with its religious beliefs. It would, moreover, lend great weight to the article.

He therefore supported the amendment submitted by Brazil.

MR. ANZE MATIENZO (Bolivia), in reply to the USSR representative's statement that human rights were not inherent in man but rather derived from the social structure of the country in which he lived, said that the democratic countries of the West could not accept that point of view. He wished to support the text before the Committee, which said, "All human beings are born free and equal. . ." Men were born free and [113] equal before the law and before God and the consciousness of their freedom and equality was the determining factor in building their social structure.

Referring to the USSR representative's objection to the use of the word "brotherhood" on the ground that it was not realistic since all men obviously did not act as brothers, Mr. Anze Matienzo pointed out that there was no intention of claiming that human beings were perfect. The draft declaration was designed to set a goal for mankind. It should inspire men to transform into realities the principles it proclaimed.

The examples of the USSR representative had given of the failure of men to act like brothers were not the only examples that could be cited. In the Soviet Union, too, men fought against one another, and the current regime of that country was based on the denial of human rights.

The hopes which many men had had in the early days of the Soviet regime had been disappointed. The USSR had not taken the lead in promoting the advancement of mankind. Instead it had insisted on such outworn doctrines as that of absolute national sovereignty, which contradicted the beliefs of the age and undermined the very foundation of the United Nations.

If a common area of agreement could be found, it would be because there was mutual tolerance. Any attempt on the part of a particular group to impose its beliefs on others was in itself a flagrant violation of the freedom of man.

The Bolivian delegation supported the Brazilian draft amendment; in its opinion, the idea of God was not a debatable theological doctrine, but a positive reality. The argument put forward by the representative of the Soviet Union that no reference should be made to God because in many countries Church and State were entirely separate, was not valid. Although the two institutions had been separated, most States granted their citizens freedom of conscience. Even in the USSR, where an attempt had been made to abolish the idea of God, freedom of worship had been restored. The common factor in mankind and the most realistic basis for human understanding was the belief in a Supreme Being and that belief should therefore be mentioned in the Declaration of Human Rights.

MR. CHANG (China) thought that the basic text of article 1, with the amendments proposed by the Belgian (A/C.3/234) and Lebanese (A/C.3/235) representatives, would be acceptable to the Committee if it were understood on the basis of eighteenth century philosophy.

That philosophy was based on the innate goodness of man. Other schools of thought had said that man's nature was neutral and could be made good or bad, or again that his nature was all bad. The eighteenth century thinkers, whose work had led to the proclamation of the principles of liberty, equality and fraternity in France and, in the United States, to the Declaration of Independence, had realized that although man was largely animal, there was a part of him which distinguished him from animals. That part was the real man and was good, and that part should therefore be [114] given greater importance. There was no contradiction between the eighteenth century idea of goodness of man's essential nature and the idea of a soul given to man by God, for the concept of God laid particular stress on the human, as opposed to the animal, part of man's nature.

Mr. Chang urged that the Committee should not debate the question of the nature of man again but should build on the work of the eighteenth century philosophers. He thought the Committee should agree to a text beginning "all human beings *are* free. . ." – using "human beings" to refer to the non-animal part of man – as proposed by the Lebanese delegation and should further agree to delete the words "by nature", as proposed by the Belgian delegation. If the words "by nature" were deleted, those who believed in God could still find in the strong opening assertion of the article the idea of God, and at the same time others with different concepts would be able to accept the text.

Mr. Chang hoped that in the light of his explanation the Brazilian delegation would be willing to withdraw its amendment (A/C.3/215) and so spare the members

of the Committee the task of deciding by vote on a principle which was in fact beyond the capacity of human judgment.

Mr. Chang paid a particular tribute to the contribution to the work of preparing the draft declaration made by Professor Cassin, the representative of France, who had so ably exposed French doctrines of the eighteenth century.

Concerning practical reality a point raised by the USSR representative, Mr. Chang said that all recognized the existence of wrongs, but the most efficacious way of correcting those wrongs was to set a common standard such as the draft declaration sought to establish. Recognition of the stark facts with which the world was faced should not, however, be termed realism but naturalism, for realism meant that which was truly real and which could be affirmed with the full force of the soul.

MISS BERNARDINO (Dominican Republic) wished to clarify an apparent misunderstanding of her previous statement. She fully appreciated the attention given to the question of the rights of women by the Commission on Human Rights and by its Chairman, and her delegation was prepared to vote in favour of the basic text of article 1 because it considered that that article gave a sufficiently clear guarantee that women's rights would be respected.

She reserved her right to speak later about the amendment she had proposed to the preamble.

MRS. CORBET (United Kingdom) thought that the basic text of article 1, with the Lebanese and Belgian amendments, should receive general support. The wording of the latter part of the article, however, might be improved. In that connexion she referred the Committee to the text submitted by the New Zealand delegation (A/C.3/245).

[115]

Speaking of the amendment proposed by the Brazilian representative, she pointed out that no obstacles should be put in the way of the adherence of the largest possible number of countries to the declaration. She therefore appealed to the Committee to take a practical view of the question and to accept the wording recommended by the Commission on Human Rights.

In order to speed up the Committee's work, she suggested that at future meetings the amendments should be taken up one by one, debated and then put to the vote. After all had been disposed of, the final text of the article could be voted as a whole.

Time Limit for Submission of Amendments

THE CHAIRMAN asked if there was any objection to setting 6 p.m. on Monday, 11 October, as the time limit for submitting amendments.

MR. PAVLOV (Union of Soviet Socialist Republics) was afraid certain members might wish to submit amendments after that date as the need for them might arise in the course of the debate.

He further suggested that there should be no time limit for all amendments, but rather a series of time limits for amendments to each separate article as it was taken up.

THE CHAIRMAN explained that he had intended that the time limit should apply only to matters of substance and that any drafting suggestions or matters likely to arise out of the discussion could naturally be made at any time.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the views expressed by the USSR representative and added that it would be better to postpone any decision regarding a time limit for submitting amendments until after the first four or five articles of the draft declaration had been dealt with.

The meeting rose at 1:20 p.m.

A/C.3/253

11 October 1948

United Kingdom: Amendments to the Preamble and Article 12 of the Draft Declaration (E/800)

Preamble

“By a regime of law” should be replaced by “by the rule of law”. This appears to apply only to the English text.

Article 12 (1)

Amend to read: “Everyone has the right to seek, and to enjoy in other countries, asylum from persecution.”

A/C.3/254

11 October 1948

Original Text: English, French

Amendments to Article 1

Order Proposed by the Chairman

1. Mexico

(All human beings are born free and equal in dignity and rights.) The right of sustenance, health, education and work is considered essential in order to guarantee social justice and the full development of the human being.

2. *Brazil*

(All human beings are born free and equal in dignity and rights.) Created in the image and likeness of God, they are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

3. *Cuba*

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

Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political rights and duties are indissolubly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom.

Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.

It is the duty of man to practise, uphold and promote culture by all means at his disposal, for culture is the highest social and historical expression of the human spirit. Morality being the noblest product of culture, it is the duty of all to respect it at all times.

4. *Iraq*

All human beings *should be* free and equal in dignity and worth and *should be entitled to similar treatment and equal opportunities.*

[2]

5. *Ecuador*

Human beings *have the right from their birth*, to be free and equal *before the law and the State should enact the provisions necessary to ensure the enjoyment of that right.*

6. *Uruguay*

The rights contained in this Declaration shall be necessarily recognized in order to allow all human beings to live in accordance with their condition of beings endowed with conscience *and reason and to pursue happiness* in a spirit of brotherly solidarity.

All the provisions of the present Declaration shall be interpreted in accordance with this principle.

7. *Venezuela*

All human beings have the right to be free and equal. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

8. *China*

All human beings are free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

9. Cuba

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

10. Belgium

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.

11. Lebanon

All human beings are free and equal in dignity and rights. They are endowed by nature with reason and conscience and should act towards one another in a spirit of brotherhood.

12. New Zealand

All human beings are born free and equal in dignity and rights, endowed with reason and conscience and bound in duty to one another as brothers.

A/C.3/255

11 October 1948

Saudi Arabia: Amendment to Article 10 of the Draft Declaration (E/800)

Delete the word “unreasonable” and substitute the word “illegitimate”.

A/C.3/256

11 October 1948

Recapitulation of Amendments to Article 2 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee.)

Article 2 (Text as adopted by the Commission on Human Rights)

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

*Amendments:**Panama (A/C.3/220)*

It is proposed that this article should be merged with article 6 in order to have a single article dealing with the right to equality, as proposed in connexion with article 6.

Union of Soviet Socialist Republics (E/800)

After the word “property or other status”, add “class”.

Cuba (A/C.3/224)

The following text is proposed for article 2:

“All are equal before the law and are entitled to the rights, and subject to the duties laid down in this Declaration without distinction of race, birth, sex, language, religion, political opinion, or property or other status.”

This wording would make it unnecessary to include article 6.

Guatemala (A/C.3/228)

Delete article 2 of the draft Declaration and transfer its contents to the Preamble.

A/C.3/257²⁹

11 October 1948

**Australia: Amendments to Preamble and Article 23 of the
Draft Declaration (E/800)**

Preamble

Amend second paragraph to read:

“Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind and have made apparent the supreme importance of the recognition and guarantee of fundamental freedoms”.

Amend fifth paragraph to read:

“Whereas Member States have pledged themselves to promote, in co-operation with the Organization, universal respect for the observance of human rights and fundamental freedoms”.

²⁹ This document was originally issued in error under the code A/C.3/254. See A/C.3/254/Corr.1.

Article 23, paragraph 1

For the second sentence substitute the following:

“Everyone is entitled to free elementary and fundamental education and to equal access on the basis of merit to higher education.”

A/C.3/280

11 October 1948

**Panama: Amendments to Articles 10 to 28 of the
Draft Declaration**

Article 10

Add to this article the words: *person, activities and property*, so that the article read as follows:

“Article – No one shall be subjected to unreasonable interference with his person, his home, his family, his privacy, his activities, his property, his correspondence or his reputation.”

Article 11

Add to this article a paragraph reading as follows:

“This right is limited by the power of the State, temporarily to compel a person to reside within certain limits as a penalty for a criminal offence, or to enforce writs of *ne exeat regno* lawfully issued by courts in civil jurisdiction.”

Article 15

Add to paragraph 1 the words *in accordance with general law*, so that paragraph 1 read as follows:

“Article – Everyone has the right to own property, alone as well as in association with others, in accordance with general law.”

Article 17

It is proposed that two articles be substituted for this article, defining separately the freedom of opinion and the freedom of expression, as follows:

“Article – Everyone has the right to freedom of opinion which includes the right to hold opinions without interference and to seek and receive information and ideas through any media, regardless of frontiers.”

“Article – Everyone has the right to freedom of expression, which includes the right to freedom of speech, freedom of the press and freedom to use any media of communication to express opinions or impart information.”

[2]

Article 18

It is proposed to substitute for this article two different articles defining separately the freedom of assembly and the freedom of association, as follows:

“Article – Freedom to assemble peaceably with others for political, economic, religious, social, cultural and other purposes is the right of everyone.”

“Article – Freedom to form with others associations of a political, economic, religious, social, cultural or any other character, for purposes not inconsistent with these articles is the right of everyone.”

Article 20

Add after the words *social security* the phrase *from the cradle to the grave*, so that the article read as follows:

“Article – Everyone, as a member of society, has the right to social security from the cradle to the grave, and is entitled to the realization through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.”

Article 24

Add after the word *leisure* the following phrase: *in such measure as may be required for the maintenance of the physical and mental health and well being of the working man or woman*. The article would then read as follows:

“Article – Everyone has the right to rest and leisure in such measure as may be required for the maintenance of the physical and mental health and well being of the working man or woman.”

A/C.3/273

11 October 1948

Original Text: French

Turkey: Amendment to Article 23 of the Draft Declaration (E/800)

After the words “higher education”, add “which should as far as possible be free of charge”.

A/C.3/SR.99³⁰
11 October 1948

***Summary Record of the Ninety-Ninth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
11 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon)

21. Draft international declaration of human rights (E/800) (continued)

Time Limit for Submission of Amendments (continued)

THE CHAIRMAN called for a decision on the suggestion that a time limit be fixed for the submission of substantive amendments to the draft international declaration of human rights.

MR. PÉREZ CISNEROS (Cuba), supported by MRS. ROOSEVELT (United States of America), proposed that the time limit should expire on 12 October, half an hour after the opening of the morning meeting.

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MR. CAÑAS (Costa Rica) and MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the proposal made by the USSR representative at the 98th meeting, to the effect that a time limit should be fixed only for each separate article as it came up for discussion. After studying the amendments already submitted, representatives might wish to make further consequential changes. It would, therefore, be unfortunate if a rigid time limit were set for amendments to all the articles at the current stage.

At the request of MR. KURAL (Turkey), MR. PÉREZ CISNEROS (Cuba) agreed to alter his proposal and to fix 6 p.m. on Tuesday, 12 October, as the time limit.

THE CHAIRMAN said that, if a time limit were fixed, it would not apply to drafting changes. He would also be willing to interpret the rule in a flexible manner and to admit suggestions for compromise texts, which might arise in the course of the discussion.

He put to the vote the proposal submitted by the representative of Cuba that the time limit for the submission of substantive amendments should be 6 p.m. on Tuesday, 12 October.

The proposal was adopted by 31 votes to 6, with 6 abstentions.

³⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 115–25.

Article 1 (continued)

MRS. MENON (India) said that, although different countries had different beliefs and political systems, they shared the same ideals of social justice and freedom. The purpose of the declaration was to set forth those ideals and to find a basis of agreement acceptable to all. As far as article 1 was concerned, there was general agreement that all men should live together in freedom and brotherhood. In that connexion lessons could be learnt from the democracies of both the East and the West. As the amendment submitted by the Brazilian representative (A/C.3/215) contained a statement of belief which was not shared by all the representatives, she appealed to him to withdraw it for the sake of unanimity.

MR. GRUMBACH (France) referred to the opposition raised by the USSR representative at the previous meeting to the substance of the first sentence of article 1. All representatives agreed that inequality did, in fact, exist, but the statement "All human beings are born free and equal. . ." meant that the right to freedom and equality was inherent from the moment of birth. The men who had drafted the Bill of the Rights of Man of 1789 had fully realized the existence of inequality and social injustice, but they had felt it essential to affirm their belief in man's inherent right to equality and freedom.

With regard to the Brazilian amendment, he respected the religious sentiments which had inspired it, but he did not think it would be appropriate to include in article 1 a statement on man's origin to which all representatives could not agree. Freedom of religion was a fundamental human right, but he agreed with the representative of [117] China (98th meeting) that it was useless to attempt to reach agreement with regard to man's origin, and that such controversial issues should be avoided. The Committee's essential aim was to reach agreement on fundamental principles which could be put into practice. That attitude would be endorsed by believers and non-believers alike. The great Catholic, Jacques Maritain,³¹ had stated in relation to that very question that the nations should try to reach agreement on a declaration of human rights, but that it was useless to try to reach agreement on the origin of those rights. It had been that agreement on practical fundamental rights which had kept the leaders of his country strong and united during the terrible years of the occupation.

He supported the simple statement as it appeared in the draft submitted by the Commission on Human Rights but he agreed with the representative of China that the words "by nature" should be deleted from the second sentence of article 1.

³¹ Jacques Maritain (1882–1973) was a French Catholic philosopher who influenced the debate about the Universal Declaration of Human Rights, although this is the only reference to his name anywhere in the *travaux préparatoires*. At the time he was involved with UNESCO and contributed to the document it submitted to the Commission on Human Rights in December 1947. On Maritain's involvement, see: A. Woodcock, "Jacques Maritain, Natural Law and the Universal Declaration of Human Rights", (2006) 8 *Journal of the History of International Law* 245.

He appealed to the representative of Brazil to withdraw his amendment, so that the article could be adopted unanimously.

MR. BEAUFORT (Netherlands) said that his delegation was in favour of the principle set forth in the Brazilian amendment, as was shown by the fact that it had submitted a similar amendment to the preamble. However, in view of the difficulties encountered, he urged the representative of Brazil to withdraw his amendment as the subject would be discussed again when the Netherlands amendment to the preamble came up for consideration.

MR. DE ATHAYDE (Brazil) reaffirmed his belief that the draft declaration should contain some reference to the belief in the existence of God, which, he felt, was held by most men.

However, in view of the difficulties that had arisen, he withdrew his amendment to article 1, reserving the right to raise the matter again during the discussion of the amendment to the preamble, submitted by the Netherlands delegation.

MR. COROMINAS (Argentina) said that his delegation would also support the Netherlands amendment to the preamble when it came up for discussion. He emphasized his support of the principle set forth in the Brazilian amendment but in a spirit of co-operation agreed to its withdrawal at that point in the debate.

MR. PLAZA (Venezuela) said that his delegation had supported the Brazilian amendment but, as it had been withdrawn, he congratulated the representatives of Brazil and Argentina for their co-operative attitude.

MRS. NEWLANDS (New Zealand) introduced the amendment submitted by her delegation (A/C.3/245).

She agreed with the United States representative that the basic draft presented a reasonably satisfactory compromise on the difficult philosophical issues involved in article 1. She also agreed with the representative of China that the article should contain an affirmative assertion that all [118] men were free and equal in dignity and rights. Her delegation wished, however, to retain the word "born".

With regard to the second sentence, she felt that the expression "should act towards one another in a spirit of brotherhood" was not sufficiently emphatic. Her delegation had, therefore, combined the first and second sentences of the draft article and redrafted the latter part of the second sentence to express the clear obligation that all human beings were bound in duty to one another as brothers. That amendment would strengthen the article and make it more in keeping with the Committee's decision that it should not be transferred to the preamble (97th meeting). The substitution of the words "as brothers" for the words "in a spirit of brotherhood" was merely a drafting change and did not imply any distinction between men and women.

The words "by nature" had been omitted in accordance with the views expressed by the representatives of Belgium, China, and Yugoslavia.

MR. BAGDADI (Egypt) thought that article 1 should set forth man's inherent right to freedom and equality. In his opinion, the article would be weakened if the amendment submitted by the representative of Iraq (A/C.3/237) were adopted. That amendment suggested that the phrase should read: "All human beings should be free and equal. . ."

His delegation would support the basic draft text of article 1, if the mention of the duty to act towards one another in a spirit of brotherhood were omitted and inserted in a later article.

He agreed with the representatives of Belgium and China that the words "by nature" should be deleted from the second sentence of article 1.

MR. KAYALY (Syria) said that article 1 was the cornerstone of the draft declaration. His delegation was satisfied that both rights and duties were mentioned in the article and would support the present draft.

The amendments submitted showed that differences of opinion existed on the following three points: the inclusion of the word "born" in the first sentence; the inclusion of the words "by nature" in the second sentence; and the mention of "brotherhood" in the second sentence.

With regard to the first point, he felt that the word "born" should be retained as it would exclude the idea of hereditary slavery.

With regard to the second point, he saw no reason to omit the words "by nature" as they were used in a figurative sense to describe the effect of outward circumstances on man. He agreed with the representative of China that the words "endowed with reason and conscience" should be retained as they served to differentiate man from the animals. In his opinion, most of the evils apparent in the world and most international misunderstandings were due to the fact that man's reason and conscience had been impaired.

With regard to the third point, the word "brotherhood" was not defined in the draft declaration. In his opinion, it was an expression of the ideal moral relationships which should exist between men and meant that all men should behave to others as they would wish others to behave to them. If that was the generally accepted meaning of the word, he thought that it should be retained.

His delegation supported the text submitted by the Commission on Human Rights and he congratulated the Commission on its work.

MR. AZKOUL (Lebanon) pointed out that the lengthy discussions on article 1 indicated that that article was more than a mere summary of the detailed rights listed in the following articles; it was an important enunciation of the basic principle which was the source of all the later affirmations, and as such should lay a solid foundation for all that followed. Article 1 should not simply proclaim

a common desire but should clearly state a universally recognized truth based on reason. In affirming the equality of all human beings, it should express a rational conviction, a decision that men were, in fact, to be equal.

For that reason Lebanon preferred the word “are” to the words “are born” in the first sentence.

The second sentence of article 1 should retain the words “by nature”. The draft declaration might even state that all human beings were born free and equal in dignity and rights *because* they were endowed by nature with reason and conscience. That latter fact laid upon man the duty to act in the spirit of brotherhood, as well as the right to equality and freedom. If man were endowed with reason and conscience by chance, then it could be claimed that his right to freedom and equality was equally accidental; if it were believed that the essence of man was determined by the social structure in which he lived, then his claim to freedom should be subordinated to the social order. If, however, reason and conscience were the distinguishing characteristics of man as distinct from animals, then nothing could change man’s essential right to freedom and equality. The expression “by nature” must not be interpreted as referring to some external power: it meant rather that man’s freedom and equality were based on his very nature, and were inseparable from it.

Concerning the idea of brotherhood included in the second sentence, Lebanon thought such a concept should be retained, as it logically followed from the fact that man was endowed with reason and conscience. The USSR representative had called attention to evidence of unkindness and hatred among men. There was, however, abundant evidence to the contrary. In the great campaigns for organizing assistance to the needy, the large majority of those who contributed did so because they were moved by the spirit of brotherhood. The friendly atmosphere which prevailed at the Committee’s meetings, in spite of serious disagreements among the members, was further proof of that spirit.

The Lebanese delegation would not insist on its views, but it wished to suggest that article 1 would be more adequate if it read (A/C.3/260):

“Since all human beings are endowed by their nature with reason and conscience, they are free [120] and equal in dignity and rights and in their duty to act towards one another in a spirit of brotherhood.”

The Brazilian amendment, which had been withdrawn, would have received the support of the Lebanese delegation because, if it had been accepted, it would have had the effect of deepening the impression which the declaration would make on the hearts and minds of men.

MR. SANTA CRUZ (Chile) welcomed the withdrawal of the Brazilian amendments, as that proposal would not have met with general agreement and would,

moreover, have raised difficulties for individual members whose personal views were perhaps not in accord with the official views they represented.

Since the Brazilian amendment had been withdrawn, however, the words “by nature” should certainly be deleted from the second sentence of the article and no mention should be made of the origin of man’s reason and conscience.

Several of the proposed amendments were designed to make it clear in article 1 that man had a right to freedom and equality. In the view of the Chilean delegation, article 1 was a categorical affirmation of the essential qualities and rights of man, an affirmation of faith such as was included in the Preamble to the Charter of the United Nations. Whether to use the words “are born” or the word “are” in the first sentence was not a question of any great importance, for the purpose in both cases was to proclaim that freedom and equality were essential attributes of human personality, regardless of whether or not those rights were always recognized.

Referring to the Cuban proposal concerning article 1, which would include in the article a reference to the duties of man, Mr. Santa Cruz hoped that the Cuban delegation would agree to withdraw the amendment, as article 1 should be confined to an enunciation of the essential attributes of man. The Cuban delegation might wish, however, to re-submit its amendment in connexion with the Committee’s examination of article 27 and of the question of placing article 27 immediately after article 2, as had already been suggested by the French representative (96th meeting).

Turning to consideration of the Mexican proposal, Mr. Santa Cruz recalled that in the meetings of the Drafting Committee and of the Commission on Human Rights there had been a long discussion on the advisability of making a statement concerning man’s position in relation to society. The Chilean delegation had proposed a paragraph on that subject for inclusion in the preamble and had further suggested a paragraph to be included in article 3, which would refer to man’s right to enjoy conditions of life that would enable him to develop his personality adequately. Mr. Santa Cruz therefore agree with the substance of the Mexican proposal, but felt that it should not, logically, be placed in article 1, but rather in article 3.

The Chilean delegation was prepared to adopt either the basic text of article 1, with the deletion of the words “by nature”, or the text proposed by the Chinese delegation.

MR. PÉREZ CISNEROS (Cuba) thanked the Brazilian delegation for withdrawing its amendment in the interest of unanimity.

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Referring to the Cuban draft amendment, Mr. Pérez Cisneros understood that delegations might find some difficulty in deciding on the question of man’s duties and he agreed that no attempt should be made to draw up an exhaustive list of duties.

He was therefore willing to accept the Chilean suggestion that his proposal should be considered in connexion with draft article 27. That article, however should not insist on the duties of the individual towards the community but should stress further the concept of social solidarity implicit in article 1. He also agreed with the French representative that article 27 should be placed elsewhere.

Concerning the procedure to be followed in voting, he thought that as the amendments furthest removed from the original text should be voted on first, the Committee might first consider the proposals made by Ecuador (A/C.3/242) and Uruguay (A/C.3/231), then the Cuban proposal (A/C.3/254), and finally the Mexican proposal (A/C.3/229), which dealt with the social rights of man.

MR. DE ALBA (Mexico) thought that the difficulties that had arisen in connexion with the text of article 1 were a natural result of the fact that the draft under consideration included so many different, and often somewhat contradictory, ideas.

To say in one sentence that all men were born free and equal and to speak in the next of reason and conscience was to cover too much all at once. The idea that men were born free and equal was in itself acceptable, but it was insufficient. As other representatives had already pointed out, a human being's right to freedom and equality began from the moment of his conception and continued after his birth. That broader period should be taken into account, if the word "born" were used. Mention should also be made of the health, education and general wellbeing of the child.

The reference to the spirit of brotherhood in the second sentence was not an *a priori* affirmation; it should therefore be clearly connected with the exercise of human rights, for otherwise it seemed to be extraneous to the article in which it was included.

The Mexican delegation supported the Belgian proposal (A/C.3/234) for the deletion of the words "by nature" in the second sentence of the article.

It also supported the Lebanese proposal (A/C.3/235) to substitute "are" for "are born", since freedom and equality were of the very essence of mankind and did not depend upon the accident of birth.

The Mexican delegation reserved its position, however, in regard to the concept of man's duties in relation to his rights.

Mr. de Alba hoped that in seeking to reach agreement, the members of the Committee would act in the spirit of tolerance invoked by the Indian representative and in a spirit of humility. Those delegations who had wished to see the word [122] "born" omitted might be willing to consider that point as being of minor importance, and those delegations who wished to raise the question of man's duties might agree to examine that question in connexion with a later article of the draft declaration.

Mexico was prepared to withdraw its amendment to article 1 but would reserve its right to re-submit it in connexion with article 3.

MR. CARRERA ANDRADE (Ecuador) drew attention to the fundamental similarity in draft amendments submitted by Iraq, Ecuador, Venezuela, China and Lebanon. He therefore suggested that the authors of those amendments should form a sub-committee to draw up a single text to be submitted to the full Committee.

MR. PLAZA (Venezuela) explained that the Venezuelan draft text (A/C.3/246) – “All human beings have the right to be free and equal. . .” – was intended to correct what was in reality a false statement in the original text. Nevertheless, if the majority preferred the original text, and if that draft could be interpreted to mean that freedom and equality were the source of the rights listed in the draft declaration, this delegation would withdraw its amendment.

He preferred, however, the word “are” to the words “are born”, as human rights began with the prenatal period.

He also supported the deletion of the words “by nature”.

The Venezuelan delegation was prepared to participate in the work of a sub-committee such as the one suggested by the representative of Ecuador.

MR. ABADI (Iraq) supported the proposal made by the representative of Ecuador for the creation of a sub-committee. To facilitate a compromise, he was willing to withdraw his own amendment (A/C.3/237), but he still felt that the words “are born” in the first sentence of the article should be changed to “should be” or perhaps “are” or “have a right to be”.

MR. BAROODY (Saudi Arabia) pointed out that to say that all human beings were endowed with reason and conscience was too broad a statement, one that was not, and had never been, true. Moreover, the words “dignity and rights” used in the first sentence were ambiguous and had different meanings in different countries.

With the hope of avoiding both metaphysical questions and words which would be subject to different interpretations, he suggested that the text of article 1 should read:

“Equality and freedom being the ultimate human goals, all men should act towards one another in a spirit of brotherhood.”

MR. PÉREZ CISNEROS (Cuba) suggested that the work of the Committee would be speeded up if separate votes were taken on three clearly defined points: first, the substitution of “are” for [123] “are born” in the first sentence; secondly, the use of the words “should be” in the first sentence; and thirdly, the deletion of the words “by nature” in the second sentence.

In reply to a question by MR. QUADROS (Uruguay) THE CHAIRMAN explained that the Committee had decided at its 97th meeting that the substance of article 1 should remain in article 1 and should not be transferred to any other part of the draft declaration.

MR. QUADROS (Uruguay) protested that the President of the General Assembly had announced the cancellation of the meeting in question; the meeting had, however, taken place and a decision had been taken on the position of the article. His delegation, which had wished to be present in order to defend the proposal it had made at that point, had not been informed of the subsequent decision that the meeting should be held.

He stated that Uruguay would withdraw its draft amendment (A/C.3/231) and would support the basic text of article 1, if the words “by nature” were deleted.

THE CHAIRMAN explained that the President of the General Assembly had originally announced the cancellation of the Third Committee’s meeting on 8 October but had later announced a new decision that the Committee should meet.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with the Cuban representative concerning the procedure to be followed in the discussion. The Iraqi proposal to substitute “should be” for “are born” should be voted on first as it was farthest in substance from the original text.

MR. AZKOUL (Lebanon) withdrew his proposal for the substitution of the word “are” for “are born”, in favour of the Chinese amendment (A/C.3/236) to the same effect.

MR. CARRERA ANDRADE (Ecuador), supported by the representatives of Mexico and Lebanon, maintained his proposal for a drafting subcommittee.

MR. PÉREZ CISNEROS (Cuba) felt that a subcommittee should be appointed after the Committee had taken a decision on the three points he had mentioned.

THE CHAIRMAN, supported by the representatives of Bolivia and France, was of the opinion that the Committee could come to a final decision on the wording of article 1 at the current meeting.

The Chairman pointed out that the Committee was in agreement on the uses of the expression “human beings” and called for a vote on the Iraqi proposal for the substitution of the words “should be” for “are born”.

The proposal was rejected by 24 votes to 16, with 1 abstention.

In reply to the representative of Lebanon, the Chairman explained that it would not be correct procedurally to take a vote on the proposal for the deletion of the words “by nature” before deciding the final wording of the first sentence. The words “are born and remain” had been suggested to him informally before the meeting; he wondered if any representative felt inclined to sponsor that proposal.

MR. CHANG (China) was in favour of the adoption of a strong affirmative statement without qualifications. If the word “born” were deleted, the question of whether human rights began at birth or at conception would not arise. However, if

the majority of the Committee wanted the word “born” to be retained, he suggested a further vote on the insertion of the words “and remain”.

THE CHAIRMAN called for a vote on the Chinese proposal to delete the word “born”.

The proposal was rejected by 20 votes to 12, with 5 abstentions.

MRS. ROOSEVELT (United States of America) objected to the insertion of the words “and remain”. In the current period, it was obviously not true that human beings always remained free and equal in dignity and rights.

MR. CASSIN (France) pointed out that the Committee was not acting as a national parliament but as representatives of the human community and in that capacity was competent to proclaim such an ideal.

MR. SANTA CRUZ (Chile) agreed with the French representative and remarked that the United States representative’s objection could apply with equal force to the expression “All human beings are born free. . .”

MRS. CORBET (United Kingdom) considered it rather late to introduce the proposal to insert “and remain” and requested the Chinese and Chilean representatives not to press for its adoption.

MR. PÉREZ CISNEROS (Cuba) supported the Chilean proposal and drew attention to the fact that the phrase was used in the French Bill of Rights.

MR. AZKOUL (Lebanon) felt it would be dangerous to leave the words “are born” without adding “and remain”, as it would imply that human beings were born free and equal, but later, for various economic, social and political reasons ceased to be so.

MR. ANZE MATIENZO (Bolivia) moved the closure of the debate.

MR. WATT (Australia) opposed the motion of closure for the reason put forward by the United Kingdom representative. In actual fact, there was not such a great difference in meaning between the expressions “are born” and “are born and remain so”, as between the interpretations given to them.

THE CHAIRMAN put to the vote the motion to close the debate.

The motion was adopted by 23 votes to 6, with 4 abstentions.

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THE CHAIRMAN put to the vote the Chinese proposal to insert the words “and remain”.

The proposal was rejected by 23 votes to 14, with 4 abstentions.

THE CHAIRMAN put to the vote the Belgian proposal to delete the words “by nature” in the second sentence of the article (A/C.3/234).

The proposal was adopted by 26 votes to 4, with 9 abstentions.

MR. AZKOUL (Lebanon) drew attention to his amendment to the French text of article 1 and to the fact that there was a difference in meaning between *par la nature* and *de par leur nature*.

The representatives of Cuba and France agreed with the Lebanese representative concerning the difference in meaning between the two phrases.

After a short discussion in which it was agreed that a correct English translation of the two expressions would have to be provided, MRS. KALINOWSKA (Poland) moved the adjournment of the debate.

The motion was adopted.

The meeting rose at 7:15 p.m.

A/C.3/SR.100³²
12 October 1948

Summary Record of the Hundredth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday,
 12 October 1948 at 10.45 a.m.

Chairman: Mr. CHARLES MALIK (Lebanon); later, MRS. BODIL BEGRUP (Denmark).

22. Draft international declaration of human rights (E/800) (continued)

Article 1 (continued)

THE CHAIRMAN put to the vote the amendment proposed by the representative of Lebanon (99th meeting) to the effect that the words “by their nature” should be inserted after the words “are endowed”.

The amendment was rejected by 16 votes to 6, with 8 abstentions.

THE CHAIRMAN put to the vote the New Zealand amendment (A/C.3/245), suggesting the following wording for article 1:

“All human beings are born free and equal in dignity and rights, endowed with reason and conscience and bound in duty to one another as brothers.”

The amendment was rejected by 14 votes to 9, with 8 abstentions.

³² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 125–34.

THE CHAIRMAN put article 1, as amended, to the vote, in the following form:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Article 1, as amended, was adopted by 26 votes to none, with 8 abstentions.

Prompted by a remark of the representative of Lebanon, the Chairman, supported by MR. COROMINAS (Argentina), stated that no further [126] change, not even of drafting, could be made in the article as adopted by the Committee. The subcommittee which would be set up subsequently to consider the order of the articles would be asked solely to decide where the article was to come.

Article 2¹

THE CHAIRMAN read the text proposed by the Commission on Human Rights for article 2. He pointed out that the amendments thereto submitted by the delegations of the USSR (E/800, page 32), Panama (A/C.3/220), Cuba (A/C.3/224) and Guatemala (A/C.3/228) were recapitulated in document A/C.3/256.

MR. WATT (Australia) having pointed out that the Committee had formally decided to discuss only the substance of the various articles of the draft declaration and to leave the decision as to their final arrangement to a subcommittee which would be set up later, the Chairman ruled that the amendments presented by the delegations of Panama and Guatemala, proposing to place the content of article 2 in the preamble and in article 6 respectively, were out of order.

MR. GARCÍA BAUER (Guatemala) contested the Chairman's ruling, which contradicted the assurances he had previously received that his amendment was in order.

THE CHAIRMAN wished to dispel an obvious misunderstanding. The Committee had taken a specific decision with respect to article 1 and its possible connexion with the preamble of the declaration. At the same time it also took a general decision to set up a sub-committee, to determine the appropriate place for each article.

In the light of that decision, the Chairman felt compelled to rule that from then on, any amendment dealing solely with questions of form or arrangement would be out of order.

MR. PAVLOV (Union of Soviet Socialist Republics) shared the views expressed by the Chairman. Every delegation would have the right and the opportunity to state its opinion on the arrangement of the various articles of the declaration upon the termination of the substantive discussion. For the time being, it would be best to follow the procedure adopted for article 1.

MR. ANZE MATIENZO (Bolivia) thought, on the contrary, that the proposal of the Guatemalan delegation was interesting and constructive, and that the Committee should consider it without further delay instead of involving itself in a procedural discussion.

MR. GARCÍA BAUER (Guatemala) drew attention to the full significance of his proposal and stated that it was an amendment of substance rather than of form since its aim was not to delete article 2, but to incorporate in the preamble of the Declaration of Human Rights one of the fundamental principles of the United Nations Charter.

^[1] Article 2 of the draft universal declaration of human rights (A/777).

[127]

THE CHAIRMAN repeated that the proposals of the delegations of Guatemala and Panama were equally out of order since they both dealt with the place in the declaration where the principle stated in article 2 should be inserted.

The Committee had to decide on the substance of article 2; there was no reason why it should be asked to vote first of all on its deletion.

MR. CASSIN (France) wished it to be understood that the Chairman's ruling, though generally binding on the Committee, was not to be considered irrevocable.

Thus, in the case in point, it seemed difficult to reach a decision on the substance of article 2 without first taking a decision in principle concerning the possibility of merging it with article 6, as proposed by the delegation of Panama.

THE CHAIRMAN replied that the delegation of Panama could raise the question anew when the Committee came to discuss article 6.

With regard to the Guatemalan amendment, in view of the fact that the Guatemalan representative had challenged his decision, he was compelled, by virtue of rule 102 of the rules of procedure, to put the challenge to an immediate vote.

By 29 votes to none, with 9 abstentions, the Committee upheld the Chairman's ruling.

MR. GARCÍA BAUER (Guatemala) reserved his delegation's right to submit its amendment again, either to the Committee itself, or to the General Assembly.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) explained that his delegation had abstained from voting because it considered that the issue was not sufficiently clear-cut. The delegation of Uruguay could not admit that it should be left to a subcommittee to decide whether the articles discussed by the Committee were to be placed as articles in the body of the declaration, or whether they were to be incorporated in the preamble.

MR. PÉREZ CISNEROS (Cuba) said that he had abstained from voting because he did not know what the Committee was voting on. He regretted the fact that representatives had not been given an opportunity to ask for explanations before the vote was taken. He felt that, in keeping with its decision to leave the arrangement

of articles to a sub-committee, the Committee did not have to vote on the Guatemalan amendment, as the latter dealt precisely with the rearrangement of a text and not with its deletion.

Mr Pérez Cisneros stressed the importance of clarifying that question of principle if the Committee was to avoid similar procedural difficulties in connexion with the other articles of the declaration.

THE CHAIRMAN stated that the Committee had by a previous decision settled the question of principle.

The vote which had just been taken in accordance with rule 102 of the rules of procedure, had been made necessary by the challenge of the Chairman's ruling.

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MR. KAMINSKY (Byelorussian Soviet Socialist Republic) suggested that the Committee should begin the substantive discussion of article 2 without further delay.

THE CHAIRMAN said that he would first put to the vote the Cuban amendment (A/C.3/224), which was the furthest removed from the original draft since it proposed to substitute a new text for the existing one. The Committee would then take a stand with respect to the amendment proposed by the USSR delegation (E/800, page 32).

MRS. ROOSEVELT (United States of America) pointed out to the Committee that the Cuban proposal did nothing more than present in a different form the idea of merging articles 2 and 6, an idea which had been rejected when presented by the Panamanian delegation.

MR. PÉREZ CISNEROS (Cuba) agreed that that was so. Explaining the reasons which had prompted his delegation to make that proposal, he stressed the fact that the new text retained all the ideas expressed in articles 2 and 6; by grouping them in a single article, by avoiding useless repetition, the declaration was lent both greater force and greater conciseness, qualities that were indispensable in any legal text.

In the opinion of the Cuban delegation, it would be preferable to decide immediately on the fusion of the two articles rather than to consider the provisions first of article 2 and then of article 6, separately.

MR. CHANG (China) wished to stress that it was only after mature consideration that the Commission on Human Rights had decided to state the principles of equality and liberty in two separate articles of the draft declaration of human rights which it was submitting to the General Assembly.

Article 2 did, in fact, aim at ensuring that everyone, without distinction of any kind, should enjoy all the rights and freedoms set forth in the declaration.

Article 6 aimed at translating that principle into practical reality by granting everyone protection of the law against discrimination in violation of that declaration.

The Chinese delegation was in whole-hearted agreement with the Commission on Human Rights and hoped that the Third Committee would make a point of retaining article 2 in its existing form.

Speaking on the Cuban delegation's amendment Mr. Chang pointed out that, as the declaration did not make specific mention of duties as well as rights, it would be preferable to delete the words "and subject to the duties" from the proposed text. It had indeed been agreed that duties would be referred to only in article 27 which had to be further defined and amplified at a later date, and in the general declaration of article 1 on the spirit of brotherhood which should inspire the actions of all men.

MR. CASSIN (France) expressed his complete agreement with the definition given by the Chinese representative of the fundamental difference between article 2 and article 6. Article 2, establishing that everyone was entitled to the [129] rights and freedoms set forth in the declaration, gave the declaration its full meaning, and followed logically therefore on article 1. Article 6 had a more limited field and defined the legal status of all human beings within the national limits of sovereign Powers and States. The former set forth the principle of non-discrimination, whereas, in the latter, the individual was ensured protection against discrimination within his own country. Those two ideas were very similar, but were not absolutely identical.

Although the French delegation had expressed itself in favour of retaining the two texts proposed by the Commission on Human Rights, it was inclined to think that it might be useful to examine them both at the same time as they were so closely related to each other.

COUNT CARTON DE WIART (Belgium) considered the Cuban delegation's desire for brevity to be praiseworthy. Nevertheless, in common with the delegations of China and France, the Belgian delegation thought it preferable to retain article 2 and article 6, the wording of which it approved on the whole.

MR. AZKOUL (Lebanon) supported the views expressed by the preceding speakers and stated that he also was against the fusion of the two articles.

MR. PÉREZ CISNEROS (Cuba) emphasized that the views expressed by those of his colleagues who had taken part in the work of the Commission on Human Rights had only strengthened his belief in the usefulness of the amendment submitted by his delegation. The elimination of unnecessary repetition, by joining the two aspects of a same idea instead of separating them, would not only improve the form of the final text but would benefit the very substance of the declaration by ensuring that it was given all the necessary vigour of expression. The Cuban proposal was prompted only by the desire for brevity and logic and it was in that light alone that it should be interpreted.

In reply to the Chinese representative's remark with regard to duties, Mr. Pérez Cisneros said he appreciated the soundness of that criticism and accepted the deletion proposed by Mr. Chang.

MR. SANTA CRUZ (Chile) pointed out that article 2 aimed above all at giving expression to one of the basic provisions of the Charter. He recalled that the United Nations had been founded principally to combat discrimination in the world. Certain Latin American countries where discrimination was unknown, did not however give the concept all the importance it deserved. It was essential, nevertheless, to set forth in a separate article the basic postulates of the declaration, namely, the principles of liberty, equality and fraternity, even, if need be, at the expense of brevity and elegance of form.

Another article would have to be devoted to the application of the principle in the legal domain. That separation was essential and in keeping with the real facts of the existing situation.

Mr. Pavlov (Union of Soviet Socialist Republics) drew the attention of the members of the Committee to the fact that they were straying from the plan of action they had set themselves. The study of the substance of article 2 [130] should be begun and there should be no further discussion of the question whether the two articles should or should not be amalgamated.

Mrs. Begtrup (Denmark) took the Chair.

THE CHAIRMAN thought that if the Committee were to express an opinion on the possible fusion of the two articles, it would make any decision which the sub-committee might later be called upon to take in that respect much easier.

MR. GARCÍA BAUER (Guatemala) held the view that as the Committee had decided not to admit his delegation's amendment because it dealt with a question of form, it could not therefore admit either the Panamanian or the Cuban proposal.

MR. PÉREZ CISNEROS (Cuba) pointed out that the question at issue was that of fusion and not of a rearrangement of the text. The Cuban delegation's amendment raised a preliminary question which had to be resolved before the Committee could begin to study the substance of article 2.

MR. CHANG (China) proposed, in order to simplify the procedure, that the new text submitted by the Cuban delegation for article 2 should be put to the vote. By voting for the adoption or rejection of that text, the Committee would show by implication whether it was for or against the principle of the fusion of texts.

The Chinese delegation could not, however, stress too much the importance which the fight against discrimination of any kind had for vast sections of the world's population. It was essential for those peoples that they should not only be protected within their national legislation against discrimination, but that the principle of equality in respect of all the fundamental freedoms and rights of mankind should be solemnly proclaimed.

Considered in that light, article 2 was of undeniable significance. For that reason, Mr. Chang requested the Cuban representative to withdraw his amendment, which tended to lessen the value of the article.

MR. PÉREZ CISNEROS (Cuba) was, on the whole, in agreement with the representative of China. He did not, however, believe that to combine the two articles would weaken the idea they expressed. On the contrary, the Cuban delegation thought that to link the principle and its application would ensure that discrimination could be more vigorously combated. In submitting that proposal, the Cuban delegation had been inspired by the provisions of its national Constitution which made any discrimination or incitement to such discrimination punishable as a criminal offence.

MR. SAINT-LOT (Haiti) regretted that he was unable to accept the Cuban representative's interpretation of the matter for, in his opinion, the combining of the two texts necessarily implied their rearrangement within the body of the declaration. The Committee had decided to appoint a sub-committee to which it would assign all questions of order and of form. It should abide by the decision it had taken, in order not to appear irresolute and thus hinder the satisfactory progress of its work.

[131]

Mr. Saint-Lot therefore supported the proposal to vote on the substance of the Cuban amendment, without definitely settling the question of possible fusion of article 2 and 6.

MRS. ROOSEVELT (United States of America) wished especially to draw the Committee's attention to the fact that by voting in favour of the text of the Cuban amendment, it would by implication vote for the deletion of article 6. The new text proposed by the Cuban delegation for article 2 contained in fact almost all the provisions of the original text of article 2, and, in addition, the first part of article 6. That should not be overlooked when the vote was taken.

MR. SANTA CRUZ (Chile) supported that view, which had been expressly recognized by the Cuban delegation (A/C.3/224).

MR. CASSIN (France) proposed that, as all discussion on procedure had in his opinion been exhausted, the substance of the Cuban amendment should be examined.

Although it fully appreciated the Cuban delegation's intention, the French delegation would have to vote against that motion, as its adoption would, in fact, be tantamount to the deletion of article 6, an article which specifically established legal protection against discrimination of any kind.

Mr. Malik (Lebanon) resumed the Chair.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that the turn taken by the discussion made it necessary for him to consider in detail the motives which had

led the Cuban delegation to propose the alterations to article 2 and the deletion of article 6. He did not consider that in point of fact the question at issue was one of drafting and of form. An effort was being made to do away with the precise provisions of article 6, and it was for that reason that the Cuban proposal was not as innocent as it might appear at first sight. By deleting article 6, the obligation on the part of States to decree legal sanctions against any measures of discrimination would also be deleted.

Furthermore, the Cuban amendment to article 2 made no mention of equality without distinction of national origin, which appeared in the original text of article 2.

The USSR delegation took a definite stand against any weakening of the principle set forth in article 2. Any attempt in that direction was an attack against the very concept of democracy.

In certain countries the question of discrimination was perhaps not of extreme importance. In many cases, however, discrimination existed. He recalled the petition addressed to the Economic and Social Council on behalf of 13,000,000 Negroes of the United States, protesting against the measures of discrimination directed against them. Representatives of the United States Government had confirmed that those appeals were justified. In that connexion, President Truman himself had admitted that, in the United States, coloured men and women were still suffering as regards their human dignity, that they were living in a state of constant moral and physical fear and could not fall back on the national conscience of the American people any more than on legislation.

[132]

A similar state of affairs was to be found in the Union of South Africa. In the province of Natal the Indians did not have a vote, and 80 per cent of their children could not attend school. Racial discrimination had become a veritable system.

The USSR representative mentioned similar facts concerning the British colonies of the Gold Coast and Nigeria, as well as Rhodesia where, for example, 28 pounds sterling were assigned for the education of each European child and only four shillings for that of each Native child.

He asked that practical measures should be taken against that state of affairs. No such situation existed in any of the republics in the Union of Soviet Socialist Republics; there more than sixty different peoples lived together peacefully, strife which from time to time led to bloodshed in some countries was unknown there, and all the peoples enjoyed complete equality in every field of political, economic and social life. That equality had been explicitly guaranteed in the USSR Constitution, and all discriminatory measures, whatever their nature, were punishable by law. He thought that that attitude should be adopted by the whole world.

For this reason article 6 should be retained. The principle of equality was laid down in the Charter of the United Nations; those persons who did not agree to this equality and who did not declare themselves enemies of racial discrimination could not be considered as true democrats.

The principle of the equality of men and women was also laid down in the Charter. Although that equality had been explicitly stated in certain constitutions, notably in those of the United States of America and of the United Kingdom, it had in reality not been applied. Thus, of the 640 members of the British Parliament only 24 were women, and only 9 women were members of the United States Congress. The Supreme Council of the USSR included 277 women, a much higher proportion than that found in any other Parliament in the world. Those figures were all the more remarkable, since in thirty countries of Europe and America women had no vote.

For those reasons he strongly opposed any limitation of the principle expressed by article 2, or the deletion of article 6. He was convinced that all true supporters of democracy would agree with him. Millions of human beings were watching the work of the Third Committee with anxiety. It would be an unpardonable mistake to yield to the tendencies of racial discrimination, however cleverly they were disguised. Mr. Pavlov hoped that the great majority of the Committee would share his opinion and that article 2 and 6 would be retained, since they provided a minimum of rights and guarantees for individuals and peoples.

MR. TE WATER (Union of South Africa), submitting a motion of order, objected to the terms used by the USSR representative in speaking of the United States and of the Union of South Africa. Such language would not be tolerated in any parliamentary discussion.

He asked the Chairman to make a ruling, forbidding the use of terms of that nature in order that the debate might retain the dignity which should characterize the discussion of the United [133] Nations. If that were not done, he would be unable to play a useful part in the work of the Committee.

THE CHAIRMAN, in reply to the representative of the Union of South Africa, said that the United Nations was fundamentally different from a parliament, that is, a body in which there was a recognized traditional uniformity of expression. In the United Nations, where fifty-eight nations were represented, it was impossible to lay down exact rules regarding the language to be used.

It was nevertheless very regrettable that any one member of the Committee should use terms likely to offend any other member.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that Mr. Te Water's observations would apply to the statements made in the Third Committee by the representative of the United Kingdom rather than to the

observations of the USSR representative, who had remained within the bounds of courtesy.

MR. SANTA CRUZ (Chile) recalled that during the debate on freedom of movement, the USSR representative had objected to remarks on the state of affairs prevailing in the Soviet Union. His attitude was quite different, however, when facts concerning the United States and other countries were concerned.

He reserved the right therefore to quote, when a suitable time came, certain facts which would show that it was not sufficient merely to lay down principles in a constitution.

MR. SAINT-LOT (Haiti) pointed out that his delegation could not vote in favour of the Cuban amendment, since the latter would weaken the provisions of articles 2 and 6 and the democratic guarantees provided by them.

He stressed the fact that in adopting that attitude, his delegation did not question the sincerity of the Cuban delegation's intentions; Cuba and Haiti were bound together by close ties of brotherhood. He recalled that 150,000 Haitians lived in the Republic of Cuba and that there had never been any interference either with their person or with their property.

MR. GARCÍA BAUER (Guatemala) strongly advocated that the ideas expressed in article 2 should be transferred to the preamble. For that reason he could not support the Cuban amendment.

MR. PÉREZ CISNEROS (Cuba) expressed his surprise that a representative had accused his delegation of wishing to abandon the principle of equality for all before the law. On the contrary, his delegation desired that the principle of non-discrimination should be linked with its application, its legal guarantee, in order that it might be reinforced. That was the aim of the amendment which it had submitted.

The USSR representative had made a detailed study of the Cuban amendment. He had pointed out that the words "national origin" were not included, but he had failed to remark that they had been replaced by the term "birth", which was more elegant and expressed the same idea.

Under the pretext of defending the principle of non-discrimination, Mr. Pavlov had violently [134] attacked the state of affairs in other countries. It should be noted, however, that he had not mentioned in the proposed text the presence of the words "without distinction of. . . *political opinion*". The Cuban delegation thought that the single party and single candidate system was a form of discrimination.

In conclusion he said that it was not sufficient to lay down principles; they must also be applied. The USSR representative was at liberty to come and see for himself

how the principles of the Cuban Constitution were applied; he, however, could not do the same in the Soviet Union.

Mr. Pérez Cisneros thanked the representative of Haiti for his trust in the sincerity of his delegation's intentions. In view of the appeal submitted by Mr. Saint-Lot and of the bonds which united their two countries, the representative of Cuba withdrew his delegation's amendment.

THE CHAIRMAN pointed out that the only amendment still before the Committee was that of the USSR (E/800, page 32) which proposed the addition of the word "class" after "property or other status".

MR. PAVLOV (Union of Soviet Socialist Republics) said that the USSR amendment aimed at the abolition of differences based on social conditions, as well as the privileges enjoyed by certain groups in the economic and legal fields. On the eve of the Russian Revolution the situation in Russia was similar to that in France before its revolution; there were certain privileged classes, such as great landowners, the clergy, merchants and others. One of the first measures taken during the Russian revolution was to suppress those privileges and prevent their revival.

The use of the word "class" to translate the corresponding Russian word into English seemed defective to him; before the Committee took a decision, the text should be revised.

MR. CASSIN (France) was prepared to support the USSR amendment as far as its substance was concerned, although it could have been covered by the words "property or other status". A drafting sub-committee could undertake that work if the principle of the amendment were adopted.

MRS. ROOSEVELT (United States of America) recalled the fact that the words "or other" had been adopted after prolonged debate in order to take into consideration the difficulties of translation raised by the USSR representative. In these circumstances she thought that the existing text was adequate.

MR. DEDIJER (Yugoslavia) proposed that the discussion on the substance of article 2 should be adjourned, as the Yugoslav delegation wished to make a statement on the subject.

THE CHAIRMAN suggested that an informal drafting group, composed of the representatives of France, the United States and the USSR should be set up to draft the English and French translations of the USSR amendment. It was understood that the sub-committee would not take any final decisions on the matter.

It was so agreed.

The meeting rose at 1:20 p.m.

A/C.3/259

12 October 1948

Recapitulation of Amendments to Article 3 of the Draft Declaration

(In the chronological order of their submission to the Committee)

Article 3 (Text as adopted by the Commission on Human Rights)

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

Amendment:

Panama (Document A/C.3/220)

Its total elimination is proposed.

It is proposed that the rights to life and liberty be defined as follows:

Article – Every human being has the right to exist and to maintain, develop, protect and defend his existence.

Article – No one shall be subjected to arbitrary arrest or detention. Every person who has been detained has a right to have the legality of his detention [*sic*] judicially without any delay. Neither shall anyone be held in slavery or involuntary servitude (Paragraph 1, Article 4 of Draft).

An additional article is proposed containing the text of paragraph 2 of Article 4 of the Draft as follows:

Article – No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Cuba (Document A/C.3/224)

Replace this article by the following text:

“Every human being has the right to life, liberty, security and integrity of person.”

Lebanon (amendment proposed 12 October 1948)

Delete the words: “and security of person” and replace them by the words “security and full development of his personality.”

[2]

This article will thus read: “Every human being has the right to life, liberty, security and development of his personality.”

A/C.3/260

12 October 1948

Original Text: French

Lebanon: Amendments to Draft Declaration (E/800)

Article 1

This article should be worded as follows: “Since all human beings are by their nature endowed with reason and conscience, they are free and equal in dignity and rights and in their duty to act towards one another in a spirit of brotherhood.”

Article 3

Delete the words: “and security of person” and replace them by the words: “security of person and the full development of his personality”.

Thus the article will read: “Everyone has the right to life, liberty, security of person and the full development of his personality.”

Article 10

Delete the word “unreasonable”.

Article 11

In paragraph 2 add at the end the words: “and to return to his country”.

Article 13

At the beginning of the article add the words: “Everyone has the right to a nationality”.

Article 14

Change the order of the paragraphs so that paragraph 3 becomes paragraph 1, paragraph 1 becomes paragraph 2, and paragraph 2 becomes paragraph 3.

In paragraph 2 in the original text add the words: “free and” before the words: “full consent”.

Article 21

In paragraph 1 add after the words “everyone has the right to work”, the words “and to a free choice of work and of his mode of life”.

[2]

Article 22

Transfer paragraph 2 of this article to Article 14 where it will become paragraph 4.

Article 23

Add a new paragraph which will become paragraph 2, and will read as follows: “Parents have a priority right to choose the kind of education that shall be given to their children.”

Paragraph 2 of the original text will become paragraph 3.

A/C.3/261

12 October 1948

Original Text: French

**Cuba: Amendments to Articles 23 to 27 of the Draft
Declaration (E/800)**

Article 23

Break up and amend the article as follows:

“1. Every person has the right to education.

“2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

“3. The right to education includes the right to equality of opportunity in every case, in accordance with natural talents, merit, and the desire to utilize the resources that the State or the community is in a position to provide.

“4. Every person has the right to receive, free, at least a primary education.”

Article 24

Amend as follows:

“Every person has the right to leisure time and to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.”

Article 25

Amend as follows:

“Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from scientific advancement.”

“He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author.”

[2]

“Article on measures of implementation.”

Amend as follows:

“Every person has the right, either individually, or in association with others to petition or to communicate with any competent authority, for reasons of either general or private interest, and the right to obtain prompt action thereon.”

Article 27

Add the following text:

“Respect for the right of all requires that each shall do his duty. In all human activity, both social and political, rights and duties are indissolubly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom.

“Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.

“It is man’s duty to practise, uphold and promote culture by all means at his disposal for culture is the highest social and historical expression of the human spirit.

“Morality being the noblest product of culture, it is the duty of all to respect it at all times.”

New article

Insert an article worded as follows:

“Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby justice will protect him from acts of authority that, to his prejudice, violate any fundamental human rights.”

New article

Insert an article drafted as follows:

“Every person has the right to resist acts of oppression or tyranny.”

A/C.3/262

12 October 1948

Lebanon: Amendment to the Draft Declaration (E/800)

Add the following article 29 to the draft Declaration

“All laws in any State shall be in conformity with the purpose and principles of the United Nations, as embodied in the Charter, insofar as they deal with human rights.”

A/C.3/263

12 October 1948

Netherlands: Amendment to the Draft Declaration (E/800)

Article 23, paragraph 2, to read as follows:

“The primary responsibility for the education of the child rests with the family.”

“Parents have the right to determine the kind of education their children should have.”

Paragraph 2 of the present Draft to become paragraph 3.

A/C.3/264

12 October 1948

Original Text: French

Egypt: Amendments to the draft Declaration (E/800)

Preamble

After the third paragraph of the Preamble add the following text:

“Whereas the fundamental rights of man are not derived from his status as a national of a particular State, but constitute inherent attributes of his person.”

The other three Amendments do not concern the English text.

Article 8

Amendment does not concern the English text.

Article 11

Replace this article by the following text:

“Everyone has the right to establish his residence in the territory of the State of which he is a national, to have freedom of movement within it and to leave it only of his own accord.”

Article 12

At the end of paragraph 1 add the following words:

“in accordance with the rules of international law.”

Article 13

Replace this article by the following text:

“Everyone has the right to the nationality which legally belongs to him and has the right to acquire, if he so desires, the nationality of a country which is willing to grant it to him.”

Alternative

Replace the words “or denied the right to change his nationality” by the words: “or denied the right to acquire a new nationality.”

Article 14

Replace this article by the following text:

“Everyone has the right to found a family, which is a fundamental element of society, and is entitled to the protection of that family.”

Article 19

Amend paragraph 3 as follows: “Everyone has the right to a government which *acts freely* and conforms to the will of the people.”

[2]

Article 22

Replace the words “mother and child” in the second paragraph by the words “mothers, children and old persons”.

Article 24

Replace this article by the following text:

“Everyone has the right to rest, reasonable leisure and the opportunity of using his leisure for his mental, cultural and physical development.”

Article 26

To be deleted.

Article 27

Amend paragraph 2 as follows:

“In the exercise of his rights everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of loyalty, *good faith*, morality, public order and general welfare in a democratic society.”

Add a new paragraph with the following text:

“These rights can in no case be exercised contrary to the principles and purpose of the United Nations.”

Addition of a new article

After Article 28, add the following article:

“The nature and the extent of the measures to be taken to give effect to the rights laid down in this Declaration shall if necessary be defined in a subsequent instrument.”

A/C.3/265

12 October 1948

Original Text: French

**Union of Soviet Socialist Republics: Amendment to Article 3
of the Draft Declaration (E/800)**

Amend this article to read as follows:

“Everyone has the right to life. The State should ensure the protection of each individual against criminal attempts on his person. It should also ensure conditions that obviate the danger of death by hunger and exhaustion. The death penalty should be abolished in time of peace.”

A/C.3/266

12 October 1948

**Mexico: Amendments to Articles 3, 6, 7, 14, 23 and 25 of the
draft Declaration (E/800)**

Article 3

Add, as a second paragraph, the following:

“The right to maintenance, health, education and work is considered essential in order to obtain an increase in the standard of living of the individual, as well as to secure the full existence of social justice and the full development of the human being.”

Article 6

Add, as a second paragraph, the following:

“There should likewise be available to every person a simple, brief procedure whereby the Courts will protect him from acts of authority that, to his prejudice, violate any fundamental Constitutional rights.”

Article 7

Add to the present text the following sentence:

“No one shall be subjected to imprisonment on account of civil debts, nor for breach of a work contract.”

Article 14

Insert at the beginning of the text before “Men and women” the following words:

“Without any limitation due to race, nationality or religion.”

Article 23

Add, at the end of paragraph 2, after “religious groups everywhere”, the following phrase:

“; education shall promote, by every possible means,³³ understanding and friendship among all peoples, as well as an effective support of the pacifist³⁴ activities of the United Nations³⁵.”

[2]

Article 25

Add the following as the second paragraph:

“He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary scientific, or artistic works of which he is the author.”

³³ The words “by every possible means” were replaced by “likewise” pursuant to A/C.3/266/Corr.1 of 17 October 1948.

³⁴ The word “pacifist” was deleted pursuant to A/C.3/266/Corr.1 of 17 October 1948.

³⁵ The words “for the maintenance of peace” were added pursuant to A/C.3/266/Corr.1 of 17 October 1948.

A/C.3/267

12 October 1948

**New Zealand: Amendments to Preamble and Articles 10, 12,
20, 21, 22, 23 and 27 of the draft Declaration (E/800)**

Preamble

Substitute the following for the present text:

“Whereas faith in fundamental human rights has been reaffirmed in the Charter of the United Nations,

“And whereas the Charter further provides that the United Nations shall promote universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

“And whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization by progressive measures, national and international, of their universal and effective recognition and observance, both among the peoples of the member States themselves and among the peoples of the territories under their jurisdiction;

“Now, therefore, the General Assembly proclaims this declaration of Human Rights as a common standard for achievement by all peoples and nations.”

Article 10

Substitute the word “arbitrary” for the word “unreasonable”.

Article 12

Substitute the following for the present text of paragraphs 1 and 2:

“Everyone is entitled to seek asylum from persecution.”

Article 20

Delete the following words:

“has the right to social security and”

(Compare proposed New Zealand amendment to article 22).

[2]

Article 21

Substitute the following for the present text of paragraph 3:

“3. Everyone is entitled to the protection of his interests through the membership of trade unions.”³⁶

³⁶ This was changed by A/C.3/267/Corr.1 of 15 November 1948 to: “Everyone has the right to the protection of his interests through membership of trade unions.”

Article 22

Substitute the following for the present text of paragraphs 1 and 2:

“Everyone has the right to social security adequate for health and wellbeing, including food, clothing, housing, medical care and social services, and protection in respect of unemployment, sickness, disability, old age, motherhood, childhood and widowhood.”

Article 23

- (a) Substitute the following two paragraphs for the present text of paragraph 1.
- “1. Everyone has the right to education.
 2. Education shall be free and universal with equal access on the basis of merit to higher education.”
- (b) Delete paragraph 2 of the present text.

Article 27

- (a) Delete paragraph 1.
- (b) Delete the words “morality, public order and the” from the present text of paragraph 2.

A/C.3/268

12 October 1948

Original Text: French

Uruguay: Amendment to the Draft Declaration (E/800)

Article 3

Amend to read as follows:

“Everyone has the right to life, *honour*, liberty, and to *legal, economic and social security*.”

Article 4

Amend paragraph (2) from this Article and include it in Article 9.

Article 5

Insert the word “physical” before the word “person”, or substitute the words “human being” for the word “person”.

Article 7

Delete the word “arbitrary” and add the following after “detention”:

“except in the case and according to the procedure prescribed by prior legislation. All persons subjected to arrest or detention have the right to have the legality of such action confirmed by a judge without delay and to be brought to trial within a reasonable period or set at liberty.”

Article 9

In paragraph 2 insert the word “punishable” before the word “under”.

Insert two new paragraphs as follows:-

“3. Laws which increase penalties or diminish means of or guarantees for defence may not be applied retroactively.

“4. No one shall be subjected to torture, to the death penalty or inhuman punishments, or to degrading treatment.”

Article 10

Amendment does not apply to the English text.

Article 12

Add the following sentence to paragraph 1:

“This right includes the diplomatic asylum in embassies and legations.”

[2]

Article 13

Amend to read as follows:

“1. Everyone has the right to a nationality.”

“2. (The present text of Article 13, substituting the word “unjustly” for “arbitrarily”.)

Article 15

Amendment does not apply to the English text.

Article 18

Insert the word “peaceful” before the word “assembly”, and add the following as Paragraph 2:

“No one may be compelled to belong to an association.”

Article 19

This Article is unacceptable in its present form.

- 1) This right does not belong to “everyone”, and
- 2) These acts cannot be performed in the territory of a foreign State.

Article 21

Add the following new paragraph 4:

“No one may be one be compelled to belong to a trade union.”

Article 27

In paragraph 2 substitute the words “prescribed by law solely for the purpose of securing” for the words “necessary to secure.”

Article 28

Substitute the words “perform any acts” for the words “engage in any activity.”

A/C.3/244/Rev.1

12 October 1948

Original Text: French

France: Amendments to Draft Declaration (Document E/800)

Between Articles 2 and 3

Insert Article 27 of the Draft.

Note: It is essential that the social framework in which man lives and the limitations on his rights should be in the first group of general theses, before enumeration of the rights themselves.

Article 7

Add a paragraph worded as follows:

“Any person arrested or detained is entitled to have the legality of the action taken against him confirmed without delay by a judge. He is also entitled to demand a verdict or release within a reasonable period.”

Article 9, Paragraph 2

This amendment does not apply to the English text.

Article 12, Paragraph 1

Add the following sentence:

“The United Nations, in concert with States concerned, is required to secure such asylum for him.”

Note: There is no point in proclaiming a right without at the same time stating whose duty it is to give effect to that right.

Article 13

(a) Begin with a new paragraph 1 worded as follows:

“Every human being has the right to a nationality.”

(b) The present paragraph 1 should become paragraph 2.

(c) Add a new paragraph 3 worded as follows:

“It is the duty of the United Nations to approach States for the purpose of preventing statelessness and, where necessary, to concern itself with the fate of stateless persons.”

[2]

Article 14

Word paragraph 2 as follows:

“Marriage may be contracted only with the full consent of the intending spouses.”

Note: There is no point in specifying both spouses.

Article 17

Between the words “impart” and “information”, insert the words “on his own responsibility” so that the Article reads as follows:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart *on his own responsibility* information and ideas through any media and regardless of frontiers.”

Article 19

Re-word paragraph 3 as follows:

“The authority of the law and of any government is founded on the will of the people as expressed at free and genuine periodic elections.”

Insert a paragraph 2 in the following terms:

“Everyone likewise has a right, to the protection of the moral and material interests that he may acquire through any inventions or literary, scientific or artistic works of which he is the author.”

A/C.3/259/Add.1

13 October 1948

**Recapitulation of Amendments to Article 3 of the draft
Declaration (E/800)**

(In the chronological order of their submission to the Committee)

Amendments

Mexico (A/C.3/266)

Add as a second paragraph, the following:

“The right to maintenance, health, education and work, is considered essential in order to obtain an increase in the standard of living of the individual, as well as to secure the full existence of social justice and the full development of the human being.”

Uruguay (A/C.3/268)

Amend to read as follows:

“Everyone has the right to life, *honour*, liberty and to *legal, economic and social security*”.

Union of Soviet Socialist Republics: (A/C.3/265)

Amend this article to read as follows:

“Everyone has the right to life. The State should ensure the protection of each individual against criminal attempts on his person. It should also ensure conditions that obviate the danger of death by hunger and exhaustion. The death penalty should be abolished in time of peace.”

A/C.3/270

13 October 1948

Original Text: French

Uruguay: Proposal

When it has approved the English text of the Declaration as a whole, the Committee shall be supplied with a French translation of the text. The members of the Committee may then submit amendments to the translation with the sole object of ensuring complete concordance between that text and the English text.

A/C.3/SR.101³⁷

13 October 1948

***Summary Record of the Hundred and First Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Wednesday, 13 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

23. Draft international declaration of human rights (E/800) (continued)

Article 2 (continued)

At the request of the Chairman, MR. CASSIN (France) read the report of the Informal Drafting Group. It read as follows:

“The Informal Drafting Group, composed of the representatives of France, the United States and the USSR met on Wednesday, 13 October in the forenoon.

“1. The Group accepted a USSR amendment to article 2 providing for the addition, between the words ‘property or other status’ (*situation de fortune ou autre*) and the words ‘or national or social origin’ (*d’origine nationale ou sociale*), of the word *soslovie* in the Russian text which is translated by the word *naissance* in the French text and ‘birth’ in the English text. The literal translation of the word *soslovie* would be *état* in French and ‘estate’ in English, but the Group noted that those words, as currently used, no longer had their former meaning.

“2. The Informal Drafting Group did not reach unanimity regarding the scope of its terms of reference in connexion with the suggestions of the French representative to substitute the word ‘opinion’ (*opinion*) for the words ‘political or other opinion’ (*opinion politique ou autre*) and the words ‘property or social status’ (*situation de fortune et condition sociale*) for the words ‘property or other status’ (*situation de fortune ou autre*).”

MR. DEDIJER (Yugoslavia) expressed his delegation’s dissatisfaction with the attitude taken by most of the members of the Committee in regard to article 2. That article raised one of the most important principles of the whole draft declaration, namely, the prohibition of discrimination; yet, with the exception of the USSR representative, no member had entered into a discussion of the substance of the article. There had in fact been an attempt to put the article to the vote prematurely, before due consideration had been given to the need to determine to what extent the conditions actually existing in the world corresponded to the ideal proclaimed. The Chilean representative had even said that no discussion of the article was necessary since all agreed that discrimination should be prohibited.

The Cuban representative’s statement that Cuba was the only country where discrimination was punishable by law was not accurate. Other countries had laws

³⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 134–41.

against discrimination. The Constitution of Yugoslavia had specific provisions against any kind of discrimination. In Yugoslavia discrimination had, indeed, existed before the Second World War as evidenced by the conditions in Macedonia at that time; but the Yugoslav people had solved that problem by their efforts during the war and no longer was there any discrimination whatsoever against any national [136] minorities. Yugoslavia was therefore able to speak with a clear conscience on the substance of article 2.

The Chilean representative had objected (100th meeting) to the fact that the USSR representative had repeatedly referred to the practice of discrimination in the United States and in the Union of South Africa. But no amount of discussion of such facts could be excessive, as they touched on a principle which it was the task of the Committee to defend. There was every reason for the Committee to ask why the Union of South Africa had failed to implement General Assembly's resolution 44(I) of 8 December 1946 regarding the treatment of Indians in South Africa, and why, in violation of the principles of the Charter, that country was following a racial policy that deprived four-fifths of its population of civil and human rights. The Union of South Africa was even preparing new legislation that was still more discriminatory. Moreover, at the 95th meeting the South African representative had made a statement in which he defended his country's right to practise racial discrimination.

The United States representative's amazement at such a statement was recorded in the Press of 9 October; but in the Committee the United States representative had kept silent, for in that country, also, there was discrimination, especially against coloured races and against women.

In order to avoid giving tacit encouragement to countries practising discrimination, the Committee must emphasize the great difference between the principles contained in article 2 and the actual situation existing in many countries.

MR. SANTA CRUZ (Chile) said that the Yugoslav representative was mistaken in his assertion that the representative of Chile had opposed discussion of the substance of article 2. What the latter had said was that the discussion on article 2 should not be used as a pretext for launching into political speeches directed against particular countries, as had been done by certain members of the Committee.

MR. TE WATER (Union of South Africa) observed that the question of the treatment of Indians in the Union of South Africa was not before the Third Committee and, in raising the point, the Yugoslav representative was making a patent attempt to bring two delegations into conflict. The South African delegation, however, would refuse to be drawn into the conflict. Moreover, if the question of discrimination against Indians in the Union of South Africa were discussed, discriminatory practices in other countries would inevitably be brought before the Committee.

The South African delegation was co-operating in the work on the draft declaration of human rights and was prepared to vote for draft article 2. Its vote, however,

would be subject to the reservation that the rights and freedoms mentioned in the draft declaration would be interpreted by the Union Government to mean the [137] fundamental rights and freedoms laid down in the Charter of the United Nations.

THE CHAIRMAN said it was the usual practice to refer disputes, such as the one between India and South Africa, to the First Committee. He was sure that representatives would co-operate in limiting the discussion to questions which were the concern of the Third Committee.

MR. PÉREZ CISNEROS (Cuba), referring to the suggestion that the word “birth” should be added to article 2, agreed fully with the idea behind the proposed addition, but he questioned the appropriateness of the word itself. Article 1, as adopted by the Committee, stated that all human beings were *born* free and equal. Article 2 then, should not appear to contradict that statement of faith by implying that a distinction could be made between human beings for reasons of birth.

He therefore suggested that some words such as “social condition” or “social status” might be used instead of the word “birth”.

MR. PAVLOV (Union of Soviet Socialist Republics) explained that the Informal Drafting Group had agreed that the Russian word *soslovie* referred to a legally-sanctioned inequality such as had existed in feudal Europe when different groups of people had, by reason of their birth, different rights and privileges. Although such inequalities no longer existed in most countries, there were still some remnants of that social structure left; the fight against those remnants should be continued by a definite statement in the draft declaration. If the Committee agreed that the declaration should contain the principle he had raised, the idea should be made perfectly clear. He therefore suggested that the word “estate” should be inserted, in parentheses, after the word “birth”.

MR. MAYHEW (United Kingdom) was prepared to accept the Informal Drafting Group’s suggestion for the insertion of the word “birth”, although he would have preferred a reference to “class”, in the sense of inherited privileges for the sons of noblemen, capitalists, party leaders and so on. The Government of the United Kingdom was working for the establishment of just such a classless society.

MR. DE LEÓN (Panama) moved the closure of the debate on article 2.

MR. HABIB (India) and MR. PÉREZ CISNEROS (Cuba) opposed the motion of closure on the grounds that the Committee had not yet found the appropriate word.

THE CHAIRMAN put to the vote the motion for closure of debate.

The motion was rejected by 18 votes to 16, with 10 abstentions.

MR. SANTA CRUZ (Chile) agreed with the Cuban representative that the expression “social status” or “social condition” was preferable to “birth”. He would accept the informal drafting [138] group’s suggestion, however, on the understanding that that expression was implied in the word “birth”.

MR. HABIB (India) favoured the use of the word “caste” rather than “birth”, as the latter was already implied in the article.

He would not comment on the dispute concerning the Indians in South Africa because the Third Committee was not the appropriate place in which to discuss it. The silence of the Indian delegation should not be misinterpreted, however; the remarks of the USSR and Yugoslav representatives were true and at the appropriate place and time the Indian delegation would state its grievances.

COUNT CARTON DE WIART (Belgium) was opposed to the fusion of articles 2 and 6¹ because the former stated a principle, while the latter described how that principle should be implemented. After hearing the discussion, his delegation found the Drafting Group's suggestion was more comprehensible, although it still preferred the original USSR proposal (E/800, page 32) for the insertion of the word "class". A person not yet of age could not have the same rights as an adult, and in that sense, the proposal that there should not be discrimination on the grounds of birth was not very clear.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that the various words suggested were not altogether acceptable when translated into Spanish. The word "class", for example had an economic meaning. What was wanted was an expression to the effect that no discrimination should exist between groups. The word "birth" was more flexible, but neither "class" nor "caste" was accurate.

He suggested the insertion of the Latin word *status*; it was known in all countries and it implied that there should be no discrimination on either social, religious or economic grounds.

MR. DE ALBA (Mexico) felt it was natural that there should be some linguistic confusion. The Drafting Group's suggestion was not satisfactory and the Chilean representative's proposal was too vague. The USSR representative had wanted to state that there should be no inherited privileges, but even that expression was not sufficiently clear. Certain words might give rise to controversy and for that reason, he agreed with the Belgian representative who said he would prefer the use of the simple word "class". It had been in use long before the appearance of the Communist Manifesto, as was shown in the writings of Thomas Jefferson.

MRS. ROOSEVELT (United States of America) pointed out that the declaration was intended for ordinary, not learned people and from that point of view, the original text seemed the most satisfactory. Although class and caste distinction still existed, human beings were trying to outgrow the use of such words. In her opinion, the words "property or other status" took into consideration the various new suggestions that had been made.

[¹] See 100th meeting.

[139]

She reminded the Committee that no country was without its faults and that article spoke of political, as well as racial discrimination. Every representative had to speak as he thought fit, but in so doing should be as courteous as possible towards other peoples and other Governments.

MR. IMPERIAL (Philippines) felt the discussion had shown that the Drafting Group's suggestion most closely approximated the Committee's intention. The words "class" and "caste" referred to certain specific systems while "birth" applied to everyone.

MR. CHANG (China) pointed out that the question had been discussed fully in the Human Rights Commission. The concept of race, colour, social origin, and in most cases sex, involved the question of birth, while social origin also embraced the idea of class or caste.

The Commission's text seemed to him the clearest and least confused and he hoped that a large majority of the Committee would support it.

MR. WATT (Australia) agreed with the Cuban representative that it might be dangerous to insert the word "birth" in article 2. Article 1 stated that all men were born equal; it was now suggested that article 2 should state that all men were not born equal.

The word "or other status" covered the various suggestions that had been made and he therefore, hoped that the USSR representative would find it possible to accept the original text.

MR. APPADORAI (India) said his delegation had only proposed the word "caste" because it objected to the word "birth". The words "other status" and "social origin" were sufficiently broad to cover the whole field; the delegation of India would not, therefore, insist on its proposal.

MR. SAINT-LOT (Haiti) agreed with the Indian representative. It was not possible to make all countries accept the word "class", because of its current Marxist implications. The word "caste" had never been properly defined. The Latin word *status* was not satisfactory because it was used in regard to the whole body of laws concerning the individual, whether he was slave or freeman. The original text took into consideration all the realities to which reference had been made, and he hoped the USSR representative would be able to accept it.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) was convinced that the Latin word *status* no longer had the connotation attributed to it by the Haitian representative. In modern law it was admitted that different groups could be governed by different laws. Those groups were not social classes but differed because of their organization. What the article had to make clear was that there could be no discrimination on the grounds of birth or political opinion, regardless of what might be the individual's legal group.

[140]

MR. IMPERIAL (Philippines) moved the closure of the debate.

THE CHAIRMAN put the motion for closure to the vote.

The motion was adopted by 26 votes to 8, with 10 abstentions.

THE CHAIRMAN put to the vote the Informal Drafting Group's proposal for the insertion of the word "birth" in the text of article 2.

The proposal was adopted by 19 votes to 16 with 7 abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that a vote should be taken on his proposal for the addition of the word "estate" in parentheses after the word "birth". He did not think that the meaning would be sufficiently clear unless that addition were made.

MR. MAYHEW (United Kingdom) and MR. CASSIN (France) said that the word "estate" had completely changed in meaning since the eighteenth century. It would therefore, be inadvisable to make the addition suggested by the USSR representative. The insertion of the word "birth" in English and *naissance* in French clearly conveyed the meaning of the USSR amendment.

THE CHAIRMAN put to the vote the proposal submitted by the USSR representative.

The proposal was rejected by 28 votes to 7 with 8 abstentions.

In reply to the request made by MR. PAVLOV (Union of Soviet Socialist Republics) that the Russian word *soslovie* should be used as a translation of the word "birth", which had just been inserted in the text, THE CHAIRMAN said that the Committee could not take a formal decision on the matter, but that word would in all probability be used in the translation, in view of the preceding discussion.

He read the English text of article 2, as amended:

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

He called for a vote on the article as a whole.

MR. CASSIN (France) pointed out certain errors of style in the French text and thought that a final French version should be submitted to the Committee before a vote was taken on article 2 as a whole.

THE CHAIRMAN thought that the Committee should vote at once on the English text of article 2, so that the translators would have a basic text to work on. He pointed out that it had always been the practice of the United Nations to adopt texts in one of the working languages and to have them translated subsequently. That practice had been followed in the preparation of the United Nations Charter at San Francisco.

When the French translation of article 2 was prepared, representatives would be able to make [141] drafting changes, provided such changes did not involve a change in the adopted English text.

MR. COROMINAS (Argentina) and MR. DE ALBA (Mexico) agreed with the Chairman and emphasized the importance of accuracy in the translation.

MR. CASSIN (France) thought that, in the case of a solemn declaration, the responsibility for the French text should not be left entirely to the translators. If the vote were postponed until the French translation of the amended text of article 2 was prepared, there would be a chance of achieving unanimity. The English and French texts of the declaration were to be equally authentic and the French-speaking representatives should not be asked to vote on a text of which there was no official French translation.

That view was supported by the representatives of Cuba, Belgium, Lebanon, Uruguay, Egypt, Australia, Greece and the Byelorussian Soviet Socialist Republic.

MR. KURAL (Turkey) formally moved the adjournment of the meeting so that an approved French text could be prepared before the final vote on article 2 was taken.

THE CHAIRMAN put the motion for adjournment to the vote.

The motion was adopted by 37 votes to 6 with 2 abstentions.

The meeting rose at 5:50 p.m.

A/C.3/244/Rev.1/Corr.1

14 October 1948

Original Text: French

France: Amendment to the additional article in the Declaration concerning petitions and communications (E/800)

“Everyone has the right, either individually or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides. He also has the right to petition or communicate with the competent organs of the United Nations in matters relating to human rights.”

A/C.3/271

14 October 1948

Recapitulation of Amendments to Article 4 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee)

Article 4 (Text adopted by the Commission on Human Rights)

- “1. No one shall be held in slavery or involuntary servitude.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Amendments

Panama (Document A/C.3/220)

It is proposed that this article be suppressed in its present form and that its text be used as stated above.

Union of Soviet Socialist Republics (Document E/800)

Addition to Article 4:

“Slavery and the slave trade are prohibited in all their aspects; and all violations of this principle, whether they be of an overt or clandestine nature, must be punished according to law.”

Cuba (Document A/C.3/224)

Delete the first paragraph as being unnecessary after Articles 1 and 3.
Transfer the second paragraph to the section dealing with purely juridical rights (Article 26: “Right to fair trial”) in the following wording:

“No one shall be subject to cruel, degrading, and non-customary punishment. It should be noted that the idea of Article 4 is embodied by the Cuban delegation in its proposed new draft of Article 7.

Uruguay (Document A/C.3/268)

Omit paragraph 2 from this Article and include it in Article 9.

A/C.3/272

14 October 1948

Recapitulation of Amendments to Article 5 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee)

Article 5 (Text adopted by the Commission on Human Rights)

Everyone has the right to recognition everywhere as a person before the law.

Amendments

Cuba (A/C.3/224)

Transfer this text, worded as follows, to the beginning of the section relating to purely juridical rights (Articles 16 and following):

“Everyone has the right to recognition everywhere as possessing rights and obligations and enjoying fundamental civil rights.”

Uruguay (A/C.3/268)

Insert the word “physical” before the word “person”, or substitute the words “human being” for the word “person”.

A/C.3/274

14 October 1948

Original Text: French

**Uruguay, Cuba, Lebanon: Joint Amendment to Article 3 of the
Draft Declaration (E/800)**

Replace this article by the following text:

“Everyone has the right to life, honour, liberty, physical integrity, and to the legal, economic and social security which is necessary to the full development of the human personality.”

A/C.3/275

14 October 1948

Recapitulation of Amendments to Article 6

(In the chronological order of their submission to the Committee)

Article 6 – Text adopted by the Commission on Human Rights

All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Amendments

Panama (A/C.3/220)

It is proposed to have the text of this article combined with that of Articles 2 and 8, as follows:

Article – All are equal before the law and are entitled to equal protection of the law and to enjoy all the rights and freedoms set forth in this Declaration, without distinction of any

kind, such as race, colour, sex, language, religion, political or other opinion, property or other status, or national or social origin.

Cuba (A/C.3/224)

No longer serves any purpose in view of the re-drafting of Article 2 as proposed by the Cuban delegation, and of the wording of Article 5.

(Amendments to Article 6)

Union of South Africa (A/C.3/226)

Delete the words “against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

Mexico (A/C.3/266)

Add, as a second paragraph, the following:

“There should likewise be available to every person a simple, brief procedure whereby the Courts will protect him from acts of authority that, to his prejudice, violate any fundamental Constitutional rights.”

A/C.3/276

14 October 1948

Recapitulation of Amendments to Article 7

(In the chronological order of their submission to the Committee)

Article 7 – Text adopted by the Commission on Human Rights

“No one shall be subjected to arbitrary arrest or detention.”

Amendments:

Panama (A/C.3/220)

It is proposed that this article be replaced in the manner above stated in connection with Article 3.

(“Article – No one shall be subjected to arbitrary arrest or detention. Every person who has been detained has a right to have the legality of his detention judicially determined without any delay. Neither shall anyone be held in slavery or involuntary servitude. (Paragraph 1, Article 4 of the draft).

Union of Soviet Socialist Republics (E/800)

Addition to Article 7:

“Anyone deprived of his liberty has the right to be informed without delay of the grounds for his detention. Anyone who is arrested, detained or imprisoned is entitled to have immediately established by the judicial authorities the legality of his deprivation of liberty, and also to have his case brought before the court without undue delay or to be liberated.

No one may be imprisoned on account merely of failure to carry out his contractual obligations.

Everyone is entitled to compensation for illegal arrest or deprivation of liberty.”

Cuba (A/C.3/224)

Transfer this text, worded as follows, to the section relating to purely juridical rights (Article 23: “Protection against arbitrary detention”):

[2]

“No one may be deprived of his freedom except in such cases as are covered by existing laws and in conformity with the procedure prescribed by them.

“No one may be detained for failure to carry out obligations of a purely civil character.

“Any person who has been deprived of his freedom is entitled to have the legality of the measures to which he has been subjected immediately confirmed by a judge, and to be tried without unjustifiable delay or, failing that, to be released.

“He is also entitled to humane treatment while under detention.”

France (A/C.3/244)

Add a paragraph 2 worded as follows:

“Any person arrested or detained is entitled to have the legality of the action taken against him confirmed without delay by a judge. He is also entitled to demand a verdict or release within a reasonable period.”

Mexico (A/C.3/266)

Add to the present text the following sentence:

“No one shall be subjected to imprisonment on account of civil debts, nor for breach of a work contract.”

Uruguay (A/C.3/268)

Delete the word “arbitrary” and add the following after “detention”:

“except in the cases and according to the procedure prescribed by prior legislation. All persons subjected to arrest or detention have the right to have the legality of such action confirmed by a judge without delay and to be brought to trial within a reasonable period or set at liberty.”

A/C.3/277

14 October 1948

Recapitulation of Amendments to Article 8

(In the chronological order of their submission to the Committee)

Article 8 – Text adopted by the Commission on Human Rights

“In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.”

Amendments:

Panama (A/C.3/220)

It is proposed that the phrase “in full equality” be eliminated from this article in as much as the subject of *equality* is covered by another article.

It is further proposed that an article dealing *in toto* with the subject of *fair trial* be made up of Article 8, modified as stated above, and the first paragraph of Article 9, as follows:

Article:

1. In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled to a fair hearing by an independent and impartial tribunal.
2. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

Union of Soviet Socialist Republics (E/800)

Alterations and Supplements to Article 8:

Insert the following before the text as adopted by the Commission:

“All people are equal before the law. Judges must be independent and answerable only to the law. Legal procedure in all States must be based on democratic principles.

“Hearings in all courts must be public, with the exception of cases for which provision is made by law for the purpose of complying with public morality or in the interests of national security. The accused [2] shall be entitled to the services of a defence counsel in court.

“Should the accused be unfamiliar with the national language he must be enabled to acquaint himself with all the details of the case by means of an interpreter, and he must be given the right to speak in court in his native language.”

Egypt (A/C.3/264)

Amendment does not concern the English text.

Cuba (A/C.3/224)

Articles 8 and 9

Transfer these texts worded as follows to the section relating to purely juridical rights (Article 26: "Rights to a fair trial"):

"Any person against whom a charge is made is presumed to be innocent until proved guilty according to law.

"Everyone charged with a penal offence has the right to an impartial and public hearing and trial by previously established tribunals in accordance with existing laws.

"Such person shall not be subjected to cruel, degrading or non-customary punishment."

It is pointed out that the improvements made in Article 5 by the Cuban delegation's amendment render Article 8 almost superfluous.

A/C.3/278

14 October 1948

Recapitulation of Amendments to Article 9

(In the chronological order of their submission to the Committee)

Article 9 – Text adopted by the Commission Human Rights:

"1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed."

Amendments:

Panama (A/C.3/220)

It is proposed that the second paragraph of this article be made part of a separate article dealing with the right to *security against ex post facto laws*, as follows:

Article – No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence under national or international law, at the time when it was committed. Neither can anyone be imposed a heavier penalty than the one that was applicable at the time the offence was committed.

Union of Soviet Socialist Republics (E/800)

Before the word “trial” delete “public”, and after the word “defence” add: “. . . and which must be public except in cases involving considerations of the protection of public morality or national security.”

United States of America (A/C.3/223)

Insert the word “penalty” before the word “offence” in the second paragraph of Article 9, so as to read:

“Article 9

2. No one shall be held guilty of any *penal* offence on account of any act or omission which did not constitute a *penal* offence, under national [2] or international law, at the time when it was committed.”

France (A/C.3/244)

Article 9, paragraph 2:

This amendment does not apply to the English text.

Uruguay (A/C.3/268)

In paragraph 2 insert the word “punishable” before the word “under”.

Insert two new paragraphs as follows:

“3. Laws which increase penalties or diminish means of or guarantees for defence may not be applied retroactively.

“4. No one be subject to torture, to the death penalty or inhuman punishments, or to degrading treatment.”

A/C.3/SR.102³⁸

14 October 1948

Summary Record of the Hundred and Second Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Thursday, 14 October 1948,
 at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

³⁸ The text of the document is from *Official Records of the General Assembly, Third Session, 1948*, pp. 142–51.

24. Draft international declaration of Human rights (E/800) (continued)*Article 2 (continued)*

MR. GRUMBACH (France) read the French text of article 2, after which the Chairman read the English text and put the article to the vote, as amended.

Article 2, as amended, was adopted by 36 votes to none, with 1 abstention.

MR. TE WATER (Union of South Africa) said he had been absent during the vote and asked that it be noted in the record that he was in favour of article 2.

THE CHAIRMAN announced that Mr. Cassin, in consultation with the other French-speaking representatives, had agreed to keep abreast of the Committee's work in the preparation of French texts.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) withdrew his proposal (A/C.3/270), as the Chairman's announcement satisfied his wish.

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Article 3¹

THE CHAIRMAN drew attention to the various amendments to article 3, recapitulated in documents A/C.3/259 and 259/Add.1.

The Mexican (A/C.3/266), USSR (A/C.3/265) and Panamanian (A/C.3/220) amendments were furthest removed from the original text. The Uruguayan (A/C.3/268), Lebanese (A/C.3/260) and Cuban (A/C.3/224) amendments were similar in content and could perhaps be unified in a single text.

MR. PAVLOV (Union of Soviet Socialist Republics) considered his proposal furthest removed in substance from the original text. The article under discussion was an important one because it dealt with the right to life, yet at the same time, it said nothing about how that right was to be guaranteed. The USSR amendment suggested concrete measures for the implementation of the right to life and, therefore, was furthest removed from the article as it then read.

He drew attention to the practice of lynching which was still being carried on in the United States and referred to a document put forward by the National Association for the Advancement of Colored People. In the years 1893 and 1923, the number of lynchings per year exceeded two hundred; as late as 1945 and 1946, more than several dozen barbaric lynchings had taken place. It was against such criminal acts that some provision had to be included in article 3.

Mr. Pavlov thought that the State should take adequate measures to protect human life from starvation and exhaustion. He recalled that, in the last quarter of the nineteenth century, 15 million people had died of starvation in India. He also said that, according to statistics published in the British Press, the life expectancy in

India, in 1931, was 26.9 years, while the life expectancy in England and Wales, in 1933, was 60 years. Geographical and climatic factors were sometimes held to blame for such a state of affairs, but the mortality figures for Indians as compared with Europeans in India, proved that those conditions were the result of the practices of the colonial administration. Further, the statistics for 1933 showed that most of those Indians had died from exhaustion and not because of climatic factors.

He referred to the remarks of an American, Senator Caraway,³⁹ to the effect that more than 1,000 Americans had died of famine and exhaustion during the year 1931.

The death penalty had been abolished in the USSR and all efforts were directed towards creating a life that was worthy of man. The socialist humanitarianism practised in that country ensured that the death penalty could not be carried out except in times of special emergency, such as war.

There were other contemporary phenomena which threatened human life. In the presence of an aggressive weapon such as the atomic bomb,

[1] Article 4 of the draft universal declaration of human rights (A/777).

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which would bring death and terror to defenceless civilian populations, it seemed ironic to speak of the right to life.

His proposal was a concrete one and whether it was rejected or not, discussion of it would make a practical issue of article 3.

MR. DE LEÓN (Panama) felt it was inappropriate to state more than one right in a single article, as was done in article 3. The expression “security of person” was vague and did not indicate whether safety, or the absence of discrimination, was meant. Further, the right to liberty was nowhere clearly defined in the draft declaration. In his opinion, one article should be devoted to the right to life and liberty alone.

The declaration should also include a reference to the right of *habeas corpus*.

The meaning of the right to life might seem obvious, but it should be stated. Inspired by the Recommendations at Havana of 1917, the Panamanian delegation proposed the following wording (A/C.3/220):

“Every human being has the right to exist and to maintain, develop, protect and defend his existence.”

MR. DE ALBA (Mexico) realized that article 3 was the result of careful and prolonged study, but felt, nevertheless, that it might be wise to redraft the principle along the lines of the American Declaration of Independence. For the right to “the

³⁹ Thaddeus Horatius Caraway (1871–1931) represented Arkansas in the United States Senate. In 1931 he condemned the Republican administration on the Senate floor, claiming 1,000 people were dying from hunger every day in the United States.

pursuit of happiness”, he suggested a more timely concept which would embrace the social security of the individual.

The Chinese representative had referred to Rousseau’s theory that man was naturally good (96th and 98th meetings). Such a confession of faith should be echoed throughout the United Nations and if it was held to be true, the declaration should lay emphasis on the social aspect and freedom of man.

The Mexican proposal was not a novel one and its aim was simply to strengthen the fundamental principles by the inclusion of economic concepts. It was based on a manifesto on the subsistence level, written by a famous Latin-American philosopher in 1929. In it, he stated that all human beings had the right to healthy remunerative work, healthy food, adequate housing, clothing, medical assistance, social justice, higher education and leisure.

MR. ROZAKIS (Greece) thought the mention of the right to life in article 3 was superfluous. That right was so basic and elementary that he felt it might weaken the force of the declaration to mention it specifically in article 3. It was fully recognized that many men of genius were weak physically and it was no longer the practice to exterminate cripples in order to maintain the race at a high level of physical health. He thought that the mention of the right to life might imply that that right was questioned and he therefore proposed that article 3 should be amended to read:

“Everyone has the right to liberty and security of person.”

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MR. AZKOUL (Lebanon) said that the first three articles were extremely important as they gave a summary of the rights which were defined fully in the rest of the declaration. It was very important that the preliminary enumeration of rights in the first three articles should be complete. In the draft under discussion, they did not include any mention of economic and social rights or of the right to freedom of thought. His delegation had therefore suggested the wording “full development of his personality” (A/C.3/260) to cover that omission.

The delegations of Mexico, Uruguay and Cuba had submitted their amendments with the same aim of completing the preliminary summary of rights, but he felt that the phrase suggested by his delegation covered satisfactorily all the points raised in the other amendments.

He agreed with the substance of the amendment submitted by the delegation of Panama (A/C.3/220) and with the first part of the amendment submitted by the USSR (A/C.3/265), but he did not think that they should be included in article 3. He suggested that the relevant parts of those two amendments should be combined to form an additional article defining the right to life.

With regard to the last part of the amendment submitted by the representative of the Soviet Union, he thought that it was premature to recommend abolition of the death penalty.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that the first part of the USSR amendment was already covered in article 3. The second and third parts, providing for action on the part of the State to protect the right to life, were implicit in the original statement: "Everyone has the right to life". Article 20, dealing with social security, covered some of the points raised in the USSR amendment. It was well known that the average length of life differed in various parts of the world as a result, among other things, of differing geographical, economic and political factors. The declaration was, however, concerned with the proclamation of rights, while their application would depend on the conditions in each country and did not come within the scope of the document under consideration.

He thought that the recommendation concerning the death penalty, contained in the USSR amendment, would be more appropriately included in article 9.

With regard to the amendment submitted by the delegation of Panama, he agreed in substance with many of its provisions, but felt that they should be included in different articles. The right of *habeas corpus* should be included in article 7, the statement that no one should be held in slavery should be included in article 4, and the reference to torture would be more appropriate in article 9.

With regard to the Mexican amendment (A/C.3/266), he agreed that the inclusion of provisions to secure the full existence of social justice and the full development of the human being would bring the declaration up to date.

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The amendments submitted by the delegations of Lebanon (A/C.3/260) and Cuba (A/C.3/224) resembled the one submitted by his delegation (A/C.3/268). He agreed with the representative of Lebanon that the first three articles should contain an enumeration of all the rights defined in the declaration and that the draft under discussion was incomplete in that respect. His delegation thought that mention should be made of the right to honour, so that actions which might lower human dignity or prejudice the self-respect of the individual would be explicitly condemned. It might be said that an attack on a man's honour was also an infringement of his liberty, but he felt that the right to honour should be mentioned separately for the sake of clarity.

The second part of his amendment, suggesting mention of legal, economic and social security, would cover in concise terms the points raised in the Mexican amendment.

MR. PÉREZ CISNEROS (Cuba) said that the amendment submitted by his delegation (A/C.3/224) contained an important new idea in suggesting the insertion of the word "integrity". That idea was linked with those contained in the amendments submitted by the delegations of Uruguay and Lebanon, but it was not covered by them. His amendment had been prompted by the terrible events which had taken place during the war, when human beings had been used for surgical experiments.

He, therefore, felt that the inclusion of the words “integrity of person” was essential to complete the enumeration of fundamental human rights.

With regard to the USSR amendment, its provisions were already taken into account in the Constitution of his country, but he thought that the duties of States should be mentioned in a covenant rather than in a declaration. He also referred to the fact that there was no mention of the right to liberty and security in that amendment.

He would support the amendment submitted by the delegation of Uruguay if the concept of integrity of person were added to it.

MR. ALTMAN (Poland) supported the USSR amendment and said that the right to life would have to be guaranteed by the State if it were to have any real meaning. In his country the death penalty was used only for the punishment of war criminals and, in all other cases, his delegation was in favour of the abolition of the death penalty in time of peace.

He appreciated the ideas contained in the Mexican amendment (A/C.3/266) but thought that they would be more appropriately included in article 20.

MR. GRUMBACH (France) was in favour of the draft submitted by the Commission on Human Rights. He feared that any additions to article 3 would only serve to weaken it. All the additions suggested were covered in the later articles of the draft declaration and he appealed to the members of the Committee to consider the document as a whole when submitting amendments to the individual articles.

With regard to the duties of the State, mentioned in the USSR amendment, he said that such [146] provisions belonged to the covenant rather than to the declaration. The final bill of human rights would have three parts: a declaration, a covenant and measures of implementation. The Committee was at present considering the declaration only and provisions for legislative measures to implement the general principles set forth in the declaration would be discussed at a later stage.

He was, himself, in favour of the abolition of the death penalty; but if a recommendation to that effect were included in the declaration, it would have to be carefully defined, so as to cover the practice of sending prisoners to concentration camps, where a lingering death awaited them, as well as capital punishment, in the normal acceptance of the term.

He referred to the remarks made by the representative of Greece to the effect that it was unnecessary to mention the right to life as it was self-evident and said that, on the contrary, it was more than ever necessary to proclaim the right to life after the terrible crimes that had been perpetrated during the war. Economic and social rights were generally recognized but the classic rights which had been considered as self-evident had been repeatedly violated in recent years. It was, therefore, essential to proclaim man’s fundamental right to life. He thought it would be inadvisable to include social, legal and economic rights in article 3. The Commission on Human Rights had purposely mentioned those rights in separate articles so as to give each its full weight.

All the rights mentioned in the various amendments were included in other parts of the draft declaration and he therefore appealed to the members of the Committee to accept the wording of article 3 as it appeared in the basic draft, in which the fundamental right to life was set forth clearly and concisely.

BADAWI BEY (Egypt) said that, during the general debate, he had raised the question whether the duties of States should be mentioned in the declaration. He did not think that those duties should be mentioned, as the declaration was not intended to include legal obligations. He requested that the Committee should decide on the question of principle before a vote was taken on the USSR amendment.

MRS. ROOSEVELT (United States of America) fully supported the views expressed by the representative of France. She recalled that in drafting article 3, the purpose of the Commission on Human Rights had been to make a general declaration of principle from which the more detailed rights in the succeeding articles would logically follow. For the most part the various proposed amendments contained little that could be criticized with regard to substance, but the points they raised were almost all included in subsequent articles of the draft declaration. For example, the matter of legal rights, found in the Panamanian (A/C.3/220) and Uruguayan (A/C.3/268) amendments, was covered by articles 4 through 10; economic rights and social security by articles 20 through 26; the idea of honour, mentioned in the Uruguayan amendment, was implied in article 4, which prohibited “degrading” treatment of human beings; and the ideas in the first three sentences of the USSR proposal (A/C.3/265) were [147] certainly covered by the various articles that set forth legal, social and economic rights. The members of the Committee should therefore bear in mind the document as a whole before they agreed to make amendments to the basic text of article 3, and should realize that all the questions raised had already been fully discussed in the Commission on Human Rights.

Referring to the USSR proposal to include a statement concerning the abolition of the death penalty, Mrs. Roosevelt pointed out that the Third Committee was not attempting to write criminal law. Although many representatives undoubtedly agreed with the principle involved, the declaration of human rights was not an appropriate place for stating it. In the declaration there should be no attempt to outline the obligations of States, for that was a subject with which the proposed covenant on human rights should deal.

In reply to the Soviet Union representative’s statement regarding conditions in the United States, Mrs. Roosevelt observed that the document that had been cited in connexion with lynching was over a year old. She very much deplored the fact that there were some cases of lynching in her country, but such a practice was exceptional and clearly in violation of law. She regretted that the USSR representative had chosen to repeat again the attack he had made against the United States, in spite of the plea she had made for a different spirit among members of the Committee.

MR. SANTA CRUZ (Chile) agreed that article 3 should state the broad basis on which subsequent articles rested; to include additional matters in it would be to destroy its meaning. Since the Mexican and USSR amendments suggested additions that would tend to define the basic right expressed in article 3, he could not support those proposals.

On the other hand, the amendments suggested by Cuba, Lebanon and Uruguay did not attempt to develop the fundamental statement of principle but would merely add certain broad ideas such as social security, integrity of the individual, and the full development of personality. Mr. Santa Cruz hoped that the representatives of those three countries would consult with each other with a view to combining their proposed amendments to a single text.

Concerning the remarks made by the USSR representative, Mr. Santa Cruz wondered whether the Committee was receiving the constructive participation in its work that it had a right to expect from a great Power. He further wondered whether there did not exist in the USSR that same undue emphasis on the concept of the State that had, in recent years, led to the abuses which the draft declaration of human rights was especially designed to prevent.

MR. MAYHEW (United Kingdom) spoke in favour of the existing terse text of article 1, which was particularly effective. He observed, moreover, [148] that it followed closely the form of article 1 of the Bogotá declaration. As the concepts of liberty and security were expanded in articles 4 through 19 of the draft declaration and the concepts of social security and economic and cultural rights were laid down in the later articles, there seemed no need to elaborate in article 3 the general principle proclaimed.

He could not, however, support the USSR proposal for although he in no way objected to the substance of the first three sentences, it raised the question of enumerating in the draft declaration the duties of States. To accept that idea would be unwise and would mean that the whole of the draft declaration would have to be rewritten.

In regard to the inclusion of a statement prohibiting the death penalty, Mr. Mayhew pointed out that the question of the death penalty was highly controversial; while certain countries had abolished the death penalty, many others had not. It would therefore be a mistake to insert mention of it in the draft declaration, for some States might on that account find the declaration difficult to accept.

The remarks made by the representative of the Soviet Union had, unfortunately, seemed to strike a controversial note. Mr. Mayhew was sure that the USSR representative had not intended to give the impression that he was attacking the United States and the United Kingdom and he hoped that that impression would soon be dispelled.

MR. HOFFMEISTER (Czechoslovakia) felt that an article which began with the assertion that man had the right to life should logically conclude, as the representative of the Soviet Union had suggested, with the statement against the death penalty.

An important principle was involved, and even though the death penalty was still legal in some countries including his own, the declaration of human rights should set forth the principle that it should be abolished.

The evolution that had taken place in the matter of national security in Czechoslovakia was making the situation more favourable for the abolition of the death penalty. Although that step had not yet been taken, Mr. Hoffmeister stated that he had been authorized by his Government to support the USSR proposal.

MR. BEAUFORT (Netherlands) accepted, in general, the text proposed by the Commission on Human Rights, as it was a brief and clear statement of basic rights. The Netherlands delegation had intended, however, to suggest the addition of the words "bodily integrity" after the word "life"; but as that idea was covered by the Cuban proposal (A/C.3/224), the Netherlands would support that proposal. The inclusion of the principle of security and integrity of person was necessary, for even though the idea was to be found in the second paragraph of the preamble and in the second sentence of article 4, that right, which had been so barbarously violated by the Nazis before and during the Second World War, should be emphasized by being placed in the general statement of principle in article 3.

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MR. AZKOUL (Lebanon), while fully appreciating the value of the text proposed by the Commission on Human Rights, in the work of which his delegation had participated, still felt that some amendments to draft article 3 were necessary.

The very fact that article 3 should lay the general foundation for the more specific articles that followed was a reason why it should contain the addition his delegation suggested, for only in that way would the foundation be solid.

MR. PLAZA (Venezuela) supported the Uruguayan and Cuban amendments to article 3.

He could not, however, accept the USSR proposal: the first part of it was unnecessary in view of the other articles of the draft declaration; and the second part, referring to the abolition of the death penalty in time of peace, implied that such punishment would be legal in time of war. That idea was contrary to the laws of Venezuela which guaranteed the inviolability of human life at all times.

As far as the Mexican and Panamanian proposals were concerned, Mr. Plaza agreed with both in substance, but thought the former should be considered in connexion with article 20, and the latter in connexion with article 9.

MR. CARRERA ANDRADE (Ecuador) asked whether the USSR representative would be willing to have the discussion of his draft amendment postponed until the Committee began discussion of article 7.

He then suggested that articles 3 and 4 should be combined into a single article, with the two paragraphs of article 4 becoming the second and third paragraphs of article 3. As it stood, article 3 was not complete in itself; it needed the precise statements of article 4 to make clear the rights it was proclaiming.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that his proposal (A/C.3/265) should be put to the vote in parts: first, the first and second sentences; secondly, the third sentence; and thirdly, the last sentence, on which he wished a vote by roll-call. Abolition of the death penalty was a vital question that was of concern to every human being; a roll-call vote on that point would be a means of testing the sincerity of representatives who had defended the right of the individual to life.

Referring to the Cuban representative's observations that the USSR draft amendment omitted mention of the rights to liberty and security, Mr. Pavlov explained that to ensure the protection of the individual against criminal attacks on his person would be to ensure the right of security in the most concrete way possible. The right to liberty had been omitted merely because it had already been stated in article 2. His delegation was prepared, however, to add those two rights to its draft amendment if that would make it acceptable to a majority of the delegations.

The Uruguayan argument against the USSR proposal was neither logical nor correct; it was based on the age-old device of rejecting proposals on the ground that if they added nothing new they were unnecessary and if they did in fact add [150] something new, they were necessarily wrong. Uruguay had stated its willingness to discuss the death penalty in connexion with article 9. A vote could therefore be taken immediately on the substance of the USSR proposal and the secondary question of where it would be placed in the draft declaration could be decided later.

In reply to the point raised by the French representative, namely that the death penalty should be defined to include a lingering death in concentration camps, Mr. Pavlov observed that under proper administration, concentration camps and penal institutions did not lead to death but rather to reform of the persons temporarily deprived of their liberty.

Speaking of the Egyptian representative's objection to the inclusion of the State's duties in the draft declaration, Mr. Pavlov recalled that his delegation had never accepted that idea. He had always maintained that the question of whether both rights and duties should be mentioned had to be decided for each article separately. Certainly there should be no objection to specifying the State's obligation to guarantee a right so vital as the right to life. Even though the declaration might have no legal force, it would have a powerful moral force and should therefore make clear the State's duty in regard to that right. The declaration must not be a theoretical document but must suggest methods for realizing the rights it set forth.

The United States representative had said that the proposed statement regarding the death penalty was not appropriate, as the Committee had not been asked to revise penal codes. That argument, however, was not valid; a statement should first be made in the declaration and then the individual States should revise their penal codes accordingly.

Mr. Pavlov was glad that the United States representative agreed with him in condemning lynching in the United States. He could not therefore understand why

she should object to his having given that illustration of arbitrary, criminal and terroristic action against the lives of individual citizens. He himself made a clear distinction between the practice of lynching and the policy of the United States Government, but that country should adopt special legislation to enforce the existing laws against lynching.

Mr. Pavlov observed that the United States representative had not given any convincing reply to the statement by Senator Caraway which he had cited.

The Chilean representative had also spoken against the USSR amendment. That attitude was not surprising and was entirely in line with the anti-Soviet policy adopted by that country in the previous few months. The Chilean attack against the Soviet Union, however, had been wholly unfounded in fact; no evidence whatsoever had been presented to substantiate Chile's claim that the Soviet Union threatened the peace of the world.

Mr. Pavlov pointed out that no attempt had been made by the United Kingdom representative to deny any of the facts he had presented in regard to the former British colonial regime in [151] India. There was good reason to criticize a regime which had resulted in the death of millions of people. The United Kingdom representative had less reason to feel offended by such criticism than Mr. Pavlov himself had to feel offended by what the United Kingdom representative had said about the Soviet Union at the 93rd meeting. Whereas Mr. Pavlov had merely stated facts, Mr. Mayhew had made untrue assertions about the Constitution of the Soviet Union.

Each of those assertions would be answered in detail by the USSR representative during the Committee's discussion of the pertinent articles of the draft declaration.

The meeting rose at 6:10 p.m.

A/C.3/269

15 October 1948

Original Text: French

France and Lebanon: French version of article 2 of the Draft Declaration (E/800)

“Toute personne peut se prévaloir de tous les droits et de toutes les libertés proclamés dans la présente Déclaration, sans distinction aucune, notamment de race, de couleur, de sexe, de langue, de religion, d'opinion politique ou autres, de fortune ou de toute autre situation, de naissance, d'origine nationale ou sociale.”

A/C.3/279

15 October 1948

Original Text: French

**Lebanon: Amendment to the USSR Amendment to Article 3
(Document A/C.3/265)**

“Everyone has the right to existence and to protection against criminal attempts on his person and against the danger of death by hunger and exhaustion.”

A/C.3/SR.103⁴⁰

15 October 1948

***Summary Record of the Hundred and Third Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday, 15 October 1948,
at 10:45 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

25. Draft international declaration of human rights (E/800) (continued)

Article 3 (continued)

MR. WATT (Australia), said that, as the USSR delegation had asked for a vote by roll-call on the last sentence of its amendment (A/C.3/265) to article 3, he wished to explain his delegation's position.

Although the Australian delegation was in agreement with the substance of the USSR amendment, it would vote against it. Referring to the second and third sentences of the amendment, he expressed the view that the declaration should not include a list of the duties of States, and secondly, that the substance of those two sentences was already contained in the Charter.

At San Francisco, his delegation had urged the adoption of Article 56, whereby all Members pledged themselves to fulfil the obligations set forth in Article 55, which mentioned human rights and fundamental freedoms.

⁴⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 151–61.

In regard to the USSR proposal for the abolition of the death penalty, he felt it was a question that would give rise to much discussion and on which it would be difficult to achieve agreement. The Committee had been confronted with a similar difficulty when the Brazilian delegation had expressed the wish to include in article 1 of the declaration the idea of a divine power. On that occasion, the Brazilian delegation had shown a laudable spirit of compromise and had agreed to withdraw its amendment (99th meeting).

The Australian delegation's attitude towards the abolition of the death penalty could not be questioned. Abolition of the death penalty was included in the election platform of the Australian Labour Party, which was assuming the responsibility of Government. Even in the parts of Australia where the death penalty was still in force, the authorities made extensive use of their right of pardon.

He then considered the amendment submitted jointly by the Uruguayan, Cuban and Lebanese [152] delegations (A/C.3/274). It raised a new and interesting concept of human dignity. However, article 1 of the declaration mentioned "dignity" and the following articles expanded the idea. The amendment was therefore superfluous. Moreover, it was too long, and was lacking in concision and clarity, whereas the basic text was particularly clear and would, on that account, awaken a response in the public conscience.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) felt that the right to life should not be included in article 3 and, therefore, that the second, third and fourth sentences of the USSR amendment were not acceptable. Further, the USSR delegation's definition of the concept was inadequate, for the social programmes of many countries had already gone beyond it. He was not opposed to the abolition of the death penalty; on the contrary, he went much further than the provisions of the USSR amendment and reserved his right, when article 9 was considered, to submit an amendment for the abolition of the death penalty in time of war as well as in peacetime.

He then defended the amendment submitted by his delegation jointly with the Lebanese and Cuban delegations. Defence of the physical integrity of the individual was particularly important to his delegation. He did not agree with the United States delegation that the right to honour should be mentioned in the second paragraph of article 4. In any case he thought that article 3 should contain a general statement of vital rights, without prejudice to the explanation and development of those rights in the following article. He therefore urged that the right to honour should be mentioned specifically in article 3.

The Australian representative had criticized the wording of the joint amendment and had said it was too long and lacked clarity. In his opinion, principles should not be sacrificed for reasons of drafting.

In conclusion he expressed the hope that all who had taken part in the preparation of the draft declaration would support the amendment.

MR. AZKOUL (Lebanon) said that the amendment submitted jointly by the Lebanese, Cuban and Uruguayan delegations had been largely inspired by the Mexican proposal (A/C.3/229), which was to have been included in article 1. The amendment took into consideration all the points appearing in that proposal; he therefore asked the Mexican delegation to support the joint amendment.

Referring to the amendments submitted by the USSR (A/C.3/265) and Panama (A/C.3/220), he said he agreed entirely with the substance of the first article proposed by Panama in replacement of article 3 and with the whole of the USSR amendment. He agreed with the USSR in thinking that the right to life should be defined and explained. The joint amendment took into account all the ideas expressed in the USSR amendment. Nevertheless, the appropriate place for the USSR [153] proposal was not in article 3. It would be better to include it in article 4, or make it the subject of a separate article. If the USSR delegation withdrew its amendment, the Lebanese delegation would propose the following new text (A/C.3/279) for insertion in article 4:

“Everyone has the right to existence and to protection against criminal attempts on his person and against the danger of death by hunger and exhaustion.”

For the reasons he had given, he appealed to the representatives of Panama and the USSR not to insist on their amendments so that the Committee’s work would not be delayed.

MR. DE LEÓN (Panama) said his delegation had no preconceived idea concerning the order of the articles. It was prepared to change its views: the task of the sub-committee on co-ordination would be to harmonize the various opinions that had been expressed.

The important point was to find a definition of the right to life and to liberty that would include the idea of *habeas corpus*. The question where that definition should be inserted was secondary.

In regard to the joint Lebanese, Uruguayan and Cuban amendment, he submitted, first of all, that the expression “the right to honour” was not a reasonable one. Honour was not a right, but a sentiment; the individual had no right to honour; he had the duty to obey the precepts dictated by honour, and his enjoyment of the right

to reputation, laid down in article 10 of the declaration, depended on the extent to which he performed that duty.

Further, the amendment was intended to include all the rights included in the declaration, and yet the list it gave was incomplete. In particular, the right to freedom of expression, and to equality, and certain other rights were not mentioned. For that reason the amendment was not acceptable.

MR. CHANG (China) observed that all the amendments that had been submitted, even including those which had not been favourably received by the majority, had made a constructive contribution towards the preparation of a common declaration.

Members should not, however, lose sight of the draft declaration itself, which was the basic document before the Committee. That draft was the result of assiduous efforts and it had been reviewed with meticulous care. The original text prepared at Geneva had been submitted to the various Governments for their comments. It had then been examined by the Commission on Human Rights and had been altered in the light of the various comments and suggestions to which it had given rise. The draft declaration before the Committee was the final product of all that work, and it constituted only two-thirds of the original Geneva draft. It had, in fact, been realized that the clearer and the more concise the declaration was, the more effective and lasting it would be. The declaration was not intended for legal experts or scholars but for the general public; it should therefore be as striking as possible, and, accordingly, as concise as possible. It would be [154] best if the declaration were limited to ten articles, but, if that were not possible, it should at least be limited to the twenty-eight articles which composed the draft under consideration.

Mr. Chang then stated that the Third Committee had not studied the structure of the declaration as a whole. In his opinion, such a study was essential and therefore, in examining the declaration, he would refer specially to its logical structure.

Articles 1, 2 and 3 expressed the three main ideas of eighteenth century philosophy; article 1 expressed the idea of fraternity, article 2 that of equality, and article 3 that of liberty.

The idea of liberty was then analysed and applied to the human being in article 3. Article 3 set forth a basic principle, which was then defined and clarified in the nine following articles. Article 4 dealt with slavery, article 5 with the right to recognition as a person before the law, article 6 with equality before the law, article 7 with the need to establish the legality of arrest, article 8 with the right to a fair trial, article 9 with the right to be presumed innocent until proved guilty, article 10 forbade

interference with a person's privacy and article 11 affirmed the right to freedom of movement.

In that series of articles the idea of liberty was gradually and progressively enlarged; it was applied first to the individual, then to the family, and finally to the country. That series of articles therefore served to develop and clarify the idea of liberty.

Articles 13 to 20 dealt individually with the various social institutions.

Article 20, like article 3, expressed a general idea which was explained and developed in the following articles. Article 20 set forth the idea of social security and that idea was defined and developed in articles 21 to 25.

The structure of the draft declaration was, therefore, perfectly clear and logical. The joint amendment submitted by the delegations of Lebanon, Uruguay and Cuba and especially its second part, which expressed the same idea as article 20, was not in harmony with that structure. It was for that reason that Mr. Chang thought that the draft declaration should be left as it was, since it possessed the qualities of logic, clarity and brevity, qualities which were indispensable if the declaration was to prove effective.

MR. CASSIN (France) said that his delegation did not object to the principles embodied in the USSR amendment but it could not vote in favour of that amendment because it considered those principles to be out of place in article 3. His delegation felt, moreover, that the simple statement of the right to life, without anything further, would give the declaration more force. The Committee should try to draft a declaration which would be both effective and restrained, a declaration whose influence on men's lives would increase progressively with the signature of the conventions to which it would give rise. Moreover, the USSR amendment was incomplete in that it did not mention liberty and security of person, which were essential to complete the idea of the right to life.

He admitted that the Mexican amendment and the joint amendment submitted by the delegations [155] of Uruguay, Cuba and Lebanon, constituted an attempt to achieve a synthesis of fundamental human rights. He felt, however, that although such an attempt was praiseworthy in itself, it was Utopian in outlook and the first of rights contained in those amendments was incomplete. Moreover, the idea of the right to honour, which was mentioned in the joint amendment, was implicit in article 1 which stated that "all human beings are born free and equal in dignity and rights". As for the idea of the full development of man's personality, which was also included in that amendment, it would be unnecessary to include it if article 27 dealing with the duties of the individual towards the community, were given its logical position directly after articles 1 and 2, as requested by the French delegation.

Mr. Cassin pointed out to the authors of those amendments that all their proposals were already contained in the draft declaration and he suggested that the Committee should proceed to a vote on article 3 as it stood.

MR. COROMINAS (Argentina) said that the request made by the USSR delegation that its amendment should be put to the vote by roll-call and in parts, placed the Argentine delegation in a difficult position. That request meant that the members of the Committee would have to come to a decision on isolated phrases. All the ideas contained in the amendment were in conformity with the principles recognized in his country and he therefore could not vote against them in substance. The Argentine delegation could not, however, accept the USSR amendment, which proposed that all those principles should be combined and inserted in an article of the declaration where they would be out of place.

As the representative of China had said the chief aim of the declaration of human rights was to be brief, clear and explicit, so that everyone would be able to understand it. It was not to be a convention for the exclusive use of legal experts.

In those circumstances, and for purely drafting reasons, the Argentine delegation would abstain from voting on the USSR amendment. It would vote in favour of the joint amendment submitted by the delegations of Uruguay, Lebanon and Cuba.

MR. DE ATHAYDE (Brazil) thought that article in its existing form, was sufficiently clear and concise. Its wording was perfectly suited to a declaration, the aim of which was to set forth basic principles and which could not therefore be complete in every respect. The aims of the amendments were praiseworthy but their proposals did not add anything to the original text.

The death penalty was not provided for in the legislation of Brazil, but the Brazilian delegation felt, nevertheless, that it was not for the Third Committee to take a decision on a question which was essentially one of penal law. Brazil could not, therefore, vote in favour of the amendment submitted by the USSR.

MR. KAYALY (Syria), recalling a remark made on the previous day by the representative of the USSR, explained that the fire which had destroyed [156] the library of Alexandria in ancient times had been caused by the hostilities connected with Antony's invasion, a fact which disproved the theory put forward by the historian Abul Faraj, mentioned by Mr. Pavlov.

As far as the current discussion was concerned, the representative of Syria agreed with those speakers who had maintained that article 3 should not be changed either in substance or in form. It followed logically after articles 1 and 2 and it set forth the fundamental principles on which man's existence was based.

Mr. Kayaly was in complete agreement with the representatives of China and France: the text of article 3 was concerned with the human being and should be

strictly limited to an enumeration of human rights. The legislation for the protection of the liberty and security of the individual was quite a different aspect of the problem. For the moment, the Committee's task was to define the fundamental rights of the individual. Consequently, the Syrian delegation felt that the USSR amendment was quite out of place in connexion with the article in question; moreover, it raised questions which were within the scope of the penal code. That amendment could be studied at a later stage and might, if necessary, form a separate recommendation.

The representative of Syria announced his intention of voting in favour of article 3 as it stood.

MR. DEHOUSSE (Belgium) said that he would vote for the first sentences of the amendment submitted by the USSR delegation, but would not vote on the last sentence.

He agreed with the Chinese representative that the Third Committee had not attached sufficient importance to the work so far accomplished by the authors of the draft declaration. Although the General Assembly was sovereign and in no way obliged to confirm drafts submitted to it, it was none the less true that the draft declaration of human rights had already been the subject of long and detailed study. Moreover, the composition of the Commission on Human Rights had taken into account the principle of geographical distribution; it was therefore probable that the text submitted to the Assembly already constituted a compromise, which it would be difficult to improve upon.

If a discussion on that text were prolonged indefinitely, each step would present new dangers, for it raised many problems, and it appeared that the stage where all controversies were insoluble or exhausted had already been reached. Some of those ideas had been debated throughout the whole course of human history.

In these circumstances it might be asked why the Belgian delegation was venturing along that road, and why it was declaring itself in favour of certain parts of the Soviet Union amendment. The reason was that, in its opinion, the wording of that amendment was better than that of article 3 as it stood at the moment. It gave a more factual character to that article and made explicit certain other points which were too vague; it brought out the important role which the State was bound to play in actually applying human rights.

It should be borne in mind that, when once the declaration was passed, it would be sent to the various States, and that the Governments would be [157] called upon to ensure its practical application. It was not clear what was the exact legal value of a declaration of that nature which, in its final form, would be a recommendation of the General Assembly. The Belgian declaration reserved the right to make a statement on that point at a suitable moment.

Mr. Dehousse said that he would not vote on the last sentence of the USSR proposal because the law of his country imposed the death penalty for certain categories of crime. Capital punishment was not inflicted for political offences or offences under the ordinary law of the land. War criminals and collaborators were, however, sometimes executed. Moreover, the text proposed by the USSR was vague on that point; if the letter of that text were to be applied, it would become impossible to shoot traitors in time of peace. His delegation would therefore abstain when the roll-call vote was taken.

Turning to the amendment submitted jointly by Uruguay, Cuba and Lebanon (A/C.3/274), he thought it contained valuable elements, such as the words "physical integrity". The expression "legal, economic and social security", however, was vague and ambiguous. It might in fact be asked whether that "social security" was equivalent to the "social security" which had a very definite legal sense in such countries as the United Kingdom and Belgium. A more precise terminology should therefore be adopted.

In conclusion, Mr. Dehousse asked that the amendment be voted on in parts.

MR. PÉREZ CISNEROS (Cuba) pointed out that any imperfection in the wording of his amendment was due to the fact that according to the rules of procedure, delegations who were neither French-speaking nor English-speaking were obliged to submit their amendments in a language which was not their own.

THE CHAIRMAN, replying to the Cuban representative, stressed the advantage of a rule providing for only two working languages in an organization which embraced so many countries speaking different languages.

MR. BEAUFORT (Netherlands) praised the effort made by the delegations of Uruguay, Cuba and Lebanon to find a wording which would be acceptable to all. He feared, however, that the result of that effort was not as happy as might have been wished. In all enumerations there were likely to be omissions, and that was the drawback of the amendment submitted by the three delegations.

In examining article 3 the Committee should not lose sight of the general structure of the declaration which it had been called upon to draw up. The Netherlands delegation had on the previous day (102nd meeting) supported the Cuban amendment because it thought that the principle of the physical integrity of the individual should be included in the declaration. If, however, as the Chinese representative had pointed out, it was understood that the individual's right to security meant the guarantee of his physical integrity, the Netherlands delegation would vote for article 3 in the form submitted by the Commission on Human Rights. [158]

As far as the USSR amendment was concerned, his delegation agreed in principle with the idea that the death penalty should be abolished in time of peace, it being

understood that such a decision would not prevent its application in the case of war criminals and traitors convicted of acts committed during a war. It could not, however, vote in favour of the inclusion of that principle in article 3, for it thought that it had no place in a declaration of human rights. The principle should be reconsidered when a separate declaration of the rights and duties of the State – which his delegation considered necessary – was prepared.

MR. KURAL (Turkey), in explaining the position of his delegation, said it would vote against the second and third parts of the amendment submitted by the USSR because, while agreeing with them in substance, it believed that provisions such as those would be more appropriate in a declaration of the duties of the States than in a declaration of human rights. His delegation would vote against the fourth part of the amendment because it considered that it was not for the Committee to decide on the abolition of the death penalty, a highly controversial principle which a number of countries had not yet accepted. Finally, it would abstain in the vote on the first sentence of the USSR amendment because it preferred the fuller wording of the basic text of article 3.

MR. DEDIJER (Yugoslavia) said that the Committee's primary concern should be to draw up a truly useful document. To that end it was indispensable not only that it should discuss human rights theoretically, but that it should also take into account their practical application.

His delegation did not mean thereby that the Committee should interfere in the internal affairs of States or assume the role of an accuser. It recognized, on the contrary, that the declaration of human rights would be of a purely declaratory nature and the Governments would in no way be bound to apply it, although it would be desirable that they should. At the same time, however, the Committee must be wary of working in the abstract, lest the declaration which it was to draw up should fail to be an effective protection for all those whose rights were violated and whose security was threatened.

The text proposed for article 3 was too vague; the amendment submitted by the USSR delegation, and the Lebanese amendment to a lesser extent had the advantage of making it more precise.

He stressed the fact that the amendment submitted by the Soviet Union filled a real need. There were groups of people in the world whose personal security was constantly in danger. Thus, in the United States of America, the custom of lynching still prevailed; the President's Committee on Civil Rights set up by President Truman had acknowledged its evils in the report it published in 1947. By the exploitation of fear, lynching had in certain parts of the United States become an instrument of political discrimination. And yet, in spite of the efforts of numerous

democratic organizations, the United States Congress had thus far refused on eight occasions to take measures to outlaw lynching.

Should the declaration of human rights fail to include provisions which would make such a state of affairs impossible in the future, it would be useless, and the Committee would have failed to fulfil its mission.

Those were the reasons why the Yugoslav delegation, having always taken an active part in the fight against discrimination, would vote for the USSR amendment.

MR. MAYHEW (United Kingdom) supported the statements of the French and Chinese representatives. While it duly appreciated the efforts of all the delegations which had submitted constructive suggestions and amendments, the United Kingdom delegation thought that the Third Committee should show greater respect for the draft prepared by the Commission on Human Rights.

With regard to the question of capital punishment, Mr. Mayhew wished to make it clear that a vote on the amendment submitted by the USSR could in no way be interpreted as a vote for or against the abolition of the death penalty.

To illustrate his point of view he recalled that in spite of the fact that the death penalty was applied in Czechoslovakia, the Czechoslovak delegation had stated that it would vote in favour of the USSR amendment. Similarly, countries which had abolished capital punishment were free to vote against the Soviet Union amendment if they felt that it was out of place in article 3.

Mr. Mayhew expressed the hope that the position of countries such as his, which had not abolished the death penalty, would be respected, and that they would not be forced to withhold their approval of the whole of the declaration.

He deplored the fact that the Third Committee was used by some delegations as a platform from which to make tendentious accusations for propaganda purposes against countries that did not share their ideology.

The representative of the USSR had attacked the United States of America on the question of lynching, and the Yugoslav representative had just done the same; he had attacked the United Kingdom on the question of the alleged exploitation of the populations of Non-Self-Governing Territories under its care. The United States delegation had confined itself to a brief and dignified reply; the United Kingdom delegation had preferred to make no reply. Both had hoped that their self-restraint would be rewarded; they had been mistaken.

He did not wish his silence to be mistaken for weakness or for inability to answer. The allegations of the representative of the Soviet Union were, however, easy to refute. To see that, it would be sufficient to refer to the information which the United Kingdom scrupulously supplied to the Division of Information from Non-Self-Governing Territories of the Secretariat, in accordance with the provisions of Article 73(e) of the Charter. It showed a constant

decrease in the death rate in all the territories administered by the United Kingdom. Far from creating conditions which, as claimed by the USSR delegation, promoted hunger and death among the indigenous population, the activity of the United Kingdom expressed itself in the creation of conditions which compared favourably with those in other underdeveloped areas of the world. A comparison should be drawn between areas, whether autonomous or not, with the same degree of development, and not – as was insidiously done by the delegation of the Soviet Union when it contrasted India with the British Isles – between an underdeveloped area and one which, on the contrary, had reached a very high standard of living.

Not only did the United Kingdom delegation formally refute the allegations of the USSR representative, but it wished to state that it did not recognize his moral right to make such accusations against the United Kingdom. The Soviet Union claiming to be the only country qualified to speak on behalf of democracy, had erected within its borders a system which made slaves of millions of human beings. Such a phenomenon was unprecedented in all history.

Since 1930 the world had felt concern about the existence of forced labour in the USSR. But at the time it had been viewed as a normal phenomenon, the inevitable result of a vast social experiment. The Soviet Union had, for a long time, been accorded the benefit of the doubt, and even a certain amount of sympathy.

However, the war had taught the world a terrible lesson. The discovery of concentration camps in Nazi Germany had proved that it was possible for a totalitarian State to conceal its activities from its own population and even from its officials, and that once a State resorted to police methods it could no longer stop.

An ever-increasing amount of evidence had engendered doubts in the minds of those who were most ardently in favour of the Soviet regime. It showed that the statements which claimed the USSR to be the workers' paradise were nothing but shameful fraud. Mr. Mayhew recalled that as far back as 1931, Mr. Molotov had announced to the Sixth Congress of the Soviets that great public works would be undertaken with the help of "masses deprived of liberty"; and whereas the Soviet Union continued, on the one hand, to execute large-scale projects, it did not, on the other, grant any amnesty or liberate its prisoners. The most conservative estimate reached after a perusal of Soviet publications placed the number of prisoners in the USSR at 1,830,000; non-Soviet estimates placed that number at several million. Furthermore, tragic reports of the conditions prevailing in the detention camps of the Soviet Union came from prisoners who had escaped from those camps; such testimony was perhaps not to be accepted without a certain amount of scepticism, but it could not be discarded completely.

The anxiety of the free world was aroused; the free peoples of the world wished to have their questions answered. If there was nothing to hide, why did the USSR surround itself with so much secrecy? It was patent that the anxiety was justified, and that was why the United Kingdom could not allow Soviet propaganda to attack, as it was [161] doing, the freedom of democratic peoples and their way of life.

MRS. ROOSEVELT (United States of America) having asked for the closure of the debate, MR. KAMINSKY (Byelorussian Soviet Socialist Republic) drew attention to the fact that that was the second attempt to prevent the USSR delegation from answering the accusations made against its country.

Following a request for adjournment presented by MR. PÉREZ CISNEROS (Cuba) THE CHAIRMAN put that motion to the vote, in accordance with rule 108 of the rules of procedure.

The motion was adopted by 26 votes to 12, with 5 abstentions.

The meeting rose at 1:30 p.m.

A/C.3/274/Rev.1

16 October 1948

Original Text: French, English

Uruguay, Cuba, Lebanon: Joint Amendment to Article 3 of the Draft Declaration (E/800)

Replace this article by the following text:

“Everyone has the right to life, honour, liberty, physical integrity, to the security of his person and to the economic, social and other conditions necessary to the full development of the human personality.”

A/C.3/283

16 October 1948

Recapitulation of Amendments to Article 10 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee)

Article 10 (Text adopted by the Commission on Human Rights)

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

*Amendments:**Lebanon (A/C.3/260)*

Delete the word “unreasonable”.

New Zealand (A/C.3/267)

Substitute the word “arbitrary” for the word “unreasonable”.

Uruguay (A/C.3/268) (does not apply to the English text).

Panama

Add to this article the words: *person, activities, and property*, so that the article reads as follows:

“No one shall be subjected to unreasonable interference with his person, his home, his family, his privacy, his activities, his property, his correspondence or his reputation”.

A/C.3/287**16 October 1948****Recapitulation of Amendments to Article 14 of the
Draft Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

Article 14 – Text adopted by the Commission on Human Rights.

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.
2. Marriage shall be entered into only with the full consent of both intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

Paragraph 2. Add after the first sentence of the text as adopted:

“Men and women shall enjoy equal rights both during marriage and when divorced.”

Paragraph 3. At the end of the third paragraph add the words:

“by society and the State”.

Saudi Arabia (A/C.3/240)

It is proposed that paragraph 1 be modified in the following manner:

“Men and women of legal matrimonial age within every country have the right to marry and to found a family and are entitled to the full rights as defined in the marriage laws of their country”.

France (A/C.3/244)

Word paragraph 2 as follows:

“Marriage may be contracted only with the full consent of the intending spouses”.

(Note: There is no point in specifying “both” spouses.)

[2]

Lebanon (A/C.3/260)

Change the order of the paragraphs so that paragraph 3 becomes paragraph 1, paragraph 1 becomes paragraph 2, and paragraph 2 becomes paragraph 3.

In paragraph 2 in the original text, add the words: “free and” before the words: “full consent”.

Egypt (A/C.3/264)

Replace this article by the following text:

“Everyone has the right to found a family, which is a fundamental element of society, and is entitled to the protection of that family”.

Mexico (A/C.3/266)

Insert at the beginning of the text before “men and women” the following words:

“without any limitation due to race, nationality or religion”.

A/C.3/284/Rev.1⁴¹

16 October 1948

**Recapitulation of Amendments to Article 11 of the
draft Declaration (E/800)**

(In the chronological order of their submission to the Committee)

Article 11

(Text adopted by the Commission on Human Rights)

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own.

Amendments:

Union of Soviet Socialist Republics (E/800)

- (a) Paragraph 1. After the words “residence within the borders of each State”, add “in accordance with the laws of that State”.
- (b) Paragraph 2. After the words “to leave any country, including his own”, add “in accordance with the procedure laid down in the laws of that country”.

Cuba (A/C.3/232)

Amend this article to read as follows

“Every person has the right to fix his residence within the territory of the State of which he is a national, to move about freely within such territory and not to leave it except by his own will”.

Lebanon (A/C.3/260)

In paragraph 2 add at the end the words: “and to return to his country”.

Egypt (A/C.3/264)

Replace this article by the following:

“Everyone has the right to establish his residence in the territory of the State of which he is a national, to have freedom of movement within it and to leave it only of his own accord”.

[2]

⁴¹ A/C.3/284/Rev.1 was actually issued on 30 October 1948; this is the date of issuance of A/C.3/284. The revised document adds the Cuban proposal.

Panama (A/C.3/280)

Add to this article a paragraph reading as follows:

“This right is limited by the power of the State temporarily to compel a person to reside within certain limits as a penalty for a criminal offence, or to enforce writs of *ne exeat regno* lawfully issued by courts in civil jurisdiction.”

A/C.3/285/Rev.1⁴²

16 October 1948

Recapitulation of Amendments to Article 12 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee)

Article 12

(Text adopted by the Commission on Human Rights)

1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Amendments:

Union of Soviet Socialist Republics (E/800)

Replace paragraph 1 by the following:

“The right of asylum is guaranteed to all persons persecuted in connexion with their activity in defence of the interests of democracy or for their scientific activity or for their participation in the struggle for national liberation.”

Bolivia (A/C.3/227)

Add to article 12, paragraph 1, a second sentence reading as follows: “This right shall extend to asylum in embassies or legations.”

Cuba (A/C.3/232)

Amend this article to read as follows:

“Every person has the right to seek and receive asylum in foreign territory, in case of persecution not resulting from common law crimes.”

⁴² A/C.3/285/Rev.1 was issued on 30 October 1948; this is the date when A/C.3/285 was issued. The revised document adds the Cuban proposal.

Saudi Arabia (A/C.3/241)

Delete from paragraph 1 the words: “and be granted”.

France (A/C.3/244)

Add the following sentence:

[2]

“The United Nations, in concert with countries concerned, is required to secure such asylum for him.”

(Note: There is no point in proclaiming a right without at the same time stating whose duty it is to give effect to that right.)

United Kingdom (A/C.3/253)

Article 12 (1): Amend to read, “Everyone has the right to seek and to enjoy in other countries, asylum from persecution.”

Egypt (A/C.3/264)

At the end of paragraph 1 add the following words:

“in accordance with the rules of international law”.

New Zealand (A/C.3/267)

“Everyone is entitled to seek asylum from persecution.”

Uruguay (A/C.3/268)

Add the following sentence to paragraph 1:

“The right includes diplomatic asylum in embassies and legations.”

A/C.3/SR.104⁴³

16 October 1948

***Summary Record of the Hundred and Fourth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Saturday, 16 October 1948,
at 10:45 a.m.

Chairman: Mr. Charles Malik (Lebanon).

⁴³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 161–71.

26. Draft international declaration of Human rights (E/800) (continued)***Article 3 (continued)***

MR. DE ALBA (Mexico) recalled that at the previous meeting the Lebanese delegation had invited his own to associate itself with the joint amendment to article 3 submitted by the delegations of Cuba, Uruguay and Lebanon (A/C.3/274).

The Mexican delegation had no intention of insisting at any cost on its own amendment (A/C.3/266). It realized that it was perhaps too long and recognized that its central idea had been presented in a harmonious synthesis in the joint amendment. Mr. de Alba consequently accepted that joint amendment, at least as regards the substance, but he wished to make some reservations and clarifications.

The Mexican amendment mentioned the right to life, the right to a possibility to raise the standard of living, and economic and social rights.

Mr. de Alba admitted that by mentioning the right to life, the right to liberty and the right to physical integrity, the joint amendment included the essential points of the Mexican amendment. He therefore accepted it, on the understanding that it covered the right to work, the right to health and the right to education, to which the Mexican delegation attached particular importance.

With regard to the right to education, some representatives had pointed out that article 20 mentioned “cultural rights”. Mr. de Alba wished to stress that there was a difference between the “right to education” and the “cultural rights” mentioned in article 20. Culture was part of a country’s spiritual heritage; it was not learned, it was lived. Consequently, it differed from education, and that was why inclusion of the expression “cultural rights” – an expression which he criticized for its vagueness – should not prevent an explicit mention of the right to education.

[162]

Turning to the remarks made by the representative of Uruguay, Mr. de Alba thought it pointless to mention the right to honour. The concept of honour was indeed too general and its interpretation depended on emotional factors which varied with the individual. Furthermore, article 1 of the declaration mentioned human dignity, which, according to Mr. de Alba, covered the concept of honour.

Among those who had expressed their views on the joint amendment, the representative of China had pointed out (103rd meeting) that the greater part of the ideas in that amendment were already stated in the draft declaration; the amendment seemed to him, for that reason, to be superfluous. Mr. de Alba could not agree with that, for on the one hand, the amendment reinforced the provisions of article 3, and on the other, it spoke of the social rights which, in his opinion, it was indispensable to mention at the beginning of the declaration.

Mr. de Alba emphasized that the various observations submitted by Mexico or by other delegations in no way constituted a systematic criticism of the draft

declaration. They were motivated by a sincere and fervent desire to improve the draft which, in his opinion, was neither sufficiently specific nor sufficiently complete. It must not be forgotten that the declaration was intended primarily for the common man and for that reason it was important that it should be as clear as possible. That was the spirit in which the observations of the various delegations should be viewed.

Mr. de Alba paid tribute to the tremendous work done by the Commission on Human Rights. Nevertheless, that Commission included only a minority of Member States. It was therefore both logical and just that the States which had not taken part in its work should be allowed to present their observations concerning the draft declaration which it had drawn up.

Mr. de Alba then considered the amendments submitted by Panama (A/C.3/220) and the USSR (A/C.3/265) respectively.

He thought that the former was perfectly reasonable but out of place in article 3.

The same could be said of the USSR amendment. No one could question its merit with regard to substance, for it set forth indisputable moral injunctions. Moreover, whatever the observations and criticisms it had aroused, all the delegations had unanimously accorded its content their unreserved approval. But as it mentioned not only the rights of individuals but also the duties of States it would be much better to include it in a different article or to make it the subject of a separate article.

The Mexican delegation had agreed to support the joint amendment which, as a matter of fact, took into account the main point of the USSR amendment – because it considered that representatives with the most divergent views could agree on lofty and high-minded principles, if they were presented with tact and in a conciliatory manner.

In that connexion, Mr. de Alba said that the tone of the discussions in the previous few days [163] had been regrettable. In the last few meetings the debate had in fact been in the main confined to a verbal duel between the representatives of the major Powers, with representatives of countries of lesser importance attending in the role of worried and helpless spectators.

The major powers should, he thought, take into account the views of the countries of lesser importance and not restrict them to the role of passive spectators of their disputes. The small and middle States had sufficient information and judgment to be able to discriminate between truth and propaganda in the speeches which had been made.

No State was perfect and each lent itself to a certain measure of criticism. That was why it was necessary to try to be indulgent and understanding. History offered striking examples of the excellent results that could be obtained by a spirit of

conciliation. When President Roosevelt had re-established diplomatic relations with the USSR, he had emphasized that totally different ideologies could continue to exist side by side if each party respected the opinions of the other and did not try to advocate or impose its own.

In spite of divergences of ideas, the Allies had achieved close collaboration which made victory possible. It was that collaboration which had made it possible to draw up the Charter at San Francisco; if the labours of the Third Committee were to be crowned with success, such collaboration should govern the study of the declaration of human rights.

MR. PÉREZ CISNEROS (Cuba) stated that he had followed with great interest the discussion which had arisen in connexion with the amendment presented by his delegation jointly with the delegations of Uruguay and Lebanon (A/C.3/274).

He expressed particular appreciation to the representative of China, who had been the first to give the Committee a clear explanation of the mention which the Commission on Human Rights had had in preparing the draft declaration.

Referring to the arguments of the representative of Panama, he recognized the validity of some of Mr. de León's views, particularly with regard to the necessity of including the idea of honour in the declaration. He feared, however, that the formula which had been suggested might give rise to misinterpretation because honour could not really be considered as a right: honour was an inalienable attribute of the individual and the most that could be said was that society should devote its every effort to the protection of so valuable a possession.

Mr. Pérez Cisneros recalled that the Cuban delegation had already proposed the inclusion of the idea of honour in article 10 of the declaration and that it had submitted the following amendment in that connexion (A/C.3/232).

“Every person has a right to the protection of the law against abusive attacks upon his honour and reputation and against unreasonable interference with his family and private life.”

Those provisions could be given the importance which Mr. de León rightfully attributed to them by changing the position of article 10 and putting it back in the first part of the declaration.

[164]

If, as certain delegations had requested, the addition of the principle of honour were put to a separate vote, the Cuban delegation would vote for the inclusion of that principle. He would prefer, however, to have the Committee defer discussion of the matter until a vote had been taken on the amendment to article 10 proposed by his delegation. He had no doubt that the proposal would then receive unanimous approval.

He agreed with the representative of Mexico in refusing to recognize the draft declaration submitted by the Commission on Human Rights as a final text. That document was, indeed, the work of a minority of the Members of the United Nations. He recognized the praiseworthy efforts and the care which had been devoted to the draft. He recalled, however, that the experience of Dumbarton Oaks and Yalta had shown the unfortunate consequences which might result from decisions taken without the collaboration of the majority. The veto was a conclusive example.

Analysing the terms of article 3, Mr. Pérez Cisneros stated that he was not in agreement with certain representatives who felt that the idea of “physical integrity” of the individual was included in the words “security of person” which appeared in that article. The idea of physical integrity should be clearly expressed and the Cuban delegation requested a separate vote on its insertion.

With regard to juridical, economic and social rights, he recalled that his country had consistently supported the efforts of members of the Commission who had wished to include in the document the essential principles of the first declaration of the rights of man in 1789. He wholly approved the section devoted to those principles in the first article of the draft. But it must be borne in mind that man was no longer living in the eighteenth century. The twentieth century had witnessed the development of a new concept of liberty which it was important to clarify in the declaration.

The Charter clearly indicated the intentions of its authors: paragraph 2 of Article 62 authorized the Economic and Social Council to “make recommendations for the purpose of promoting respect for, and observance of, human rights and *fundamental freedoms* for all”. Mr. Pérez Cisneros recalled that at San Francisco there had been agreement among the representatives that the adoption of the words “fundamental freedoms” was a tribute to President Roosevelt who had been the first to proclaim the four new freedoms: freedom of speech and expression, freedom of worship, freedom from want and freedom from fear. Those four freedoms were characteristic of the thought of the twentieth century. They should be inscribed on the frontispiece of the document which was being studied by the Third Committee.

Mr. Pérez Cisneros believed that the joint amendment applied to those four fundamental freedoms. His insistence on the need for adopting that amendment could be ascribed to the fact that he hoped that the new declaration of human rights would not be a slavish repetition of the 1789 declaration but would present a statement of the most lofty ideals of the current century.

He then commented that while economic and social rights were mentioned in the draft declara-[165]tion, they did not appear in the first articles of that document. Those rights should appear in their appropriate place; the Cuban people had struggled to secure recognition of their economic and social rights and would be greatly disappointed if such were not the case.

He concurred in the Mexican delegation's forceful appeal that the representatives of the small powers in the Third Committee should not have to witness a duel between the major Powers. The Third Committee was not a political committee. Any direct reference to the internal conditions of a country was not in order; criticism should be kept on a general plane. The Committee should not lose sight of its essential function, which was to improve living conditions throughout the world.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) observed that for several days the amendment submitted by the USSR delegation had been the focal point of the Third Committee's discussions.

In the opinion of the delegation of the Byelorussian SSR, that amendment had the great merit of eliminating all the different interpretations which might arise from article 3 in its existing form. The Soviet Union amendment stated the fundamental principle of the right to life and defined its application in the practical field while the basic draft was devoid of any realistic character.

While expressing approval of the substance of that amendment, however, several delegations stated that it was unacceptable. The principal basis for their rejection of the amendment was that a statement of the duties of the State was inappropriate in article 3. In the opinion of Mr. Kaminsky, that objection was founded on a negative philosophy. In fact, those delegations were objecting to the drafting of an article which would be realistic, concrete and readily comprehensible to the great masses of humanity.

Other delegations based their objections on considerations of form and stated that the principles contained in the USSR amendment appeared in other articles of the draft declaration. That argument was not convincing. Modification of article 3 in accordance with the Soviet Union proposal would give concrete expression to the ideal embodied in the Charter of the United Nations. Without interfering with national sovereignty it would show States the road they should follow in order to attain that ideal. It would fulfil the hopes of the great masses of men throughout the world.

The previous day the representative of Uruguay had stated that the definition of the idea of the right to life, as given by the USSR delegation, corresponded more closely to the ideas of the eighteenth century than to those of the twentieth. Mr. Kaminsky, on the contrary, felt that its realistic character was incontestable, considering the conditions which still prevailed in the world, not only in certain capitalist countries but particularly in colonial territories.

In connexion with article 3 of the draft declaration of human rights, the Byelorussian delegation did not consider it inappropriate to raise the [166] question of colonial regimes and of the abuses to which they gave rise. The United Kingdom representative's statements regarding living conditions in Non-Self-Governing Territories administered by his Government did not bear criticism. As proof, it

was sufficient to think of Polynesia or India. The Soviet Union amendment took actual realities into consideration and was therefore particularly useful.

With regard to the abolition of the death penalty in time of peace, the USSR proposal was perfectly acceptable to all countries which had already embodied that principle in their constitutions. For other countries, it seemed difficult to raise serious objections to the insertion in the declaration of human rights of a principle which was in complete harmony with the spirit of the Charter of the United Nations especially since, as had been emphasized on several occasions, that declaration would have no immediate legally binding effect.

Finally certain delegations, which felt that the Soviet Union proposal did not go far enough, wished to have the principle of the abolition of the death penalty in time of war as well as in time of peace accepted. Mr. Kaminsky believed that no country which had suffered aggression and occupation could accept that point of view. Had the world already forgotten the crimes against humanity committed by the fascists?

In that connexion, Mr. Kaminsky regretted to note that there was growing disinterest in the struggle against fascism. An example was the fact that the world did not rise up in indignation when certain statesmen tried to re-establish relations with Franco Spain. Mr. Kaminsky strongly denounced the attitude of those who, wittingly or unwittingly, were the pawns of fascist forces. By accepting the principle of the abolition of the death penalty in time of war, as certain delegations wished, the declaration of human rights would guarantee the defence of war criminals. That was inadmissible.

The USSR proposal took all those matters into consideration, and the delegation of the Byelorussian SSR therefore expressed unqualified approval of it.

Mr. Kaminsky then stated that it was both his duty and his right to answer the statements made by the United Kingdom representative at the previous meeting. Mr. Mayhew, ostensibly commenting on the Soviet Union amendment, had indulged in slanderous attacks against the Soviet people. Such an attitude was not to be tolerated. In exposing the abuses of the colonial system, the USSR was only carrying out the duty incumbent on all Members of the United Nations under the Charter to ensure the defence of the oppressed peoples of the colonial territories. The United Kingdom could not deny the Soviet Union that moral right. The USSR, however, was unjustified in denying Mr. Mayhew the moral right to defend the injustices perpetrated against the colonial peoples.

The United Kingdom delegation, which perhaps had reasons to be dissatisfied with the attitude of the Soviet Union delegation, was attempting by every possible means to compromise the position taken up by the latter. Mr. Mayhew maintained that he based his information on reliable sources, whereas, in point of fact, he drew [167] only on one source, the value of which was well known. Mr. Mayhew pretended to defend the workers of the world, and yet he did not hesitate to slander

the USSR, which had created the first truly socialist country, and to discredit its 200 million citizens.

It was not the first time that the Soviet Union had been accused of enslaving a whole section of its population. During the period of crisis after 1930, the same argument had been used in order to distract the attention of the working masses of the capitalist world from the deplorable living conditions to which they had been reduced. As in 1930, that attempt was again doomed to failure.

MR. PLAZA (Venezuela) stated that, since the USSR delegation had requested that its amendment be put to the vote in parts and by roll-call, he would define his delegation's position with regard to the various parts of that amendment.

The Venezuelan delegation would vote in favour of the first sentence, which agreed with the original text. In his opinion, as he had stated (98th meeting) when article 1 was discussed, the right to life and, consequently, all the measures tending to protect it, originated at the moment of the conception of the human being.

The Venezuelan delegation would vote against the second and third sentences of the USSR amendment, although it was not opposed to the substance of its provisions. It had at first considered it important that the corresponding duties of the State with regard to each right should be set forth in the declaration, but had since been convinced of the soundness of proposals to limit the draft to a mere statement of the rights of the individual. If the Committee were to adopt the USSR proposal, it would compromise, or at least, delay, the adoption of the document as a whole.

The Venezuelan delegation had always been in favour of conciliation. Such an attitude of cooperation, in the best and most constructive sense of the word, implied certain sacrifices but was in keeping with the spirit of the United Nations Charter.

Venezuela would have voted in favour of the fourth part of the amendment dealing with the abolition of the death penalty in time of peace, if the USSR proposal had envisaged the complete abolition of the death penalty. The amendment, however, seemed implicitly to recognize the right to exercise the death penalty in wartime and was therefore incompatible with the principles of the Venezuelan Constitution.

Summing up his delegation's position, Mr. Plaza stated that he would continue to maintain the attitude he had held up till then, and would vote in favour of article 3 and of the joint amendment.

MR. ALVARADO (Peru) said that the amendment presented by the USSR delegation was inspired by legal principles similar to those on which the Peruvian Constitution was based. His country's legislation did not, in fact, prescribe the death penalty for crimes under civil or penal law. The Peruvian delegation was favourable to the substance of the Soviet Union amendment, but [168] would abstain from voting in order not to undermine the agreement reached by members

of the Committee. It hoped nevertheless that the principle of the abolition of capital punishment, which was in keeping with the humanitarian and Christian traditions of his country, would be adopted by the United Nations and universally applied.

The Peruvian delegation would vote in favour of the first part of the USSR amendment and would abstain on the last sentence.

It would vote for the joint amendment.

MR. AZKOUL (Lebanon) pointed out first of all that the amendment submitted by his delegation (A/C.3/279) to the Soviet Union amendment did not concern article 3. He reserved the right to submit it at the appropriate time.

Turning next to the remarks to which the draft amendment to article 3, submitted jointly by the delegations of Uruguay, Cuba and Lebanon (A/C.3/274), had given rise, Mr. Azkoul expressed his thanks to the Mexican delegation for the understanding it had shown. It was in the same spirit that the Lebanese delegation, wishing to take into account all the remarks made, had decided to modify the wording of that amendment.

In his study of the general structure of the declaration, the representative of China had explained the significance of article 3. According to him, the article had a general significance and formed the basis for the nine articles following it. That explanation might be satisfactory, but article 3 could be understood differently. It could be conceived as the basis, not only of the nine articles which followed, but of all the articles of the declaration. Article 3 was fundamental, and therefore should be complete. It dealt with human freedom. Since the eighteenth century however the idea of freedom had become much broader. The theoretical idea of liberty had evolved into the guarantee of certain rights and, in particular, of social rights. In modern times, the fundamental right was the right of the individual fully to develop his personality, which implied the right to all the factors essential to that development.

Taking into account all those considerations as well as certain criticisms of style made by the representative of Belgium, Mr. Azkoul submitted a new text, (A/C.3/274/Rev.1), reading as follows:

“Everyone has the right to life, honour, liberty, physical integrity, security of person and to the economic, social and other conditions necessary to the full development of the human personality.”

MRS. LIONAES (Norway), discussing the amendment proposed by the USSR delegation, said she was in agreement on the substance of the last part of that amendment. As certain other delegations had already pointed out, however, she considered that the amendment was out of place in article 3. For that reason, her delegation would abstain from voting and would declare itself in favour of article 3 as set forth in the draft declaration.

Mrs. Lionaes earnestly requested the members of the various delegations to confine themselves [169] to studying the articles of the declaration and to refrain from political discussion which would be more appropriate in the First Committee.

MR. CARRERA ANDRADE (Ecuador) recalled that the legislation of Ecuador provided for unconditional abolition of the death penalty. The results of that abolition had been successful: respect for the lives of others had grown among the people and the incidence of crime had disappeared. It had thus been shown that benevolent legislation inspired the individual with generous and peaceful sentiments.

The representative of Ecuador thought the last sentence of the USSR amendment was out of place in article 3. Although he was in agreement with the substance of the amendment, he reserved the right to support the insertion of abolition of the death penalty in another article of the draft declaration.

The first part of the amendment appeared to him irrelevant. To stipulate the rights of the State in a declaration such as the one which was being drafted, would be to introduce the concept of a State guardian of the people, which would, by trespassing on the domain of social doctrine, go beyond a mere statement of human rights.

He was in favour of the original text and approved the joint amendment of Uruguay, Cuba and Lebanon, which was in keeping with the spirit of the draft declaration of human rights as a whole, and therefore deserved the Committee's approval.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the amendment submitted by his delegation to article 3 of the draft declaration, had given rise to some interesting statements; several of the ideas expressed offered a constructive contribution and should be retained.

Before considering the reasons which had been given by the different delegations to explain their attitude to the USSR amendment, Mr. Pavlov wished to dwell on the statements made by Mr. Mayhew, the United Kingdom representative at the previous meeting. It should not be thought that his country could be attacked with impunity. Mr. Mayhew had been the first to launch the "cold war" which was being conducted against his country in the Third Committee. That attitude did not help the Committee's work.

The Committee had already discussed the possibility of criticizing practices which were contrary to the principles of the United Nations Charter. The USSR delegation thought that criticisms could be considered as well founded if they were honest, that was, if they had a credible basis, if they concerned the subject under discussion and if they rested on the principles of the Charter. Mr. Mayhew's criticisms however, did not satisfy any of those conditions.

In particular, Mr. Mayhew had stated that the Soviet peoples did not in fact enjoy the guarantees laid down in their Constitution. He had not supplied any proof to bear out his statement. His words bore an amazing similarity to the attacks against the USSR Constitution published by a [170] German newspaper in 1936, under the signature of Goebbels. It was indeed strange to hear the words of a Nazi from the lips of a British Socialist.

The 200 million people who lived in the Soviet Union bore witness that the USSR Constitution had not been merely an empty promise. Their achievements and their victorious battle against the invader which had led them as far as Berlin, were living proof of their unity and solidarity.

Mr. Mayhew had quoted from the evidence of émigrés, of refugees, of those whom in his country they called “those who refuse to return”: it was no more possible to form any judgment from such evidence than it was possible in the eighteenth century to judge the French Revolution by the statements of the aristocrats who had fled from France. The people mentioned by Mr. Mayhew had in fact left their country precisely to escape the provisions of that Constitution, which some of them would like to believe ineffective. It was because they hated the new regime, which did not allow the exploitation of man by man, that they had fled. Or else they were traitors and war criminals who were escaping from their country’s law.

In his statement Mr. Mayhew had exhibited complete ignorance of the real conditions that existed in the USSR. He had chosen to ignore the unanimity of interests and the political and moral unanimity which bound the Soviet people together. He had expressed surprise that the Soviet people did not criticize their leaders; should they criticize those who had led them to victory, and who, after the victory, had ensured their progress and wellbeing?

He said it was not true that the general collectivization carried out in 1930 had caused the death of millions of peasants; on the contrary, a comparison of the years 1928 and 1945 would show that the number of hectares cultivated had risen from 130 million to 185 million, that harvests and livestock had increased in the same proportions, and that the rural population had increased from 121 million to 140 million, the total population of the country being nearly 200 million. Those figures did not conjure up a picture of famine and death.

With regard to the accusation of slavery brought against the Soviet Union, he pointed out that from all evidence it seemed that Mr. Mayhew had taken his information chiefly from a book called *Forced Labour in Soviet Russia*, by Boris Nicolaevsky and David J. Dallin,⁴⁴ whom Mr. Pavlov regarded as traitors to their country.

When the United Kingdom representative quoted from official sources, he did so in such a manner that the information he communicated was completely

⁴⁴ David J. Dallin and Boris I. Nicolaevsky, *Forced Labour in Soviet Russia*, London: Hollis & Carter, 1948.

tendentious. Thus the words attributed to Mr. Molotov took on a different meaning when they were taken out of their context.

At the beginning of the speech quoted by Mr. Mayhew (of which Mr. Pavlov in turn read some extracts) Mr. Molotov had stressed above all the principle of the liberation of the worker from the capitalist yoke. He then explained the methods used in labour camps, the aim of which was to allow the prisoners to regain their dignity through work and to become useful members of society. Finally he mentioned the conditions prevailing in those camps, which the thousands of unemployed in the capitalist countries might envy.

If the picture which the United Kingdom representative had painted of the USSR corresponded to the truth, would it not be reasonable to think that a people, subjected to such living conditions, would seize the first opportunity which presented itself, to turn against their Government and to rid themselves of a regime which they ought to abhor? And yet, the war, which had offered that opportunity to the Soviet peoples, had on the contrary consolidated their unity. The proof had been conclusive.

It was only because they were blessed with such a Constitution that the people of the Soviet Union had survived. Their victory was the best argument that could be put forward against the statements made by the United Kingdom representative.

The latter had, apparently, wished to turn the Committee's attention from the USSR amendment by an unjustifiable digression. The majority of the delegations had found that amendment acceptable, as far as its substance was concerned, though they thought that it had no place in article 3. The delegation of the Soviet Union thought, however, that that article, which laid down the principle of the individual's right to life, should take into account the necessity of abolishing the death penalty in time of peace, for, while the death penalty existed, the right to life was not absolute.

The Committee had not been asked to draft a penal code, but to formulate a recommendation for the General Assembly. It was not a question of violating the sovereign rights of States, which were free to modify their penal code or not, but of expressing the general feeling of the Assembly of the United Nations on as important a question as that of the death penalty.

In view of those considerations, the vote which would be taken on that proposal would, in the opinion of the USSR delegation, be of historic significance. The roll-call would show which of the countries had reached a sufficiently advanced stage of maturity to approve the abolition of the death penalty.

Mr. Pavlov reminded representatives that they were responsible, not only to their own peoples, but to all the peoples of the world who placed their confidence in them, and he urged them to vote in favour of his amendment.

MR. SAINT-LOT (Haiti) moved that the debate on article 3 should be closed.

The meeting rose at 1:30 p.m.

A/C.3/281**18 October 1948****Sweden: Proposal**

1. In accordance with Rule 103 of the Rules of Procedure, the Committee fixes the following time limit on speeches during the further consideration of the International Declaration of Human Rights:
 - (a) Original speeches shall not exceed ten minutes;
 - (b) Second speeches shall not exceed five minutes.
2. Acting under authority of Rule 104 of the Rules of Procedure, the Chairman, with the consent of the Committee, shall declare the list of speakers closed at the end of one hour's debate on each Article. This is subject to the Chairman's authority under this Rule to accord the right of reply to any member if a speech delivered after he has declared the list closed makes this desirable.

A/C.3/282**18 October 1948****Original Text: French****Belgium: Proposal to Modify the Text of the Joint Amendment to Article 3 (A/C.3/274/Rev.1)**

“Everyone has the right to life, liberty, and respect of the physical and moral integrity of his person.”

A/C.3/286/Rev.1⁴⁵**18 October 1948****Recapitulation of Amendments to Article 13 of the Draft Declaration (E/800)**

(In the chronological order of their submission to the Committee)

***Article 13* – Text adopted by the Commission on Human Rights:**

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

⁴⁵ A/C.3/286/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/286. The revised document contains the Cuban proposal.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

The following wording is proposed:

“No one shall be arbitrarily deprived of his nationality, i.e. in any other manner or in any other case than is provided for in the laws of the country concerned.”

Cuba (A/C.3/232)

Amend to read as follows:

“Every person has a right to the nationality to which he is entitled by law and the right to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.”

France (A/C.3/244)

(a) Begin with a new paragraph 1 worded as follows:

“Every human being has the right to a nationality.”

(b) The present paragraph 1 should become paragraph 2.

(c) Add a new paragraph 3 worded as follows:

“It is the duty of the United Nations to approach states for the purpose of preventing statelessness and, where necessary, to concern itself with the fate of stateless persons.”

Lebanon (A/C.3/260)

At the beginning of the article add the words: “Everyone has the right to a nationality.”

[2]

Egypt (A/C.3/264)

Replace this article by the following:

“Everyone has the right to the nationality which legally belongs to him and has the right to acquire, if he so desires, the nationality of a country which is willing to grant it to him.”

Alternative

Replace the words “or denied the right to change his nationality” by the words: “denied the right to acquire a nationality.”

Uruguay (A/C.3/268)

Amend to read as follows:

“1. Everyone has the right to a nationality.”

2. (The present text of article 13 with the word “unjustly” substituted for “arbitrarily”.)

A/C.3/288/Rev.1⁴⁶

18 October 1948

**Recapitulation of Amendments to Article 14 of the
Draft Declaration (E/800)**

(In the chronological order of their submission to the Committee)

Article 15 – Text adopted by the Commission on Human Rights

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Amendments:

Union of Soviet Socialist Republics (E/800)

Replace the text as adopted by:

“1. Everyone has the right to own property alone as well as in association with others in accordance with the laws of the country where such property is situated.

“2. No one shall be arbitrarily deprived of his property, i.e. illegally, deprived of his property.”

Cuba (A/C.3/232)

Amend to read as follows:

“Every person has the right to own such property, alone as well as in association with others, as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home”.

“Every person has the right to legal protection against arbitrary confiscation of his property”.

Chile (A/C. 3/249)

Replace article 15 by article 14 of the text adopted by the drafting Committee of the Commission on Human Rights to read as follows:

“Everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Uruguay (A/C.3/268)

(does not apply to the English text)

[2]

Panama (A/C.3/280)

Add to paragraph 1 the words *in accordance with general law*, so that paragraph 1 read as follows:

“Everyone has the right to own property, alone as well as in association with others, in accordance with general law.”

⁴⁶ A/C.3/288/Rev. 1 was issued on 30 October 1948; this is the date of issuance of A/C.3/288. The revised document contains the proposals of Cuba, Chile and Panama.

A/C.3/289/Rev.1⁴⁷

18 October 1948

**Recapitulation of Amendments to Article 16
of the Draft Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

Article 16

(Text adopted by the Commission on Human Rights)

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Amendments:

Union of Soviet Socialist Republics (E/800)

Replace the text as adopted by the following:

“Everyone must be guaranteed freedom of thought and freedom to perform religious services in accordance with the laws of the country concerned and the requirements of public morality.”

Peru (A/C.3/225)

Delete article 16 and replace it by the following text:

“Every person has the right freely to profess a religious faith, and to express it in thought and in practice, both in public as well as in private.”

Cuba (A/C.3/232)

Amend to read as follows:

“Every person has the right freely to profess a religious or philosophical belief. This right includes. . .”

Saudi Arabia (A/C.3/247)

Delete the second part of this article, which begins with the words:

⁴⁷ A/C.3/289/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/289. In the earlier version, the Cuban text is A/C.3/224, reading: “place the text replacing article 5 before this article.” In addition, the word “the” precedes “individuals” in the Swedish proposal.

“this right includes” etc., retaining only the first part which reads:
 “Everyone has the right to freedom of thought, conscience and religion”.

[2]

Sweden (A/C.3/252)

In order to protect individuals who have religious beliefs different from historically acknowledged religion, or who have no religious belief whatever, against manifestation of religious fanaticism, it is proposed that the following words be added to the end of this article after “. . . worship and observance”:

“provided that this does not interfere unduly with the personal liberty of anybody else.”

A/C.3/SR.105⁴⁸

18 October 1948

Summary Record of the Hundred and Fifth Meeting
[of the Third Committee]

Held at the Palais de Chaillot Paris, on Monday,
 18 October 1948, at 10:30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

27. Draft international declaration of human rights (E/800) (continued)

Article 3

MR. SAINT-LOT (Haiti), replying to a question by the Chairman, said that he wished to renew [172] the motion for closure of the debate on article 3, which he had made at the previous meeting. If that motion were not adopted, he reserved the right to speak in the ensuing debate.

MR. PÉREZ CISNEROS (Cuba) was opposed to the closure of the debate. He suggested, as a compromise measure, that the list of speakers on article 3 should be closed and that a time limit should be set for speeches on the rest of the articles.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) was also opposed to the closure as some representatives had not yet had a chance to speak on article 3. He hoped that, in future, representatives would limit their speeches to really relevant matters and would not raise controversial issues, which were outside the scope of the declaration.

⁴⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 171–80.

THE CHAIRMAN put to the vote the motion for closure of the debate.

The motion was rejected by 18 votes to 9, with 11 abstentions.

THE CHAIRMAN referred to rule 104 of the rules of procedure and, with the consent of the Committee, declared the list of speakers on article 3 closed.

MR. SAINT-LOT (Haiti) agreed with those representatives who thought that the original draft of article 3 was incomplete.

He referred to Article 62, paragraph 2 of the Charter and said that the declaration should take into account new elements which had been brought into the traditional concept of human rights. He felt that some attempt should have been made to include in article 3 the four freedoms formulated by President Franklin D. Roosevelt. In his opinion the basic draft of article 3 was too vague, as it contained no mention of freedom from want or of freedom from fear. He therefore supported the first three sentences of the USSR amendment (A/C.3/265) which would fill that gap satisfactorily. The last sentence of that amendment, providing for the abolition of the death penalty in time of peace, was, in his opinion, too controversial for inclusion in a declaration, the aim of which was to set forth generally accepted principles which would be universally applied.

He thought that the draft prepared by the Commission on Human Rights had been too greatly influenced by the individualism of Jean-Jacques Rousseau. The doctrine of individualism carried to excess had brought about the reaction of totalitarianism, and an attempt should be made to avoid either extreme.

MISS BERNARDINO (Dominican Republic), referring to the discussion at the previous meeting, appealed to representatives not to bring national prejudices into the debate. It was too much to hope that a committee, composed of representatives of fifty-eight countries, would be able to reach unanimity on every issue, but an attempt should be made to reach unanimity on the main issues, which were vital to world peace. She emphasized the importance of the draft declaration and the hope that was placed in it by the peoples of the world. She felt sure that the women who were participating in the work on an equal foot-[173]ing with men would make a great contribution towards the completion of the task.

She was in favour of the provisions contained in the USSR amendment and would be able to support the clause concerning the abolition of the death penalty in time of peace as it had already been abolished in her country. She also supported the joint amendment submitted by the delegations of Uruguay, Cuba, and Lebanon (A/C.3/274/Rev.1) as she felt it would strengthen and clarify the article.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) replied to the arguments that had been raised against the inclusion of the word "honour" in the joint amendment. It had been said that honour was not in itself a right, but he maintained that life was not a right either. What was meant was that man had a right to the protection of his life and

to the protection of his honour. It had also been said that it was unnecessary to mention honour specifically as it was included in the general statement of article 1 that "all human beings are born free and equal in dignity and rights". In his opinion, that statement was not sufficient and the right to the protection of honour should be specifically mentioned. Such mention would be particularly welcomed by Jews and by all who had suffered indignities at the hands of the Nazis.

In reply to those representatives who wished the declaration to be simple and clear, he said that it should also be complete and precise.

With regard to the USSR amendment (A/C.3/265), he stated that his delegation would vote in favour of the inclusion of a clause recommending the abolition of the death penalty in article 9, but it did not feel that such a recommendation was appropriate in article 3.

The representative of the Byelorussian SSR had rightly stated that Uruguay had had no experience of war crimes. His country's good fortune in that respect was due to its remoteness and to the fact that it had never attempted to seize any territory belonging to another country. It was understandable that people should be swayed by passion in time of war, but he appealed to representatives to approach the debate in a dispassionate manner.

COUNT CARTON DE WIART (Belgium) observed that the discussion seemed to be becoming polemical. He supported the theory that peoples, like individuals, were capable of perfection but he mentioned an old Chinese proverb to the effect that people should recognize their own faults before looking for those of others.

In his opinion, the concise wording of the basic draft of article 3 should be retained. Article 2 had already been overloaded and article 3 should be preserved from the same fate.

He referred to the speech made by the representative of Greece suggesting that the right to life should be omitted from article 3, as it was self-evident (102nd meeting). He felt, on the contrary, that it was more than ever necessary to affirm the right to life, as that right had been so gravely violated by the Nazis.

[174]

With regard to the last part of the Mexican amendment (A/C.3/266), which spoke of securing the full development of the human being, he agreed with the representative of Haiti that excessive individualism was to be avoided as it had caused much trouble in the past. He was therefore opposed to the Mexican amendment.

With regard to the USSR amendment (A/C.3/265), he felt that mention of the duties of the State would be out of place in article 3. It was not only the State which had duties; each individual also had a duty towards his neighbour. He thought that the clause concerning the death penalty would be more appropriately discussed in connexion with article 4. He would abstain from voting on the subject as the death penalty was still a controversial issue in his country. It was retained in the penal code

but had only been applied twice in recent history. The USSR amendment referred to the abolition of the death penalty in peacetime but it did not take into account the fact that it would have to be applied in time of peace to deal with war crimes.

In connexion with the joint amendment (A/C.3/274/Rev.1), he thought that the word “honour” should not be included as it was not an inherent right but was dependent on the behaviour of each individual. He agreed, however, with the idea which had prompted the representative of Uruguay to suggest the inclusion of the word “honour”. In order to retain that idea without using that word, he proposed that the text of the joint amendment should be modified to read (A/C.3/282):

“Everyone has the right to life, liberty, and respect of the physical and moral integrity of his person.”

MR. ANZE MATIENZO (Bolivia) said that he still thought that a small, flexible drafting subcommittee would be useful. He had received instructions from his Government to retain the original text of the draft declaration as far as possible, subject to any improvements which might be suggested in the course of the discussion. The joint amendment had introduced useful new matter, but he feared that a list such as was proposed therein might be extended indefinitely. Were it not for that objection, he would have been prepared to support it.

With regard to the USSR amendment (A/C.3/265), he pointed out that the death penalty had not been applied for many years in his country, although it existed in Bolivian law. By abstaining from voting he did not wish to appear to approve the death penalty, but he considered that mention of it was out of place in the article under consideration. The whole question was extremely controversial and, therefore, inappropriate.

The USSR proposal that the vote should be taken by roll-call also seemed inopportune. In the circumstances it might even appear a form of moral coercion.

MR. CAÑAS (Costa Rica) said that the USSR amendment was tantamount to a proposal to delete from article 3 the idea of liberty and security of person. The second, third and fourth sentences in the USSR amendment were simply [175] amplifications of the right to life. They were measures for implementation, whereas the declaration should be an affirmation of rights; three rights – life, liberty and security – were already listed in the text of the article. In the USSR amendment no provision was made to compensate for the elimination of the rights of liberty and security. In the draft declaration the word “security” implied a conferring of legal status on what President Franklin D. Roosevelt had called freedom from fear.

He would vote against the first sentence in the USSR amendment, and would abstain from voting on the rest. He would abstain from voting on the proposed abolition of the death penalty because he considered it insufficient in that it was

restricted to time of peace. Costa Rica had been at peace for eighty years and had not applied the death penalty in that time.

MR. DEDIJER (Yugoslavia) regretted that the Lebanese delegation had withdrawn its amendment (A/C.3/279). He would have supported it.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) said that he maintained his opinion that article 3 was of the greatest importance. That was not surprising dealing as it did with the right to life, a matter of vital interest to all the delegations and to all the peoples of the world. None of the other articles in the draft declaration would have much meaning if the right to life were not fully and formally asserted. The representative of Greece was the only one who had proposed that that assertion should not be included. Perhaps he did so because that would conform to the current Greek Government's policy towards dissident elements.

The text of article 3 simply made a declaration of the right to life; but no guarantees were stated therein. Life should, however, be protected against criminal attempts, and it should not be lived under fear of the death penalty. Conditions that obviated the danger of death by hunger and exhaustion had to be ensured. It was impossible to speak of a full right to life unless that were guaranteed. The USSR amendment was the only proposal which explicitly stated such guarantees.

If the text of article 3 were amended as suggested by the delegation of the Soviet Union, it would become simple, clear and intelligible to precisely the people for whom it was intended – the common man. That was why many representatives had said that there could be no objection to the idea expressed in the USSR amendment. There could, indeed, be no argument of weight against that idea.

Replying to the representative of Costa Rica, he recalled that at the 102nd meeting the representative of the Soviet Union had stated that he had no objection to the inclusion of the mention of liberty and security of person.

It had been argued that the wording of the declaration had to be brief, whereas the USSR amendment would extend it. But clarity was also important. The inclusion of a recommendation that the death penalty should be abolished was clearly intelligible to the common man. The basic text was certainly brief; but it was neither [176] comprehensible nor comprehensive. The same reply might be made to those who did not wish to make the declaration too narrow; intelligibility should not be sacrificed to such restriction.

The representative of France had said that the sense of the USSR amendment was already included in the draft declaration. But no article anywhere mentioned the abolition of the death penalty.

Objections to that amendment had been raised on the grounds that the obligations of the State would be defined in another document. No decision had been taken to exclude those obligations. It had been decided that the rights and obligations of the State towards the individual and vice versa would be dealt with concretely, article by

article. If that were not done, the declaration would lack substance when it came to the definition of human rights.

He could see no weight in arguments that certain countries would have to alter their constitutions or penal code if that amendment were adopted. The unanimous adoption of article 2 constituted a precedent. In that article discrimination of every kind was condemned; but certain countries which had voted for its adoption still had a constitution which did not forbid such discrimination. The vote meant, therefore, that those countries intended to alter their constitutions. Why, then, were arguments about legal procedure raised against the USSR amendment? The General Assembly could merely recommend a measure; it was a matter for the individual Governments to decide their own methods for implementing it. The representative of the United Kingdom had said that abolition of the death penalty was a matter too controversial to be included in the declaration. A recommendation from the General Assembly might help the United Kingdom Parliament to settle the controversy.

The statement made by the representative of Uruguay seemed inconsistent. He had said that limitation of the abolition of the death penalty in time of peace made the USSR amendment inopportune, but at the same time stated that the Government of his country was opposed to the death penalty. Something, however, was gained by including abolition in time of peace, even if agreement could not be reached on total abolition.

The representative of Costa Rica had argued that it would be inopportune to discuss such details because the declaration was intended as a universal document to reach millions of people. That was in fact an argument for the inclusion of such matter as that contained in the USSR amendment.

In reply to the contention of the representative of Bolivia that a roll-call vote might look like moral coercion, he pointed out that there was no compulsion to vote. The representative of the Soviet Union had been right, however, in saying that the vote would show what countries sincerely desired that the rights under discussion should be guaranteed.

The Ukrainian delegation would vote for the USSR amendment on the grounds that it made article 3 clearer and more intelligible.

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MRS. IKRAMULLAH (Pakistan) suggested that the abolition of the death penalty should be made the subject of a separate resolution which could be discussed at a later General Assembly. She was not opposed to the abolition of the death penalty, but it was too controversial a matter to be included in the declaration.

The delegation of Pakistan would abstain from voting on the USSR amendment.

MR. CHANG (China) said he wished to give the correct version of the Chinese proverb mentioned by the representative of Belgium. It was: "Sweep the snow in front of one's own door. Overlook the frost on others' roof-tiles." That made for good neighbours.

He wished to lay great stress upon the need for careful consideration of the amendments before the Committee. Another Chinese proverb ran: "Matters allowed to mature slowly are free from sharp corners." That was the spirit in which the drafting of article 3 should be approached.

He had no objection to the drafting changes made in the revised version of the joint amendment submitted by Uruguay, Cuba and Lebanon (A/C.3/274/Rev.1). He agreed with the representative of Belgium, however, that the word "honour" in that amendment was not sufficiently concrete. The vote on that amendment should be taken only after mature consideration. If, however, it were decided to take an immediate vote, he would vote against inclusion of the word "honour" and in favour of the retention of the wording used in the basic draft declaration.

He would also make a formal amendment combining article 3 with article 20, since the ideas contained in the joint amendment were already stated in that article. It might be desirable to express them in a general covering article. He would insist, however, that the new text should be placed in a separate paragraph in order to bring out its importance. His proposal would be to retain as a first paragraph the text of article 3 as worded in the draft declaration and to add the text of article 20 as a second paragraph, deleting, however, the words "has the right to social security and", and substituting for the words "set out below" the words "necessary to the full development of the personality", that phrase being taken, with the omission of the word "human", from the joint amendment.

He would vote against the joint amendment because he considered it incorrect to express two sets of ideas in a single paragraph.

While he would abstain from discussing the substance of the USSR amendment, he would vote against it because it dealt with implementation; that did not come within the scope of the declaration.

MR. CASSIN (France) agreed with much that had been said by the Chinese representative. The USSR proposal (A/C.3/265) to include a reference to the obligations of States would, if adopted, introduce the whole question of implementation. The French delegation had always been of the [178] opinion that the subject of obligations should be included in the covenant on human rights and not in the declaration.

The suggestion for the abolition of the death penalty was certainly closely associated with the right to life, but so also were the problems of military service, abortion and the relations between doctors and nurses and the patient. France had not yet abolished the death penalty, but it should be noted that those Member States who applied that law with the greatest moderation had the most reservations with respect to the USSR proposal. From that it could be seen that political motives were not at the basis of their point of view.

The declaration did not conform to the 1789 Declaration of the Rights of Man and of the Citizen, but rather to the declaration of Bogotá, in its reference to the right to life. In his opinion, the first articles, among which article 27 should be included,

should enumerate the various fundamental rights, after which should follow an analysis of those rights. President Roosevelt's statement on the four freedoms, to which reference had been made by the Haitian representative, was too general and incomplete to stand as an article of the declaration and should rather be inserted in the preamble.

It would not be appropriate to include economic, social and cultural rights in article 3 without also referring to the right to freedom of conscience and expression. To include the right to honour would be to repeat the content of article 1. He was strongly in favour of retaining the article in the concise form in which it stood.

The debate had been of great importance and had shown that both the preamble and article 20 needed further elaboration.

MR. SANTA CRUZ (Chile) felt that the Chinese representative's proposal might prove to be acceptable to a large majority of the Committee. He wanted to know, therefore whether the authors of the joint amendment would be prepared to collaborate with that representative in the preparation of a new text.

MRS. NEWLANDS (New Zealand) had always considered that the declaration, unlike the covenant, should be a concise statement of general principles and, for that reason, had approved, in particular, article 3. It was easy to appreciate the reasons for the submission of the joint amendment, but its adoption would impair the orderly arrangement of the text as it stood. Article 3 stated the fundamental rights of the individual and then, in article 20, referred to the other rights which belonged to man as a member of society. The former, therefore, was not the appropriate place for a reference to economic and social security. The right to honour was too vague a concept for inclusion in that article and was already implied elsewhere in the declaration.

She sympathized with the USSR proposal for the abolition of the death penalty. Her country had abolished it both for peace and wartime. However, it was a controversial issue, and, as in [179] the case of article 1, such controversial questions should be withdrawn.

Should the USSR delegation maintain the proposal, she would abstain when the vote was taken.

MR. GARCÍA BAUER (Guatemala) said the USSR representative's request for a roll-call on the vote on his amendment compelled him to speak.

The amendment was restrictive to the extent that it did not mention fundamental rights such as the right to liberty. He would, naturally, be able to accept the first sentence of the Soviet Union proposal. The second sentence was incomplete and referred to the duties of the State rather than to the rights of the individual. The third sentence was also incomplete, as was always the case when an enumeration was attempted.

Whole volumes had been written in support of and against abolition of the death penalty and much time could be saved by avoiding discussion of the various

arguments. In 1945, after lengthy consideration, the death penalty had been written into the new Guatemalan Constitution. It had been included, however, in a very restricted form. His delegation was of the opinion that the matter of applying, or not applying, the death penalty depended upon the particular circumstances of each country and, in that regard, it had to be remembered that there was more than one way in which to condemn a man to death.

The declaration should contain principles which would be the goal for all national legislations and an undertaking for them to fulfil. More than one reservation had been expressed concerning the abolition of the death penalty and as it would be a legal provision, it was more suited for discussion in connexion with the covenant. For those reasons, he would vote against the final sentence of the USSR amendment.

The Mexican proposal (A/C.3/266) was interesting and he was in full agreement with its principle. The same ideas, however, were better expressed in articles 20 to 23.

The same criticism could be made in regard to the Panamanian amendments.

He agreed with the Uruguayan, Cuban and Lebanese representatives concerning the need to include a reference to the right to honour. The other proposals they had put forward were already implied in the declaration.

He requested that the joint amendment should be voted in parts: the right to life; the right to honour; the right to liberty; the right to physical integrity; and, finally, the rest of the amendment.

MRS. BEGRUP (Denmark) said that the death penalty had been abolished in Denmark for many years. However, events arising out of the war had compelled her Government to introduce it again for a short while and for that reason, she would be unable to vote for the USSR amendment. In her opinion, a roll-call vote on that question would only result in confusion. Certain representatives whose countries still retained the death penalty would vote for the amendment, while [180] others whose countries had either abolished it or rarely put it into practice, would vote against it.

Representatives should not criticize conditions in each other's countries and in that regard, she drew attention to the tacit agreement of the Commission on the Status of Women, to use its time for constructive purposes only. The work of the Third Committee should be carried out in the spirit of brotherhood, referred to in article 1.

Although the list of speakers had been closed, THE CHAIRMAN said he would allow the Greek representative to reply to the Ukrainian representative. The former had not referred to the Ukrainian Government while, in his remarks, the latter had made accusations concerning the Greek Government.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) protested against the Chairman's interpretation of rule 104 of the rules of procedure.

MR. ROZAKIS (Greece) drew attention to the statement he had made at the 102nd meeting, in which he had expressed the view that it would be superfluous to include

the right to life in article 3, as reference was already made to it in article 1. To repeat such an elementary and sacred right would only have the effect of weakening it.

THE CHAIRMAN interrupted the Greek representative as he had granted him the right to reply to the Ukrainian representative's allegations and not to speak on the substance of the question.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) asked that it should be recorded that the Chairman had granted the Greek representative the right to speak after he had moved the adjournment of the meeting.

THE CHAIRMAN informed the Byelorussian representative that he had not heard his motion for the adjournment of the meeting. He then put the motion to the vote.

The motion was adopted by 23 votes to 11, with 8 abstentions.

THE CHAIRMAN requested the representatives of Uruguay, Cuba, Lebanon, Australia, Belgium, China and France to meet together to prepare a joint text for consideration at the following meeting.

The meeting rose at 1:25 p.m.

A/C.3/SR.107⁴⁹

19 October 1948

***Summary Record of the Hundred and Seventh Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Tuesday,
19 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

29. Draft international declaration of human rights (E/800) (continued)

Article 3 (continued)

THE CHAIRMAN declared the general discussion on article 3 closed. The Committee would therefore proceed forthwith to vote upon the various amendments proposed to that article.

He asked the Mexican representative whether he wished to maintain his amendment, or whether he would withdraw it.

⁴⁹ The text of the document is from *Official Records of the General Assembly, Third Session, 1948*, pp. 182–94.

MR. DE ALBA (Mexico) explained that his amendment (A/C.3/266) was intended to achieve the same object as that of the amendment submitted jointly by the delegations of Uruguay, Cuba and Lebanon delegations (A/C.3/274/Rev.1). He preferred the wording of his own amendment, but would agree to withdraw it and to support the proposal of those three delegations.

THE CHAIRMAN stated that the amendment submitted by the USSR (A/C.3/265) was farther than any of the others from the basic text prepared by the Commission on Human Rights. Before putting that amendment to the vote, the Chairman pointed out that the Egyptian delegation had requested that the Committee should first arrive at a decision as to whether or not mention should be made in article 3 of the rights and obligations of States.

MR. PAVLOV (Union of Soviet Socialist Republics) protested against that procedure. As it stood, the basic text did not mention the rights and obligations of States. A proposal not to include in a draft ideas which were not there could not be considered and treated as an amendment to that draft. The Egyptian proposal could, on the other hand, be submitted in the form of an amendment to the USSR amendment, which actually took those rights and obligations into account.

Mr. Pavlov therefore considered that the Committee ought first to arrive at a decision regarding the draft amendment submitted by the delegation of the Soviet Union.

The Chinese representative had expressed the opinion that the USSR amendment would be tantamount to deleting from the articles the right of any individual to liberty and security of person, which right was included in the basic text; and he had been in favour of the inclusion of that right. Mr. Pavlov said that the amendment submitted by the Soviet Union did not intend to exclude that right; it was meant simply to ensure [183] protection of the right to life. Should the corresponding clauses be adopted, and should the Chinese representative wish to add to the USSR amendment a paragraph affirming that every individual had a right to liberty and security of person, Mr. Pavlov would vote in favour of that amendment.

THE CHAIRMAN stated that the Egyptian proposal was not a request for the deletion of a phrase from article 3, but was made in order to obtain the Committee's decision as to whether the duties and obligations of States relative to the rights set forth in article 3 should or should not be mentioned in that article.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) stated that the Egyptian proposal involved the substance of the question.

It had been agreed that when each article was examined the Committee would decide whether it was advisable to mention the duties of a State arising from the statement of rights. If the Egyptian proposal were considered, it would be tantamount to reopening the discussion on the substance of article 3. No question of

procedure was involved; and what had to be done was to put to the vote the amendments submitted before the close of the general discussion.

MR. DEHOUSSE (Belgium) also considered that the Egyptian proposal raised a question of principle. The Egyptian representative could attain his object when the part of the USSR draft amendment dealing with the duties of the State was put to the vote. The result of that vote would indicate the sense of the Committee. The Egyptian representative could vote in the negative, but it would be quite irregular to ask the Committee to decide the question of principle.

Mr. Dehousse would urge that there should be no vote on the question of principle.

MR. BAGDADI (Egypt) explained that his delegation had raised the question of principle during the general debate. The French and Egyptian representatives had been asked to try to reconcile their respective proposals (94th meeting) but no decision had been taken on the joint draft which they had submitted at the 95th meeting.

In order not to obstruct the voting on the amendments concerning article 3, the Egyptian delegation would not insist that its proposal be put to the vote, but it reserved the right to reopen discussion of the principle after the vote on the amendments.

THE CHAIRMAN asked the Committee to vote on the amendment proposed by the USSR delegation (A/C.3/265).

MR. PAVLOV (Union of Soviet Socialist Republics) requested that his draft should be put to the vote in parts. The Committee should begin with the first sentence, should then deal with the two following sentences, and finally with the last sentences, for which he requested a vote by roll-call.

He repeated the proposal he had made to the Chinese representative that the latter should amend the draft by adding a paragraph to the effect that every individual had the right to liberty and security of person.

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Replying to the USSR representative, MR. CHANG (China) pointed out that the sole object of his remarks had been to propose a more convenient voting procedure. The first sentence of the Soviet Union amendment was identical with the basic text, but it omitted the words "liberty and security of person". Mr. Chang therefore proposed that the new draft should be considered as an amendment calling for the deletion of those words.

MR. WATT (Australia) approved the remarks of the Chinese representative. Even if the first part of the amendment were submitted in an affirmative form and not as a deletion of a phrase, every member would interpret the proposal as an attempt to delete the clause which stated that every individual had the right to liberty and security of person.

THE CHAIRMAN asked the USSR representative if he would agree to the first phrase not being put to the vote. The Committee would only vote on the second and third part of his amendment, and then finally on the whole amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) replied that all the members of the Committee recognized that every individual had the right to life. If no one raised any objections to the principle set forth in the first phrase of the draft amendment, it might be considered and unanimously acceptable. It would then be unnecessary to vote on the second and third parts of the amendment.

He perfectly understood that the Australian representative did not wish to exclude the right to liberty and security of person, and hastened to say that he himself wished those rights to be embodied in the declaration.

MR. SANTA CRUZ (Chile) agreed to the procedure outlined by the Chairman. He pointed out that the USSR delegation was really trying to substitute the wording of its own amendment for that of article 3 of the draft declaration of human rights. As the representative of the Soviet Union had asked for a vote in parts, each part adopted would constitute an amendment to the basic draft.

MRS. ROOSEVELT (United States of America) pointed out that those who wished to specify that every individual had the right to liberty and security of person would be obliged to vote against the first sentence of the USSR amendment, although they might vote for an identical phrase when voting on the joint amendment (A/C.3/274/Rev.1) and on the basic text.

MR. DE ALBA (Mexico) approved the procedure proposed by the Chairman.

MR. ROZAKIS (Greece) declared his willingness to vote for the adoption of the first phrase.

THE CHAIRMAN decided that only those parts of the amendment which differed from the original text should be put to the vote, namely, the second and third parts. He would deal with the other amendments in a similar manner.

MR. PÉREZ CISNEROS (Cuba) asked for a vote in parts on the second and third sentences of the second part of the amendment.

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THE CHAIRMAN put to the vote the sentence: "The State should ensure the protection of each individual against criminal attempts on his person."

The sentence was rejected by 26 votes to 10, with 9 abstentions.

THE CHAIRMAN put to the vote the sentence: "It should also ensure conditions that obviate the danger of death by hunger and exhaustion."

The sentence was rejected by 28 votes to 10 with 10 abstentions.

THE CHAIRMAN put to the vote the third part of the USSR amendment: "The death penalty should be abolished in time of peace."

A vote was taken by roll-call, as follows:

The Union of South Africa, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Dominican Republic, Mexico, Poland, Ukrainian Soviet Socialist Republic.

Against: Union of South Africa, United Kingdom, United States of America, Uruguay, Yemen, Afghanistan, Australia, Brazil, Canada, Chile, China, France, Greece, Guatemala, Haiti, Luxembourg, Panama, Philippines, Siam, Syria, Turkey.

Abstaining: Venezuela, Argentina, Belgium, Burma, Costa Rica, Denmark, Ecuador, Egypt, Ethiopia, Honduras, India, Lebanon, Netherlands, New Zealand, Norway, Peru, Saudi Arabia, Sweden.

The third part was rejected by 21 votes to 9, with 18 abstentions.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) explained that he had voted against the clause regarding the death penalty because his delegation considered that the death penalty should be abolished at all times. That had been the purport of the amendment which Uruguay had proposed (A/C.3/268).

MR. DE LEÓN (Panama) had voted against the second and third sentences of the USSR amendment because they referred to matters which were out of place in a declaration of human rights.

With regard to the death penalty, it had been entirely abolished by the Constitution of Panama. A vote in favour of the Soviet Union proposal would have constituted an admission that the death penalty could be legitimately exercised in time of war.

MR. BAGDADI (Egypt) explained that he had abstained for two reasons. He had always maintained that the obligations of the State were out of place in a declaration of human rights, and, furthermore, that the abolition of the death penalty was out of place in a declaration of a general character.

It was for each country to include the relevant provisions in its penal code.

MR. HABIB (India) stated that his country, which had only recently achieved independence, had not yet adopted a Constitution. He had [186] already expressed the belief that when the question of the death penalty in peacetime was considered in his country, legislation would abolish it. In view of the situation, the Indian delegation had abstained when the vote was taken on the Soviet Union amendment.

THE CHAIRMAN pointed out that, as all parts of the USSR amendment had been rejected, there was no need to proceed to a vote on the draft amendment as a whole.

MR. PAVLOV (Union of Soviet Socialist Republics) then asked for a vote on the first part of the amendment also.

THE CHAIRMAN recalled that that part reproduced the wording of the original text and could not therefore be considered as an amendment. A decision on that text would be taken later.

THE CHAIRMAN announced that the Panamanian amendment (A/C.3/220) would be put to the vote.

On a point of order, MR. GARCÍA BAUER (Guatemala) proposed that the Committee should vote only on the first of the three articles which the delegation of Panama had proposed to substitute for the basic text of article 3, since the two other articles proposed were a mere repetition of ideas which appeared in certain later clauses of the draft declaration and had not been discussed with regard to substance.

THE CHAIRMAN thought that, with the exception of the first of the three new articles proposed, the Panamanian amendment was principally concerned with the order of the texts.

On the Chairman's request, MR. DE LEÓN (Panama) agreed that the Committee should vote only on the first of the articles which he had proposed to substitute for the original text of article 3. His amendment, therefore, read as follows: "Every human being has the right to exist and to maintain, develop, protect and defend his existence."

The amendment was rejected by 25 votes to 1, with 19 abstentions.

MR. PÉREZ CISNEROS (Cuba), explaining his abstention, paid a tribute to the efforts made by the delegation of Panama. He was convinced that the ideas advocated by that delegation would find expression during the discussion of other articles of the declaration.

THE CHAIRMAN having proposed that the Belgian delegation's amendment (A/C.3/282) to the joint amendment submitted by Uruguay, Cuba and Lebanon (A/C.3/274/Rev.1), MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) pointed out that the differences between the two texts were considerable enough to make it necessary to vote on each separately.

Following a discussion in which the representatives of China, Uruguay, Mexico and Belgium took part, MR. DEHOUSSE (Belgium) proposed that the joint text of Uruguay, Cuba, and Lebanon be put to the vote first.

It was so agreed.

THE CHAIRMAN put to the vote the first amendment to article 3 proposed by the three delegations [187] which consisted in inserting after the words "Everyone has the right to life", the word "honour".

MR. PÉREZ CISNEROS (Cuba) requested that the vote be taken by roll-call.

A vote was taken by roll-call, as follows:

In favour: Afghanistan, Argentina, Belgium, Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Ethiopia, Guatemala, Haiti, Lebanon, Peru, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Canada, China, Denmark, France, Greece, India, Luxembourg, Netherlands, New Zealand, Norway, Panama, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America.

Abstaining: Brazil, Burma, Honduras, Mexico, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen.

The amendment was rejected by 20 votes to 20, with 9 abstentions.

MR. CASSIN (France) explaining his negative vote, emphasized that, although his delegation did not minimize the concept of honour, it was, in its opinion, already contained in article 1, which proclaimed the dignity of human beings.

MR. KURAL (Turkey) associated himself with the statement made by the French representative and recalled that the representative of Belgium had already drawn the Committee's attention to the subjective nature of the concept of honour.

THE CHAIRMAN having proposed to take a vote on the following section of the amendment, MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the Russian translation of that text (A/C.3/274/Rev.1) used an expression which meant "personal integrity", which included physical integrity.

If that were not adequately explained, he would abstain from voting on that point.

MR. CASSIN (France) maintained that the idea of physical integrity was contained in that of security of person.

MR. PÉREZ CISNEROS (Cuba) considered that those observations were concerned with the substance of the amendment and, as one of its co-authors, he stated in reply, that the idea of security had a legal character. Even if it were considered that it implied physical integrity, it was nevertheless preferable to mention the latter idea specifically.

THE CHAIRMAN put to the vote the second section of the joint amendment submitted by Uruguay, Cuba and Lebanon, consisting of introducing into the original text after the word "liberty" the words "physical integrity".

MR. PÉREZ CISNEROS (Cuba) requested that the vote be taken by roll-call.

A vote was taken by roll-call.

In favour: Argentina, Belgium, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Ethiopia, Haiti, Lebanon, Luxembourg, Mexico, Peru, Saudi Arabia, Uruguay, Venezuela.

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Against: Australia, Canada, China, Denmark, France, Greece, India, Netherlands, New Zealand, Norway, Panama, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America.

Abstaining: Brazil, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Guatemala, Honduras, Pakistan, Poland, Ukrainian Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

The amendment was rejected by 19 votes to 17, with 12 abstentions.

THE CHAIRMAN put to the vote the third part of the joint amendment, consisting of introducing after the words “security of person” the words “and to the economic, social and other conditions necessary to the full development of the human personality.”

MR. PÉREZ CISNEROS (Cuba) and MR. SANTA CRUZ (Chile) requested that the vote be taken by roll-call.

A vote was taken by roll-call, as follows:

Egypt, having been drawn by lot by the President, was called upon to vote first.

In favour: Haiti, Lebanon, Mexico, Pakistan, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador.

Against: France, Greece, India, Luxembourg, Netherlands, New Zealand, Norway, Panama, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Australia, Belgium, Canada, China, Denmark.

Abstaining: Egypt, Ethiopia, Guatemala, Honduras, Saudi Arabia, Brazil, Burma.

The amendment was rejected by 21 votes to 20, with 7 abstentions.

On a point of order, MR. CHANG (China) questioned the desirability of voting on the Belgian delegation’s amendment (A/C.3/282), since the Committee had just voted against the addition of the words “physical integrity”, which also appeared in that amendment.

MR. DEHOUSSE (Belgium) having withdrawn his amendment, MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) took it up on behalf of his delegation.

MR. DEHOUSSE (Belgium) said that there was no need to dwell any further on ideas which had already been rejected by the Committee.

MR. SANTA CRUZ (Chile) pointed out that the representative of Belgium had already agreed that the Committee should vote on his amendment in the event of the rejection of the joint amendment.

MR. BAGDADI (Egypt) drew attention to the fact that his delegation had abstained from voting on the previous text because it had preferred the wording of the Belgian text. Other delegations might be in the same position.

MR. SAINT-LOT (Haiti) expressed his preference for the words “security of person”, which [189] expressed the idea of the moral as well as the physical integrity of the individual.

For that reason he would vote against the amendment which seemed to him to neglect the aspect of legal security.

MR. GARCÍA BAUER (Guatemala) asked for an authoritative interpretation of the expression “security of person”, without which the reasons for each delegation’s vote would not be sufficiently clear.

THE CHAIRMAN put to the vote the Belgian delegation's amendment (A/C.3/282), taken up by the delegation of Uruguay. It proposed the following wording for article 3:

"Everyone has the right to life, liberty and respect for the physical and moral integrity of his person."

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) requested that the vote be taken by roll-call.

A vote was taken by roll-call, as follows:

In favour: Argentina, Cuba, Dominican Republic, Ecuador, Egypt, Ethiopia, Lebanon, Mexico, Pakistan, Peru, Uruguay, Venezuela.

Against: Australia, Canada, Chile, China, Denmark, France, Greece, India, Luxembourg, Netherlands, New Zealand, Norway, Panama, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America.

Abstaining: Belgium, Brazil, Burma, Byelorussian Soviet Socialist Republic, Costa Rica, Czechoslovakia, Guatemala, Haiti, Honduras, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

The amendment was rejected by 21 votes to 12, with 15 abstentions.

MR. SANTA CRUZ (Chile) stated that he had voted against the amendment for reasons already explained by the representative of Haiti.

MR. GARCÍA BAUER (Guatemala) said he had abstained because, in spite of his request, its terms had not been defined before the vote.

MR. ROZAKIS (Greece) withdrew the amendment his delegation had submitted previously (102nd meeting) and supported the text of the Commission on Human Rights.

He reminded the Committee that he had on several occasions outlined the intentions underlying his amendment. He preferred to withdraw it, however, because of the unjustified attacks it had aroused against his country.

MR. KURAL (Turkey) asked that the vote on article 3 be taken by roll-call as had been done in the case of the amendments.

MR. GARCÍA BAUER (Guatemala) emphasized the need for an exact definition of the words "security of person". If they included the notion of physical integrity, that should be stated in the summary record of the meeting.

Speaking as Chairman of the Commission on Human Rights, MRS. ROOSEVELT (United States of America) said that the words "security of person" [190] had been chosen after lengthy discussion because they were more comprehensive than any other expression. The French representative had especially noted that they included the idea of physical integrity and that they seemed to cover most comprehensively various views expressed in the Commission.

The Commission on Human Rights had also tried to adopt concise wording so as to express the greatest possible number of ideas in a limited number of words.

MR. IMPERIAL (Philippines) proposed that before taking the vote on article 3, the Committee should vote on the following motion:

“The Third Committee is of the opinion that the words ‘security of person’ include the notion of physical integrity.”

THE CHAIRMAN said he could not agree to that procedure.

MR. DEHOUSSE (Belgium) thought that the Committee could not reopen the discussion on the substance of the problem. None of the members present was qualified to give an authoritative interpretation of the decision taken by the Commission on Human Rights.

He recalled the proposal made by the Belgian delegation that all similar cases should be referred to the International Court of Justice. If the Court had to give its opinion on the interpretation of those words, it would do so on the basis of the preparatory work of the Commission on Human Rights, of the summary records of the meetings, and of the votes which had been taken. Its opinion would then be authoritative and final.

MR. PÉREZ CISNEROS (Cuba) emphasized that the draft declaration of human rights would be finally adopted by the General Assembly and would become one of its documents. Consequently, if the International Court of Justice were to give its opinion on the interpretation of any article of the declaration, it would have to refer to the discussions of the Third Committee and not to those of the Commission on Human Rights.

Any delegation was, therefore, entitled to ask that the terms of article 3 should be clearly defined. The same procedure had been adopted several times during the discussions on the drafting of the Charter at San Francisco. He supported the proposal of the representative of Guatemala that an authoritative interpretation of the terms of article 3 should be included in the summary records of the meeting, either before or after the vote.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that the fears of the representative of Guatemala were justified. Indeed, certain representatives had stated during the discussion that the ideas expressed in various amendments were already contained in the text drawn up by the Commission on Human Rights. Thus, it had been maintained that the concept of physical integrity was included in the words “security of person”. Once the amendments were rejected, however, those same representatives refused to give an opinion on the exact meaning of the terms in question.

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The delegation of Uruguay would vote for the text of the Commission on Human Rights as all the amendments had been rejected. It was, however, of the opinion that the article was both defective and incomplete.

MR. WATT (Australia) emphasized that the Committee could not be bound by a special interpretation of article 3.

The statements made by various delegations at San Francisco – which the Cuban representative had quoted as precedents – were not aimed at giving an authoritative

interpretation of various provisions of the Charter; they only recorded, in the records of the meetings, the way in which some States thought those provisions should be interpreted. Such interpretations could not bind the majority of members. Each delegation could ask that the records of the meeting should include its interpretation of article 3 so that it could refer to it, if need be, before an international court such as the International Court of Justice. The Australian delegation, however, felt that the expression “security of person” was sufficiently wide to allay the anxiety of the representatives of some South American countries.

MR. CHANG (China) endorsed the views expressed by the French and United States representatives regarding the definition of the words “security of person”. As those views would be recorded, he thought it useless to prolong the debate on that point.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) proposed that, owing to the difficulties to which the words “security of person” had given rise, the vote on article 3 should be taken in two parts.

The Committee could vote on the first part of the article up to the words “to life”, and then on the second part from the word “liberty” to the end, and lastly on the article as a whole.

THE CHAIRMAN said that in accordance with that suggestion the vote would be taken in parts.

A roll-call vote would be taken only on the article as a whole.

He put to the vote the first part of the article: “Everyone has the right to life”.

That part was adopted by 49 votes to none, with 2 abstentions.

THE CHAIRMAN put to the vote the second part of article 3: “liberty and security of person”.

That part was adopted by 47 votes to none, with 4 abstentions.

THE CHAIRMAN called for a vote on article 3 as a whole.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to explain his delegation’s vote. His delegation objected neither to the first nor to the second part of article 3 and he had, therefore, voted for both. It felt, however, that those two parts did not form a complete article as they [192] omitted the guarantees of the right to life which the USSR delegation regarded as essential. Those guarantees, namely protection against criminal attempts and against the danger of death by hunger, together with the abolition of the death penalty in time of peace, were included in the Soviet Union amendment.

His delegation would, therefore, abstain from voting on the article as a whole.

MR. PÉREZ CISNEROS (Cuba) said that his delegation had voted for both parts of article 3, but would abstain from voting on the article as a whole since its terms had not been clearly defined.

The article relating to the right to life in the Bogotá declaration, which had been signed by the American States, included the right to security and integrity of person. Yet the words “physical integrity” had not been inserted in article 3 and the words “security of person” had not been defined.

The resulting text was therefore inadequate.

MR. SANTA CRUZ (Chile) said his delegation would vote in favour of article 3. The words “security of person” included physical and moral integrity and legal security. No members of the Committee had disputed that interpretation.

MR. DE ALBA (Mexico) said that his delegation considered article 3 as inadequate because it contained no provision for the raising of standards of life, social justice and the full development of the human personality.

It would, however, vote in favour of the article while reserving its right to raise the matter before the General Assembly.

MR. DE LEÓN (Panama) said his delegation would abstain from voting on article 3 as a whole because it felt it was impossible to include the right to life, the right to liberty and the right to security of person in one article. There should be separate and more detailed articles for each of those rights.

His delegation’s abstention did not mean that it underestimated their value; on the contrary, it wished to see them stated in greater detail.

MR. CASSIN (France) said his delegation would vote for article 3 not only because it approved of the ideas it contained, but also because it would regard its adoption as a victory for a method of work which had proved its effectiveness both at Bogotá and in the Commission on Human Rights. That method would have to be followed.

With regard to the ideas of social justice and of the free development of the human personality, the French delegation would support their insertion in the declaration at the appropriate time.

MR. DEDIJER (Yugoslavia) said he would abstain from voting on article 3 because it was inadequate and did not prohibit lynching.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said he had supported the USSR amendment and also certain aspects of some other [193] amendments which expressed progressive ideas. He felt that the article was incomplete because of their rejection.

He would therefore abstain when the vote was taken.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) said he would abstain from voting because article 3 mentioned the right to life but not the guarantees of that right.

MR. CARRERA ANDRADE (Ecuador) said that from a legal point of view the words in question had a definite meaning, and that physical integrity could not be

considered as being the same as security of person. Physical integrity was a human right, while the ensuring of security of person was a duty on the part of the State towards the individual.

His delegation would abstain from voting.

MR. GARCÍA BAUER (Guatemala) asked that the various opinions expressed by members of the Committee concerning the interpretation of the words “security of person” should be noted in the summary record of the meeting.

He would vote in favour of article 3 because it had been stated that its wording included the idea of physical integrity.

THE CHAIRMAN put article 3 (E/800) to the vote.

A vote was taken by roll-call.

Egypt, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Egypt, Ethiopia, France, Greece, Guatemala, Honduras, India, Iran, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Peru, Philippines, Saudi Arabia, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela, Yemen, Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Costa Rica, Denmark, Dominican Republic.

Abstaining: Haiti, Lebanon, Pakistan, Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ecuador.

Article 3 was adopted by 36 votes to none, with 12 abstentions.

MR. PLAZA (Venezuela) would have preferred a more explicit text, but had voted in favour of article 3 on the understanding that the expression “security of person” included the physical, moral and legal integrity of the individual.

MRS. KALINOWSKA (Poland) said the Polish delegation had voted for both parts of article 3, but had abstained from voting in the whole. She recalled that the Polish delegation had voted in favour of the last part of the joint amendment (A/C.3/274/Rev.1) relating to economic and social conditions which were necessary to the full development of the human personality; although that amendment did not mention the duties of the State, it would partly have filled any serious gap in article 3.

MR. SAINT-LOT (Haiti) explained that his delegation had abstained from voting on article 3 [194] as a whole because it had not included two of the four fundamental freedoms proclaimed by President Roosevelt, namely freedom from want and freedom from fear.

MR. IMPERIAL (Philippines) had voted in favour of article 3 on the understanding that the words “security of person” included the notion of physical integrity.

The meeting rose at 6 p.m.

A/C.3/302**20 October 1948⁵⁰**

**Recapitulation of Amendments to Article 25
of the Draft Declaration (E/800)**

(In the chronological order of their submission to the Committee)

Article 25 – (Text adopted by the Commission on Human Rights)

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Amendments:

Union of Soviet Socialist Republics (E/800)

Add to the text adopted:

“The development of science must serve the interests of progress and democracy, and the cause of international peace and co-operation”.

France (A/C.3/244/Rev.1)

Add a paragraph 2 as follows:

“Everyone likewise has the right to the protection of the moral and material interests that he may acquire through any inventions or literary, scientific or artistic work of which he is the author”.

Cuba (A/C.3/261)

Amend as follows:

“Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from scientific advancement.”

“He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author”.

Mexico (A/C.3/266)

Add the following as the second paragraph:

⁵⁰ This date is probably a mistake. A/C.3/302 was issued on 25 October 1948, as was A/C.3/304. The French version of A/C.3/303 bears the date of 25 October 1948.

“2. He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific, or artistic works of which he is the author.”

A/C.3/SR.108⁵¹

20 October 1948

Summary Record of the Hundred and Eighth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Wednesday,
20 October 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

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...

31. Draft international declaration of human rights (E/800) (continued)

***Statement by the Belgian Delegation on the Legal Significance
of the Declaration***

MR. DEHOUSSE (Belgium) recalled that his delegation had, on two occasions, reserved the right to make known its views on the legal significance of the declaration of human rights.

He stressed the difficulty of choosing an appropriate time to make such a general statement. The Belgian delegation had refrained from doing so during the general discussion, as that discussion had been concerned with the moral and philosophical, rather than with the legal, aspects of the matter. On the other hand, it had hesitated to wait for the vote on the draft declaration as a whole since it feared that it might be too late. The desired opportunity had presented itself with the USSR amendment to article 3, an amendment which referred to the State's role in protecting human rights within national frontiers and thereby raised the question of the legal value of the declaration.

There was no doubt that the declaration would be communicated to Member States of the United Nations in the form of a recommendation by the General Assembly. On that account certain delegations agreed that it had a moral value, but denied it any legal value.

The Belgian delegation opposed any such interpretation. The authority of the General Assembly, the highest organ of the United Nations, was based on the San

⁵¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 194–204.

Francisco Charter. Its recommendations could not, therefore, be compared with those of a private organization for example. The General Assembly was a juridical organ and any recommendations made by it had an undeniably legal character.

That point being settled, there remained the question whether or not the legal document constituted by the declaration of human rights would be binding.

The answer to that question was not so simple as was generally believed. The Belgian delegation had examined the problem on several occasions and, because of certain statements which had been made during the discussion of the question in the Commission on Human Rights, and the views expressed by Mr. Cassin in particular, it had modified its original opinions, which had been to assign a purely optional significance to the declaration.

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It was necessary, in fact, to make a distinction between the principles which would be inserted in the declaration. Some of the principles would only repeat rules already in the customary law of nations and were, in consequence, recognized in unwritten international law. The act of inscribing them in an international declaration could not deprive these rules of the binding character they already possessed.

Other principles which would be included in the declaration did not belong to customary international law and the fact of their inclusion in an international declaration would certainly not make them obligatory. Their inclusion, however, would oblige Member States to give those principles very serious consideration; and that might lead them to consider the question of adapting their constitutions and laws to the declaration they had approved.

Naturally no Member State would be under an obligation to adapt its constitution and laws in that way. No Member State, even if it had voted for the declaration, would be legally bound to write the principles of the declaration into its legislation. But it would be under the obligation to take them into consideration. In other words, the recommendation resulting from the work of the Committee would create the beginning of an obligation for the Member States of the United Nations.

In illustration of this point, Mr. Dehousse recalled a recent recommendation of the Security Council, which was based on Chapter VI of the Charter relating to the pacific settlement of disputes,¹ in virtue of which two States had agreed to submit their dispute to the International Court of Justice. Those States had not been bound to accept the Security Council's recommendation, but they were under the moral obligation to take it into account, and that they had done.

That was the sense in which the Belgian delegation regarded the force and significance of the international declaration of human rights: the document would have incontestable legal force. It would not, in the strict sense of the word, be binding; but it would place an obligation on Member States to consider the action which should be taken on that recommendation of the General Assembly.

Mr. Dehousse stressed the subtle character of the question with which he had just dealt, and expressed a wish that the Legal Department of the Secretariat should study it closely and, if necessary, prepare a note for communication to the Committee in the course of its work on the declaration.

**Proposal from the Swedish Delegation for Speeding up the Work
of the Committee (A/C.3/281)**

MRS. LINDSTRÖM (Sweden) said that before the Committee went on to consider article 4 of the draft declaration of human rights, she wished to make a proposal for speeding up its work. In view of the limited number of meetings that remained for finishing their study of the declaration of rights, she deplored the length

^[1] See *Official Records of the Security Council*, Second Year, No. 34, page 727.

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of the discussions. Many representatives had urgent work waiting to be done in their respective countries. She feared that they might not be able to stay in Paris until consideration of the draft declaration had been finished. For that reason, she proposed that the length of the speeches made in the Committee should be limited, in order to speed up the debates.

To that end, she submitted the following resolution to the Committee (A/C.3/281):

“I. In accordance with rule 103 of the rules of procedure, the Committee fixes the following time limit on speeches during the further consideration of the international declaration of human rights:

- “1. Original speeches shall not exceed ten minutes;
- “2. Second speeches shall not exceed live minutes.

“II. Acting under authority of rule 104 of the rules of procedure, the Chairman, with the consent of the Committee, shall declare the list of speakers closed at the end of one hour’s debate on each article. This is subject to the Chairman’s authority under this rule to accord the right to reply to any member if a speech delivered after he has declared the list closed makes this desirable.”

MR. CHANG (China) supported the Swedish delegation’s proposal.

MR. MACDONNELL (Canada) said he was strongly in favour of the Swedish proposal which seemed to him to be very desirable. In view of the limited time at the Committee’s disposal, he thought the Committee might consider the possibility of postponing the discussion on the declaration of human rights to another session of the Assembly, or of referring it for study to another organ of the United Nations. If necessary, he would return to that question.

MR. SANTA CRUZ (Chile) shared the misgivings of the Swedish delegation regarding the limited amount of time remaining to the Committee. He was not so critical, however, as the Swedish delegation in his appraisal of the work already done. He observed that no member of the Committee could be accused of systematic

obstruction and that few speeches had lasted ten minutes. Moreover, he considered that the first three articles were of a very general character and therefore offered certain difficulties. Those difficulties would not arise in connexion with the other articles, and the Committee would thus be able to work more quickly.

Accordingly, while agreeing with the Swedish proposal on the whole, he maintained that any decision the Committee might take on the procedure to be followed could only be effective if it were adopted unanimously.

MR. BEAUFORT (Netherlands), said with reference to the first paragraph of the Swedish proposal, that he thought the words "original speeches" meant speeches made in presenting or [202] opposing an amendment; "second speeches" would refer to all other statements.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) disagreed with the interpretation of the Netherlands representative. In his opinion, an "original speech" was the first statement made by any delegation, no matter whether its purpose was to submit an amendment or to oppose an amendment already submitted.

MR. DEHOUSSE (Belgium) supported the first paragraph of the Swedish proposal as interpreted by the Netherlands delegation. The second paragraph of the proposal was, however, both unnecessary and dangerous. It was unnecessary because it repeated the terms of the second sentence of rule 104 of the rules of procedure; it was dangerous because it laid upon the Chairman the obligation to grant the right of reply whenever it was requested. Members of the Committee were aware that two opposite tendencies were evident in the Organization and its various committees. Consequently, if the Chairman called upon a representative whose speech reflected one of those tendencies, he should in fairness also call upon a representative of the other side. Meanwhile delegations who were not connected with either of those sides were prevented from taking part in the discussion and forced to remain passive.

He therefore proposed that the second sentence of paragraph II of the Swedish proposal should be amended as follows:

"The Committee further requests the Chairman not to use the powers conferred on him by the second sentence of rule 104 of the rules of procedure. It notes, further, that the Chairman may also call a speaker to order if his remarks are not relevant to the subject under discussion."

MR. PÉREZ CISNEROS (Cuba) approved the idea of the first paragraph of the Swedish proposal. He was prepared to accept it on the understanding that it would be interpreted not as a hard and fast rule but as a recommendation. However if the Committee were asked to vote on the paragraph, he would vote against it, for a formal vote would give it an obligatory and therefore unacceptable character.

MR. PAVLOV (Union of Soviet Socialist Republics) noted that every attempt to improve their procedure only resulted in longer discussions. Moreover, the Swedish

proposal reflected a general tendency in the United Nations to regard the work of the various committees as something mechanical and the act of voting as being in itself more important than the examination of the Committee's opinions.

He emphatically opposed that tendency and was therefore wholly against the Swedish proposal.

With regard to paragraph II, he pointed out that according to rule 99 of the rules of procedure, it was for the Chairman to decide, if and when the necessity arose, whether the remarks of a [203] speaker were relevant to the subject under discussion. The Chairman's decision was founded on logic; the Swedish proposal would impose a purely mechanical rule for a logical rule.

Again, the proposed change in procedure was tantamount to a revision of the rules of procedure and was consequently beyond the competence of the Committee.

He could not therefore accept the Swedish proposal.

MR. COROMINAS (Argentina) insisted that the discussion should be carried on in the usual way according to the rules of procedure. When a joint formula was desired, a general discussion and an exchange of views were essential. He thought that what they needed was not shorter speeches but the removal of that feeling of distrust which was apt to appear in the Committee.

The Argentine delegation was prepared to accept any suggestion which would further the work of the Committee, but it could in no circumstances agree to a proposal which tended to limit the freedom of speech of representatives.

In reply to MR. BAGDADI (Egypt), THE CHAIRMAN pointed out that the Uruguayan representative's interpretation of the first paragraph of the Swedish proposal seemed to be the one which conveyed the intentions of the Swedish delegation.

In reply to the request by the representative of Australia for further information, he said that under rule 104 of the rules of procedure any speaker would be able to make use of his right of reply even after the list of speakers had been closed. Further, when a speaker wished to make a general statement, it would be for the majority of the Committee to decide whether or not his request should be granted.

THE CHAIRMAN agreed with the representative of the USSR that the Swedish proposal, if accepted in the imperative terms in which it was formulated, would in fact be equivalent to a revision of the rules of procedure. Clearly, in that case, the proposal would not be in order. He thought it could, nevertheless, be adopted as a recommendation, the Chairman being given full discretion to conduct subsequent debates in the light of the most interesting and instructive discussion which had just taken place.

Supporting the views expressed by the Chairman, MR. SANTA CRUZ (Chile) stressed the importance of unanimity with regard to decisions taken by the Committee, and suggested that since it had apparently met with rather strong opposition, the Swedish proposal should be withdrawn.

MRS. LINDSTRÖM (Sweden) emphasized that her proposal had been intended above all as a friendly recommendation.

She was entirely in agreement with the interpretation given to it by the representative of Uruguay and, in a spirit of conciliation, withdrew the second part of her proposal.

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MR. DEHOUSSE (Belgium) withdrew the amendment he had submitted to paragraph II of the Swedish proposal, since it was no longer pertinent.

MR. COROMINAS (Argentina) said he was still opposed to paragraph I of the Swedish proposal and declared that, whatever decision might be taken, he reserved the right to make his statements on the rights of man as long as would be necessary.

He requested a vote by roll-call.

THE CHAIRMAN drew the Argentine representative's attention to the fact that every member of the Committee would have to conform to the Swedish proposal if it were adopted. He put the first paragraph of the Swedish proposal to the vote.

A vote was taken by roll-call.

In favour: Belgium, Bolivia, Brazil, Canada, China, Denmark, Ethiopia, France, Honduras, India, Iran, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Peru, Philippines, Saudi Arabia, Siam, Sweden, Turkey, United Kingdom, United States of America, Uruguay, Venezuela.

Against: Argentina, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ecuador, Haiti, Iraq, Mexico, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Abstaining: Australia, Chile, Dominican Republic, Egypt, Poland, Union of South Africa, Yemen.

The proposal was adopted by 26 votes to 12, with 7 abstentions.

The meeting rose at 6:15 p.m.

A/C.3/SR.109⁵²

21 October 1948

Summary Record of the Hundred and Ninth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Thursday,

21 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

⁵² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 204–14.

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33. Draft international declaration of human rights (E/800) (continued)

Article 4¹

THE CHAIRMAN drew the attention of the Committee to document A/C.3/271 which contained a recapitulation of the amendments to article 4.

He thought the only amendment that should be considered immediately was the USSR proposal (E/800, page 32), as all the others proposed either deletions or changes in order.

MR. PÉREZ CISNEROS (Cuba), speaking on a point of order, asked the Chairman to announce, just when the general debate was beginning and when he intended to close the discussion.

THE CHAIRMAN thought it unnecessary to announce the opening of a discussion but he promised to inform members when he wished to close it.

MR. CAÑAS (Costa Rica), asked for an explanation of the difference between the English and French texts of article 4, pointing out that the English text stated: "No one shall be held in . . . involuntary servitude", while the French text said: *Nul ne sera . . . tenu en servitude*. The adjective "involuntary", used in English, was not to be found in the French text. Mr. Cañas wondered which text was authentic.

MR. GRUMBACH (France) observed that the word "servitude" alone seemed to be the only way of expressing precisely what article 4 should state.

MRS. CORBET (United Kingdom) explained that the English word "servitude" described the situation of a person who performed services, whether voluntarily or involuntarily. It was therefore necessary to add the adjective "involuntary" in the English text.

^[1] Articles 5 and 6 of the draft universal declaration of human rights (A/777).

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MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) thought it was difficult to follow the rule that only those amendments should be considered which proposed neither deletions nor changes in order.

The purpose of his amendment (A/C.3/268) was that the second paragraph of article 4 should be changed to read: "No one shall be subjected to torture or to the death penalty or inhuman punishment or to degrading treatment." His amendment was therefore one of substance; but he also proposed transferring the second paragraph of article 4, thus amended, to article 9.

With regard to the USSR draft amendment, the Uruguayan delegation preferred that text to the first paragraph of the original text, because the former was more complete.

MR. PÉREZ CISNEROS (Cuba) said that although article 4 was a well-integrated whole, the way in which widely differing concepts were juxtaposed made it far from satisfactory. It seemed to repeat ideas already expressed in preceding articles; for example, the statements in article 1 that “All human beings are born free and equal in . . . rights” and in article 3 that “Everyone has the right to . . . liberty” made it superfluous to repeat that “No one shall be held in slavery or in involuntary servitude”. If some members felt that such repetition was in fact necessary, the Cuban delegation would not insist on the first part of its amendment (A/C.3/224), which was the first paragraph of article 4 should be deleted; it wished to know, however, why it had been considered appropriate to repeat in article 4, in a different way, ideas which had already been expressed in preceding articles.

According to the second part of the Cuban amendment, the idea expressed in the second paragraph of article 4 should be included in an article based on juridical considerations, like article 7. The second paragraph of article 4 dealt in fact with questions within the field of criminal law. Moreover, it seemed useless to say “inhuman” immediately after “cruel” in the phrase “cruel . . . treatment or punishment”, as *cruel* punishment would completely exclude *inhuman* punishment. On the other hand, mention of “non-customary punishment” seemed appropriate.

He hoped that the second part of his amendment would be supported by the Uruguayan representative who felt that considerations of a juridical nature should be grouped together.

MRS. BEGTRUP (Denmark) recalled that an inquiry made by the United Nations War Crimes Commission had revealed that the Nazis had used prisoners for medical experiments such as vivisection. She felt that article 4 would be applicable in a case such as she had described. It should, however, be made perfectly clear that members of the Committee were unanimous in thinking that the practice of vivisection on persons whose consent had not been obtained constituted a violation of the most elementary human rights.

Her delegation would return to that subject when the covenant on human rights was considered.

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MR. WATT (Australia) observed that it was easier to understand the scope of an amendment if the authors explained their reasons for submitting it.

He would be happy to hear the USSR representative explain the amendment he had submitted.

THE CHAIRMAN agreed that the discussion was more constructive when an amendment was explained first by its authors.

Moreover, the suggestion had been made that before the discussion of a particular article of the draft declaration was begun, it would be useful to have a brief account of the genesis of the article.

MR. GARCÍA BAUER (Guatemala) thought that, as the ideas underlying the various articles of the draft declaration were well known, such a procedure for each of the twenty-eight articles would mean a great loss of time – of four hours perhaps. Furthermore, he wondered whether the explanations to be given might be considered authoritative.

It might be more useful to ask the members of the Commission on Human Rights for information on certain passages or certain words used in the draft declaration, if the need for such information should be felt.

THE CHAIRMAN replying to the representative of Guatemala, stated that the explanations of the text, even though not authoritative, would give the genesis of the article, thus making it possible for members of the Committee to know what ideas had been put forward in the Commission on Human Rights.

Should the occasion arise, he would be happy to furnish any explanations that might be necessary. He would, moreover, ask those members of the Commission on Human Rights who would like to do so to be prepared to explain the articles if questions regarding their drafting were raised.

The meeting rose at 6:15 p.m.

A/C.3/SR.110⁵³
22 October 1948

Summary Record of the Hundred and Tenth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Friday,
 22 October 1948, at 10:45 a.m.

Chairman: MR. CHARLES MALIK (Lebanon)

34. Draft international declaration of human rights (E/800) (continued)

Article 4 (continued)

MR. PAVLOV (Union of Soviet Socialist Republics) drew attention to his amendment to article 4 (E/800, page 32), the purpose of which was to strengthen and clarify the draft text. Certain representatives had already pointed out that slavery was not a thing of the past and according to a letter he had received from an anti-slavery organization, forms of it still existed in Africa, Asia and parts of America. It was

⁵³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 214–23.

necessary, therefore, to state clearly that the practice was prohibited; otherwise, article 4 would have historical rather than practical significance.

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It was necessary, also, to prohibit the slave trade in order to ensure the just punishment of traffickers. He reminded the Committee that in a speech on the American Constitution, Jefferson had recommended the abolition of the slave trade, as well as slavery. Congress, unfortunately, had refused to accept his point of view. It had been stated that eight million people were living in conditions of slavery. Even if that figure were not correct, the practice existed and it was for the United Nations to guarantee the freedoms set forth in the first articles.

The USSR delegation also wanted to include a provision stating that violations were punishable by law. It was a crime to treat a human being as an inanimate object. It was also a crime to carry on clandestine activities, or to indulge in such crude practices as existed under the peonage system in parts of Latin America.

The Nazis' attempts to reintroduce conditions of slavery showed that it was a problem which merited the United Nations' most careful attention.

He did not object to paragraph 2, of article 4, either as part of that article or as a separate article.

MR. AQUINO (Philippines) expressed his delegation's deep interest in the draft declaration and recalled the important contribution which had been made to it by General Romulo. That contribution reflected the long experience which the Philippine people had had of the methods of constitutional government.

The declaration was a solid and progressive document and perhaps represented a preliminary step in the development of a common political philosophy for all men. It would be unwise, therefore, to alter its provisions for the unimportant reasons that had been put forward during the debate.

The Cuban representative's proposal (A/C.3/224) concerning paragraph 2 of article 4 was not acceptable. Customs varied from country to country and what was not customary was not necessarily degrading. The Nazis could have claimed that their torture chambers were perfectly legal because it was customary to make use of them in Nazi Germany.

Article 4 was in no way a repetition of the provisions of the first three articles; it defined specific rights which were so vital and important that they could not be taken for granted. It had to be remembered that every time men kept silent in face of an injustice, freedom suffered a defeat.

MRS. KALINOWSKA (Poland) pointed out that while the principles contained in article 4, paragraph 1 would seem to be generally accepted at the current stage of civilization, hundreds of thousands of human beings had, from 1939 to 1944, been treated as slaves. The degradation which they had had to suffer was common knowledge. The Polish people, many of whom still remain in displaced persons

camps, had been particularly badly treated. She would return to [216] that question when the Third Committee came to discuss the item of its agenda on refugees.

Slavery still existed; an example of it was to be found in the Trusteeship Council's report.¹ The practice of selling little girls was being carried on in one of the Trust Territories.

The USSR proposal was designed to provide the protection of the law where conditions of slavery or the slave trade existed. It was conformity with the provisions of article 6 and would add the necessary strength to article 4.

The Polish delegation warmly supported its adoption.

MR. WATT (Australia) said his remarks would refer to the form and not to the substance of article 4 and as such, could not be interpreted as a defence of or the slave trade.

After consulting the Oxford Dictionary, he had come to the conclusion that it would be wiser to omit the word "involuntary" before "servitude" in the English text.

He formally proposed the substitution of the word "should" for "shall" in paragraphs 1 and 2 as the word "shall" might give the impression that the document was a covenant rather than a declaration and might involve difficulties for national legislatures.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said the USSR proposal was the most concrete that had been put forward, but it did not entirely satisfy his delegation's views. Both involuntary and voluntary servitude had to be abolished and that fact should be made clear in article 4.

He suggested that a small drafting committee should be set up to prepare an acceptable text and asked that it should keep in mind the Uruguayan proposal concerning article 9, for the abolition of the death penalty. It would not be in conformity with the right to security of person, laid down in article 3, for the declaration to permit the death penalty.

MR. HABIB (India) said that all the points raised during the discussion on article 4 were covered in the new Indian Constitution.⁵⁴ The achievements of Lord Mansfield,⁵⁵ Wilberforce,⁵⁶ Zachary Macaulay⁵⁷ and others had ensured full recognition of the evils of slavery. If there still existed millions of slaves, it was a disgrace to mankind.

⁵⁴ The Indian constitution was enacted on 26 November 1949, more than a year after these remarks were made. The reference must be to the draft that was then being debated. Part III of the Indian Constitution is entitled "Fundamental Rights". Under the sub-head "Right against Exploitation", article 23 states: "23. Prohibition of traffic in human beings and forced labour. (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. (2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them." There is no explicit prohibition of slavery in the Indian Constitution.

⁵⁵ Lord Mansfield (William Murray) (1705–93) was an English jurist who, as Lord Chief Justice, ruled that slavery was unlawful in England and Wales (*R. v Knowles, ex parte Somersett* (1772) 20 State Tr 1).

⁵⁶ An English parliamentarian and philanthropist, William Wilberforce (1759–1833) led the movement to abolish the slave trade. His campaign led to adoption of the Slave Trade Act 1807, which suppressed the slave trade, and the Slavery Abolition Act 1833, which brought an end to slavery in most of the British Empire.

⁵⁷ Zachary Macaulay (1768–1838) was an associate of Wilberforce. He was one of the founders of the Society for the Mitigation and Gradual Abolition of Slavery, forerunner of the Anti-Slavery Society.

The words “No one shall . . . be held in slavery or involuntary servitude” in the draft text were, however, sufficient to prohibit the slave trade.

He hoped that the word “involuntary” would be retained, as the term “voluntary servitude” was in current use in India to describe a particular type of military or labour contract.

MR. PÉREZ CISNEROS (Cuba) felt that the insertion of the word “non-customary” would strengthen article 4 and he supported the first part of the USSR amendment. The proposal for a special reference to the slave trade was an excellent one; as early

[¹] See *Official Records of the Third Session of General Assembly*, Supplement No. 4 (A/603).

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as 1817 and later in 1835, treaties specifically prohibiting the slave trade had been concluded.⁵⁸

He supported the Uruguayan representative’s suggestion for a drafting sub-committee.

MR. RADEVANOVIC (Yugoslavia) supported the USSR proposal as it was more forceful and precise than the basic text. It incorporated all the important aspects of the question, including clandestine practices and the provision for punishment. It had been suggested that the article could be deleted because it merely repeated the substance of articles 1 and 3. That was not the case; to say that men were born free and equal did not necessarily mean that they would remain so.

MR. PLAZA (Venezuela) said that the Spanish text of article 4, paragraph 1 was not quite clear in meaning. The words “involuntary servitude” did not seem to add anything of substance to the articles. The draft declaration should cover all forms of slavery and not only the most obvious ones. In modern times there was a new form of slavery brought about by economic conditions.

He proposed the following amendment to take that point into account and to clarify the existing text:

“Unless already in existence a legal system should be set up, designed to avoid working conditions which might in any way undermine the freedom and dignity of human beings.”

He supported the first part of the USSR amendment in which the slave trade was specifically prohibited.

⁵⁸ As early as 1810, a treaty between Britain and Portugal suppressed slavery. Others soon followed, including an 1813 treaty between Britain and Sweden and the Treaty of Paris of 1814, between Britain and France, which declared the slave trade “repugnant to the principles of natural justice”. The representative of Uruguay was referring to the 1817 treaty between Britain and Spain. The latter agreed to suppress the slave trade north of the Equator immediately and elsewhere by 1820. The British navy had the right to search Spanish ships. Because the slave trade continued, a new agreement was reached in 1835 whereby the authority of the British navy was expanded. Mixed commissions were set up in Freetown and Havana. See: Leslie Bethell, “The Mixed Commissions for the Suppression of the Transatlantic Slave Trade in the Nineteenth Century”, (1966) 7 *Journal of African History* 79.

With regard to the Cuban amendment (A/C.3/224) he thought that the word “inhuman” should be retained as it was wider in meaning than the word “cruel”.

The inclusion of the word “non-customary” was inadvisable as it might be taken to refer to advanced methods of punishment, which might be introduced at a later date, as well as to the degrading punishment dealt with in the article.

He would support the representative of Denmark, if she were to make a concrete proposal to cover the point she had raised at the previous meeting, concerning the way in which the Nazis had used their prisoners for medical experiments.

He agreed with the representative of Uruguay that a sub-committee should be set up to prepare an acceptable text for article 4.

MR. CASSIN (France) said that the basic draft of article 4 had not been confined to a simple prohibition of slavery in all its forms because the Commission on Human Rights had thought it necessary to include some wording which would cover indirect and concealed forms of slavery. The word “servitude” had been used to cover such aspects as the way in which the Nazis had treated their prisoners for war and the traffic in women and children. In French the expression *servitude volontaire* did not have any meaning.

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He favoured the retention of paragraph 1 in its existing form but he would accept the first part of the USSR amendment, in which specific reference was made to the slave trade.

He was opposed to the second part of that amendment as it mentioned punishment according to law and omitted to mention international conventions. It should not be forgotten that a slavery convention had been drawn up at Geneva in 1926. Another defect of the second part of the USSR amendment was that it provided only for punishment and made no mention of prevention.

He supported the original draft of paragraph and said that its provisions were essential to supplement and clarify those set forth in articles 1 and 3.

He suggested that the Committee should first decide whether it wished to include in article 4 the provisions set forth in the USSR amendment, and should then set up a drafting sub-committee to prepare a final text.

MR. SANTA CRUZ (Chile) agreed that the word “involuntary” should not be included before the word “servitude”.

With regard to the amendment just submitted by representative of Venezuela, he suggested that it would be more appropriate in connexion with article 20, where it would form a very useful clarification.

He agreed with the principle underlying the first part of the amendment and would support it as an addition to the basic text but not as a substitution.

He agreed with the remarks made the representative of Australia with regard to the second part of the USSR amendment. If the idea of punishment were included in

article 4 it should also be included in the other articles, and the document would then resemble a convention rather than a declaration.

With regard to the Cuban amendment, he agreed with the representative of Venezuela that the word “inhuman” was more comprehensive than “cruel” and should therefore be retained.

The representative of Uruguay had proposed that paragraph 2 should be transferred from article 4 to article 9. Such a transfer would not be appropriate as article 9 dealt solely with individuals who had been accused of a crime whereas article 4 was much wider in scope.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) pointed out that the first three articles of the draft declaration had been adopted with some abstentions but no contrary votes;¹ he hoped that article 4 would be adopted unanimously.

He raised objections to the second paragraph, whether it was retained as part of article 4 or made into a separate article.

The first paragraph, however, was not at all clear, as was shown by the discussion it had aroused. He felt that the retention of the word “involuntary” in the English text might provide an escape clause, as slave owners would be able to evade the provisions of the declaration by saying that their slaves had entered into servitude voluntarily.

^[1] See 100th, 102nd and 107th meetings.

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It could not be denied that the slave trade still existed and that slavery had been reintroduced by the Nazi regime and it was, therefore, essential to include a specific prohibition of slavery in the declaration.

It had been argued that the second part of the USSR amendment could not be accepted as it involved obligations on the part of the State. However, that argument was not valid as the amendment only stated that violations of the principle should be punished, without stating how that was to be done.

He urged representatives to adopt the USSR amendment as it would clarify the article and help to bring about unanimity.

THE CHAIRMAN declared the general debate on article 4 closed.

He believed that it might be helpful if the Committee took into account a resolution prepared by the Belgian delegation¹ which would be put before the Committee during the discussion of chapter III of the report of the Economic and Social Council. That resolution would ask the General Assembly to request the Economic and Social Council to appoint, for a period not exceeding three years, a small committee of experts on the problem of slavery to examine it in its various forms in all countries where it still existed.

He reminded the Committee of the decision it had taken at the 99th meeting that amendments dealing with substance should not be admitted after the expiry of the agreed time limit. The Venezuelan amendment introduced new ideas of substance; it could not therefore be admitted.

MR. PLAZA (Venezuela) said that he would not insist on his amendment. He wished to make clear, however, that he had not intended to introduce new matters of substance but merely to sum up ideas already expressed in the course of the debate. The wording proposed by the USSR appeared to cover the same ground as the Venezuelan suggestion.

He would withdraw his amendment on the understanding that the words covered all forms of slavery.

MR. DE LEÓN (Panama) withdrew his amendment (A/C.3/220).

THE CHAIRMAN called for a vote on the Uruguayan proposal.

MR. SANTA CRUZ (Chile), supported by the representative of Mexico, said that the French representative's suggestion that the matter of principle should be voted upon first might form an amendment to the Uruguayan proposal.

THE CHAIRMAN said that the vote had to be taken on the text, not on the principle.

MR. CASSIN (France) said he would not insist on his suggestion.

MR. CHANG (China) asked for clarification of the proposed sub-committee's terms of reference. The matters which it was to examine might not be complex enough to warrant setting up such a sub-committee.

^[1] Document A/C.3/293.

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MRS. CORBET (United Kingdom) wondered whether the sub-committee's terms of reference could include incorporating the amendments before the Committee since no vote had yet been taken on them.

THE CHAIRMAN explained that the sub-committee would be asked to collate the amendments with the text submitted by the Commission and present the new text to the Committee for approval.

MR. PAVLOV (Union of Soviet Socialist Republics) said he saw no need for the sub-committee proposed by Uruguay and suggested that that proposal should be withdrawn. The Committee could make its decisions for itself. All delegations appeared to agree in principle with the USSR amendment. To set up a sub-committee would merely lead to further delay in voting on article 4.

The USSR amendment was furthest removed from the text and should therefore be voted first.

THE CHAIRMAN ruled that the Uruguayan proposal should be voted first, since it was a matter of procedure. He put the Uruguayan proposal to the vote.

The proposal was rejected by 30 votes to 6, with 8 abstentions.

MR. PÉREZ CISNEROS (Cuba), supported by the representative of Mexico, pointed out that some Latin-American representatives found it difficult to appreciate drafting changes made in English. He asked the Chairman to discuss the question informally with those representatives. A precedent for such action had been set at San Francisco.

THE CHAIRMAN said that he would take up the question with the Secretariat.

MR. PAVLOV (Union of Soviet Socialist Republics) said that adoption of the text proposed by the USSR delegation would set at rest the doubts about interpretation expressed by the representative of Cuba.

The text proposed by his delegation should be voted on in two parts: first, the words "slavery and the slave trade are prohibited in all their aspects"; then, the remainder of the text. The first phrase, substituted for the Commission's text, should clarify the question.

MR. CHANG (China) pointed out that in document E/800 (page 32) the USSR amendment was referred to as an addition; the USSR representative was describing it as a substitution. As an addition, it might be regarded rather as a method of implementing the original text than as a statement of principle. If taken in that sense, it was out of place in the declaration.

MR. PAVLOV (Union of Soviet Socialist Republics) replied that the wording of his amendment covered the same ideas as those contained in the basic text. If the phrase in the basic text were retained, the text would be repetitious.

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MR. PÉREZ CISNEROS (Cuba) supported by the representatives of Chile and France, proposed that the USSR amendment should be taken as an addition to the original text.

He agreed with the representative of the USSR that the parts of his amendment should be voted on separately, in accordance with rule 118 of the rules of procedure.

MR. PAVLOV (Union of Soviet Socialist Republics) emphasized that he contemplated the first phrase in his amendment as the first phrase in the final text. If the representatives of China and Chile wished then to add the words of the original text, he would not object; but he still thought that those words would be redundant.

MR. CHANG (China) said that if the USSR amendment were taken in substitution for the original text, he would vote against it. Prohibition of the slave trade needed further study. Moreover, the phrase appeared to be merely a measure directing implementation of the original text.

MR. GARCÍA BAUER (Guatemala) said he wished to explain his vote, in accordance with rule 80 of the rules of procedure. While he agreed with the principle of the USSR amendment, he could not vote either for its substance or its form since it should appear in the covenant on human rights rather than in the declaration.

He was equally opposed, however, to the suggestion made by the representatives of Cuba, Chile and France.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that the vote should be taken on the place which the first phrase in the USSR amendment should occupy in the article. He wished it to stand first. He asked for a vote by roll-call.

THE CHAIRMAN said that the vote would be taken only on the question of including the USSR amendment. A sub-committee could later decide on the order of the parts. The USSR delegation could repeat his contention that his first phrase should come first when that sub-committee discussed the order.

He called for a vote by roll-call on the proposal that the first phrase in the USSR amendment should be included in article 4.

A vote was taken by roll-call as follows:

In favour: Argentina, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ecuador, France, Greece, Honduras, Lebanon, Mexico, Panama, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Canada, China, Denmark, Guatemala, Iceland, India, Netherlands, New Zealand, Norway, Philippines, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America.

Abstaining: Afghanistan, Egypt, Ethiopia.

The proposal was adopted by 22 votes to 17, with 3 abstentions.

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THE CHAIRMAN put to the vote the second phrase of the USSR amendment.

The phrase rejected by 22 votes to 10, with abstentions.

MR. PÉREZ CISNEROS (Cuba) withdrew his amendment (A/C.3/224).

THE CHAIRMAN put to the vote the proposal to delete the word “involuntary” in the English text.

The proposal was adopted by 17 votes to 15, with 4 abstentions.

MR. PLAZA (Venezuela) withdrew his proposal to change the word “or” to “nor”.

MR. WATT (Australia) made a formal proposal to substitute the word “should” for the word “shall” throughout the draft declaration.

The proposal was rejected by 17 votes to 6 with 15 abstentions.

THE CHAIRMAN put to the vote paragraph 1, with the omission of the word “involuntary” in the English text.

Paragraph 1, as amended in respect of the English text, was adopted by 35 votes to none, with 4 abstentions.

THE CHAIRMAN put to the vote paragraph 2.

Paragraph 2 was adopted by 40 votes to none, with 1 abstention.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated that he had abstained solely because of his desire to reintroduce an amendment to article 9.

MR. CHANG (China) suggested that a small sub-committee should be set up to make final drafting changes and that the vote on the whole article should be postponed until the following meeting.

MRS. CORBET (United Kingdom) said that the form of the article was not satisfactory. She suggested that the representative of the USSR might consent to modifications of the wording provided that his general concept were retained.

She agreed with the proposal of the representative of China.

MR. CONTOUMAS (Greece) said that he had voted for both the first phrase in the USSR amendment and the first paragraph of the text submitted by the Commission on Human Rights. He felt that a text including both might appear redundant.

He therefore supported the proposal of the representative of China.

THE CHAIRMAN called for a vote on article 4 as a whole. He pointed out that adoption of the whole article did not prejudice the order in which the parts of that article would stand in the final draft that would be considered by a sub-committee.

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Article 4, as amended, was adopted by 36 votes to none, with 4 abstentions.

MR. CHANG (China) explained that he had not taken part in the vote because he considered that the text of the article was not satisfactory.

The meeting rose at 1:40 p.m.

A/C.3/SR.111⁵⁹

23 October 1948

Summary Record of the Hundred and Eleventh Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Saturday
23 October 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

35. Draft international declaration of human rights (E/800) (continued)

Article 5¹

THE CHAIRMAN drew attention to the amendments to article 5 submitted by the delegations of Cuba (A/C.3/224) and Uruguay (A/C.3/268).

⁵⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 223–31.

MR. PÉREZ CISNEROS (Cuba) explained that the purpose of his amendment was not to modify the substance of the original text of article 5 but to express the legal concept more clearly. The Cuban amendment repeated the terms used in a corresponding article by the authors of the Bogotá declaration. Although it was important that a declaration of human rights should be drafted in terms that were clear and comprehensible to all, legal articles demanded a precise vocabulary and should be drafted in a way which would be free from ambiguity.

For those reasons the Cuban delegation supported the amendment submitted by the delegation of Uruguay. The word “person” had an accepted and definite meaning in law and could be interpreted as not applying to the physical person alone. The addition suggested by the Uruguayan delegation was consequently necessary and the Cuban delegation would vote in favour of that amendment.

MRS. CORBET (United Kingdom) stated that her delegation would vote for the basic text of article 5.

She drew attention of the representative of Uruguay to the fact that the English term “person before the law” referred unequivocally to a human being, to a physical person. With reference to a company, for instance, the term in English would be “a legal person before the law”. For the English-speaking delegations, article 5 in its original text was in no way ambiguous.

Furthermore, the United Kingdom delegation could not accept the amendment submitted by the Cuban delegation since the concept of “fundamental civil rights” was not defined in Anglo-Saxon law. Mrs. Corbet was sure that the rights to which Mr. Pérez Cisneros had referred were included in the laws of her country, and she thought that the majority of them were embodied in the articles of the declaration.

^[1] Article 7 of the draft universal declaration of human rights (A/777).

[224]

Delegations could always point out any omissions that they would like to have rectified: thus the United Kingdom delegation reserved the right to raise the question of the right of petition, of which no mention was made in any article. If the formula suggested by the Cuban delegation were accepted, the United Kingdom delegation would insist on the inclusion in the Covenant on Human Rights of a very clear definition of “fundamental civil rights”.

MR. SANTA CRUZ (Chile) recalled that article 5 had been discussed at great length both in the Drafting Committee and in the Commission on Human Rights.¹ Representatives of various countries, and of the Anglo-Saxon countries in particular, had emphasized that the French term did not in their opinion have a precise

meaning; they had been unable to find a corresponding English legal term for it. The very concept was lacking in Anglo-Saxon law.

The Commission on Human Rights had finally accepted the explanations of the representative of France who had been supported by the representatives of Latin-American countries, the legal systems of which were modelled on French law. Mr. Cassin had, in particular, argued the necessity of adopting an article safeguarding the individual as a person before the law, side by side with articles 3 and 4, which protected his physical integrity. The Commission on Human Rights had then recognized that the aim of article 5 was to assure to every human being the right to exercise rights, to enter into contractual obligations, and be represented in actions at law.

The Chilean delegation would vote for the basic text, together with the modification suggested by the Uruguayan delegation, since the latter offered a safeguard against any misinterpretation which might arise from the special connotation given to the word “person” in certain legal systems.

MR. PLAZA (Venezuela) stated that his delegation would vote for the amendment submitted by the Uruguayan delegation for the same reasons as those given by Mr. Santa Cruz.

It would vote against the amendment submitted by the Cuban delegation since the last part of it seemed to be redundant.

The Venezuelan delegation would vote for the original text, which was clear and precise.

MR. CONTOUMAS (Greece) agreed with the representative of Venezuela that the last part of the Cuban amendment, taken in conjunction with the first, might lead to misunderstanding.

With regard to the Uruguayan amendment, which he considered to be well founded, he drew the Committee’s attention to the fact that the draft declaration used the terms “human beings” (article 1), “everyone” (article 2), and (in the French text) *tout individu* (article 3) quite indifferently. The Greek delegation considered that it would be preferable to accept a uniform terminology in a declaration of human rights; it favoured “human being” or *individu*.

[¹] See document E/CN.4/SR.58.

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MR. CARTER (Canada) said that his delegation would vote for the basic text of article 5 since it understood the spirit in which the article had been drafted.

Canadian national law had for a long time admitted the right of every individual to recognition of his juridical personality; the Canadian delegation therefore, for its part, could not attach much importance to the statement of so obvious a principle in the declaration. But it was important to keep in mind the international significance which the declaration of human rights would possess, the necessity of taking into account

the different legal and cultural traditions of the countries that would sign it, and particularly the possibility that certain persons might be deprived of their juridical personality by an arbitrary act of their Government – Nazi Germany afforded a recent example. Consequently the Canadian delegation would approve the text of article 5 as given in the draft submitted by the Commission on Human Rights.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that the purpose of the amendment submitted by his delegation was quite clear. The draft declaration made use of three terms applied indiscriminately to man as possessor of rights: person, *individu* (in the French text) and human being. But the word “person” could, according to certain systems of law, as for instance that of Uruguay, apply to all possessors of rights, even when they were not individual human beings, but, for instance, business concerns. It was in recognition of the fact that certain national legal systems admitted that extensive interpretation of the word “person” that the Uruguayan delegation had considered it necessary to define more clearly the meaning of article 5 indicating more precisely the possessor of the right to whom the article referred.

MR. BAGDADI (Egypt) approved the amendment suggested by the Uruguayan delegation, but asked that it be carried right through the draft declaration in order to achieve uniformity. It was not possible in a declaration of human rights to refer only to the individual, that is, to the physical person, and exclude the juridical person.

He must, moreover, emphasize that the amendment submitted by the Cuban delegation was the only amendment which brought out the importance of the problem. However, it raised legal difficulties. Did the Cuban delegation refer to rights and obligations recognized by a certain legal system or did it intend to lay down a precise quantum of rights and obligations in its statement that everyone had the right to recognition everywhere as possessing rights and obligations? The last part of the Cuban amendment seemed to indicate definite limits.

In his opinion, the basic text of article 5 was so wide in scope that its application would be difficult. For that reason the Egyptian delegation would prefer the amendment submitted by the Cuban delegation. The amendment would, however, be improved by the addition of a detailed enumeration and definition of the rights covered by the expression “fundamental civil rights”.

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MR. CASSIN (France) was pleased to note that, on the whole, no substantive objections had been raised in connexion with article 5. The representative of Canada had stated that, although the legal system of his country made the adoption of such an article seem unnecessary to him, the recent examples of the war had shown a tendency on the part of the Governments to deprive persons of their juridical personality.

The Committee’s task was to prepare the way for a new era in which the fundamental rights of all human beings would be respected. Its duty was to proclaim to the whole

world that there was not a single human being who could not possess both rights and obligations.

He emphasized the fact that the expression “person before the law” covered everything contained in the amendment submitted by the Cuban delegation. The basic purpose of article 5 became evident if it was considered in conjunction with the preceding article: article 4 dealt with slavery, which was the abasement of the human being from the physical point of view, while article 5 was intended to combat and to deny the possibility of his abasement from the legal point of view.

During the initial work of the Commission on Human Rights the French delegation had submitted a draft recommending that some mention of fundamental civil rights¹ should be included in the declaration and it had even submitted a proposal to that effect. His delegation had taken up that attitude because it had noticed that, even apart from the countries which pursued a policy of systematic oppression, there were others with more liberal legislations which had tended to deprive aliens living within their territory of the exercise of fundamental rights: for example, the right to enter into marriage, to acquire property or to take legal proceedings.

The French delegation had been very anxious to combat that disastrous tendency. However, the discussions in the Commission on Human Rights had shown that there were very great difficulties in the way of achieving understanding among peoples of different types of civilization. It was practically impossible to translate the French term *droits civils fondamentaux* into English. In the Anglo-Saxon legal systems the term “civil rights” implied certain general rights, such as the right of election, the right to freedom of association, the right of freedom of expression, etc.

The decisive argument had been, however, that most of the rights referred to in article 5 were, in fact, embodied in other articles: the right to take legal proceedings in article 7, the right to enter into marriage in article 14, the right to own property in article 15. The only fundamental right which had not been embodied in the declaration had been the right to enter into contracts. After some reflection, the French delegation had eventually decided that the mention of the right to recognition as a person before the law was sufficient and that one of the basic rights included in that term, was precisely the right to enter into contracts, which meant the right to make a purchase, to enter into negotiations for employment, in short, to satisfy the material needs of life.²

[¹] See document E/CN.4/82/Add.8 (article 11).

[²] See document E/CN.4/SR.58.

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Thus, in spite of its original attitude, the French delegation had supported and would continue to support the basic text of the draft declaration.

MR. SANDIFER (United States of America) thanked Mr. Cassin for the way in which he had clarified the question. He emphasized the fact that it would be better not to include in a text as universal in scope as the declaration of human rights the expression “fundamental civil rights”, which had no precise legal connotation in some countries.

The text prepared by the Commission on Human Rights guaranteed the legal status of all human beings; it therefore set forth quite clearly the principle which article 5 was intended to express, and the United States delegation would support that text.

MR. CARRERA ANDRADE (Ecuador) thought that, although the Cuban amendment seemed to broaden the scope of article 5 it was in fact a limitation of that article, as it proposed that the idea of recognition as a “person before the law” should be replaced by the more limited idea of “fundamental civil rights”.

He would vote for the original text of article 5 and would not object to the substitution of the term “every human being” for “everyone”, as proposed in the amendment submitted by the delegation of Uruguay.

MR. WATT (Australia) pointed out that the difficulties in connexion with article 5 did not arise out of a difference of opinion on the substance of the article, but out of differences between the various legal systems of the Member States.

He was opposed to the amendment submitted by the Cuban delegation. If that amendment were adopted, it would have to be supplemented by a long enumeration of man’s rights and obligations, which would be out of place in the declaration under discussion.

Moreover, the Australian delegation thought that the idea of the “physical person” was implied in the original text, and that the first part of the amendment submitted by Uruguay was therefore unnecessary. His delegation would not, however, object to the substitution of the words “human being” for “everyone”.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that, according to the legal system in force in his country, the idea of the individual as a “possessor of rights” was quite wide enough and included the rights of the individual from both the juridical and the physical points of view. The original text of article 5 was, therefore, quite satisfactory.

With regard to the Cuban amendment, he said that, according to the theory supported by his delegation, each individual was a possessor of rights and could, therefore, insist that his rights should be recognized wherever he might be, whereas, according to some legal systems, the rights were not considered as belonging to the individual but as being applied to him.

In that connexion, he recalled the lengthy discussions which had taken place in the Commission on Human Rights. As a result of those discussions, it had been agreed that fundamental civil rights were determined both by the domestic law of each State and by a series of international agreements. The question of fundamental human rights had always been a delicate one, especially in connexion with the status of aliens. Some countries did not treat aliens living in their territory in the same way as their own nationals. There were differences in treatment, for example, with regard to the right to freedom of movement and the right to own property. In his opinion, it would be difficult and even dangerous to mention fundamental civil rights in the declaration, without enumerating them.

His delegation felt, however, that the idea of man's obligations, introduced by the Cuban amendment, deserved to be included in the text, although it might be considered that those obligations were implicit in the idea of the "person before the law", mentioned in the basic text of article 5.

He did not object to the substance of the amendment submitted by the delegation of Uruguay, but he felt that it was superfluous. Indeed, the idea of "juridical person" was quite distinct from the idea of "person". The individual, considered as a human being, could only claim recognition of his rights as a physical person. The statement in article 5 was, therefore, complete in itself and the addition of the word "physical" was quite unnecessary.

The representative of the Soviet Union recognized that the amendments submitted by the delegations of Cuba and Uruguay had been inspired by the praiseworthy desire to improve the text of the draft declaration of human rights, but these amendments did not really add anything new to the text of article

His delegation would therefore abstain when those amendments were put to the vote.

MR. PÉREZ CISNEROS (Cuba) expressed his gratification that during the discussion on his amendment, Professor Cassin had, with great ability, presented the problem in its true light.

The purpose of the Cuban delegation, in submitting an amendment to article 5, had been to state the point of view of the Latin American countries which derived their legislation direct from Roman law and French law.

However, in order not to create difficulties for those delegations whose law was derived from other sources, he would withdraw his amendment, as there was no point in maintaining it after the explanations that had been given.

He stressed the desirability of adopting the Uruguayan amendment, which would make the necessary clarifications in the original text.

He drew attention to the translation difficulties which were constantly being encountered in framing the draft declaration, and asked that the Secretariat should not be given the responsibility for preparing the translations of essential texts. He hoped that the Chairman would take the necessary steps to ensure that the Spanish texts were sub-[229]mitted for preliminary approval by the Spanish-speaking representatives.

THE CHAIRMAN said that the question of the Spanish translation was being studied.

MR. KAYALY (Syria) said his delegation would vote for article 5, with the Uruguayan amendment incorporated in it. He shared the view of many delegations who had suggested that the words "individual" or "human being" should be substituted for "person".

THE CHAIRMAN asked the Uruguayan representative whether he maintained his amendment. He said that, from the discussion to which the amendment had given

rise, it was clear that the appropriate expressions should be “every human being” in English and *tout être humain* in French.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) agreed to submit his amendment in that form.

THE CHAIRMAN put the Uruguay amendment the vote.

The Uruguayan amendment was adopted by 27 votes to 3, with 11 abstentions.

THE CHAIRMAN put article 5, as amended, to the vote.

Article 5, as amended, was adopted unanimously.

Article 6¹

THE CHAIRMAN called attention to the amendments submitted by the delegations of Panama (A/C.3/220), Cuba (A/C.3/224), the Union of South Africa (A/C.3/226) and Mexico (A/C.3/266) respectively.

MR. DE LEÓN (Panama) explained that his delegation had submitted an amendment to article 6 before article 2 had been examined. As the text of article 2 that had been adopted contained the substance of his delegation’s amendment, it was no longer necessary; he therefore withdrew it.

MR. TE WATER (Union of South Africa) recalled that the Committee had considered it preferable not to include the concept of God² or of honour³ in the declaration of human rights. For the same reason, he felt that the terms for article 6, as worded, were not as satisfactory as had been thought originally. In his opinion, the phrase “against any discrimination in violation of this Declaration and against any incitement to such discrimination” limited the scope of the article.

The declaration which the Committee was engaged in drafting represented an attempt to codify the rights of man. It could not be claimed, however, that the declaration included all rights. For that reason, the concept of equality before the law should not be limited to the principles laid down in the declaration.

He cited the example of the Union of South Africa, a highly developed country with legislation which combined harmoniously certain elements of

[¹] Article 8 of the draft universal declaration of human rights (A/777).

[²] See 99th meeting.

[³] See 107th meeting.

[230]

Roman law and Dutch law in a very modern system. That legislation guaranteed to everyone, without discrimination on the grounds of race, age, sex or religion, the most complete equality before the law. The judges, whose professional competence was no less notable than their high moral qualities, protected all citizens fairly.

The observations he had made were designed to clarify the meaning of article 6 and to facilitate the Committee's work. If the Committee were not inclined to share his point of view, however, he would not press his amendment.

MR. CAMPOS ORTIZ (Mexico) said, in reply to the Chairman's invitation to submit his amendment, that it would perhaps be desirable to examine the South African amendment first. That amendment modified the text of article 6, while the Mexican delegation's amendment was rather in the nature of an additional article.

MR. PÉREZ CISNEROS (Cuba) supported Mr. Campos Ortiz' point of view. In his opinion, the Mexican amendment, while relating in essence to article 6, involved the statement of a new right. For that reason, it should take the form of a separate article to follow immediately after article 6.

He said his delegation also intended to submit an article which would come immediately after article 6. He accordingly withdrew the amendment which he had previously submitted to that article.

THE CHAIRMAN pointed out that the Committee had decided that the general debate of an article should apply to all the proposed amendments. The Mexican proposal, as submitted, was an amendment and not a proposal for a separate article. For that reason, he could not accept the procedure suggested by Mr. Campos Ortiz.

MR. CAMPOS ORTIZ (Mexico) reserved his right to submit his amendment in the form of a separate article. In the meantime, he wished to draw attention to some of the aspects of his amendment which seemed to him to be particularly important.

The amendment included a statement of a fundamental right recognized by most national legislations; the right to take legal proceedings on the basis of a prompt and simple procedure which assured protection against the acts of public authorities who violated a person's fundamental rights. It was not a new idea. The constitutions of most Latin American countries included it in precise juridical terms. Further, his amendment only repeated the text of the Bogotá declaration which had been adopted unanimously by the twenty-one Latin-American delegations.

During previous discussions, the Commission on Human Rights had taken the same problem into consideration. At that time, it had been emphasized that the inclusion of such a principle in the declaration of human rights would actually [231] mean the introduction of measures of implementation. He did not deny that fact, but pointed out that such measures were national and not international. The object they were seeking to achieve was to give the Declaration of Human Rights international scope. However, it was still not possible to ensure the protection of the individual except within the sphere of national legislation. It was clear, therefore, that the

purpose of the Mexican amendment was not to create a legal obligation for States. The text was rather a recommendation to the signatories of the declaration, inviting them to put into practice the principle it set forth.

In conclusion, he pointed out that the text of his amendment was in no way final. It was a draft only and he would accept any modifications tending to make it briefer and clearer.

THE CHAIRMAN pointed out that the ceremony commemorating United Nations Day would take place at 5 p.m. He requested the Committee to decide whether it would sit until 6 p.m. or whether the meeting should rise.

The Committee decided, by 33 votes to 5, with 1 abstention, to adjourn immediately.

The meeting rose at 5 p.m.

A/C.3/294/Rev.1⁶⁰
25 October 1948

Recapitulation of Amendments to Article 17 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee)

Article 17

(Text adopted by the Commission on Human Rights)

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Amendments:

Union of Soviet Socialist Republics (E/800)

Replace the text as adopted by the following:

- “1. In accordance with the principles of democracy and in the interests of strengthening international collaboration and world peace, everyone must be legally guaranteed the right freely to express his opinions and, in particular, freedom of speech and the Press and also freedom of artistic expression. Freedom of speech and the Press shall

⁶⁰ A/C.3/294/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/294. The revised document contains the Cuban proposal.

not be used for purposes of propagating fascism, aggression and for provoking hatred as between nations.

- “2. For the purpose of enabling the wider masses of the people and their organizations to give free expression to their opinions, the State will assist and co-operate in making available the material resources (premises, printing presses, paper, etc.) necessary for the publication of democratic organs of the Press.”

Second amendment:

The following changes should be introduced in the text as adopted:

“Everyone has the right to freedom of thought and its expression, wherein is included freedom of conviction and freedom of access to [2] sources of information and means of communication for the transmission of information in the territory of his own country and also in other countries, *within limits corresponding to the interests of national security.*”

Cuba (A/C.3/232)

Amend to read as follows:

“Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of thought through any media and regardless of frontiers”.

France (A/C.3/244/Rev.1)

Between the words “impart” and “information”, insert the words: “on his own responsibility” so that the article reads as follows:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart *on his own responsibility* information and ideas through any media and regardless of frontiers”.

Panama (A/C.3/280)

It is proposed that there be substituted for this article two articles defining separately the freedom of opinion and the freedom of expression as follows:

“Article – Everyone has the right to freedom of opinion, which includes the right to hold opinions without interference and to seek and receive information and ideas through any media, regardless of frontiers.”

“Article – Everyone has the right to freedom of expression, which includes the right to freedom of speech, freedom of the press and freedom to use any media of communication to express opinions or impart information.”

A/C.3/295/Rev.1⁶¹
25 October 1948

**Recapitulation of Amendments to Article 18
of the Draft Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

***Article 18* – Text adopted by the Commission on Human Rights**

Everyone has the right to freedom of assembly and association.

Amendments:

Union of Soviet Socialist Republics (E/800)

Replace the text as adopted by the following:

“In the interests of democracy, a legal guarantee must be provided for freedom of assembly and meeting, street processions, demonstrations and the organization of voluntary societies and unions. All societies, unions and other organizations of a fascist or anti-democratic nature, as well as their activity in any form, are forbidden by law under pain of punishment.”

United States of America (A/C.3/223)

Substitute the following text for the present text:

“Everyone has the right to freedom of assembly and association, *especially for the promotion and protection of the rights and freedoms set forth in this Declaration.*”

Cuba (A/C.3/232)

Break up and amend as follows:

- (a) Right of assembly

Article No.

“Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connexion with matters of common interest of any nature”.

- (b) Right of association

⁶¹ A/C.3/295/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/295. The revised document includes the Cuban proposal.

Article No.

“Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, [2] social, cultural, professional, trade union or other nature.”

Uruguay (A/C.3/268)

Insert the word “peaceful” before the word “assembly”, and add the following as paragraph 2:

“No one may be compelled to belong to an association.”

Panama (A/C.3/280)

It is proposed to substitute for this article two different articles defining separately the freedom of assembly and the freedom of association, as follows:

“Article – Freedom to assemble peacefully with others for political, economic, religious, social, cultural and other purposes is the right of everyone.”

“Article – Freedom to form with others associations of a political, economic, religious, social, cultural or any other character, for purposes not inconsistent with these articles, is the right of everyone.”

A/C.3/296/Rev.1⁶²

25 October 1948

**Recapitulation of Amendments to Article 19
of the Draft Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

Article 19

(Text adopted by the Commission on Human Rights)

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.
2. Everyone has the right of access to public employment in his country.
3. Everyone has the right to a government which conforms to the will of the people.

⁶² A/C.3/296/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/296. The revised document contains the Cuban proposal.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

Include the following in paragraph 3:

“The State shall consider the will of the people as expressed in elections, which shall be conducted periodically and must be universal and equal and be held by secret ballot.”

*Yugoslavia (A/C.3/233)*⁶³

After article 19, add the following:

A

“Any person has the right to the recognition and protection of his nationality and to the free development of the nation to which he belongs.

“National communities, which are in a state community with other nations, are equal in national, political and social rights.

B

“Any national minority, as an ethnical community, has the right to the full development of its ethnical culture and to the free use of its language. It is entitled to have these rights protected by the State.

C

“The rights proclaimed in this Declaration also apply to any person [2] belonging to the population of trust non-self-governing territories.”

Cuba (A/C.3/232)

Amend paragraph 1 to read as follows:

“Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives chosen by free and periodic elections, which shall be by secret ballot.”

France (A/C.3/244)

Reword paragraph 3 as follows:

“The authority of the law and of any government is founded on the will of the people as expressed at free and genuine periodic elections.”

Colombia and Costa Rica (A/C.3/248)

Add a fourth paragraph:

⁶³ The amendment by Yugoslavia was deleted as a result of A/C.3/296/Rev.1/Corr.1 of 6 November 1948, which states that it is found in A/C.3/307/Rev.1/Add.1.

“4. Every man has the right to make opposition to the government of his country and to promote its replacement by legal means with equality of electoral opportunities and of access to the means of propaganda.”

Sweden (A/C.3/252)

To make more clear how the will of the people shall find its right expression, so that one can be sure that this will is the real basis of the government, the Swedish delegation proposes to add the following words to the sentence in paragraph 3:

“Everyone . . . to the will of the people, *manifested in general and free elections or in equivalent, free voting procedures.*”

Egypt (A/C.3/264)

Amend paragraph 3 as follows:

“Everyone has the right to government which *acts freely* and conforms to the will of the people.”

Uruguay (A/C.3/268)

This article is unacceptable in its present form:

1. This right does not belong to everyone and
2. These acts cannot be performed in the territory of a foreign State.

A/C.3/297/Rev.1⁶⁴

25 October 1948

**Recapitulation of Amendments to Article 20
of the Draft Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

Article 20 – Text adopted by the Commission on Human Rights

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in

⁶⁴ A/C.3/297/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/297. The revised document contains the Cuban proposal.

accordance with the organization and resources of each state, of the economic, social and cultural rights set out below.

Amendments:

Union of Soviet Socialist Republics (E/800)

Replace the text as adopted by the following:

“It is the duty of the State and society to take all the necessary measures, including legislative measures, to ensure for every individual a real opportunity to enjoy all the rights mentioned in the Declaration. In view of the special importance of the economic, social and cultural rights enumerated in articles 21 to 26 of the Declaration and, in particular, of the right to social security, it is considered desirable that they be implemented by means of both national efforts and international co-operation, due regard being had to the social, economic and political organization and resources of each State.”

Cuba (A/C.3/232)

Delete “set out below” and substitute the words:

“... essential for his dignity and the free development of his personality.”

Argentina (A/C.3/251)

Substitute the following:

[2]

“Every person has the right to social security which will protect him from the consequences of unemployment, old age and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.”

New Zealand (A./C.3/267)

Delete the following words:

“has the right to social security and”

(Compare proposed New Zealand amendment to article 22.)

Panama (A/C/3/280)

Add after the words *social security* the phrase *from the cradle to the grave*, so that the article will read as follows:

“Article 20: Everyone, as a member of society, has the right to social security *from the cradle to the grave*, and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.”

A/C.3/298/Rev.1⁶⁵

25 October 1948

Recapitulation of Amendments to Article 21 of the Draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Article 21: (Text adopted by the Commission on Human Rights)

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.
2. Everyone has the right to equal pay for equal work.
3. Everyone is free to form and to join trade unions for the protection of his interests.

Amendments:

Union of Soviet Socialist Republics (E/800)

After the words “right to work . . . and pay” in paragraph 1, add “and the right to protection against unemployment. The State and society shall guarantee this right by measures calculated to provide everyone with the broadest opportunities for useful work, and to prevent unemployment.

Amendment to paragraph 2:

“Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work”.

Proposed supplementary clause to article 21.

“Women shall enjoy equal advantages in their work with men and shall receive equal pay for equal work.”

United States of America (A/C.3/223)

Substitute the following text for the present text of paragraph 2:

“2. Men and women have the right to equal pay for equal work.”

Cuba (A/C.3/232)

Break up and amend paragraph 1 to read as follows:

⁶⁵ A/C.3/298/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/298. The revised document contains the Cuban proposal.

“Every person has the right to work under proper conditions and to follow his vocation freely in so far as existing conditions of employment permit.”

[2]

“Every person has the right to protection against unemployment.”

“Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and his family.”

Delete paragraph 3 if the Cuban amendment to article 18 is adopted.

Argentina (A/C.3/251)

Amend paragraph 1 as follows:

“Every person has the right to work, to be protected by society, and to be treated with his rightful dignity in society, so that the spiritual and material needs of the individual and the community may be satisfied and that he may follow his vocation freely, in so far as existing conditions of employment permit.”

For paragraph 2 substitute the following:

“Every person has the right to a fair remuneration for the work which he performs on the basis of equal pay for equal work.”

For paragraph 3 substitute the following:

“Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, trade union or other nature.”

Sweden (A/C.3/252)

Being of the opinion that freedom of organization is important as a citizenship freedom, only if completed by the natural liberty to abstain from work, when the individual worker feels that he should not go on working on the economic terms existing or offered, the Swedish delegation proposes adding the following sentence to the end of paragraph 1:

“Everyone has the right to cease to work, when finding it impossible to work on the economic terms existing or offered.”

Lebanon (A/C.3/260)

In paragraph 1 add after the words “everyone has the right to work”, the words “and to free choice of work and of his mode of life”.

New Zealand (A/C.3/267)

Substitute the following for the present text of paragraph 3:

“3. Everyone is entitled to the protection of his interests through the membership of trade unions.”

Uruguay (A/C.3/268)

Add the following new paragraph 4:

“No one may be compelled to belong to a trade union.”

A/C.3/299/Rev.1⁶⁶

25 October 1948

Recapitulation of Amendments to Article 22 of the Draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Article 22

(Text adopted by the Commission on Human Rights)

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and wellbeing of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood or circumstances beyond his control.

2. Mother and child have the right to special care and assistance.

Amendments:

Dominican Republic (A/C.3/217/Corr.2)

Delete paragraph 2 and substitute the following:

“Expectant and nursing mothers and all children have the right to special care and assistance.”⁶⁷

⁶⁶ A/C.3/299/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/299. The revised document contains the Cuban proposal.

⁶⁷ This version was inserted pursuant to A/C.3/299/Corr.1.

Union of Soviet Socialist Republics (E/800)

Include the right to social insurance by inserting in paragraph 1 (after the words “in circumstances beyond his control”) the words “and also (if he is gainfully employed) to social insurance at the expense of the State or of his employers, in accordance with the legislation of each country”.

In addition, add the following points also to article 22 in the form of two independent sentences:

“2. Everyone has the right to medical care, and assistance in case of illness.

“3. Everyone has the right to decent housing.

“It is the duty of the State and society to take all necessary steps, including legislation, to ensure that everyone has a real opportunity of [2] enjoying all these rights.”.

Cuba (A/C.3/323)

Break up paragraph 1, and amend to read as follows:

(a) Right to health and wellbeing

Article No.

“Every person has a right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”

(b) Right to social security

Article No.

“Every person has the right to social security which will protect him from the consequences of unemployment, illness, old age and any disabilities arising from causes beyond his control that make it impossible for him to earn a living.”

Amend paragraph 2 as follows, to form a separate article:

Article No.

“All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.”

Yugoslavia (A/C.3/233)

Add paragraph 3:

“According to the rights proclaimed in this Declaration, illegitimate children are equal to legitimate children and have the same right to social protection.”

Argentina (A/C.3/251)

Substitute the following:

“Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and care, to the highest extent permitted by public and community resources.

Add thereafter the following paragraph:

“All women, during pregnancy and the nursing period, and all children have the right to such careful protection and special aid as will strengthen the spiritual and moral principles which form the basis of communal life in society.”

Lebanon (A/C.3/260)

Transfer paragraph 2 of this article to article 14, where it will become paragraph 4.

Egypt (A/C.3/264)

Replace the words “mother and child” in paragraph 2 by the words “mothers, children and old persons”.

[3]

New Zealand (A/C.3/267)

Substitute the following for the present text of paragraphs 1 and 2:

“Everyone has the right to social security adequate for health and wellbeing, including food, clothing, housing, medical care and social services, and protection in respect of unemployment, sickness, disability, old age, motherhood, childhood and widowhood.”

A/C.3/300

25 October 1948

Recapitulation of Amendments to Article 23 of the Draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Article 23

(Text adopted by the Commission on Human Rights)

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.

2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Amendments:

Union of Soviet Socialist Republics (E/800)

Add in paragraph 1 after the first sentence:

“Access to education must be open to all without any distinction as to race, sex, language, material status or party allegiance.”

Denmark (A/C.3/250)

Add as paragraph 3:

“All persons belonging to a racial, national, religious or linguistic minority have the right to establish their own schools and receive teaching in the language of their own choice.”

Argentina (A/C.3/251)

Substitute the following:

“Every person has the right to an education, which should be based on the principles of liberty, ethics and human solidarity.

“Furthermore, every person has the right to an education that will prepare him to lead a decent life, to raise his standard of living, and to be a useful member of society.

[2]

“The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit, and the desire to utilize the resources that the State or the community is in a position to provide.

“Every person has the right to receive free primary education.”

Australia (A/C.3/254)

For the second sentence substitute the following:

“Everyone is entitled to free elementary and fundamental education and to equal access on the basis of merit to higher education.”

Lebanon (A/C.3/260)

Add a new paragraph which will become paragraph 2 and would read as follows:

“Parents have a priority right to choose the kind of education that shall be given to their children.”

Paragraph 2 of the text would become paragraph 3.

Cuba (A/C.3/261)

Break up and amend this article as follows:

“1. Every person has the right to education.

“2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

“3. The right to education includes the right to equality of opportunity in every case, in accordance with natural talents, merits, and the desire to utilize the resources that the State or the community is in a position to provide.

“4. Every person has the right to receive, free, at least a primary education.”

Netherlands (A/C.3/263)

Paragraph 2 to read as follows:

“The primary responsibility for the education of the child rests with the family. Parents have the right to determine the kind of education their children should have.”

Paragraph 2 of the present draft would become paragraph 3.

Mexico (A/C.3/266)

Add at the end of paragraph 2, after “religious groups everywhere”, the following phrase:

“; education shall promote, by every possible means, understanding and friendship among all peoples, as well as an effective support of the [3] pacifist activities of the United Nations.”

New Zealand (A/C.3/267)

(a) Substitute the following two paragraphs for the present text of paragraph 1:

“1. Everyone has the right to education.

“2. Education shall be free and universal with equal access, on the basis of merit, to higher education.”

(b) Delete paragraph 2 of the present text.

Turkey (A/C.3/273)

After the words “higher education”, add: “which should as far as possible be free of charge”.

A/C.3/301

25 October 1948

**Recapitulation of Amendments to Article 24
of the Draft Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

Article 24: (Text adopted by the Commission on Human Rights)

Everyone has the right to rest and leisure.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

Add to the text adopted:

“Everyone shall be guaranteed rest and leisure either by law or by contractual agreements, particular provision being made for the reasonable limitation of working hours and for periodical paid holidays.”

Philippines (A/C.3/239)

“Everyone has the right to good health and is entitled to due rest and leisure.”

Argentina (A/C.3/251)

Substitute the following text:

“Every person has the right to leisure time, to wholesome recreation, and to the opportunity for advantageous use of his free time to his spiritual, cultural, and physical benefit.”

Cuba (A/C.3/261)

Amend as follows:

“Every person has the right to leisure time and the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.”

Egypt (A/C.3/264)

Replace this article by the following text:

“Everyone has the right to rest, reasonable leisure and the opportunity of using his leisure for his mental, cultural and physical development.”

Panama (A/C.3/280)

Add after the word “*leisure*” the following phrase: *in such measure [2] as may be required for the maintenance of the physical and mental health and wellbeing of the working man or woman.*

The article would then read as follows:

“Everyone has the right to rest and leisure in such measure as may be required for the maintenance of the physical and mental health and wellbeing of the working man and woman.”

A/C.3/303/Rev.1⁶⁸

25 October 1948

Recapitulation of Amendments to Article 26 of the Draft Declaration (E/800)

(In the chronological order of their submission to the Committee)

Article 26

(Text adopted by the Commission on Human Rights)

Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Amendments:

Union of Soviet Socialist Republics (E/800)

At the beginning of the sentence: “Everyone is entitled to a good social and international order in which . . .” delete the word “good”.

Egypt (A/C.3/264)

To be deleted.

A/C.3/304/Rev.1⁶⁹

25 October 1948

Recapitulation of Amendments to Article 27 of the Draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Article 27

(Text as adopted by the Commission on Human Rights)

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

⁶⁸ A/C.3/303/Rev.1 was issued on 30 October 1948; this is the date of A/C.3/303. A Cuban proposal, A/C.3/224 (“Insert in this article the texts replacing articles 4, 5 and 9”), is removed in the revised document.

⁶⁹ A/C.3/304/Rev.1 was issued on 30 October 1948; this is the date of issuance of A/C.3/304. The revised document contains the Cuban proposal.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

Add (after the words “democratic society”):

“... and also the corresponding requirements of the democratic State”.

United States of America (A/C.3/223)

Amend the second paragraph of this article to read as follows:

“2. In the exercise of his rights *and freedoms*, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.”

Cuba (A/C.3/224)

Add the following text:

“Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political, rights and duties are indissolubly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom.

“Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.

[2]

“It is man’s duty to practise, uphold and promote culture by all means at his disposal, for culture is the highest social and historical expression of the human spirit.

“Morality being the noblest product of culture, it is the duty of all to respect it at all times.”

Egypt (A/C.3/264)

Amend paragraph 2 as follows:

“In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of loyalty, *good faith*, morality, public order and general welfare in a democratic society.”

Add a new paragraph with the following text:

“These rights can in no case be exercised contrary to the principles and purposes of the United Nations.”

New Zealand (A/C.3/267)

(a) Delete paragraph 1.

(b) Delete the words “morality, public order and the” from the present text of paragraph 2.

Uruguay (A/C.3/268)

In paragraph 2 substitute the words “prescribed by law solely for the purpose of securing” for the words “necessary to secure”.

A/C.3/306**25 October 1948**

Amendment to the Article on Measures of Implementation (E/800)

Article

(The Commission on Human Rights considered the following article, since measures of implementation were not discussed in its third session.)

“Everyone has the right, either individually or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.”

Amendments:

France (A/C.3/244/Rev.1/Corr.1)

“Everyone has the right, either individually or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides. He also has the right to petition or to communicate with the competent organs of the United Nations in matters relating to human rights.”

Cuba (A/C.3/261)

Amend as follows:

“Every person has the right, either individually or in association with others, to petition or to communicate with any competent authority, for reasons of either general or private interest, and the right to obtain prompt action thereon.”

A/C.3/307**25 October 1948**

Proposed additional articles to the draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Union of Soviet Socialist Republics (E/800)

Add to the text adopted a separate new paragraph in place of the corresponding article 31 of the Geneva text rejected by the Commission:

“All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the courts and in other official premises.”

Cuba (A/C.3/216)

Insert the following article:

“Any person shall have the right to offer appropriate resistance to manifest acts of oppression or tyranny.”

Cuba (A/C.3/261)

Insert the following article:

“Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby justice will protect him from acts of authority that, to his prejudice, violate any fundamental human rights.”

Lebanon (A/C.3/262)

Add the following as article 29:

“All laws in any state shall be in conformity with the purpose and principles of the United Nations, as embodied in the Charter, in so far as they deal with human rights.”

[2]

Egypt (A/C.3/264)

After article 28, add the following article:

“The nature and the extent of the measures to be taken to give effect to the rights laid down in this Declaration shall if necessary be defined in a subsequent instrument.”

A/C.3/308

25 October 1948

**Mexico: Amendment to article 6 of the draft
Declaration (E/800)**

Add as a second paragraph to article 6 the following:

“Everyone has the right to an effective judicial remedy for acts violating his fundamental constitutional rights.”

A/C.3/309**25 October 1948****Mexico, Chile, Venezuela: Amendment to article 6
of the draft Declaration (E/800)**

Add as a second paragraph to article 6 the following:

“Everyone has the right to an effective judicial remedy by the competent national tribunals for acts violating his fundamental rights granted him by the constitution or by law.”

A/C.3/310**25 October 1948****Original Text: French****Cuba: Addendum to Article 6 of the draft
Declaration (E/800)**

Add the following paragraph to Article 6:

“Every person should have available to him a simple, brief procedure for obtaining the protection of the courts against acts of authority that, to his prejudice, affect any of the rights established by the present Declaration”.

A/C.3/SR.112⁷⁰**25 October 1948*****Summary Record of the Hundred and Twelfth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
25 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

⁷⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 231–41.

36. Draft international declaration of human rights (E/800) (continued)***Article 6 (continued)***

MR. BAGDADI (Egypt), resumed the discussion on the amendments to article 6 submitted by the delegations of South Africa (A/C.3/226) and Mexico (A/C.3/266) respectively.

He was opposed to the first part of the South African amendment. He suggested the deletion of the words “and against all incitement to such discrimination”. He wondered whether they referred to incitement by States or by individuals. In any case, the phrase pertained to a factual situation, whereas the declaration should be confined to a statement of principles. He consequently asked that the amendment be put to the vote in two parts.

The Egyptian representative considered it desirable, but thought it belonged rather in article 8.

MRS. KALINOWSKA (Poland) asserted that approximately five-sevenths of the population of the Union of South Africa did not enjoy equal rights. The South African representative had contended that there was no discrimination in the courts of the Union; she wondered why, if that [232] were so, he should object to the inclusion of a statement on the prevention of discrimination in the declaration of human rights. Instead of proposing specific and progressive amendments, he had suggested the deletion of the provision against discrimination in article 6. Discrimination certainly existed in other countries and the declaration would have universal scope.

The Polish delegation would vote against the South African amendment, and hoped the majority of the Committee would do likewise.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said his delegation would support the text for article 6 proposed by the Commission on Human Rights.

He could not approve the South African amendment, the adoption of which, at that stage of the proceedings, would invalidate what had previously been adopted by the Committee.

It had been said that the Mexican amendment laid down a means of procedure rather than a principle; in the past such means of procedure had, however, evolved into new rights. He thought that the Mexican amendment constituted a new right, and consequently supported it. It could be added as a second paragraph, or might stand as a separate article.

MRS. MENON (India) stated that her delegation would support article 6 as it stood in the basic text. The South African vote in favour of article 2 had been taken as a happy omen for the future, but then the representative of South Africa had moved an amendment to delete reference to protection against discrimination. Mrs. Menon protested against the discriminatory treatment accorded to Indians and other peoples in the Union of South Africa. She opposed and condemned the amendment.

To delete the latter part of article 6 would defeat the purpose for which the declaration was being drawn up. India itself had practised discrimination in the past, but was trying to eradicate it and the declaration would be of great assistance in those efforts. No representative could claim that his country fully exercised the ideals of equality and freedom. Instances of discrimination could be found both in the United States and in South Africa. It was the duty of the Assembly to see that such violations were abolished and not condoned.

The Indian representative appealed to her South African colleague not to press his amendment, which would arouse animosity and misunderstanding. If he maintained it, the Indian representative would not only oppose it but would appeal to the other members of the Committee to reject it unanimously.

MR. PÉREZ CISNEROS (Cuba) urged the South African representative to withdraw his amendment, which would only give rise to sterile debate; it was, in any case, doomed to failure, and was [233] contrary to the spirit which the Committee wished to embody in the declaration.

The Mexican amendment (A/C.3/266) introduced a new idea. The Cuban delegation had had a similar idea which it thought might form a new article (A/C.3/310). He mentioned some slight difference between the Mexican and Cuban texts, and requested that the two amendments should be considered at the same time. It was for the drafting sub-committee to decide whether they should form a new article or a second paragraph to article 6.

It was unthinkable that the declaration of human rights should lack an article providing that a simple, brief procedure should be open to all for protection of their rights. The Mexican amendment, which was in accordance with the Bogotá declaration, has been proposed in order to provide a guarantee of the civil and juridical rights granted in the declaration of human rights. He appealed to the Committee to adopt that idea, which was needed in the declaration.

MR. SANTA CRUZ (Chile) stated that article 6 embodied two definite concepts: first, equality of all men before the law in their respective countries; secondly, protection by law against discrimination in violation of the principles of the declaration. Regarding the first, there was no difference of opinion, but the South African representative had submitted an amendment to delete the phrase covering the second. Although that suggestion had already been submitted to the Drafting Committee and the Human Rights Commission itself, the provision had been maintained by a majority vote. His delegation had been in favour of the provision in the Drafting Committee and the Commission would continue to support it.

It joined the Indian and Cuban delegations in requesting the South African representative to withdraw the amendment.

Turning to the Mexican amendment, he stated that consideration of the draft declaration would show that no article contained mention of protection of individual

rights against the abuses of authority. The original text of the draft declaration as it existed prior to the third session of the Human Rights Commission had contained a provision concerning *habeas corpus*.¹ At that third session the provision had been deleted, and all that remained was the right to public trial in article 9. The Chilean representative found that the idea embodied in the Mexican amendment filled a lacuna which was very evident in the draft declaration. He was not sure whether the amendment should be added to article 6; it might more appropriately be included as a separate article, or might be used to complete article 8.

MR. AQUINO (Philippines) stated that his delegation associated itself with the favourable reaction to the principle advanced by the Mexican

[¹] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement No. 1, annex A.

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delegation. He agreed with the Chilean representative regarding the imperative necessity for a safeguard such as was contained in the amendment. He thought, however, that it would be better for the amendment to be introduced later. Considering the favourable response it had elicited during the discussion, it might be considered as an addition to article 8. The words “equal protection of the law” had given rise to some confusion: it was not clear whether they meant that there should be laws which should be applied equally or that all were equally entitled to the protection of whatever laws existed. Woodrow Wilson had once said that “equal protection of the law” meant that the law should be administered with even hands. The text before the Committee went further than that and widened the scope of that phrase.

The Committee could speak of equal protection without regard to class or race, but if it failed to take account of what was going on in some countries, such a sanctimonious declaration would be a mockery.

If the South African amendment were accepted, article 6 would be incomplete and meaningless. His delegation strongly objected to the South African amendment.

MR. CAMPOS ORTIZ (Mexico) referred to the remarks made by the Uruguayan and Cuban representatives concerning the importance of the new element which his delegation wished to include in the Declaration of Human Rights: the right to an effective, simple and brief procedure as protection against the abuses of authority. That new fundamental right warranted a new article.

As it stood, the declaration was incomplete. That fact had been clearly stated in Geneva. He quoted the French representative as saying on 25 August 1948 that the French Government reserved the right to suggest to the General Assembly that it should urge all States to take immediate legislative action to ensure respect for the human rights mentioned in the declaration.¹ The USSR representative had also said that the declaration should not only establish rights, but should ensure their protection.

MRS. ROOSEVELT (United States of America) supported the text of the article as it stood. She sympathized with the purpose of the Mexican delegation, namely to give assurance of effective judicial remedy for acts violating fundamental constitutional rights. She would have thought the inclusion of a specific provision on that point unnecessary, as she considered articles 6 and 8 broad enough to provide such protection. She would, however, be willing to support the revised Mexican amendment (A/C.3/208) proposing an addition to article 6, if it met with the approval of the majority.

MR. PLAZA (Venezuela) warmly supported the revised Mexican amendment. The addition of the amendment - which should appear as a separate

[¹] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 215th meeting.

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article – would greatly increase the practical value of the declaration. He suggested that the beginning of it might be altered to read: “Everyone has the right to an effective remedy by the *competent national tribunals*. . .”

He agreed with the South African representative that the existing text of article 6 was unsatisfactory in that the latter part of it appeared to be a limitation upon the words “equal protection of the law”. He did not think that part should be deleted; rather, some form of words should be found to make it clear that all were entitled both to equal protection of the law in general, and to equal protection against discrimination or incitement to discrimination.

MR. RADEVANOVIC (Yugoslavia) said his delegation had already stated its position with respect to discrimination during the discussion of articles 2 and 3¹; there was no need to re-state it.

He opposed the South African amendment. It was to be hoped, not only that the amendment would be withdrawn, but that the policy which had inspired it would be modified.

The Yugoslav representative agreed with the idea contained in the Mexican amendment and thought its adoption would broaden the scope of the declaration; yet he found the amendment difficult to accept. The amendment sought, in effect, to permit the judicial branch of a Government to correct abuses committed by the executive branch; it could therefore be applied only in those States where a definite separation between the two existed. The idea had been borrowed from the Bogotá declaration; it was no doubt suited to the system of government prevailing on the American continent, but it was quite incapable of universal application.

MR. GRUMBACH (France) said that, unlike many of the speakers who had preceded him, he wished to ask the representative of the Union of South Africa to maintain his amendment. There could be no doubt that the latter had given that amendment thorough consideration before proposing it; and he had certainly advanced serious

arguments in its defence. Once the basic problem of discrimination had been raised, it was necessary to settle the question by a vote, in order to eliminate all uncertainty with respect to the Committee's position.

He fully agreed that the text of the declaration should be as simple as possible. He felt, however, that the South African amendment would not merely simplify article 6, it would rob it of most of its substance.

Nazism, with its millions of victims, had rested on the basis of discriminatory laws. Discrimination as practised by the Germans, had resulted in unheard of barbarism. The question of protection against discrimination was, consequently, a most vital matter. Mr. Grumbach recalled that laws considered discriminatory by most of the representatives on the Committee existed in the Union of South Africa. The portion of the Trusteeship Council's report dealing with the man-

[¹] See 101st and 103rd meetings.

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dated territory of South West Africa supported that opinion. The Natives had no share in the administration of the territory; although they represented 90 per cent of the population, only 10 per cent of the budget was allocated to their needs. The fact that the policy of the Union of South Africa was one of segregation and racial discrimination was responsible for the mistrust with which the South African amendment had been greeted.

He felt it would be most dangerous to accept that amendment. Rejection of the amendment might, on the other hand, further the protection of human rights in the Union of South African.

Having carefully considered the Mexican amendment, the French delegation felt that the proper place for it was not in the declaration but in the proposed covenant. While supporting the idea contained in that amendment, he objected to the expression "constitutional rights", which appeared to raise matters of domestic jurisdiction.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that the South African representative had proposed the deletion from article 6 of the very words which might inconvenience the Government of the Union of South Africa in view of its policy of discrimination against the non-European population of the country.

Numerous facts could be cited to prove that such discrimination existed. Thus, over 250,000 Asians in Natal and Transvaal were deprived of the right to vote. In South West Africa the category of persons deprived of that right was broader: it included Asians, women and murderers. Asians in the Union of South Africa were limited in their right to own land. They could not engage in the liberal professions. Their children received only three years of free schooling, which was not even compulsory, in contrast to the white children, who received free compulsory schooling until the age of 15. Indians were forced to live in restricted areas, where there was a shocking

mortality rate. The colour line was strictly drawn in theatres, parks, restaurants, cafés and railway trains. Millions of people paid in blood and tears for the policy of discrimination pursued by the Government of the Union of South Africa.

It was unthinkable that the Third Committee should for one moment consider the adoption of the South African amendment and the deletion of the very words which provided protection against discrimination. The USSR representative suggested that, if the South African amendment was not withdrawn, the vote on it should be taken by roll-call, in order to show who agreed with the representative of the Union of South Africa.

Recalling the reservation which the South African representative had made in connexion with the vote on article 2 (101st meeting), Mr. Pavlov interpreted that reservation to mean that the South African Government felt it had a right to decide which of the rights in the declaration were fundamental and which were not.

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With respect to the revised Mexican amendment, Mr. Pavlov said that his first reaction was favourable, but that he could not vote on it without having first seen it in written form.

MRS. CORBET (United Kingdom) suggested the deletion from article 6 of the words “without any discrimination”. A general statement with respect to discrimination was contained in article 2; presumably it applied to all the succeeding articles. If the words “without any discrimination” appeared in article 6 alone, the impression might be given that other articles, which did not contain that express phrase, tacitly permitted discrimination. She asked that those words should be put to the vote separately.

While she preferred the revised version of the Mexican amendment, she was somewhat troubled by the words “fundamental constitutional rights”. Her country had no written constitution; therefore the word “constitutional” had a special meaning when applied to the United Kingdom. In general, the Mexican amendment contained a new idea, which called for careful consideration.

Mrs. Corbet recalled that the draft submitted by the United Kingdom for the covenant¹ contained an article rather similar to the one proposed by the Mexican representative; it was in connexion with that document that the Mexican amendment should be discussed.

MR. CONTOUMAS (Greece) agreed with the United Kingdom representative that the words “without any discrimination” should be deleted from the text of article 6.

With that exception he supported the text before the Committee.

He pointed out that equality with regard to the protection of the law was not necessarily limited to the human rights defined in the declaration; it could extend to other fields also. If he had rightly understood the statement made by the representative of the Union of South Africa, the aim of his amendment was to do away with that limitation. That aim was most praiseworthy and he hoped the South African representative would explain more fully the reasons underlying his amendment.

Mr. Contoumas thought the Mexican amendment might be included in article 8, preferably by the inclusion of a phrase to the effect that the judicial procedure provided should be simple and brief.

MR. WATT (Australia) recalled that during the session of the Commission on Human Rights his delegation had expressed doubts with regard to the clarity of article 6.²

He thought that the point raised by the Venezuelan representative might be met by the insertion, after the words “protection of the law”, of the words “and equal protection”.

He agreed with the United Kingdom representative that the words “without any discrimination” should be deleted. Concerning the reference, at the end of the article, to incitement to discrimination, Mr. Watt felt that the word “incitement” was rather vague;

^[1] See document E/CN.4/82/Add. 9.

^[2] See document E/CN.4/SR.53.

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it was to be hoped that the reference would not be interpreted as encouraging infringement of other rights, such as the right of freedom of opinion and expression outlined in article 17. The Australian delegation was, however, prepared to approve any text acceptable to the Committee.

He thought that the Mexican amendment might be placed either in article 8 or, preferably, in the covenant.

He agreed with the United Kingdom representative that the word “constitutional” in that amendment presented some difficulty.

MR. RAMÍREZ MORENO (Colombia) stated that he would vote against the South African amendment and in favour of the Mexican amendment.

MR. BAGDADI (Egypt) said that the Indian representative’s remarks had convinced him that he must clarify his position. He had never intended to propose the deletion of the provision against discrimination, but he had been dubious about incitement. Despite the arguments of the representative of Australia, he now felt that the prohibition of incitement to discrimination should be retained. The term incitement had a precise meaning in Roman law.

The sense of the Mexican amendment could be incorporated in article 8 since the English version of the text did not make the same distinction as the French did between civil and criminal law. The amendment should therefore be studied more fully during the discussion of article 8. If that procedure were undesirable, the idea contained in the Mexican amendment might be incorporated in the declaration as a separate article.

MRS. NEWLANDS (New Zealand) feared that prohibition of incitement might prevent full exercise of human rights such as the freedom of opinion and expression guaranteed in article 17. It was very hard to draw the line between incitement and the legitimate exercise of free speech. Freedom of expression was the best weapon against discrimination. As it stood, article 6 might even be used to justify violation of article 17.

A separate vote should be taken on the final phrase of the article. There was a precedent for that; the article had been put to the vote in parts in the Commission on Human Rights, where it had passed in its present form by a very small majority.¹

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) declared that no attempt should be made to persuade the representative of the Union of South Africa to withdraw his amendment. Once it had been introduced, it should be fully debated. The representatives of Cuba and India had been too hasty in requesting withdrawal; the support given by the representative of Greece had

[¹] See document E/CN.4/SR.52.

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not improved the South African representative's position.

There was a clear answer to the Greek representative's request for a clarification of the motives underlying the South African amendment; it lay in the declared policies of that country itself. South African political leaders had repeatedly stressed their intention of introducing stricter racial discrimination in their country. Statements had appeared in the South African Press to the effect that Indians residing there must be prepared to acquiesce in discrimination against them. Segregation of the coloured people had already been put into effect on the railway trains and in matters of residence and of political rights. Those facts refuted arguments that the South African amendment was designed to widen the scope of article 6; the reverse was true. Discrimination was a term of very wide meaning; the words "any discrimination" in the text of the article could have the widest possible interpretation.

The representative of Australia had argued that the reference to incitement in the existing text might be considered as infringing other basic human rights. The South African amendment wished to go much further than that, proposing as it did to eliminate all mention of discrimination as well as incitement thereto. There was no doubt that the substance of article 17 would be kept in the declaration in some form; thus guarantees of the right of free expression would certainly be retained.

He would therefore vote against the South African amendment and in favour of the basic text.

MR. DE ATHAYDE (Brazil) believed that the South African amendment tended to weaken the article. The basic text was clear and concise. The principle of opposition to all forms of discrimination could not be stated too often.

The Mexican amendment reaffirmed the constitutional rights of the citizen; it was a valuable addition. He would therefore vote for the basic text with the addition of the Mexican amendment.

MR. SANTA CRUZ (Chile) disagreed with the contention of the French representative that the Mexican amendment should be placed in the covenant rather than in the declaration. If it were included in the declaration, the best position for it might be

in article 8, in which provision was made for protection of the individual against abuses by other individuals or by the authorities in cases where he was accused of crime. The Mexican amendment completed those safeguards by including guarantees against authorities who might attempt to infringe the individual's constitutional rights.

The United Kingdom representative's argument had been well founded. He suggested that the objection that some countries had no written constitution might be met if the last phrase of the [240] revised Mexican amendment were altered to read: "the fundamental rights granted him by the constitution or the law".

MR. TE WATER (Union of South Africa), replying to a request by THE CHAIRMAN to clarify his position, said that he had regarded his amendment purely as an effort better to interpret the sense of article 6. He had been surprised and pained by the debate to which that sincere effort had given rise. He had always believed that the United Nations existed primarily for the furtherance of peace and goodwill; he had encountered a mode of expression such as was rarely heard in his own country; it was very different from that to which the League of Nations had happily been accustomed. There had been little attempt to understand the viewpoint of the Union of South Africa. The difficulty which European civilization was facing in its struggle for survival in that country had not been properly appreciated. Only experience on the spot could bring such understanding; he wished it were possible for many representatives to obtain that experience. Such lack of real appreciation had, he must repeat, faced the Union of South Africa ever since it had become a Member of the United Nations: it had been an obstacle to the collaboration which his country had been willing to give. He had made every effort to avert the danger of dividing the Committee on that issue.

In view of the fact that the debate had become so acrimonious, he felt that his delegation's attitude should be made perfectly clear. The declaration should be a directive and inspiration to all peoples and to their Governments; it should be simple, intelligible and of universal bearing. The basic text before the Committee did not fulfil those conditions. The debate, however, had been even more harmful, for it had revealed a tendency to go far beyond the discussion of fundamental human rights and the provisions of the Charter. The peoples would not understand that; the Governments would honour a declaration based upon such a tendency in the breach rather than the observance.

In view of what had been said in the debate, he withdrew his amendment. He suggested, however that it would be advisable to vote on the article in two parts.

THE CHAIRMAN agreed with the representative of the Union of Soviet Socialist Republics that in accordance with rule 109 of the rules of procedure the substance of the revised Mexican amendment (A/C.3/308) should be put to the vote at the following meetings. The decision as to its position would be left to the proposed drafting sub-committee.

He put article 6 to the vote in parts.

He put to the vote first the words: “All are equal before the law and are entitled”.

Those words were adopted unanimously.

THE CHAIRMAN put to the vote the words: “without any discrimination”.

Those words were adopted by 33 votes to 8, with 2 abstentions.

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THE CHAIRMAN put to the vote the words, “to equal protection of the law”.

Those words were adopted unanimously.

THE CHAIRMAN put to the vote the Australian proposal to insert at that point the words: “and equal protection”.

That proposal was adopted by 34 votes to 1, with 8 abstentions.

THE CHAIRMAN put to the vote the words “against any discrimination in violation of this Declaration”.

Those words were adopted by 46 votes to none, with 1 abstention.

THE CHAIRMAN put to the vote the words: “and against any incitement to such discrimination”.

Those words were adopted by 41 votes to 3, with 2 abstentions.

THE CHAIRMAN put the whole of article 6, as amended to the vote.

Article 6, as amended, was adopted by 45 votes to none, with 1 abstention.

The meeting rose at 6:15 p.m.

A/C.3/SR.113⁷¹

26 October 1948

***Summary Record of the Hundred and Thirteenth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Tuesday,

26 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

⁷¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 241–51.

37. Draft international declaration of human rights (E/800) (continued)

Article 6 (continued)

THE CHAIRMAN stated that the word “judicial” in the Mexican amendment to article 6 as revised by Mexico, Chile and Venezuela (A/C.3/309) appeared there by mistake and should be deleted.

MR. CASSIN (France) pointed out that the French text of the Mexican amendment was imperfect. He proposed the following version (A/C.3/309/Rev.1), which incorporated a drafting change suggested by the Belgian representative:

“Toute personne a droit à un recours effectif devant les juridictions nationales compétentes contre les actes violant les droits fondamentaux qui lui sont reconnus par la constitution ou par la loi.”

MR. CAMPOS ORTIZ (Mexico) accepted that French text as a highly satisfactory rendition of his amendment.

MR. BAGDADI (Egypt), speaking on a point of order, asked that the Mexican amendment be considered together with the Cuban (A/C.3/310) and Egyptian proposals (112th meeting) as all three proposals dealt with the same matter.

MR. PÉREZ CISNEROS (Cuba) supported the suggestion of the Egyptian representative.

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In view of the facts that there was a new French text before the Committee; that it had been suggested that the Mexican amendment might form a separate article; and that the idea which it contained was both new and important and deserved careful drafting, he asked that consideration of the Mexican amendment might be postponed so as to allow the interested delegations to consult together and present a joint text.

THE CHAIRMAN ruled that, as a full debate on the Mexican amendment had already taken place, that amendment would be put to the vote immediately.

MR. CHANG (China), speaking on a point of order, suggested that the Mexican amendment might be put to the vote in parts and that the vote might be taken alternatively on the phrase “an effective judicial remedy” (A/C.3/308) or the phrase “an effective remedy by the competent national tribunals” (A/C.3/309).

He expressed a preference for the former; the word “national” might not be universally applicable, as a number of countries had state and provincial courts, which could not be considered national.

MR. PLAZA (Venezuela) preferred the phrase “competent national tribunals”. He pointed out that the word “judicial” might be interpreted as applying to both national and international courts of justice.

MR. PAVLOV (Union of Soviet Socialist Republics) objected to the Chinese proposal on the grounds that it was a substantive change and as such could not be introduced into the Mexican amendment at the last moment. As the word “judicial” permitted recourse to international as well as national tribunals, the Chinese proposal would require further consideration and debate.

He hoped that the joint revised version of the Mexican amendment (A/C.3/309), with the word “judicial” deleted, would be put to the vote.

MR. CHANG (China) stated that his suggestion had been made solely with a view to saving time and producing a more perfect text.

As it did not appear to have achieved its purpose, he withdrew it.

THE CHAIRMAN put the joint revised text of the Mexican amendment (A/C.3/309) to the vote. It read as follows:

“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”¹

The amendment was adopted by 46 votes to none, with 3 abstentions.

MR. CASSIN (France) explained that he had voted favour of the revised amendment on the understanding that the phrase “competent national

^[1] Article 9 of the draft universal declaration of human rights (A/777).

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tribunals” referred to the competent judicial machinery of a State, but not necessarily of the State of which the plaintiff was a national. Thus, if a foreigner were to have his rights violated, he would have the right to have recourse to the competent tribunals of the country in which the violation had occurred, rather than to those of his own.

MR. CAMPOS ORTIZ (Mexico) thanked the members of the Committee for voting in favour of his amendment, based, as he had stated in the general debate, on the Mexican legal resource of *amparo* which had been included in Mexican legislation for more than one hundred years. The amendment – which he hoped would constitute a separate article – constituted a new and important element in the declaration.

MR. PÉREZ CISNEROS (Cuba) withdrew his amendment to article 6 (A/C.3/310).

He congratulated the Committee on its adoption of the Mexican amendment. The General Assembly owed a debt of gratitude to the Mexican delegation for a most constructive suggestion.

THE CHAIRMAN associated himself with the sentiments expressed by the Cuban representative and congratulated the Committee on the fact that not a single vote had been cast against the Mexican amendment.

He reminded the Committee that the place of the amendment had not been decided.

Article 7¹

MR. PAVLOV (Union of Soviet Socialist Republics) remarked that the Committee had before it the basic text of article 7 as drafted by the Commission on Human Rights (E/800) and a number of amendments to that article which were recapitulated in document A/C.3/276.

He proposed the following procedure for dealing with the various texts. The basic text of article 7 could be examined in conjunction with the Cuban (A/C.3/224) and Uruguayan (A/C.3/268) amendments, which altered that text. All the remaining amendments were additions to it. Inasmuch as all the ideas put forward in those additional articles were contained in the USSR amendment (E/800, page 32), which also contained ideas not expressed elsewhere, that amendment could next be taken as a basis for discussion, and put to the vote in parts. The work of the Committee would be greatly facilitated thereby.

MR. DE LEÓN (Panama) called attention to the fact that his amendment (A/C.3/220) should read as follows (A/C.3/312): “No one shall be subjected to arbitrary arrest or detention. Every person who has been detained has the right to immediate judicial determination of the legality of his detention.”

^[1] Article 10 of the draft universal declaration of human rights (A/777).

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MR. CARRERA ANDRADE (Ecuador) stated that his delegation regarded article 7 as a direct complement to article 3, which guaranteed the right to life, liberty and security of person. Article 7, which provided much-needed protection against arbitrary arrest and detention, had to be included in the declaration.

He thought, however, that the article should also contain mention of another form of arbitrary action by public authorities, namely, exile. The expulsion from a country of whole racial, religious or political groups was a matter for the Sixth Committee, which was considering the draft convention on genocide. The declaration should, however, protect the individual from forcible expulsion from his own country.

He therefore suggested that the words “or exile” should be added at the end of article 7.

MR. CASSIN (France) felt that the Committee should seek a compromise between the eloquent brevity of the text of article 7 submitted by the Commission and the many amendments proposed thereto.

The basic text, he thought, should remain unaltered. The legal guarantees proposed in some amendments would find their proper place in the covenant, not in the declaration. To that first eloquent sentence, however, certain additions could be made.

One of them was the idea that any person arrested or detained was entitled to have the legality of the action taken against him affirmed by a judge without delay. Such a provision would correspond to the institution of *habeas corpus* and to provisions contained in many modern constitutions.

Another addition, proposed in several amendments, which Mr. Cassin would support, was that a person should be brought to trial within a reasonable period or set free.

He would not vote against the USSR amendment to the effect that anyone deprived of his liberty had the right to be informed of the grounds for his detention.

On the other hand, the French representative did not approve of the inclusion in the declaration of provisions with respect to contractual obligations and compensation for illegal arrest. With regard to the first, it was a measure of implementation; as for the second, many countries would not have appropriate laws to fit the case. Both provisions were better suited to the covenant than to the declaration.

MR. ANZE MATIENZO (Bolivia) agreed with the representative of France that brevity would strengthen the article.

Nevertheless, he warmly supported the Ecuadorean proposal. Exile was one of the most arbitrary political punishments that existed. Arbitrary arrest was, in many cases, followed by arbitrary deportation since it was usually applied during periods of political disturbance. Moreover, [245] in view of the provision made in article 12, paragraph 1 for the right of asylum, it would be logical to include in the declaration a clause providing for prohibition of exile. By including the right of asylum, that article implicitly recognized that arbitrary deportation had taken place.

MR. AQUINO (Philippines) pointed out that the debate had emphasized once more the need to draw a distinction between matter which should properly be included in the declaration and matter which would be more appropriate in the covenant or in the measures of implementation. The declaration should be restricted to the statement of a political philosophy which was valid for all. That was the virtue of the text before the Committee.

The amendments, however, infringed the line of demarcation between the covenant and the declaration. The word "arbitrary" was crucial. The prohibition against arbitrary arrest had a very wide and progressive historical meaning, particularly in Anglo-Saxon law. The Governments must decide for themselves its exact implications.

The French amendment (A/C.3/244) belonged more properly in the covenant. It was an attempt to guarantee certain legal procedures. It was a measure for implementation rather than a declaration of principle.

That could also be said of the USSR amendment (E/800, page 32).

He would vote for the basic text because it was concise and reflected historical usage. He would be willing, however, to give due consideration to the Ecuadorean

proposal because recent history had provided examples of cases in which it might have been applied.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that his delegation's amendment (A/C.3/268) had certain advantages over the Cuban (A/C.3/224). The Cuban text extended the scope of the word "arbitrary" by substituting the concept of deprivation of freedom. The Uruguayan text, however, spoke more concretely of arrest or detention. The individual must be safeguarded against imprisonment by local, as well as by State authorities. Moreover, the Uruguayan text added the idea that there could be no deprivation of freedom without prior legislation.

He was glad to note that the Mexican amendment (A/C.3/266) to article 6 had included the old Spanish right of *amparo* (injunction) beside that of *habeas corpus*. The Cuban, French (A/C.3/244) and USSR amendments were to be preferred to the Panamanian (A/C.3/220) because they went further by introducing the principle that the prisoner must be heard without delay, besides being informed of the grounds for his detention.

The Mexican amendment, introducing as it did the idea that persons should not be imprisoned for breach of a work contract, went further than the USSR amendment forbidding imprisonment [246] on the grounds of failure to carry out contractual obligations.

He would strongly support the Mexican amendment because failure to record such a prohibition might lead to violations of article 4. He would also vote for the paragraph in the USSR amendment guaranteeing compensation for illegal arrest. In addition, he would maintain the amendment submitted by his own delegation.

MR. SANTA CRUZ (Chile) said that the amendments submitted appeared to be reproducing the substance of early drafts which had been discussed by the Commission on Human Rights. The Commission had discussed a fuller text,¹ which had then been further discussed by the Drafting Committee² and had finally emerged, mainly through the efforts of the United Kingdom delegation, in the concise text under consideration. Throughout those stages the Chilean delegation had stressed the need for an explicit statement of the right of *amparo* and had urged that it should be expressly laid down that a person might be arrested only in accordance with existing laws, should be tried speedily and should be liberated at once if wrongfully detained. Since that idea was contained in the legal system of most countries, it should be included in the declaration, even though it was desired to make that document brief.

He believed that the text before the Committee covered the prohibition against exile. A man had to be arrested before he could be exiled. The right of *amparo* against expulsion orders existed in Chile; if, however, there were countries which had no such legislation, he would favour the Ecuadorean proposal to add the words "or exile" at the end of article 7.

The USSR amendment reproduced the text submitted to the Commission by the Drafting Committee. The Chilean delegation would support it. The prohibition of imprisonment for failure to carry out contractual obligations was most advisable. He agreed with the representative of Uruguay that the term “civil obligations” might be more intelligible than the term “contractual obligations”, but he had found that the former had an entirely different meaning in Anglo-Saxon and in Roman law. He therefore preferred the latter term.

He would also support the paragraph in the USSR amendment providing a guarantee of compensation for illegal arrest.

The representatives of Uruguay and Panama having pointed out defects in the text of document A/C.3/312, THE CHAIRMAN directed that it should be withdrawn from circulation.

MR. AZKOUL (Lebanon) maintained that the declaration should not include any measures for implementation. The Commission on Human Rights had shared that view. The amendments before the Committee ought, more properly, to be

[¹] See document E/CN.4/21.

[²] See document E/CN.4/95.

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placed in the covenant. Previous articles in the declaration were statements of absolute rights, so that it would be inconsistent to expand article 7 in the way that had been proposed. That would merely open the door to demands for similar expansion of further articles.

He agreed with the representative of the Philippines that the Governments concerned should decide the legal implications of the article. He would therefore vote for the basic text.

The representative of Ecuador had, however, presented a new and valuable idea. He would support its inclusion.

MRS. ROOSEVELT (United States of America) agreed with the representatives of Lebanon and the Philippines that it was vital to retain the word “arbitrary”. It summed up the meaning of the whole article.

She suggested that the difficulties facing the Third Committee might be caused by the fact that, unlike the Commission and the Drafting Committee, it had not considered articles for the covenant. The Drafting Committee had been able to bear more clearly in mind the distinction between what was appropriate for the declaration and what was appropriate for the covenant. That accounted for any appearance of inadequacy in the drafting of the declaration.

The Commission had believed that the declaration should be as broad, clear and concise as possible. The text before the Committee had been based upon a

distillation of many ideas similar to those which had been repeated in the amendments before the Committee.

Having regard to the Commission's conception of the declaration, she would vote for the basic text.

She had been interested by the Ecuadorean proposal, but felt that it would be more appropriate in some other article.

MR. DE ATHAYDE (Brazil) said that he was in favour of the Commission's text, which was clear and comprehensive.

Referring to the Uruguayan amendment (A/C.3/268), he was dubious about the implications of the words "prior legislation"; there might be cases in which anti-democratic Governments had promulgated undesirable laws. Other amendments submitted would be more appropriate in the covenant. In the declaration they would disturb the balance of the text of article 7.

He favoured the Ecuadorian proposal for the addition of the words "or exile".

MR. DAVIES (United Kingdom), replying to the representative of Chile, said it was the majority in the Commission on Human Rights, and not the United Kingdom delegation, that had been responsible for the text of article 7. The original text had included many of the points embodied in the amendments which were before the Third Committee. Although he agreed with many of [248] them, he believed that they were irrelevant to the declaration. There had been valid reasons for rejecting the fuller version submitted by the Drafting Committee.

He agreed with the representatives of the Philippines, Lebanon and the United States that the ideas in the amendments presented would be more appropriate in the covenant. It was not a question of a longer or shorter article, but whether the declaration should contain solely a statement of principle or should also include measures for implementation. That issue had presented itself most acutely in the current debate. The representative of the USSR had expressed doubts whether the covenant would ever come into being. The United Kingdom delegation believed that the covenant was essential in the international protection of human rights; but it should be remembered that it formed only one part of the international bill of human rights. His delegation had always contended that the declaration should be a simple, inspiring statement of principles, excluding measures for implementation. Certain representatives appeared to dissent; they felt that the declaration should also guarantee the application of those principles. The United Kingdom, however, could not disagree with the Commission's recommendations.

He would therefore vote for the present text.

With regard to the amendment submitted by the representative of Panama (A/C.3/220), he agreed that the greatest safeguard of human freedom was protection against illegal detention, such as the United Kingdom had enjoyed since Magna Carta. He agreed, however, with the representative of the United States that

“arbitrary” was the key word in the text before the Committee; the article would lose greatly if that word were deleted. There might be certain countries where arbitrary arrest was permitted. The object of the article was to show that the United Nations disapproved of such practices. National legislation should be brought into line with the standards of the United Nations. Rights should not derive from law, but law from rights. For that reason he would oppose the Panamanian and similar amendments.

With regard to the Ecuadorean proposal, he would be willing to add the words “or exile”, but doubted whether article 7 was the correct place for them. The prohibition against exile already existed in his country; no United Kingdom national could be deported from or refused admittance to the United Kingdom.

MR. PÉREZ CISNEROS (Cuba) pointed out that the amendments covered a number of ideas some of which were common to several of them. The idea of detention and arrest was common to the Panamanian, Cuban and Uruguayan amendments. He would support the Uruguayan text, since it [249] was shorter and drew a distinction between arrest and detention.

The idea of *habeas corpus* was common to the Panamanian, Cuban, French, Uruguayan and USSR amendments. He preferred the Panamanian formulation.

The idea that action taken against any person should be confirmed by a judge was common to the amendments of Cuba, France and Uruguay. He believed that the Cuban phrase “without unjustifiable delay” best fulfilled the object in view – the avoidance of delay. The French phrase “within a reasonable period” seemed to him too vague.

The concept that no person should be imprisoned on account of failure to carry out obligations of a civil character was found in the USSR, Cuban and Mexican amendments. He agreed with the representative of Uruguay that, while the Mexican text covered much of the same ground as the USSR text, the addition of the idea that a person should not be imprisoned for breach of a work contract was extremely valuable. He would vote for the Mexican amendment.

The provision contained in the Cuban amendment, that the arrested person was entitled to humane treatment while under detention, was no longer needed since article 4 had been adopted (110th meeting).

Compensation for illegal arrest, as proposed in the USSR amendment, was equally valuable; he would support it.

He would also support the proposal of the representative of Ecuador prohibiting exile but he thought that it might perhaps form a separate article instead of a phrase in article 7.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the debate had demonstrated that two groups existed, one including Panama, Cuba, Mexico, France and the USSR, and the other the United States and the United Kingdom, the

Philippines and Lebanon. They were divided as to the form of the article to cover the protection of human freedom.

The group including the United Kingdom and the United States supported the text of article 7 as drafted by the Commission. The arguments in favour of that very brief article should be carefully examined. The whole question had been stated to be very simple; it was a matter of brevity versus length. The United States and United Kingdom delegations wished for brevity, keeping more complete wording for the covenant; the United Kingdom delegation had also said it was sufficient to establish a principle, but it had already been agreed that the declaration was not confined to an enunciation of rights; it might, in certain cases, also guarantee the exercise of rights. It seemed to him that the choice before the Committee lay between an article without content and an article containing a concrete guarantee of certain rights.

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The Cuban amendment, which contained the words “deprived of his freedom”, was very concrete and therefore particularly valuable. The next step was to consider what, if anything, should be added after the first sentence. The authorities should inform a man why he had been arrested and when he was to appear before the court; otherwise he should certainly be liberated. But if a man, through false arrest had sustained financial loss or other injury, he should receive compensation. The article could only gain by the inclusion of guarantees to cover such eventualities. It had been argued that such guarantees should appear in the covenant. The prospect of a covenant should not be regarded as a substitute for a satisfactory declaration; a bird in the hand was worth two in the bush.

MR. WATT (Australia) stated that the views of his delegation had already been largely covered by the statements of the Lebanese and United Kingdom representatives.

He agreed with the USSR delegation that it was a question whether the declaration should contain principles alone or some measures for implementation. Perhaps some rights were so important that their guarantee should be included. In that connexion the Committee’s attitude might not have been entirely consistent. The Australian delegation had abstained from voting on the revised Mexican amendment to article 6 not because it disagreed, but because it had considered that the subject was one for the covenant.

His delegation thought that article 7 was one of the Commission’s clearest and best articles.

The phrase in the Cuban amendment “obligations of a purely civil character” appeared ambiguous and might leave a loop-hole for fraudulent practices.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) desired first to raise objection to the word “arbitrary” in the Commission’s draft, and secondly to add further ideas to article 7. The word “arbitrary” was inadequate. The Uruguayan amendment was an

attempt to see that any man who was detained should be detained only in accordance with a clearly stated law.

A number of drafts had been submitted and much time had been taken in drawing up the text. While grateful for the work done by the members of the Commission, he pointed out that in spite of the relatively short space of time that some of the delegations had had, they had given as much attention to the matter as the members of the Commission. The Committee was obviously aware that the draft declaration was not complete and that they should take the opportunity to improve it by adding any new ideas which had arisen in the course of the debate. Brevity was desirable, but the declaration was not a rigid document.

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MR. BAGDADI (Egypt) said his delegation agreed with those who felt that only principles should be mentioned in the declaration. The preamble itself spoke of the declaration as a common standard. An enunciation of principles was infinitely preferable to a detailed statement.

The Egyptian delegation would vote in favour of the original text.

MR. CHANG (China) declared that the draft in question was far from perfect. It should be rendered more definite, clearer and more clear cut. It should be realized that the text was intended to achieve improvement in the status of mankind. The adoption of certain substitutes proposed for the word “arbitrary” would disturb the balance of the article. He submitted that additions could doubtless be inserted in other articles.

The suggestion regarding exile might be included in article 13, and a sentence might be added to the effect that no person should be arbitrarily barred from entering his own country.

The meeting rose at 6:15 p.m.

A/C.3/311

26 October 1948

Original Text: English, French

Amendment to article 6 of the draft Declaration (E/800) adopted by the Third Committee

Add as a second paragraph to article 6 the following:

“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”.

A/C.3/312

26 October 1948

**Panama: Revised amendment to article 7
of the draft Declaration (E/800)**

No one shall be subjected to arbitrary arrest or detention. Every person who has been detained has a right to immediate judicial determination of the legality of his detention.

A/C.3/313

26 October 1948

Original Text: English, French

**Synthesized text for article 7 elaborated jointly by the
delegations of Cuba, Ecuador, France, Mexico, the Union of
Soviet Socialist Republics and Uruguay**

No one may be deprived of his freedom (Cuba, Ecuador, Union of Soviet Socialist Republics, Uruguay), nor exiled (Cuba, Ecuador, Uruguay), except in the cases and according to the procedure prescribed by prior legislation (Cuba, Ecuador, Union of Soviet Socialist Republics, Uruguay).

Anyone deprived of his freedom has the right to be informed without delay of the grounds for his detention, to have the legality of the action taken against him confirmed without delay by a judge and also to have his case brought before the court without undue delay by a judge or to be liberated (Cuba, Ecuador, France, Union of Soviet Socialist Republics, Uruguay).

Everyone is entitled to compensation for illegal (Cuba, Ecuador, Union of Soviet Socialist Republics) deprivation of liberty (Cuba, Ecuador, Union of Soviet Socialist Republics, Uruguay).

No one may be deprived of his freedom on account merely of failure to carry out obligations of a purely civil character (Cuba, Ecuador, Union of Soviet Socialist Republics, Uruguay) or violation of a work contract (Cuba, Ecuador, Mexico, Uruguay).

Note: The following amendments to article 7 are consequently withdrawn: Union of Soviet Socialist Republics (E/800), Cuba (A/C.3/224), France (A/C.3/244), Mexico (A/C.3/266), Uruguay (A/C.3/268). The delegation of Panama has not yet had the opportunity to pronounce itself on this text.

A/C.3/SR.114⁷²

27 October 1948

***Summary Record of the Hundred and Fourteenth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Wednesday,
27 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

38. Draft international declaration of human rights (E/800) (continued)

Article 7 (continued)

MISS KLOMPÉ (Netherlands) agreed with the representative of the United States of America that the declaration should be as concise as possible. The synthesized text (A/C.3/313) was too detailed, but might appear in the covenant.

She had originally been inclined to accept the Ecuadorean amendment suggesting the addition of the phrase “or exile” (113th meeting) but thought that it was not broad enough. She would like to see it extended to cover forcible change of residence within the borders of the victim’s own country. That idea, however, should be incorporated in article 11 or 13.

She agreed with the representative of the USSR that imprisonment merely on account of failure to carry out contractual obligations was undesirable. She would not, however, vote for the corresponding provision, since in certain legal systems such imprisonment might not be arbitrary.

She would, therefore, vote for the basic text and would also support any other article which might later provide for the prohibition of arbitrary removal of human beings from their habitual place of residence.

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MR. DE LEÓN (Panama) withdrew his amendment (A/C.3/220) in favour of the synthesized text which he supported in principle, although he thought the wording might be improved. He welcomed particularly the inclusion of the idea of *habeas corpus* in that text.

He suggested that the word “confirmed” in the second paragraph of that text might be changed to “determined”.

MRS. NEWLANDS (New Zealand) said that her delegation had consistently held the view that the declaration should be a brief and simple statement of general principles; precise legal provisions should rather be included in the covenant. The

⁷² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 251–8.

synthesized text, which was extremely long and unwieldy, demonstrated the difficulties that arose once a departure was made from the idea originally accepted by the Committee.

She would therefore vote for article 7 as drafted by the Commission on Human Rights.

THE CHAIRMAN called the Committee's attention to the fact that the synthesized text for article 7 (A/C.3/313) represented a substitution for that article as drafted by the Commission (E/800) and that all previous amendments had been withdrawn in favour of it.

The synthesized text would be put to the vote first. Should it fail, any delegation which wished to introduce the idea of exile into the original text would be permitted to do so.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the synthesized text should be put to the vote in nine parts, and indicated the points at which the division was to be made.

The representatives of the United Kingdom, Egypt, Cuba, Costa Rica and the Philippines protested against the division proposed by the USSR representative. A text could be voted on in parts only if it were divided according to ideas.

THE CHAIRMAN stated that voting in parts was a common procedure in United Nations organs, and that the division proposed was not unreasonable. The procedure suggested by the USSR representative would, consequently, be followed. The Committee should consider each portion of the text in the context of what was still to come.

He put to the vote the first phrase of the synthesized text: "No one may be deprived of his freedom."

That part was rejected by 20 votes to 14, with 8 abstentions.

THE CHAIRMAN stated that the following part, which would have to be a complete sentence, would be put to the vote in the following form: "No one may be exiled."

That part was adopted by 21 votes to 16 with abstentions.

THE CHAIRMAN then put to the vote the third part, which read as follows: "Except in the cases and according to the procedure prescribed by prior legislation."

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That part was rejected by 21 votes to 15, with 4 abstentions.

THE CHAIRMAN next put to the vote the fourth part, which read: "Anyone deprived of his freedom has the right to be informed without delay of the grounds for his detention."

That part was rejected by 20 votes to 18, with 5 abstentions.

MR. CASSIN (France) called attention to the fact that the correct French equivalent of the words in the fifth part, “the legality of the action taken against him”, was *la légalité des mesures prises contre lui*.

MR. PÉREZ CISNEROS (Cuba) requested that the vote on the remaining parts of the amendment should be taken by roll-call.

THE CHAIRMAN, overruling objections by the representatives of Australia and the United States of America, put the fifth part to the vote in the following form:

“Anyone deprived of his freedom has the right to have the legality of the action taken against him determined without delay by a judge and also to have his case brought before the court without undue delay or to be liberated.”

A vote was taken by roll-call, as follows:

Iceland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: India, Mexico, Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Afghanistan, Argentina, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Ecuador, France.

Against: Lebanon, Netherlands, New Zealand, Norway, Peru, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Australia, Bolivia, Brazil, Canada, China, Denmark, Honduras.

Abstaining: Saudi Arabia, Venezuela, Belgium, Burma, Dominican Republic, Ethiopia, Greece.

That part was rejected by 20 votes to 18, with 7 abstentions.

THE CHAIRMAN put to the vote the sixth part of the synthesized text, which read as follows: “Everyone is entitled to compensation for illegal arrest”.

A vote was taken by roll-call, as follows:

Pakistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Ecuador, Mexico.

Against: Peru, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Australia, Bolivia, Brazil, Canada, China, Denmark, France, Honduras, India, Lebanon, Netherlands, New Zealand, Norway.

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Abstaining: Saudi Arabia, Venezuela, Afghanistan, Argentina, Belgium, Dominican Republic, Egypt, Ethiopia, Greece.

That part was rejected by 22 votes to 15, with 9 abstentions.

THE CHAIRMAN put to the vote the seventh part of the synthesized text, which read as follows: “Everyone is entitled to compensation for illegal deprivation of liberty.”

A vote was taken by roll-call, as follows:

Honduras, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Mexico, Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Afghanistan, Argentina, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador.

Against: Honduras, India, Lebanon, Netherlands, New Zealand, Norway, Peru, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Australia, Bolivia, Brazil, Canada, China, Denmark, France.

Abstaining: Saudi Arabia, Venezuela, Belgium, Burma, Egypt, Ethiopia, Greece.

That part was rejected by 22 votes to 17, with 7 abstentions.

THE CHAIRMAN put to the vote the eighth part of the synthesized text, which read: "No one may be deprived of his freedom on account merely of failure to carry out obligations of a purely civil character."

A vote was taken by roll-call, as follows:

Egypt, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: Mexico, Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Afghanistan, Argentina, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador.

Against: France, Honduras, India, Lebanon, Netherlands, New Zealand, Norway, Peru, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Australia, Bolivia, Brazil, Canada, China, Denmark.

Abstaining: Egypt, Ethiopia, Greece, Saudi Arabia, Venezuela, Belgium, Burma.

That part was rejected by 22 votes to 17, with 7 abstentions.

THE CHAIRMAN put to the vote the ninth part of the synthesized text, which read: "No one may be deprived of his freedom on account merely of violation of a work contract."

A vote was taken by roll-call, as follows:

Panama, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Mexico.

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Against: Peru, Philippines, Siam, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Australia, Bolivia, Brazil, Canada, China, France, Honduras, India, Lebanon, Netherlands, New Zealand, Norway.

Abstaining: Saudi Arabia, Venezuela, Afghanistan, Belgium, Burma, Egypt, Ethiopia, Greece.

That part was rejected by 22 votes to 16 with 8 abstentions.

MR. CARRERA ANDRADE (Ecuador) reminded the Committee that when he had submitted his amendment (113th meeting) he had only asked that the words “or exile” should be added to the text of the article. Accordingly it was not a new amendment, as the Chinese representative had said. It also appeared that the Ecuadorean amendment was in place in article 7, which dealt with arbitrary punishments. Moreover, it would be contrary to the rules of procedure to vote again on a proposal which had already been adopted.

THE CHAIRMAN pointed out that of the whole synthesized text the Committee had adopted only the following sentence: “No one may be exiled”. Accordingly that sentence was before the Committee as a substitution for the basic draft of article 7.

He agreed with the representative of Ecuador that the Committee had shown itself to be in favour of including the idea of exile, which could be moved as an addition to article 7. Before that could be done, however, it was necessary for the Committee to vote on what it had adopted of the synthesized text as a whole and to reject it.

He consequently put to the vote the proposal to substitute the words “No one may be exiled” for the basic text of article 7.

That proposal was rejected by 36 votes to none, with 7 abstentions.

COUNT CARTON DE WIART (Belgium) felt that the idea of exile should not be qualified by the word “arbitrary”. He asked that a separate vote be taken on that point.

MR. CHANG (China) said that he was certainly not opposed to including a prohibition of exile in the declaration.

He suggested the appointment of a sub-committee of three to draft an appropriate text after the Committee itself had decided the matter in principle.

He wondered, also, whether the idea might not be included in article 13.

MR. CARRERA ANDRADE (Ecuador) pointed out that no delegation had voiced opposition in principle to the prohibition of exile.

MR. SANTA CRUZ (Chile) said that the prohibition of exile should be qualified by the word “arbitrary” as were the words “arrest” and “detention”. There were cases in which exile might be imposed in accordance with prior legislation.

MR. CARRERA ANDRADE (Ecuador) accepted the Chairman’s suggestion and proposed that the words “or exile” should be added at the end [256] of the basic text, and that article 7, in its new form, should be put to the vote in parts.

MR. ANZE MATIENZO (Bolivia) said that he was opposed to exile in all forms. The prohibition of exile should not be qualified.

He therefore proposed, as an amendment, that a sentence reading: “No one shall be exiled” should be added at the end of the basic text of article 7.

MRS. CORBET (United Kingdom) said that exile should be qualified by the word “arbitrary”. Unless this were done, her delegation, favourable though it was to the

idea of prohibiting exile, would not support the amendment. It was essential that the vote should show clearly that *arbitrary* exile was meant.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) favoured the addition of the words “or exile”. That would bring the sense of the article closer to what had been intended by the synthesized text. He was in favour of a phrase which would prevent all measures which obliged a person to quit his country against his will and without his case having been brought before a court.

It should be clearly specified that *arbitrary* exile was meant.

MR. PAVLOV (Union of Soviet Socialist Republics) said that if the text were amended as the representative of Uruguay wished, the word “arbitrary” would necessarily qualify the concept of exile. He would prefer to specify the conditions in which exile should be prohibited. He therefore proposed to qualify the word “exile” by the words “except in the cases and according to the procedure prescribed by prior legislation”.

MR. AZKOUL (Lebanon) and MR. CASSIN (France) submitted that the change proposed by the representative of Bolivia constituted an amendment to the Ecuadorean amendment. The USSR amendment was closer to it than the Bolivian. A vote should be taken on the Bolivian amendment first and then on the USSR amendment. By that method the Committee could decide whether, and to what extent, the word “exile” should be qualified.

THE CHAIRMAN put the Bolivian amendment [*sic*] the Ecuadorean amendment to the vote.

That amendment was rejected by 18 votes to 16, with 7 abstentions.

THE CHAIRMAN put the USSR amendment to the Ecuadorean amendment to the vote.

That amendment was rejected by 20 votes to 6, with 15 abstentions.

MR. CARRERA ANDRADE (Ecuador) requested that his amendment be put to the vote by roll-call.

THE CHAIRMAN put the Ecuadorean amendment to the vote.

A vote was taken by roll-call, as follows:

The Byelorussian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

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In favour: Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Honduras, India, Lebanon, Mexico, New Zealand, Panama, Peru, Philippines, Poland, Siam, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma.

Against: Canada.

Abstaining: China, France, Greece, Netherlands, Norway, Saudi Arabia.

The amendment was adopted by 37 votes to 1, with 6 abstentions.

THE CHAIRMAN put article 7 as a whole, as amended, to the vote.

Article 7, as amended, was adopted by 43 votes to none, with 1 abstention.

MR. CONTOUMAS (Greece) said in explanation of his vote, that there had been several ideas in the synthesized text with which he agreed; many of them, indeed, already existed in his country's legal code. He did not feel, however, that so detailed a list of provisions would have been in place in the text of the declaration.

MR. ANZE MATIENZO (Bolivia) said that the implications of the word "arbitrary" were much broader than such merely legal concepts as had been proposed in the synthesized text. The word "arbitrary" referred, in part, to matters of conscience. A legal concept might change with changing circumstances; it was not inconceivable that arbitrary laws might be adopted in certain countries.

MR. PLAZA (Venezuela) said that he had voted for the original text with the addition of the Ecuadorean amendment. The original text thus amended was concise and stated the precise meaning desired by the Committee.

MISS BERNARDINO (Dominican Republic) said that the Constitution and the laws of her country guaranteed all the principles of the amendments adopted but she had abstained on some votes because she found the procedure confusing.

MR. PÉREZ CISNEROS (Cuba) said that he had voted for the word "arbitrary" as adopted on the understanding that it was referred to cases not prescribed by prior legislation.

MRS. KALINOWSKA (Poland) thought that the article in its existing form was inadequate.

MR. CARRERA ANDRADE (Ecuador) thanked the representatives who had given him their support during the discussions and also expressed his regret that the Committee had not adopted the amendments of Cuba, the USSR, Uruguay, France and Mexico, which had emphasized the social aspect of the declaration of human rights.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the Committee by only a small majority had rejected a series of concrete and progressive measures intended to guarantee the freedom of mankind. Article 7 in its existing [258] form was not as complete as it should have been.

The word "arbitrary" left the way open to subjective interpretation, whereas the Cuban and Uruguayan proposals had been far more concrete.

The article was still weak, though it had been improved.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) regretted that the Committee had been unable to agree that the right to appeal to the competent tribunals was a fundamental right and not a technical legal matter.

The meeting rose at 6:10 p.m.

A/C.3/283/Add.1

28 October 1948

Addendum to Recapitulation of amendments to Article 10

Saudi Arabia: (submitted on 11 October)

Replace the word “unreasonable” by the word “illegitimate”.

A/C.3/SR.115⁷³

28 October 1948

Summary Record of the Hundred and Fifteenth Meeting **[of the Third Committee]**

Held at the Palais de Chaillot, Paris, on Thursday,
28 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

39. Draft international declaration of human rights (E/800) (continued)

Article 8¹

THE CHAIRMAN called attention to the amendments to article 8, which were recapitulated in document A/C.3/277.

MR. PAVLOV (Union of Soviet Socialist Republics) wished his delegation's amendments (E/800, page 32) to precede the basic text of article 8. It was appropriate to mention in that article certain basic principles of justice.

The first sentence regarding equality before the law was intended to prevent unfair action by the courts. Unfortunately such action occurred, particularly in certain Non-Self-Governing Territories. The second sentence enunciated the principle that judges should not be influenced by local authorities. The third sentence contained a broader statement of principle than did the basic draft of article 8; there could therefore be no objection to it on the grounds that it was too detailed.

⁷³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 258–67.

The second paragraph of the USSR amendment dealt with the very important question of public hearings in law courts; that all hearings should be public, except in cases where public morality and national security were involved. The right of an accused person to defence should also be explicitly stated in the declaration.

He dwelt at some length on the third paragraph regarding the right of an accused person to use his native language. To insist upon the use of the language of the country in which proceedings were taking place, regardless of whether or not the accused was familiar with that language, might result in injustice for millions of persons.

In answer to a remark by the representative of Poland, THE CHAIRMAN pointed out that the

^[1] Article 11 of the draft universal declaration of human rights (A/777).

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substance of the USSR amendments had already been proposed in connexion with article 13 of the draft covenant (document E/800, annex B).

MR. PÉREZ CISNEROS (Cuba) wished to alter his delegation's amendment (A/C.3/224). He desired to postpone consideration of the part of his amendment referring to article 9.

The amendments he wished to make to article 8 were first, to change the latter part to read: "by a *previously established*, independent and impartial tribunal"; and secondly, to insert the words "and public" before the word "hearing". To be tried by a tribunal already in existence was as basic a right as to be tried under a law already in force. He considered his second amendment of equal importance.

MR. CONTOUMAS (Greece) suggested that the amendments were really a series of regulations to govern public administration. They contained many valuable ideas but did not fit into the declaration.

COUNT CARTON DE WIART (Belgium) supported the Greek representative's view. The amendments would be an undue burden on the declaration. He could not support the Cuban amendment concerning previously established tribunals because it appeared dangerous. The Nürnberg Trials had been conducted by a tribunal which had not existed at the time when the crimes were committed. A similar delicate legal problem was raised by article 9, paragraph 2. At the Nürnberg Trials, the principle that a man could not be condemned for crimes under laws not existing when the crimes were committed had been rejected in favour of the idea that unwritten laws of humanity were more important than the written laws of States.

MR. SANTA CRUZ (Chile) stated that he would have preferred articles 8 and 9 to be drafted differently, but the procedure adopted made that impossible. He approved of some of the ideas submitted by the USSR delegation (E/800, page 32). The fact that article 7 was so short, following the rejection of the proposed amendment made

it impossible at that juncture to make articles 8 and 9 very detailed, as the balance between article 7 and articles 8 and 9 would be upset.

He approved of the Cuban delegate's amendment (A/C.3/224) regarding previously established tribunals, and did not share the Belgian representative's view. He understood the phrase to mean "tribunals established prior to the commission of the crime". Article 9, paragraph 2, provided that laws should not be retroactive. The proposed Cuban amendment supplemented that idea.

He would ask the Cuban delegation to withdraw the amendment concerning public trial as that point was already covered in article 9 of the original text.

The Egyptian amendment suggested deletion of the words *en matière civile* from the French text. The English version "determination of his rights and obligations" and the French *détermination de ses droits et obligations en matière civile* were [260] equivalent; the rights in question were not only civil. The words *en matière civile* covered public, administrative and political rights and obligations.

He was ready to accept the article as it stood, with the addition of the Cuban amendment referring to previously established tribunals.

MR. BAGDADI (Egypt) said that the words *en matière civile* constituted a restriction. He wished the sentence to cover guarantees against any sort of charge which might be brought against a person. He therefore proposed the deletion of those words from the French text. Specific mention could, however, be made of the need for guarantees against penal action, if the Committee so desired.

MR. GRUMBACH (France) said that the French delegation, after fully discussing the matter, had concluded that the words *en matière civile* were correct and were not restrictive.

With regard to the Cuban amendment (A/C.3/224), he agreed with the representatives of Egypt and Greece, that, however valuable its substance might be, its insertion would make the article less concise.

He agreed with the suggestion of the Panamanian representative (A/C.3/220) that the idea of equality had been fully covered in preceding articles.

Some of the motives of the USSR amendment (E/800, page 32) were covered by the basic text of article 9, paragraph 1. The last paragraph of that amendment, however, introduced an extremely important idea of principle, not of implementation. It should certainly be inserted into the declaration, but would go more logically in article 9, paragraph 1.

He would therefore vote for the basic text.

MR. DE LA OSSA (Panama) explained that his amendment (A/C.3/220) was intended merely to make the text more concise and clearer.

MRS. ROOSEVELT (United States of America) fully supported the representative of Panama. The idea of equality had already been expressed in articles 1 and 6.

The substance of the other amendments should be placed in the covenant rather than in the declaration. A very detailed statement would impair the force of the declaration.

MR. PÉREZ CISNEROS (Cuba) said that he must insist on emphasizing the need for a proviso that everyone charged with a penal offence had the right to a hearing by previously established tribunals. It was essential that the tribunals should have been set up before the crime was committed. His Government had already stated its position with regard to the Nürnberg Trials. The representative of Chile had been correct in saying that public hearings were essential, but the Cuban representative could not consent to withdraw his amendment since article 8 dealt with both criminal and civil law, whereas article 9 was confined to criminal law. There were circumstances in which a secret trial might be acceptable. He requested that a vote should be taken by roll-call on the second paragraph of the Cuban amendment.

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He thanked the representative of France for his efforts to establish a correct French text and hoped that those efforts might be extended, if necessary, to deal with portions of the Cuban amendment.

MR. SANTA CRUZ (Chile) agreed with the Cuban representative that there was no need to specify that hearings should be public.

With regard to the Cuban representative's insistence on the need for trial by previously established tribunals, that was implicit in article 9, paragraph 2, which should logically be put forward into article 8. The Nürnberg Trials could be regarded in the light of an exception as they had been during the debates at Geneva. The declaration, however, should firmly establish the principle of previously established tribunals.

MRS. CORBET (United Kingdom) pointed out that article 8 dealt with both criminal and civil matters, whereas article 9 was restricted to criminal matters. Once that was clear, it was obvious that certain of the suggestions contained in the USSR amendment (E/800, page 32) would be more appropriate in article 9. The right to a hearing by an independent and impartial tribunal was extremely important, but hard to guarantee. In the United Kingdom judges held office as long as their official conduct was good. It would be unwise to adopt any statement such as the one in the USSR amendment to the effect that legal procedure must be based on democratic principles: it would open the way to a very wide interpretation and would not be generally intelligible. The idea of a fair hearing was extremely comprehensive; the guarantees enumerated in the USSR amendment were not nearly comprehensive enough. In the United Kingdom the jury system reflected the free expression of public opinion, without which a fair hearing was impossible; but she could not demand that the jury system should be adopted in the legal code of all countries.

She agreed with the representative of the USSR on the importance of ascertaining equality before the court and with the representative of Panama (A/C.3/220) on the

logic of his proposed deletion. Those two representatives might compromise on their terms and some adaptation of the phrase might be retained in the present text.

The idea in the second paragraph of the Cuban amendment (A/C.3/224) was new and needed discussion; but in any case it would be included more appropriately in the covenant than in the declaration. The Nürnberg Trials and the special tribunals which had been contemplated by the United Kingdom in 1940 in case of invasion made it difficult to insert such an idea in the declaration.

She agreed with the representative of the United States that the covenant was the place for the enumeration of even broader guarantees than had been suggested.

She would vote for the basic text.

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MR. PLAZA (Venezuela) opposed the USSR amendment because it was tantamount to a measure for implementation and was a repetition of the idea of equality before the law laid down in article 6. He had some hesitation concerning the establishment of a right to public hearing since provisions for secret trial in certain circumstances existed in most countries.

He agreed with the representative of Chile that the Cuban amendment (A/C.3/224) regarding previously established tribunals was valuable; he would support it. He hoped that the Committee would take into consideration what the representative of the United Kingdom had said about the difficulty of specifying the idea of a fair hearing. He was not opposed to the Panamanian amendment (A/C.3/220), but he could not vote for any of the others because their substance was implicit in the basic text.

MR. BAGDADI (Egypt) believed that the words "in full equality" covered almost all the points contained in the USSR amendment (E/800, page 32), except that of public hearings.

He was in favour of the Cuban amendment (A/C.3/224), although he believed that the USSR amendment formulated the exceptions more satisfactorily. He was not quite sure that it would be possible to lay down the principle of previously established tribunals at both the national and international levels, but he was in favour of the idea.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that no substantial objection had been voiced against the USSR amendment. It was intended, not as a substitution for the basic text – which was not exceptionable but merely inadequate – but as an addition, to precede the basic draft. He opposed the argument that his amendment was too detailed; the basic text spoke of certain defined circumstances, whereas his text was far more general. It was not confined merely to penal charges but specifically referred to legal procedure – to all kinds of courts. He refused to accept the plea that such matters should be excluded from the declaration because they would appear in the covenant. The declaration would have a universal meaning, whereas the covenant would be binding only upon its signatories.

He asked that the last paragraph of the USSR amendment should be voted on separately without prejudice to its position in the declaration. That paragraph was extremely important for the protection of national minorities and the people of Non-Self-Governing Territories. The remainder of his amendment should be voted in parts, paragraph by paragraph. He requested that the first paragraph should be voted on by roll-call.

MR. BAGDADI (Egypt) requested that the second sentence of the second paragraph of the USSR amendment should be voted on separately.

THE CHAIRMAN put the first paragraph of the USSR amendment to the vote.

A vote was taken by roll-call as follows:

Paraguay, having been drawn by lot by the Chairman, was called upon to vote first.

[263]

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Argentina, Burma, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Czechoslovakia, Haiti, Mexico.

Against: Peru, Philippines, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Australia, Belgium, Brazil, Canada, China, Denmark, France, Honduras, Iceland, India, Lebanon, Netherlands, New Zealand, Norway, Panama.

Abstaining: Venezuela, Afghanistan, Chile, Dominican Republic, Egypt.

That part was rejected by 23 votes to 13, with 5 abstentions.

THE CHAIRMAN put the second sentence of the second paragraph of the USSR amendment to the vote.

That part was rejected by 21 votes to 10, with 8 abstentions.

MR. GRUMBACH (France), in explanation of his vote, emphasized his belief that no representative had voted against the substance of the USSR amendment. He, like other representatives, had only intended to indicate that those ideas were out of place in the declaration.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) supported the representative of France. He had voted for the last part of the USSR amendment because such a provision did not exist in all national legislations. The other ideas were already implied in the last part of the text submitted by the Commission.

MR. WATT (Australia) thought it was a mistake to include too many details in the declaration. Several of the ideas in the USSR amendment were already covered by the words "fair hearing" in the Commission's text.

THE CHAIRMAN put to the vote the Cuban amendment to insert the words "and public" between the words "fair" and "hearing."

That amendment was adopted by 22 votes to none, with 9 abstentions.

THE CHAIRMAN put to the vote the Cuban amendment to replace the word “an” by the words “a previously established”.

A vote was taken by roll-call, as follows:

The United States of America, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Uruguay, Venezuela, Argentina, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Egypt, Haiti, Honduras, Lebanon, Mexico, Panama, Saudi Arabia.

Against: United States of America, Australia, Belgium, Brazil, Canada, China, Denmark, France, Iceland, India, Netherlands, New Zea-[264]land Norway, Philippines, Syria, Turkey, Union of South Africa, United Kingdom.

Abstaining: Yugoslavia, Afghanistan, Burma, Belorussian Soviet Socialist Republic, Czechoslovakia, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

That amendment was rejected by 18 votes to 15, with 9 abstentions.

THE CHAIRMAN put to the vote the first paragraph of the Panamanian amendment, pointing out that the remainder could be transmitted to the proposed sub-committee.

That amendment was rejected by 18 votes to 11, with 7 abstentions.

MR. GRUMBACH (France) wished to retain the words *en matière civile* in the French text of article 8.

COUNT CARTON DE WIART (Belgium) agreed with him and remarked that they were balanced by the words occurring in the latter part of the article, *en matière pénale*. Moreover, they did not exclude commercial and public law.

MR. PÉREZ CISNEROS (Cuba) agreed with the Egyptian representative that the words *en matière civile* represented a restrictive formula. He would consequently vote for their deletion. While he would not dispute the linguistic authority of representatives whose mother tongue was French, he felt that he was called upon to vote on a matter of substance rather than of wording.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) called attention to the fact that the words in question would undoubtedly be translated into Spanish as *en materia civil*; that term certainly had a restrictive sense, and the Spanish official text would suffer therefrom.

He consequently supported the Egyptian amendment.

THE CHAIRMAN put the Egyptian amendment (A/C.3/264) to the vote.

That amendment was adopted by 11 votes to 7, with 17 abstentions.

THE CHAIRMAN put article 8, as amended, to the vote.

Article 8, as amended, was adopted unanimously.

THE CHAIRMAN put to the vote the third paragraph of the USSR amendment, recalling that it was to be voted upon independently of article 8 and without prejudice to its position in the declaration.

That paragraph was rejected by 20 votes to 12, with 7 abstentions.

Article 9¹

THE CHAIRMAN drew attention to the fact that the amendments to article 9 were recapitulated in document A/C.3/278.

MRS. ROOSEVELT (United States of America) said that the purpose of the amendment proposed

^[1] Article 12 of the draft universal declaration of human rights (A/777).

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by her delegation (A/C.3/223) – the insertion of the word “penal” before the word “offence” each time it was used in paragraph 2 of article 9 – was to make clear that the paragraph related to criminal matters only. Unless that were done, the fact that the word “penal” was used in paragraph 1 might give the impression that paragraph 2 had a wider scope. The Commission on Human Rights had intended paragraph 2 to cover the same type of offence as paragraph 1.

MR. DE ROSE (France) explained that the amendment proposed by his delegation (A/C.3/244), which applied to the French text only, was a correction of the French translation of the basic text as it appeared in document E/800.

In view of the discussion and vote on article 3, MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) withdrew the portion of his amendment (A/C.3/268) proposed as paragraph 4.

He agreed with the United States amendment to paragraph 2. He thought also that the word “punishable” should be inserted in that paragraph before the word “under”. It was necessary to guarantee that not only the offence, but the penalty for that offence would be determined by law prior to its commission.

Paragraph 2 of article 9 established the principle that laws could not be retroactive. Mr. Jiménez de Aréchaga suggested completing that idea by the addition of a third paragraph prohibiting retroactive changes of penalties for crimes already recognized by existing laws.

MR. PÉREZ CISNEROS (Cuba) stated that he wished to reduce his amendment to article 9 (A/C.3/224) to the following text:

“Every accused person has the right to be judged by tribunals established prior to the offence with which he is charged.”

MR. DE LA OSSA (Panama) said he was quite satisfied with the text of paragraph 1 of article 9. His amendment (A/C.3/220) proposed an additional sentence to paragraph 2, containing the universally recognized principle that the penalty for any crime could not be changed *ex post facto*.

MRS. CORBET (United Kingdom) recalled that the Committee had rejected a USSR amendment to article 8 very similar to the USSR amendment to article 9. The idea of a fair and public hearing had been accepted in article 8 without any limitation save that contained in article 27; that idea should not be qualified in article 9 any more than in the preceding article.

She called attention to the fact that in certain circumstances the idea expressed in the Cuban (A/C.3/224) and Uruguayan (A/C.3/268) amendments concerning alteration of penalties might be of doubtful value. Thus, during an inflation, it might be quite justifiable to increase the amount of fines previously set for certain offences. The idea should therefore not be adopted.

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COUNT CARTON DE WIART (Belgium) remarked that article 9 contained no less than four basic principles: presumption of innocence until proved guilty; right to defence; right to a public hearing; and non-retroactivity of laws.

He called attention to the fact that the word *délit* in the French text of paragraph 1 should be replaced by the more general term *infraction*, which was in fact used in paragraph 2.

His delegation attached great importance to the sacred right of defence. He therefore could not understand the USSR amendment (E/800, page 32), which appeared to restrict that right.

With respect to paragraph 2 of article 9, he feared that its adoption might be used as a basis for the argument that such trials as the Nürnberg Trials had been illegal. He agreed with those who had held that those trials had been based on the laws of the human conscience which were higher than any national laws.

He hoped that view would be upheld by the Committee and recorded by the Rapporteur in the report to be submitted to the General Assembly, in order to refute any future misinterpretation of the paragraph.

MR. AQUINO (Philippines) was strongly in favour of the principle of presumption of innocence stated in paragraph 1. In view of recent events, and of ideas still held by certain Governments, it was necessary to re-assert that principle.

Paragraph 2 was equally important. The prohibition against *ex post facto* laws, which was part of the constitutional history of many countries, had to be recorded in the declaration. He thought the Panamanian amendment would reinforce that paragraph. The fears of the Belgian representative with respect to any questioning of the legality of the Nürnberg Trials or the Tokyo Trials appeared unwarranted. It was obvious that considerations of international peace and welfare must supersede national considerations.

He would consequently vote in favour of the basic text of article 9 with the addition of the Panamanian amendment (A/C.3/220).

MR. PAVLOV (Union of Soviet Socialist Republics) explained to the Belgian representative that the amendment which he proposed did not in any way qualify the

right to defence. What it did qualify was the idea of public hearings: hearings should be public in all cases save when public morality or national security had to be protected.

He expressed surprise at the objection to that idea raised by the United Kingdom representative. Article 9 dealt with trials on criminal charges; it was customary in many countries to exclude the public from trials on such charges as that of rape. Surely the United Kingdom representative did not wish to alter that practice. Similarly, trials on charges of conspiracy involving [267] diplomatic representatives of other countries, for example, should surely not be open to the public.

With respect to amendments proposed by other delegations, Mr. Pavlov remarked that at first glance he could see no objection to them. The Committee might have to choose between the United States amendment (A/C.3/223) proposing the insertion of the word “penal” before the word “offence” and the Uruguayan proposal (A/C.3/268) to insert the word “punishable” in paragraph 2; the two amendments expressed different shades of the same idea.

He saw no ground for the fears expressed by the Belgian representative. The crimes of those brought before the Nürnberg Tribunal had constituted a glaring violation of all the laws of war; they had, in effect, been crimes under international law. There was no cause to fear that the adoption of paragraph 2 of article 9 in Paris – a city which but a few years ago had itself been under Hitlerite occupation – would be considered by anyone an amnesty for those crimes.

MR. WATT (Australia) agreed that it had been argued, as the USSR representative had just done, that the Nürnberg Trials did not constitute a contravention of the principle of non-retroactivity of laws. He thought, however, that the point raised by the Belgian representative deserved careful consideration.

The meeting rose at 6:10 p.m.

A/C.3/283/Rev.2⁷⁴

29 October 1948

**Recapitulation of amendments to Article 10
of the draft declaration (E/800)**
(in chronological order of their submission to the Committee)

Article 10

(Text adopted by the Commission on Human Rights)

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

⁷⁴ Document A/C.3/283/Rev.1, issued 29 October 1948, does not contain the proposal of the Soviet Union.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

(Supplement to the text as adopted)

“and everyone is entitled to legal defence against interference”.

Cuba (A/C.3/232)

Break up this article, which is too complex to be clear and amend to read as follows:

(a) Protection of honour

Article No. –

“Every person has a right to the protection of the law against abusive attacks upon his honour and reputation and against unreasonable interference with his private and family life”.

(b) Inviolability of the home

Article No. –

“Every person has a right to the inviolability of his home”.

(c) Right of correspondence

Article No. –

“Every person has a right to the inviolability and unhampered transmission of his correspondence”.

Saudi Arabia (A/C.3/255)

Replace the word “unreasonable” by the word “illegitimate”.

Lebanon (A/C.3/260)

Delete the word “unreasonable”.

[2]

New Zealand (A/C.3/267)

Substitute the word “arbitrary” for the word “unreasonable”.

Uruguay (A/C.3/268)

(does not apply to the English text)

Panama (A/C.3/280)

Add to this article the words: *person, activities and property*, so that the article reads as follows:

“No one shall be subjected to unreasonable interference with his person, his home, his family, his privacy, his activities, his property, his correspondence or his reputation”.

A/C.3/SR.116⁷⁵

29 October 1948

***Summary Record of the Hundred and Sixteenth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
29 October 1948, at 10:50 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

40. Draft international declaration of human rights (E/800) (continued)

Article 9 (continued)

MR. PÉREZ CISNEROS (Cuba), referring to the statements made at the preceding meeting by the representatives of Belgium and Australia with regard to the judgments pronounced by the Nürnberg Tribunal, briefly reviewed the history of the question.

He recalled that the problem of the Nürnberg Tribunal had first been raised in the General Assembly in 1946, as a result of a proposal made by the United States¹ for the affirmation of the principles of international law contained in the Charter and in the judgments of the Tribunal.⁷⁶ As he had not wished to give rise to a discussion on the judgments of the Nürnberg Tribunal nor to appear to be approving them by voting for the United States draft resolution, the representative of Cuba on the Sixth Committee had voted against the draft.² In order not to enter upon the question of substance, he had justified his position

^[1] See *Official Records of the Second Part of the First Session of the General Assembly*, Sixth Committee, annex 13b.

^[2] *Ibid*, 32nd meeting.

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by giving a technical reason, namely, that a proclamation referring to the principles as a whole would be in the nature of legislation by reference, which his delegation could not accept.¹

⁷⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 267–77.

⁷⁶ At the initiative of the United States, General Assembly Resolution 95(I) of 11 December 1946 affirmed the principles of international law recognized in the Charter of the International Military Tribunal and the judgment issued on 30 September–1 October 1946. The Resolution directed the Committee on the Progressive Development of International Law and its Codification to “treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal”. The mandate was renewed in 1947, by Resolution 177(II) directed at the International Law Commission. The Commission formulated the principles in 1950 but did not complete its draft Code of Crimes until 1996.

The same problem had arisen the preceding year, and at that time the Cuban delegation had merely maintained the position it had taken up in 1946²; it was confirming it for the third time. In view of legal and moral principles which it could not surrender, the Cuban delegation was, in the case under discussion, equally averse to voting in a way which might be taken as a direct or indirect approval of the Nürnberg judgments.

The proposal to include in article 9 a reference to the Nürnberg Trials would weaken rather than strengthen the article and might be considered as an indirect criticism of the trial as it would stress the contradiction between the precept *Nullum crimen sine praevia lege penale* and the method adopted at Nürnberg.

The representative of Cuba felt that in those circumstances it would be wiser not to emphasize that contrast, and to abandon the idea of mentioning the Nürnberg Trials.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) recalled his delegation's proposal (A/C.3/268) to add a third paragraph to article 9 which would extend the principle of non-retroactivity to increased penalties.

The delegation of Uruguay was aware of the difficulty of trying to include, in the draft declaration, provisions which would give to the individual, on an international plane, the same guarantees as those which had been established in most of the national legislations.

The Uruguayan delegation attached the greatest importance to the statement made on the preceding day by the representative of Belgium with regard to the Nürnberg Trials. It wished to stress, however, that the declaration of human rights to be drafted by the Committee was destined to govern, in times of peace, an international community based on the principles of the United Nations; consequently the Committee should proceed as far as possible along the road of progress.

MR. AZKOUL (Lebanon) stressed the appropriateness of the last part of the proposal of Panama (A/C.3/220). The non-retroactivity of penalties should, in fact, have as its corollary the non-retroactivity of increased penalties.

As regards the amendment submitted by the representative of the USSR (E/800, page 32), the representative of Lebanon thought that the latter's agreements were valid in themselves. However, limitations of rights were to be included as the Committee was aware, in article 27. He would therefore oppose that amendment.

As regards the expression "penal offence" proposed by the United States (A/C.3/223), the delegation of Lebanon would prefer to have it rendered in French by the word *délit* and not *infraction* because, at the current stage of the

^[1] See *Official Records of the Second Part of the First Session of the General Assembly*, Sixth Committee, 31st meeting.

^[2] See *Official Records of the Second Session of the General Assembly*, Sixth Committee, 59th meeting.

legal and psychological evolution of nations, it seemed difficult to include in article 9 an offence which might not be of an exclusively criminal nature.

Mr. Azkoul recognized the justice of the amendment to the French text presented by France (A/C.3/244), but would prefer the wording: “*d’après les principes du droit national ou international*”.

In conclusion, he stated that he preferred the amendment of Panama to that of Uruguay, the idea of the latter amendment being included in the Panamanian proposal.

MR. MACDONNELL (Canada) formally stated that he could not accept the limitations contained in the USSR amendment, which were already covered by article 27. One should not sacrifice clarity and simplicity on the plea of defining the problem. Moreover, there should be nothing which might seem to favour closed trial.

MR. DE LA OSSA (Panama) noted that the English version of his amendment was not satisfactory and proposed the following text:

“nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.”

THE CHAIRMAN stated that, as it was a modification of form only, the proposal would be accepted.

MRS. ROOSEVELT (United States of America) agreed to the new drafting of the Panamanian amendment, which clarified the text without changing its substance.

MR. DEHOUSSE (Belgium) observed that he had little to add to the statements made by his delegation at the beginning of the general debate on article 9 (115th meeting).

He recalled, however, that the substance of the article was based on amendments proposed by the delegations of the Philippines and Belgium during the Geneva session of the Commission on Human Rights.¹

The legality of the Nürnberg judgments could not be challenged; it was securely founded on General Assembly resolution 95(I), which was adopted on 11 December 1946. By that resolution, the General Assembly not only affirmed the “principles of international law recognized by the Charter of the Nürnberg Tribunal”, and the judgment of the Tribunal, but also directed the “Committee on the codification of international law . . . to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal”.

There was consequently no cause for apprehension regarding the retroactive application of those principles. It seemed advisable, however, that notwithstanding the guarantees given by the General Assembly resolution, the text of the declara-

^[1] See E/CN.4/SR.35.

tion of human rights should include an article on that matter. It was for that reason that the Belgian delegation had lent its support to the text worked out at Lake Success during the third session of the Commission on Human Rights.¹

The Belgian delegation supported the French delegation's request that the words *d'après les principes* should be substituted for the words *aux termes du* in the French text of article 9. International law included an extremely important customary section which it was essential to take into account.

Contrary to the views of the representative of Lebanon, Mr. Dehousse preferred the word *infraction* to the word *délit*; the word *délit* had a very precise technical meaning for French-speaking jurists and the Belgian delegation feared that it might give rise to misunderstanding.

MR. WATT (Australia) stated that his delegation was deeply convinced of the importance of paragraph 2 of article 9; it had therefore asked the Committee at the previous meeting to consider the matter carefully before making a decision. Having considered the matter, his delegation was ready to state that the adoption of the text seemed to it in no way incompatible with the position of the delegations which approved the procedure followed at Nürnberg and, in particular, with the position of Australia as one of the judges at the Tokyo Trials.

MR. CONTOUMAS (Greece) said that the idea of non-retroactivity in criminal law was included in the general legal principles of his country. The Greek delegation was therefore ready to accept that idea as expressed in paragraph 2 of article 9.

It recognized, however, that promulgation of the principle in the declaration of human rights might, by implication, cast doubts upon the validity of the trials of war criminals in general, and of the trials of Nürnberg and Tokyo in particular. In order to preclude such a possibility, Mr. Contoumas thought that it would be enough to have the Rapporteur mention specifically in his report the doubts in that regard expressed during the general debate on article 9.

As far as the USSR amendment was concerned, the delegation of Greece supported the remarks made by the Canadian representative and appealed to Mr. Pavlov to agree, along with the majority of the delegations, that the provisions of article 27 sufficiently covered the exceptions he had in mind.

Regarding the French translation of the United States amendment, the delegation of Greece would be inclined not to use either the word *infraction*, which might cover offences that were not solely criminal offences, or the word *délit*, which had a clearly defined meaning in legal language. It suggested using the generic term *acte délictueux*, which covered all offences under criminal law.

In conclusion, the Greek delegation opposed the inclusion of the idea of the non-retroactivity of increased penalties in article 9 which would burden the declaration with too many detailed provi-

^[1] See E/CN.4/SR.54.

sions it felt that the non-retroactivity established in paragraph 2 implicitly applied to increased penalties.

MR. PAVLOV (Union of Soviet Socialist Republics) drew the Committee's attention to the fact that the USSR delegation wished to provide for closed trial only in two specific cases: namely cases where defence of morality or national security were involved.

The limitations in article 27 were so general in nature that they might give undue latitude and permit too many unjustifiable instances of closed trials.

Mr. Pavlov wished to stress in that regard that the principle of open trial was constantly applied in his country; in particular, the world had not forgotten the great trials which had taken place on the eve of the last war. Whenever the Soviet Union made an exception to that principle, one could be sure that its action was determined by some imperative reason such as the desire to preserve good international understanding.

Examining paragraph 2 of article 9, Mr. Pavlov said that there was no doubt but that aggression and intention of aggression constituted crimes under international law. The Nürnberg Trials had shown the extent to which that principle was recognized and the manner in which it might be applied in international life. Paragraph 2, therefore, could only be unacceptable to those who harboured aggressive designs.

MR. CASSIN (France) was glad to note general agreement with regard to the drafting change suggested by his delegation for paragraph 2 of article 9.

The representative of France agreed with the representatives of Belgium and Australia regarding the consequences of international prevention and punishment on the basis of the judgments pronounced by the Nürnberg Tribunal: it was not a question of securing approval for those judgments, but of making sure that there was no repudiation of the very principles which had presided over the creation of a community of nations born of the victory of freedom over war-crimes. Mr. Cassin declared in the name of the millions of human beings who had perished during the last war that the Committee had not the right to state or imply that the sacrifice made by these people had been in vain.

He then pointed out to the representative of the USSR that article 27 specifically provided that individual freedom was subject only to such limitations as were necessary to ensure the rights of others and to satisfy the "requirements of morality, public order and general welfare in a democratic society". Those provisions thus fully covered the intention of the USSR amendment. The delegation of France would vote against that amendment, as it had been understood that all reservations and limitations in respect of human rights would be contained in article 27. It wished to state, on that occasion, that it would vote against any amendment which would weaken article 27.

Mr. Cassin supported the suggestion put forward by the Greek delegation to render the English expression "penal offence" in French by the words *acte délictueux*.

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In conclusion, commenting on the amendments submitted by the delegations of Panama and Uruguay, Mr. Cassin said that the principles they were aimed at defending were applied in French legislation and had, therefore, his entire sympathy. He was forced, however, to oppose their adoption in view of the fact that the Committee's essential task was to establish the principles of international common law, and it would succeed in that only by concentrating upon the definition of concepts common to all, that is concepts which would win the support of all countries.

MRS. CORBET (United Kingdom) approved the new drafting of the English text of the Panamanian amendment.

She stressed, with reference to the Cuban amendment, that the question of establishing tribunals after the crimes which they were to try had been committed should be considered in connexion with the covenant, and not in connexion with the declaration of human rights. The important thing was to make sure that the tribunal, no matter when it was established, should judge the crimes in accordance with laws in force at the time when the crimes had been committed.

The representative of the United Kingdom questioned the alleged incompatibility of article 9 with the Nürnberg judgments, in regard to which her country had played an important part.

She went on to note that the amendments presented by the United States and Uruguay were, in fact, equivalent, the word "penal" having the same meaning as the word "punishable".

She feared that, if either of those amendments were adopted, some new crime might eventually not be covered by the provisions of article 9.

She therefore supported the wording adopted by the Commission on Human Rights.

MR. RADEVANOVIC (Yugoslavia) felt that the amendment to article 9 submitted by the USSR representative made the article more precise without changing its general meaning. Most of the trials would be conducted in public, but it must be recognized that there were cases where the discussion would be closed or given limited publicity. Although that principle was recognized, its application should be restricted to cases where it was necessary to protect the supreme interests of the community in general or of the State itself.

The Yugoslav delegation would therefore vote for the USSR amendment.

With regard to paragraph 2 of the article, he observed that, from the penal point of view, international law had not been codified; it was based on custom. Hence it might be asked what practical value there was in introducing in article 9, which was penal in nature, the idea of the non-retroactivity of laws. At the Nürnberg Trials, the German war criminals had tried to invoke that principle. The Nürnberg Military Tribunal had rightly rejected that concept. The *nulla poena sine lege* principle was almost universal in its application in national law; in international law, on the other hand, the principle of responsibility was different. It was inadvisable to propose

identical solutions for the same problems in those two fields of law. The General Assembly had adopted a resolution for codifying the legal findings of the [273] Nürnberg Tribunal and had appointed a special committee to deal with them. That committee had to settle all questions relating to those legal findings, and article 9 of the draft declaration of human rights should not infringe its mandate.

He would, however, vote for article 9 if it emerged, during the discussion, that the provisions of that article did not tend to cast doubt subsequently on the validity of the judgments pronounced by the Nürnberg Tribunal.

MR. BAGDADI (Egypt) stated that his delegation attached very great importance to the amendments submitted by the delegations of Panama and Uruguay, which sanctioned the principle that penalties were not retroactive.

The Egyptian delegation thought that the question should be put clearly, namely, whether the individual should be protected against the possibility of incurring a penalty which had been established after the offence. As the basic text admitted the principle that any contravention must have preceded the penalty, that principle should also apply to increased penalties. Most national legislations stipulated that penalties were not retroactive. He did not see why the principle could not be transferred to international law. The Nürnberg precedent was established. Hence no anxiety should be felt in that connexion.

THE CHAIRMAN put to the vote, the amendment submitted by the USSR delegation (E/800, page 32) paragraph 1 of article 9, to the effect that the words "and which must be public except in cases involving considerations of the protection of public morality or national security" should be inserted after the words "defence", the word "public" being deleted before the word "trial".

The amendment was rejected by 25 votes to 7, with 12 abstentions.

COUNT CARTON DE WIART (Belgium) associated himself with the Greek delegation's proposal, which had already been supported by the French delegation, to the effect that the words "penal offence" should be translated as *acte délictueux*.

The Committee unanimously agreed to that proposal.

THE CHAIRMAN put to the vote the new wording proposed by the delegation of Panama for paragraph 2 of article 9 (A/C.3/220). He pointed out, with regard to the English text, that the new wording submitted by Mr. de la Ossa should be taken into account.

The amendment was adopted by 19 votes to 6, with 19 abstentions.

THE CHAIRMAN put to the vote the United States delegation's proposal that the word "penal" should be inserted before the word "offence" in the English text in

both instances where it appeared in paragraph 2 of article 9, as amended by the representative of Panama.

The proposal was adopted by 16 votes to 8, with 14 abstentions.

MR. SAINT-LOT (Haiti) Rapporteur, pointed out that the Committee's decision to translate [274] "penal offence" by *acte délictueux* should also apply to paragraph 2 of article 9.

It was so agreed.

MR. PÉREZ CISNEROS (Cuba) asked it to be recorded that he had not taken part in the vote on the United States delegation's amendment, as the exact scope of that amendment had not been adequately defined.

THE CHAIRMAN put to the vote the Uruguayan delegation's amendment (A/C.3/268) to paragraph 2, which proposed the insertion of the word "punishable" before the word "under".

MR. JIMÉNEZ ARÉCHAGA (Uruguay) stressed that the word "punishable" in the English text of his amendment should be understood in the sense of *punie par*, because the Uruguayan delegation wished to emphasize that there should be no legal provision defining the crime without defining the penalty.

The amendment was rejected by 13 votes to 10, with 20 abstentions.

THE CHAIRMAN recalled that the representative of France had requested that in the French text of paragraph 2 the words *aux termes du droit national ou international* should be replaced by the expression *d'après le droit national ou international*.

That amendment was approved unanimously.

THE CHAIRMAN put to the vote the amendment submitted by the Uruguayan delegation to the effect that a new paragraph should be added to paragraph 9, whereby the principle of non-retroactivity would be applied to augmentations of penalties (A/C.3/268).

The amendment was rejected by 22 votes to 15, with 7 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the Cuban delegation, to the effect that a new paragraph should be added to article 9 as follows:

"Every accused person has the right to be judged by tribunals established prior to the offence with which he is charged."

The amendment was rejected by 18 votes to 8 with 17 abstentions.

THE CHAIRMAN put the whole of article 9, as amended, to the vote.

Article 9, as amended, was adopted by 42 votes to none, with 2 abstentions.

MR. CAMPOS ORTIZ (Mexico), MR. PLAZA (Venezuela), and MR. PÉREZ CISNEROS (Cuba) explained that they had favoured the adoption of article 9 in its amended form on the understanding that the term “international law”, appearing in paragraph 2 of that article, should be interpreted as meaning positive international law.

MR. PLAZA (Venezuela) added that he had voted for the second Uruguayan amendment which, in his opinion, had given article 9 wider scope. He was against the USSR amendment because of the existence of article 27, and he had voted for the Cuban amendment.

Finally, he asked for the words “penal offence”, which had been proposed by the United States [275] delegation, to be rendered into Spanish as *actos delictuosos*.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that, by “international law”, his delegation understood the spirit as well as the letter of international law, which naturally included the principles established by the Nürnberg Tribunal.

It should be well understood that, if new methods of war and new ways of destroying civilian populations resulted from a new conflict, they could be considered criminal according to article 9 of the declaration of human rights.

He regretted that the Committee had not seen fit to adopt the USSR amendment, which aimed at making article 9 more precise. His delegation noted that the Committee members had been unanimous in stating that that amendment was completely covered by the provisions of article 27.

MR. WATT (Australia) explained that his delegation had preferred to abstain in the last vote, because it feared that article 9 might be interpreted as implying some criticism of the Nürnberg Trials.

MR. CASSIN (France) stated that he had voted for article 9 precisely because the Committee had rejected some amendments which might have been interpreted as questioning the Nürnberg judgments.

He confirmed that his delegation understood by “international law”, positive law, both customary and written.

Article 10¹

THE CHAIRMAN drew attention to document A/C.3/283/Rev.1, which contained a recapitulation of the amendments proposed to article 10. To that list should be added the USSR amendment (E/800, page 33), to the effect that the phrase “and everyone is entitled to legal defence against any such interference” should be added to the text by the Commission on Human Rights.

MR. PÉREZ CISNEROS (Cuba) thought that the wording of article 10 tended to put on the same level various physical, moral and legal factors.

He recommended that the article should be divided into three separate articles. The first article would ensure man’s moral inviolability, which was based on two factors: a

subjective factor, honour, and an objective factor, reputation. The second article would be expressly concerned with the principle of the inviolability of the home. The third article would guarantee not only inviolability of correspondence but would supplement that concept by the concept of the free circulation of correspondence.

He was submitting his amendment (A/C.3/232) with a view to making the statement of those principles, which he considered as essential, more clear and precise.

He added that he sympathized with the amendments submitted by the representatives of Uruguay (A/C.3/268), Saudi Arabia (A/C.3/255) and Lebanon (A/C.3/260).

[¹] Article 13 of the draft universal declaration of human rights (A/777).

[276]

MRS. NEWLANDS (New Zealand) proposed (A/C.3/267) that the word “unreasonable” should be replaced by the word “arbitrary” for two reasons. First, the latter word was already used in articles 7 and 13 and it was advisable to ensure uniformity of wording in the declaration. Besides, it was extremely difficult to define the exact limits of what might be considered “unreasonable”, whereas the word “arbitrary” signified everything that was not in accordance with well-established legal principles.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) proposed (A/C.3/268) that the word *abusives* should be replaced by the word *injustes* in the French text. He felt that the declaration as a whole should take into account the concept of justice and not of current practices, which might sometimes lead to admitting injustice.

MR. DE LA OSSA (Panama) explained that his amendment (A/C.3/280) reintroduced the original wording of the proposal submitted by the delegation of Panama at the San Francisco conference.¹

He criticized the wording adopted by the Commission on Human Rights for not taking into account the conception of the human person in relation to his work, his property, his actions and deeds and all his other activities. His delegation wished to have none of those aspects omitted from article 10.

MR. BAROODY (Saudi Arabia), in explanation of the purpose of his amendment (A/C.3/255), drew the Committee’s attention to the legal aspect of the article. The question was whether the State was entitled, in certain circumstances, to interfere in the private life of individuals or whether it should be refused that right in every instance.

The right of every individual to be free from State interference in his private life must be regarded as sacred as long as that right was not used as a cloak for activities which were essentially detrimental to the general good, or which endangered its general welfare and security. In the latter case, the interference of the State was unavoidable and should be considered as reasonable. The difficulty lay in drawing the dividing line.

The word “unreasonable” was not sufficiently precise and was open to too many different interpretations. What was considered as reasonable in one country might not be so considered in another. Hence, in every country, the national law remained the

best safeguard against unreasonable interference. But since, in certain national emergencies, administrative orders promulgated in the interests of order and security might seem, to an uninitiated public, to be a statement of the law, he had been unwilling to recommend the word “illegal”, because he did not think that that term was suitable.

He thought that the word “unlawful”, while it took into account the legal aspect, was a more precise and specific adjective than the word “unreasonable”. Thus, in his opinion, human beings would be safeguarded against unreasonable interference and society would also be protected against the abuse of the laws listed in the article.

^[1] See *Documents of the United Nations Conference on International Organization*, San Francisco, 1945, vol. II, page 266.

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COUNT CARTON DE WIART (Belgium) thought that article 10 of the draft declaration of human rights aimed at protecting the human person in his moral aspect.

He greatly appreciated the Cuban representative’s intention to make the general nature of the article more precise and to word it in a positive form. It was advisable to qualify, as the Cuban representative had done, the interference against which article 10 was to protect the individual.

Following the advice of the saying “Grasp all, lose all”, he felt that it would be better to leave the protection of property, of correspondence and of the home to separate articles, and to retain the real significance of article 10, which was to ensure protection against every unreasonable interference with the honour or reputation of the human person.

The meeting rose at 1:5 p.m.

A/C.3/SR.117⁷⁷

29 October 1948

Summary Record of the Hundred and Seventeenth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Friday
 29 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

...

⁷⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 277–89.

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...

THE CHAIRMAN informed the members that the Committee would hold two meetings on the following day (Saturday), one of which would be devoted to the examination of the declaration of human rights and the other to a discussion of the question of the Palestine refugees.

MR. DAVIES (United Kingdom) reminded the Committee that it had been decided that the question of the Palestine refugees would be discussed until a full solution was reached. He thought therefore that both meetings held on the following day should be devoted to that question.

THE CHAIRMAN proposed that the problem of the Palestine refugees should be discussed at the morning meeting and continued in the afternoon if necessary.

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MR. PAVLOV (Union of Soviet Socialist Republics) recalled that it had been unanimously decided a week earlier that discussion of the declaration of human rights would take place continuously and without interruption. Moreover, the text of the draft resolution had been transmitted to delegations only that afternoon.

Mr. Pavlov asked therefore that the Saturday meetings should be devoted to the question of human rights, and that examination of the problem of refugees should be continued in the course of the following week. Such a procedure would enable representatives to consult their respective Governments on that important question.

MRS. ROOSEVELT (United States of America) supported the statement by the United Kingdom representative and said she had asked that the examination of that question be put off for one week in order to enable all representatives to consult their Governments.

THE CHAIRMAN decided that, in accordance with the usual practice, the Committee would continue discussion of the problem of the Palestine refugees on the following morning.

MR. GRUMBACH (France) wondered whether the sub-committee, the formation of which he had proposed during the preceding week (109th meeting) and which had been mentioned by the representative of Poland, might not be set up at the meeting on the following morning.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed, on the contrary, that the Committee should deal with the question of human rights in the morning and with the question of the Palestine refugees in the afternoon.

THE CHAIRMAN put the USSR proposal to the vote.

The proposal was rejected by 18 votes to 14, with 7 abstentions.

The meeting rose at 6:35 p.m.

A/C.3/307/Rev.1**30 October 1948****Additional Articles proposed for the Draft Declaration (E/800)**

(In the chronological order of their
submission to the Committee)

Union of Soviet Socialist Republics (E/800)

Add to the text adopted a separate new paragraph in place of the corresponding article 31 of the Geneva text rejected by the Commission:

“All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the courts and in other official premises.”

Cuba (A/C.3/261)

Insert the following article:

“Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby justice will protect him from acts of authority that, to his prejudice, violate any fundamental rights.”

Insert the following article:

“Every person has the right to resist acts of oppression or tyranny.”

Lebanon (A/C.3/262)

Add the following as article 29:

“All laws in any State shall be in conformity with the purposes and principles of the United Nations, as embodied in the Charter, in so far as they deal with human rights.”

Egypt (A/C.3/264)

After article 28, add the following article:

“The nature and the extent of the measures to be taken to give effect to the rights laid down in this Declaration shall if necessary be defined in a subsequent instrument.”

A/C.3/319

30 October 1948

Original Text: English, French

**United Kingdom: Proposed compromise for text of
article 10 of the draft declaration (E/800)**

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.

Everyone has the right to the protection of the law against attacks upon his honour and reputation.”

A/C.3/320

30 October 1948

**Text of Articles 1 to 9 of the draft Declaration (E/800) as adopted
by the Third Committee**

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2

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

Article 3

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

Article 4

Slavery and the slave trade are prohibited in all their aspects.
No one shall be held in slavery or servitude.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(Note: The order of the sentences is not final; it is to be determined by the arrangement committee.)

Article 5

Every human being has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law and equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 7

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

A/C.3/SR.119⁷⁸
30 October 1948

***Summary Record of the Hundred and Nineteenth Meeting
 [of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Saturday,
 30 October 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

43. Draft international declaration of human rights (E/800) (continued)

Article 10 (continued)

MISS KLOMPÉ (Netherlands) considered that the Cuban amendment (A/C.3/232) covered the same principle as the original draft, but was better expressed. Its acceptance might entail a sacrifice [305] of certain ideas for some delegations, but that would be worthwhile if the principle were maintained. She would, however, request the Cuban delegation to abandon the idea of dividing the article into three articles and to leave it as one in three paragraphs. She considered it advisable to substitute the word “arbitrary” for the word “unreasonable” in the first paragraph of the amendment, and did not think the word “abusive” should be used in that paragraph.

Her delegation could not vote for the Panamanian amendment (A/C.3/280) as its contents already appeared in the basic draft and in other articles; that remark also applied to the USSR amendment (E/800, page 33), which was covered by article 6.

MR. PLAZA (Venezuela) stated that a careful comparison of the English and French texts of article 10 revealed discrepancies which accounted for some of the amendments submitted. In the English text there was only mention of “unreasonable interference”, whereas the French text contained two phrases to cover that concept. The Spanish translation resembled the English, but was not entirely satisfactory.

He favoured the Cuban suggestion to divide the text into several articles; that was more than a matter of form; by their very nature certain rights fell into different juridical categories and were covered by different laws in various countries. A single qualification would not cover all the subjects contained in the article. The division suggested by the Cuban delegation would solve both those problems.

He could not agree with the deletion of the word “unreasonable” as suggested by the Lebanese delegation (A/C.3/260). That word was essential for the protection of the rights stated in the article.

⁷⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 304–15.

Most of the other amendments were covered by the Cuban proposal, the form of which he thought preferable.

MR. CONTOUMAS (Greece) considered that the USSR amendment embodied a measure of implementation to be added to article 10, and said that similar clauses might be added to any of the articles. The Committee should confine itself to a general proclamation of rights, leaving elaboration of measures for the protection and of penalties for the violation of such rights to the legislatures of the various countries.

He considered the Cuban amendment a good one, and clearer than the Commission's draft; he would be inclined to support and adopt it, but for the fear of unduly burdening the text. He wondered if the three articles proposed by the Cuban delegation could not be merged into one.

He did not approve of the Saudi Arabian amendment (A/C.3/255), which proposed to delete the word "illegitimate" and substitute the word "unreasonable".

Referring to the Panamanian amendment (A/C.3/280), he asked for an explanation of the difference between the term "activities" in English and *faits et gestes* in French. He objected to [306] a reference to property in article 10; it would be better to discuss that idea in relation to article 15, which dealt with property.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that his delegation's amendment (E/800, page 33) had been submitted with a view to strengthening article 10. Not only should individuals not be subject to unreasonable interference, but they should be entitled to legal protection against such interference. The USSR amendment might be objected to on the grounds that it might create a precedent for similar additions to other articles, as in the case of article 6. His delegation would willingly support any other reasonable proposal to strengthen the article. Unfortunately, a number of delegations, when they had no substantive reasons, based their objections to an amendment – particularly those suggested by the USSR – on reasons of pure form.

The USSR amendment consisted of a single line. It would not make the article unwieldy, and would merely contribute to its effectiveness.

He approved of the deletion of the word "unreasonable" as suggested by the Lebanese delegation (A/C.3/260); the word "interference" needed a qualifying adjective. Interference might be admissible at times, for instance, under martial law, but every person had the right to legal protection against illegitimate interference. Of the various adjectives suggested, he preferred the word "illegitimate", as proposed by Saudi Arabia (A/C.3/255); it was more precise and less open to subjective interpretation.

He did not approve the Panamanian amendment (A/C.3/280). The term "activities" was too broad and could include, for instance, criminal activities, which should certainly be interfered with. The question of property was dealt with in

article 15. The USSR representative reserved the right to speak on the Cuban amendment (A/C.3/232) later.

MRS. CORBET (United Kingdom) suggested selecting the best parts of the Cuban amendment for inclusion in the Commission's text.

Her delegation would support the New Zealand amendment (A/C.3/267), realizing that the word "unreasonable" had not the same significance for everyone. She defined the word "arbitrary" as any action taken at the will and pleasure of some person who could not be called upon to show just cause for it. That was probably what the Saudi Arabian delegate wished to convey by the word "illegitimate" (A/C.3/255).

With regard to the Panamanian delegation's proposal, she agreed with the USSR representative that the term "activities" was too broad and that provisions regarding property were covered in article 15.

Her delegation could not support the Panamanian amendment (A/C.3/280).

Regarding the Lebanese amendment (A/C.3/260), she would prefer the word "arbitrary" to no qualification, as otherwise it would be necessary to rely on article 27 for any limitation of [307] rights. That article might be invoked to excuse many actions.

Her delegation approved the part of the Cuban amendment dealing with "reputation". The word "abusive", however, had a restricted meaning in English, which was not adequate in the case under consideration. Although her delegation did not consider the word "honour" strictly necessary, it would not oppose its inclusion.

She considered that the USSR amendment was covered by article 6, which had already been adopted (112th meeting).

As a compromise, she suggested the following text for article 10 (A/C.3/319/Rev.1) in French only:

"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.

"Everyone has the right to the protection of the law against attacks upon his honour and reputation."

MR. AQUINO (Philippines) stated that while a case could be made for the proposed Cuban amendment, it would have to be reconciled with the Commission's draft, in order to avoid unduly burdening the declaration. It was particularly important that the right to protection against interference with reputation should be included in article 10. There were parts of the world where the former practices of Nazi Germany, Italy and Japan were being carried out. Reputations were ruined beyond repair by systematic defamation in the Press and by other methods. Some safeguard against such attacks should be included in article 10.

While he appreciated the intention of the USSR amendment and considered it progressive, he thought the ground had already been covered in previously adopted articles.

He agreed with the United Kingdom and USSR representatives that the Lebanese amendment (A/C.3/260) should not be accepted. As the USSR representative had pointed out, there are instances when interference might be dictated by the interests of national security, public health and public morality.

He agreed with the USSR and United Kingdom delegations that in the Panamanian amendment the term “activities” was too broad, and that it might serve to condone nefarious activities.

He had no objection to the compromise text suggested by the United Kingdom (A/C.3/319), but thought it would be inconsistent to reject the USSR proposal if the second part of the United Kingdom proposal were accepted, as both referred to legal protection.

MR. AZKOUL (Lebanon) proposed deletion of the word “unreasonable” in the English text, and of the two adjectives *injustifiées* and *abusives* in the French text, as both were used as equivalents of the English word. That did not mean that his delegation did not consider that interference was justified at times, for instance in wartime.

The original draft of article 10 was in English, and he thought the basic text was the English [308] version, but even so the qualifying adjective “unreasonable” was open to various interpretations and therefore dangerous. The French translation also contained inaccuracies. Doubts existed in many minds as to the validity of the text. That was the reason why the words “illegitimate” and “arbitrary” had been suggested as substitutes for “unreasonable”. The Lebanese amendment was not prompted by the difficulty of finding an appropriate adjective, but by the guiding principle adopted by the Commission on Human Rights. The Commission had decided to put all limitations in article 27, making it unnecessary to insert qualifications in other articles.

Human rights fell into several groups: some were inalienable; others were subject to limitations.

THE CHAIRMAN ruled, at that point, that the representatives of the Lebanon had exceeded the agreed time limit.

MRS. ROOSEVELT (United States of America) approved the New Zealand amendment (A/C.3/267) substituting the word “arbitrary” for the word “unreasonable”. She would accept the words “honour and reputation”, which many members wished to include.

Her delegation might approve the phrase “protection of the law” in the Cuban amendment (A/C.3/232); that phrase, however, rendered the USSR amendment (E/800, page 33) superfluous.

She was consequently prepared to support the amendment proposed by the United Kingdom representative (A/C.3/319).

MR. CHANG (China) supported the United Kingdom amendment. He agreed with the United States representative that the qualification “arbitrary” was far more comprehensive than “unreasonable” or the concept of “inviolability”.

The Cuban amendment (A/C.3/232) was interesting in that it extended the protection accorded to privacy, home, family and correspondence to honour and reputation, thus covering the subjective and social aspects of the human individual. Greater weight would attach to the Cuban provision to protect reputation and honour if it were placed in a separate paragraph.

Although the provision for legal protection might appear out of place in the declaration it might be inserted in the case under consideration since its omission might leave a loop-hole for such extra-legal methods of protecting honour as duelling. He thought, however, that the United Kingdom amendment would be most satisfactory in the case in point.

MR. PÉREZ CISNEROS (Cuba) said that he was prepared to accept the suggestion of the Greek delegation that the three articles of his amendment should be fused into a single article; but there was a risk that such a fusion might omit some of the concepts contained in the Cuban amendment.

[309]

The United Kingdom amendment (A/C.3/319) covered most of the ground.

The Uruguayan amendment (A/C.3/268) made an improvement to the French text because some reputations might be justifiably attacked and it was important that the impression should not be given that the freedom of the Press might be restricted.

He was prepared to support the United Kingdom amendment, but wished to recall the word “inviolable” was standard in the constitutions of many countries.

MR. CONTOUMAS (Greece) said that he was sure that the representative of the USSR had not alluded to the Greek delegation when he had complained that certain delegations had raised objections of pure form to amendments of intrinsic value. He regretted that some representatives tended to inject politics into the debates. Article 6 could not be invoked as a precedent for the argument that it was not superfluous to add a clause to article 10. That was an altogether different case. In article 6 the idea of legal defence had been pertinent since it referred to equal protection of the law; but such was not the case with article 10.

He was prepared, therefore, to support the United Kingdom amendment.

MR. CASSIN (France) pointed out that, in the English text, the word interference applied also to reputation, which was absurd. The correct word should be, in French, *atteintes* (attacks). The prohibition against attacks upon reputation and honour should form a separate sentence. It would be possible to delete all qualifications because they were covered by the limitations set out in article 27 – the pivotal article of the entire declaration. One reason for the confusion which existed was that the

Commission on Human Rights had not yet adopted article 27 when it had voted on article 10, so that certain qualifications had been included in the latter article.

His delegation, however, would not oppose inclusion of the word “arbitrary”. That word was, in any case, an improvement upon the word “unreasonable”.

He asked the representative of Cuba to take into consideration that the original intention of the Commission had lain in the direction of the United Kingdom amendment (A/C.3/319), which his delegation was prepared to accept in principle. That amendment could be reconciled with the original text so as to cover the USSR amendment (E/800, page 33).

MR. MACDONNELL (Canada) doubted whether article 10 was necessary at all; its substance had already been covered by article 3. If the liberty and security of the person had already been guaranteed there was no need for detailed qualifications. All the amendments to article 10 were acceptable in principle, but the declaration should be kept concise and simple, a statement of general principle. If it were intended to forbid interference in specific fields, the list could be extended *ad infinitum*.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Cuban amendment did not [310] change the substance of the basic text of article 10 but merely divided it into three parts; it was, in fact, hardly more than a drafting change. That could perhaps be dealt with later; no question of principle was involved.

He did not object to the word “arbitrary”; but of all the variants suggested, he preferred “legitimate”, as proposed by the Saudi Arabian delegation (A/C.3/255).

The United Kingdom amendment (A/C.3/319) however did not really combine the USSR proposal with the Commission’s text. Legal protection was guaranteed only for some rights, it should logically cover all. The law should not merely protect honour and reputation, nor should that provision be relegated to the second paragraph. That objection might well be countered by redrafting or further amending the United Kingdom amendment.

The representative of Canada had been incorrect in stating that article 3 fully covered the ground of article 10. Article 3 had been couched in general terms; article 10 followed from article 3, extended its scope and made its underlying ideas more concrete.

MR. PÉREZ CISNEROS (Cuba) opposed the suggestion of the representative of the USSR that the Cuban amendment should be redrafted at a later stage. He cited the example of the text of article 4 after it had been amended; it had been obviously unsatisfactory. The Committee should vote on a completed text, and should have that text before it at the time of the vote.

MRS. NEWLANDS (New Zealand) said that the Cuban amendment would make the article too long. She approved, however, in principle of the right to the protection of the law against attacks upon reputation. She was doubtful whether a prohibition of attacks upon honour should be included, but appreciated the views expressed by the

Cuban representative. She urged the substitution of the word “arbitrary” for the word “unreasonable”.

She would, therefore, support the United Kingdom amendment.

MR. BARODY (Saudi Arabia) agreed that the word “arbitrary” was an improvement over the word “unreasonable”. It might, however, be interpreted as equivalent to “unreasonable”. The word “illegitimate” suggested in his amendment (A/C.3/255) implied that no legal basis had been taken into consideration when the act had been committed. The word was more precise. He pointed out that only the USSR delegation had supported the word “illegitimate”. If the word “arbitrary” met with the approval of the majority of the Committee, he would agree to it.

MR. PÉREZ CISNEROS (Cuba), in reply to the Chairman, said that he would accept the United Kingdom amendment. He would have liked, however, to see the right to unhampered transmission of correspondence explicitly included. In the view of his delegation, that was implied in the text.

MR. PAVLOV (Union of Soviet Socialist Republics) repeated his objection to the drafting of the [311] United Kingdom amendment because it made some distinctions in the prohibition of interference with certain rights and gave legal protection to certain others.

It would be possible to reconcile the text of the Cuban, United Kingdom and USSR amendments in such a way that all those rights would be protected by law and arbitrary interference with all of them would be prohibited.

He therefore proposed that the words “honour” and “reputation” should be transferred to the first paragraph of the United Kingdom text so that it would read as follows:

“No one shall be subjected to arbitrary interference with his privacy, family, home, correspondence, honour or reputation.”

The second paragraph would include the guarantee of legal protection. He proposed the following wording:

“Everyone has the right to the protection of the law against such interference.”

THE CHAIRMAN pointed out that the United Kingdom amendment was a substitute for the basic text of article 10. The USSR amendment was an amendment to the United Kingdom amendment and would be put to the vote first.

MR. BARODY (Saudi Arabia) withdrew his amendment (A/C.3/255).

MR. AZKOUL (Lebanon) said that in view of the fact that he had been unable to explain his amendment (A/C.3/260) fully, he would withdraw it.

MR. RODRÍGUEZ FABREGAT (Uruguay) said that he would like to maintain his amendment (A/C.3/268), which concerned only the French text, in view of the wording of the French text of the United Kingdom amendment contained in

document A/C.3/319/Rev.1. However, he would withdraw it and would accept the word “arbitrary” since it appeared closer to the word *injustes* proposed in his amendment, provided that that interpretation were held correct.

THE CHAIRMAN, acceding to the request of the representative of Greece, stated that the USSR amendment (E/800, page 33) would be put to the vote in two parts.

He put to the vote the first paragraph of that amendment, reading in English: “No one shall be subjected to arbitrary interference with his privacy, family, home, correspondence, honour or reputation.”

That text was adopted by 23 votes to 12, with 6 abstentions.

COUNT CARTON DE WIART (Belgium) remarked that the word *abusives* which appeared in the Commission’s text of article 10 should have been retained; it had qualified the attacks referred to in the latter part of the French text as the word “arbitrary” qualified interference. It was quite conceivable that some attacks might be justifiable.

[312]

THE CHAIRMAN put to the vote the second paragraph of the USSR amendment, reading as follows: “Everyone has the right to the protection of the law against such interference.”

That text was adopted by 22 votes to 12, with 11 abstentions.

THE CHAIRMAN stated that, as the Panamanian representative was not present to reintroduce his amendment (A/C.3/280) and as no other representative had expressed a desire to do so, that amendment was dropped.

The two paragraphs of the USSR amendment would be voted upon as a whole.

MR. AZKOUL (Lebanon) called attention to the fact that there was a difference of substance between the French and English texts of the first paragraph of that amendment. In the English text, honour and reputation, like the subjects which preceded them, were to be protected against arbitrary interference. In the French text, they were to be protected against attacks, which were not qualified by the word “arbitrary”.

He asked on which of the two texts the final vote of the Committee was to be taken.

THE CHAIRMAN agreed that a discrepancy existed and stated that the vote would be taken on the English text, to which no objection had been raised, and to which the French text could later be made to correspond.

MR. PÉREZ CISNEROS (Cuba) asserted that, as there were two working languages, the French text was as authentic as the English. He had voted in favour of the French text. The vote had been taken on both texts; there was no reason to take the English text as a basis.

MRS. ROOSEVELT (United States of America) declared that she had voted against the first sentence of the USSR amendment because she agreed with the French representative that it was absurd to speak, in the English text, of interference with honour and reputation, as that sentence did.

THE CHAIRMAN pointed out that the same objection might be raised against article 10 as drafted by the Commission on Human Rights.

MRS. CORBET (United Kingdom) asked whether it would be possible to have her amendment (A/C.3/319) voted upon as an amendment to the USSR amendment. The English text of the latter was imperfect, as the separation between the idea of protection against arbitrary interference with privacy, family, home and correspondence and the idea of protection against attacks upon honour and reputation, which had been the contribution of the Cuban representative (A/C.3/232), had been lost. Unless the United Kingdom amendment were put to the vote, the imperfection in the text of article 10 would be retained. Moreover, it might be argued that the United Kingdom amendment was further removed from the original text than the USSR amendment, and should consequently have been voted first.

[313]

THE CHAIRMAN replied that the question of which was further removed did not arise, as the USSR amendment had been moved as an amendment to the United Kingdom amendment of the original text. Should the USSR amendment as a whole be rejected, the United Kingdom representative could reintroduce her own.

MR. SANTA CRUZ (Chile) pointed out that in voting in favour of the first paragraph of the USSR amendment, he had done so on the basis of the French text, in which the distinction introduced by the Cuban representative was made; he would not have been able to vote in favour of the English text.

MR. CASSIN (France) agreed with the United States and Chilean representatives that the English text was imperfect. Those who were opposed to that text could vote against the USSR amendment as a whole; the preferable course would be, however, to amend that text in accordance with the French, and to make the final words of the first paragraph read "nor to attacks upon his honour and reputation". The idea supported by the Cuban and United Kingdom representatives would then be clearly expressed in both languages.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that, in accordance with rule 82 of the rules of procedure, his amendment as a whole should be put to the vote immediately.

He appealed to the Committee to vote in favour of what was, in effect, a perfectly good article expressing a clear and entirely acceptable idea.

MR. PÉREZ CISNEROS (Cuba) stated that he had voted against the first paragraph of the USSR amendment, and in favour of the second. He would be unable to vote in

favour of the whole amendment, but would vote for the United Kingdom version, which read properly in both working languages.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) requested that, as the French text was wholly in accordance with the Russian original, that text might be put to the vote immediately. When a discrepancy arose, it was for the Chairman to harmonize the two texts.

MR. SAINT-LOT (Haiti), Rapporteur, agreed that the English text should be altered to correspond to the French. He pointed out that the two paragraphs of the USSR amendment had been adopted by the majority, and that there could consequently be no question of reversing the vote.

MR. SANTA CRUZ (Chile) remarked that some representatives who worked in the English language had voted against the first paragraph of the USSR amendment because of the imperfection in the English text. The majority had, however, voted in favour of it because they had considered the French text, which had contained the phrase "attacks upon his honour and reputation". There was general agreement that the French text was preferable: the vote should therefore be taken on it, as the Byelorussian representative had suggested. The text could then be translated into English.

COUNT CARTON DE WIART (Belgium) said that he would vote against the USSR amendment because he felt that there was no more need to mention protection of the law in article 10 than in any of the other articles.

MR. RODRÍGUEZ FABREGAT (Uruguay) supported the French representative's suggestion that the first paragraph of the USSR amendment in English should end with the words "nor to attacks upon his honour and reputation". The confusion would then be cleared up.

Had he known that such confusion would arise, he would not have consented to withdraw his own amendment, as it would have helped to clarify the text.

THE CHAIRMAN read the French and English texts of the USSR amendment, the end of the latter text being altered to read: "nor to attacks upon his honour and reputation".

MR. CHANG (China), speaking on a point of order, stated that the Committee had before it an English text different from that which it had accepted. He and possibly other representatives had voted against the first version because it had not appeared to make sense. The Committee could not be asked to vote on the whole of an amendment the wording of which was different from the text on which the vote had been taken, in parts. Rather, it should take a second vote on the first paragraph, and be given an opportunity to reject it.

MRS. CORBET (United Kingdom) supported the Chinese representative.

THE CHAIRMAN could not agree with the Chinese representative. The discrepancy which existed between the two texts had to be removed. Several representatives, including the representative of the United States, had said that honour and reputation should be mentioned in a separate clause, which had in fact been done in

the French text. Moreover, a number of other representatives had requested that the vote might be taken on the French text, which appeared to be satisfactory to the majority. Since there were two working languages, either text could be taken as a basis. The French text before the Committee had not been altered in any way; but the English text had been made to correspond to it.

MR. BAGDADI (Egypt) stated that, if the texts before the Committee were accepted, he would understand the vote to mean that the first vote had not been properly taken.

MRS. CORBET (United Kingdom) thought that the English translation suggested by the Chairman eliminated the difficulty encountered in connexion with the first paragraph of the USSR amendment. She questioned, however, whether it was wise to adopt the second paragraph, which contained a mention of the protection of the law.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that the arguments invoked by [315] some delegations against texts already adopted by the Committee were unworthy of those delegations, and that the wrangle in which the Committee had been engaged was unworthy of the Committee.

He asked that his amendment as a whole might be put to the vote immediately.

THE CHAIRMAN recalled that the USSR amendment was an amendment to a substitution for article 10.

He put the USSR amendment as a whole to the vote.

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.

“Everyone has the right to the protection of the law against such interference or attacks.”

The amendment was adopted by 29 votes to 7, with 4 abstentions.

The meeting rose at 6:20 p.m.

A/C.3/SR.120⁷⁹

2 November 1948

Summary Record of the Hundred and Twentieth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday,
2 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

⁷⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 315–27.

44. Draft international declaration of human rights (E/800) (continued)*Article 11¹*

THE CHAIRMAN read out the amendments to article 11 submitted by the representatives of the USSR (E/800, page 33), Lebanon (A/C.3/260), Panama (A/C.3/280), Egypt (A/C.3/264) and Cuba (A/C.3/232). Those amendments were recapitulated in document A/C.3/284/Rev.1.

MR. PÉREZ CISNEROS (Cuba) declared that his amendment gave to everyone freedom of residence within the territory of the country of which he was a national. Although he agreed in principle with the wider text adopted by the Commission on Human Rights, he considered that the immigration laws in force in most countries would almost automatically limit the meaning and scope of that text. For that reason he considered the text he had proposed to be more sensible and more prudent.

He was pleased to learn that the Egyptian delegation was proposing an amendment similar to his own.

Finally, he stated, that his delegation accepted the draft amendment submitted by the Lebanese representative.

MR. PAVLOV (Union of Soviet Socialist Republics), in submitting his amendment, quoted an article from the civil code of the Soviet Union, according to which any person residing in the USSR was entitled to move about freely, to establish his residence there, to take up an occupation and to buy and sell property in accordance with

^[1] Article 14 of the draft universal declaration of human rights (A/777).

[316]

the laws of the land. Calling attention to the fact that the principle of freedom of movement was admitted in his country, he maintained, however, that all movement within a given country or across its frontiers had to take place in accordance with the laws of that country.

His delegation considered that its proposal to add to paragraphs 1 and 2 of article 11 a direct reference to national legislation should be generally acceptable, since that proposal corresponded to a reality and did not run counter to any principles which were universally established and applied.

The USSR representative expressed the opinion that the other amendments submitted would be of no value if the USSR amendments to article 11 were not accepted. He was not opposed to the amendment suggested by the Lebanese representative, which would add a patriotic note to article 11.

On the grounds that his amendment was furthest removed from the original text, Mr. Pavlov proposed that it should be put to the vote first.

MR. AZKOUL (Lebanon) recalled that article 11 was intended to cover all movements inside and outside a given State. According to that article, any person had the

right to leave any country, including his own. The ideal would be that any person should be able to enter any country he might choose, but account had to be taken of actual facts. The minimum requirement was that any person should be able to return to his own country.

If that right were recognized, the right to leave a country, already sanctioned in article 11, would be strengthened by the assurance of the right to return. Such was the object of the Lebanese amendment.

MR. SANTA CRUZ (Chile), commenting on the Egyptian and Cuban amendments, indicated that in the text adopted by the Commission on Human Rights there was no question of free immigration but only of freedom of movement within a State.

He pointed out that the argument put forward by the USSR representative in connexion with article 11 had already been expounded, discussed at length and finally rejected by the Drafting Committee,¹ the Commission on Human Rights² and even by the Economic and Social Council during the discussion on the rights of women.³

The Chilean delegation considered the question to be of vital importance. Freedom of movement was the sacred right of every human being. That principle should be defended and maintained as an element necessary to progress and to civilization.

Admittedly, a State was entitled to decide how the principle was to be applied; but to include such interpretations in a declaration of human rights would imply the renunciation of the inherent rights of mankind. A document drawn up in that sense would be a declaration of the absolute rights of the State and not a declaration of human rights.

^[1] See document E/CN.4/AC.1/SR.36.

^[2] See document E/CN.4/SR.55.

^[3] See *Official Records of the Economic and Social Council*, Third Year, Seventh Session, 210th meeting.

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The task before the Committee was to proclaim principles of such a solemn character that States would be morally obliged to subscribe to them and to amend their respective constitutional laws in accordance with them.

In order to stress the danger of the amendments suggested by the USSR delegation, he reminded the Committee of the situation in Russia during the reign of Peter the Great, who, simultaneously with the proclamation of freedom of movement within his territory, had issued a decree that such freedom should be subject to one condition, namely, the purchase of a special passport at the cost of 200 silver roubles, which was impossible for the majority of his subjects. That example showed how far national legislation could nullify a right established and recognized in all other respects.

He quoted further examples from the history of Latin America during the Spanish colonization period, and declared categorically that no physical or moral authority could justify the treatment of individuals as factors in the national economy.

The Chilean delegation could not, therefore, accept any amendment which might permit a return to obsolete feudal rule. It agreed that the State could legitimately claim, in

exceptional cases, the right to regulate the movements or place of residence of persons, for instance in cases of political disturbances, quarantine and compulsory military service, but those exceptions were all covered by article 27 of the draft declaration.

MR. APPADORAI (India) felt that the provisions of article 11 were essential for thousands of people, and especially for the indigenous inhabitants and the Asians living in Africa. He understood that in some cases, a few restrictions, which would be included in article 27, might be made on the liberty of movement of the subject, with the object of safeguarding the rights of others, that is, for the sake of security.

Commenting on the first USSR amendment, he expressed the fear that the addition of such a reservation to only one article of the declaration might become of great importance and might serve as a precedent to justify the restrictions applied to the freedom of movement and residence, not only of the Asian population of Africa, but also of the inhabitants of many other countries. Although he understood perfectly the intentions of the representative of the Soviet Union, he feared that the amendment might be interpreted erroneously and regretted having to oppose its adoption.

For the same reasons, he could not accept the second USSR amendment, and would abstain from voting on it.

MR. CHAUVET (Haiti) admitted that there might be provisional restrictions of an economic and political nature upon freedom of movement. The declaration of human rights was not, however, a political document. The Economic and Social Council had, moreover, drawn a very clear distinction between the declaration and the covenant. Whereas the covenant was to take into account the practices and political considerations peculiar to each country, the declaration was a statement of universally applicable moral principles.

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He reminded the Committee that in 1789 the French Republic had not awaited the agreement of other countries to promulgate its great Declaration of the Rights of Man and of the Citizen, the principles of which echoed the aspirations of the people of that time.

The principle of the individual's right to move freely about the world had been recognized before national States had reached their present stage of development. The various barriers erected by those States failed to take account of the importance of the human element, the ties of family and friendship, which were often stronger than the ties which attached the individual to the sometimes unstable Government of his country.

The world belonged to all mankind. Government restrictions ran counter to the aspirations of the universal conscience; they might be tolerated as a temporary necessity, but there could be no question of including them in the declaration, which was intended primarily to educate the masses. Its principles should not be political, but educational, social and humane, and should remain faithful to the great Declaration of Human Rights of 1789.

MR. AQUINO (Philippines) did not follow the representative of Haiti in his comments on article 11. The Philippine delegation considered that the object of article 11, as drawn up by the Commission on Human Rights, was precisely to do away with the barriers which, in some parts of the world, were raised against the exercise of free movement, not only within a country but also from one country to another. His delegation considered that article to be one of the most effective means by which to try to break down the walls of silence which cut off whole countries from the rest of the world.

Unlike the representative of Haiti, he believed that the declaration should have a certain political character, because it was destined to proclaim a political philosophy common to the large majority of the peoples of the world. Furthermore, he could not agree that freedom of movement, which he desired whole-heartedly, could possibly be fettered by restrictions of an economic or social nature, the temporary necessity for which was admitted by Mr. Chauvet.

The amendments proposed by the USSR delegation, if adopted, would nullify the meaning of article 11, because instead of establishing common standards to govern the movements of people in general, the Committee would be sanctioning the deplorable state of affairs which existed in the world.

The Philippine delegation agreed with the Lebanese delegation's amendment. If the Committee succeeded in including in the declaration the right of every person to leave and to return freely to his country of origin, and the right to circulate and establish himself within the territory in which he was resident, it would have taken a great step in the right direction.

MRS. ROOSEVELT (United States of America) pointed out that, during the discussion on other articles, it had been recognized that, in certain circumstances, individuals had to be guaranteed protection even against their own Government. Article 11 seemed to impose such an obligation.

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She regretted she was unable to accept the amendments submitted by Cuba and Egypt, because they restricted the scope of the first part of article 11. The adoption of those amendments would mean that a foreigner admitted into a country would not enjoy the same rights as the citizens of that country.

She thought, furthermore, that the amendments submitted by the USSR delegation would render article 11 valueless. To state that freedom of movement should be granted only in accordance with the laws of each country would be equivalent to limiting the fundamental rights of the individual and increasing the powers of the State.

The Lebanese delegation's amendment contained a new idea, and the United States delegation was inclined to favour it, provided that the general character of the basic text of article 11 remained unchanged.

The amendment proposed by the delegation of Panama had no place in article 11.

Mrs. Roosevelt expressed sympathy with the ideal upheld by the representative of Haiti, especially when he explained that every man should have the right to settle in the country of his choice. Economic considerations had, however, forced certain countries to take legal measures restricting immigration. Those measures were well known and generally accepted. A declaration of human rights should not contain principles the application of which was rendered impossible by existing circumstances.

In conclusion, she considered that article 11, modified by the Lebanese amendment, was sufficiently realistic, and stated that the United States delegation would vote for its adoption.

MR. CONTOUMAS (Greece) approved, on the whole, the statement made by the representative of the United States.

He thought that the amendments submitted by the delegations of Cuba and Egypt betrayed the fear of those two countries lest article 11 should give foreigners access to a country of which they were not nationals. In fact, article 11 presupposed that the individual in question had already obtained permission to enter the country, the right of entry being governed by the legislation of the country concerned. Once a foreigner had been admitted into a country, however, he should enjoy the same rights as the citizens of that State.

As regards the USSR amendments, he pointed out that it was natural for Governments to take legal measures to regulate the principles of freedom enunciated in article 11, since the application of any principle of freedom necessarily entailed the appropriate legislation, but that legislation should not permit violation of the very spirit of freedom it was intended to safeguard. If the USSR amendments aimed at restricting freedom of movement and residence, the Greek delegation could not subscribe to them.

The amendment submitted by the Lebanese delegation was logical: every man had the right to return to his own country.

As regards the observations made by the Chilean representative, the Greek delegation considered [320] them to be an affirmation of the right, which every State obviously possessed, to forbid its subjects to leave the country if their presence was required by reason of military or contractual obligations, or to forbid access to certain parts of the country when considerations of public health or military security made that expedient.

All these exceptions were, incidentally, covered by article 27, if the phrase "public order" were also taken to mean national security. The Greek delegation reserved the right to return to that point during the discussion of article 27.

MRS. KALINOWSKA (Poland) remarked that all the countries in the world had certain laws restricting freedom of movement and the right to leave the country. It

was simply a matter of avoiding arbitrary restrictions. The USSR amendments were absolutely indispensable since they took the existing state of affairs into account.

Poland also had regulations governing entry and exit, but there had been more missions, journalists and tourists in Poland since the end of the last war than at any period during the twenty-one years between the two world wars. Moreover, she did not remember a single case of a foreign correspondent being refused a visa to Poland during the three years she had spent in the Polish Embassy in Washington. She regretted to have to state that Poland had not met with reciprocity in that respect from those who championed the cause of freedom of movement, and quoted the example of the head of the Polish Press Agency who, after returning to Poland on holiday, had to wait several months for permission to re-enter the United States. Furthermore, it was not only entry into the country that the United States Government restricted: exit was also subject to restrictions. She quoted the case of Mr. Isaacson, United States representative of New York, who was prevented from going to Paris to attend a meeting at which the Greek question was to be discussed.

THE CHAIRMAN asked Mrs. Kalinowska not to digress from the subject under discussion. Article 11 dealt with freedom of movement inside a country, and the right of the individual to leave that country, and not with immigration formalities.

MRS. KALINOWSKA (Poland) replied that her remarks applied to the restrictions imposed by the United States on freedom of movement in general. She quoted the cases of Gerhart Eisler and Oscar Niemeyer, the Taft-Hartley and Mundt-Nixon bills, and the deportation of certain trade union leaders as attacks on the liberty of the individual.⁸⁰

That state of affairs was, moreover, not confined to the United States. Even in France, the recent attacks on the right to strike – leading sometimes to incidents with bloodshed – and the deportation of foreign strikers some of whom had been resident in France for more than twenty years and had taken part in the defence and reconstruction of that country, constituted equally grave violations of the most sacred rights of man. The Polish representative was anxious not only [321] about the fate of Poles expelled as a result of those measures, for their country would always receive them with open arms, but also about the fate of all the other workers who were in the same plight. The Polish delegation would, therefore, support the Lebanese delegation's amendment.

⁸⁰ Gerhart Eisler was a German-born communist who was active in the United States for many years. He was prosecuted in the United States for politically related offences and sentenced to prison. Released on bail, he fled the United States and eventually reached the German Democratic Republic, where he became head of the national radio. Oscar Niemeyer was a Brazilian architect and supporter of communism. He was involved in the design of the United Nations headquarters, but was twice refused visas to travel to the United States so as to take up prestigious academic appointments at Yale and Harvard Universities. The "Nixon-Mundt Bill" required members of the Communist Party to register with the Attorney-General and prohibited them from obtaining passports.

Finally, she had felt it her duty to treat the problem so widely because she thought the ultimate aim of the declaration of human rights was to guarantee the protection of the fundamental rights of man.

MR. PAVLOV (Union of Soviet Socialist Republics), in reply to the objections raised to his delegation's amendment, emphasized the fact that people attributed to his country motives it had never had. The USSR amendment in no way modified the basic text of article 11; it did not suggest eliminating anything: it simply proposed to add a reference to the laws of the countries concerned. He did not understand why some countries mentioned the Soviet ideology in that connexion, since every country had its own laws. The two amendments proposed by his delegation merely indicated the elementary necessity for taking account of the laws of the different States.

Mr. Pavlov reminded the Committee that he had read out extracts from the USSR civil code, and he was astonished that his country was compared with the Russia of Peter the Great. The time of Peter the Great was Russia's Middle Ages. The Soviet Union had no longer either big landowners or capitalists.

In view of the conditions which were imposed in certain parts of the United States on the freedom of movement and residence of coloured people, the USSR representative was surprised to see the United States among those who had voted against all restrictions on freedom of movement.

MR. SANTA CRUZ (Chile) remarked that the USSR representative had misunderstood the purpose of his statement. He had quoted the age of Peter the Great purely as an historical example, and had refrained from any allusion to the current situation in any State.

MR. AZKOUL (Lebanon) said he had listened very attentively to the statement of the Polish representative on the subject of the amendments proposed by the Soviet Union. He had been impressed by the arguments adduced, but the conclusions drawn by the Polish representative differed from his own. The examples cited by Mrs. Kalinowska had convinced him that the words "in accordance with the laws of that State" should not be added. The principles enunciated in article 11 should not be weakened by any reservations. On the contrary, States should be prevented from passing laws arbitrarily restricting freedom of movement and residence.

In order to allay the anxiety of the Cuban and Egyptian delegations, he proposed to make paragraph 1 of article 11 more precise by wording it as follows:

"Everyone has the right, within the borders of each State, to freedom of movement and residence."

Finally, he considered the Panamanian amendment unnecessary in that it proposed restrictions [322] which were obviously applicable by virtue of article 27.

COUNT CARTON DE WIART (Belgium) pointed out that several delegations had stressed the solemn character of the declaration of human rights. That declaration comprised a set of principles; there was no question of a convention, or of a code of special laws, but a declaration, which had to be concise and definite.

In his opinion, article 11 was of vital importance: the principles of freedom of movement and freedom of residence had to be stressed at that moment when the war and the resulting upheavals had demonstrated to what point that principle could be trodden underfoot. The ideal would be a return to the time when man could travel around the world armed with nothing but a visiting card. The principle of freedom of movement did not prevent States from promulgating laws to cope with questions of public order and public health, but all such reservations were provided for in article 27. The Belgian delegation could in no case subscribe to the reservations implied in the USSR amendments.

The Belgian representative said he was much impressed by the remarks of the representative of Haiti. He agreed that freedom of movement and freedom of residence should be guaranteed throughout the world; and he considered, therefore, that any attempt to restrict in any way the basic freedoms enunciated in article 11 should be condemned. The main purpose of the declaration of human rights was to make a public declaration of what the conscience of the world was thinking.

The Belgian delegation would, therefore, vote for the text of article 11 in the form in which it was drafted by the Commission on Human Rights, and for the amendment submitted by the representative of Haiti, which further broadened the scope of that article.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) was surprised that the Chairman had regarded the speech of the Polish representative as a digression from the subject under discussion; he had not objected to historical examples and allusions from other representatives, though they had no bearing on the subject.

For its part, the delegation of the Ukrainian SSR would vote in favour of the amendments submitted by the USSR delegation. They were based on reality, and only reflected conditions which existed in the majority of countries.

Certain delegations had expressed the fear that those amendments might restrict the significance of article 11. It was worthy of note that those same delegations had refrained from expressing similar fears in connexion with some of the preceding articles, when it was a question, for instance, of drawing up provisions for the prevention of racial discrimination.

All that the USSR was proposing, in connexion with a freedom the principle of which was generally accepted, was to safeguard the sovereignty of States and prevent interference in affairs which were essentially an internal matter. A provision of that kind was in conformity with the Charter.

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THE CHAIRMAN assured the Ukrainian representative that he was sincerely trying to exercise the utmost impartiality in the conduct of the debate.

MR. CONTOUMAS (Greece), in reply to the Polish representative, referred to article 104 of the rules of procedure. He declared that it was because the country was in a state of war that Greek subjects had to submit to formalities, sometimes lengthy formalities, before being allowed to leave Greece. That state of war, which gave rise to inevitable difficulties, was forced on Greece for reasons that the First Committee, to which the question had been referred, would very shortly be able to judge.

THE CHAIRMAN reminded the Greek representative that every speaker enjoying the right to reply accorded to him by the terms of article 104, had to keep within the limits of the discussion: the debate at that moment referred strictly to article 11 and the amendments proposed to it.

MRS. KALINOWSKA (Poland) declared that Mr. Contoumas' remarks were certainly inspired by a misunderstanding, as Greece had not been mentioned in her speech.

MRS. CORBET (United Kingdom) declared that her delegation would oppose any amendment tending to restrict the scope of article 11 in the same way as it was opposed, in general, to any measure likely to weaken the force of the declaration of human rights.

The Committee should not be content with the laws promulgated by the various States, but should endeavour to get the States to agree to make their laws conform to the spirit of the declaration. That declaration should express an ideal, and should not, therefore, be limited in any way.

She shared the view of the United States representative regarding the amendment submitted by the delegations of Cuba and Egypt. She thought it right, in the interests of international peace, to make every possible contribution to mutual understanding between the peoples, to encourage the exchange of visitors, students, etc. Moreover, it was normal that any foreigner admitted into a country should enjoy the same freedom in that country as the nationals.

She thought that the amendment submitted by the delegation of Panama raised a question of detail applicable rather to the proposed covenant.

Finally, the United Kingdom delegation felt that the amendment submitted by the Lebanese delegation had been covered by the provisions of article 7, as already adopted. But if, as the Lebanese representative maintained, the adoption of the amendment led to permitting an individual to leave his country, if he so desired, with greater peace of mind, the United Kingdom delegation would certainly not oppose that amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) referred to article 104 of the rules of procedure in reply to criticism made by the representatives of the United

Kingdom and Chile in connexion with the amendments submitted by the USSR delegation.

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He protested against the fact that a restrictive character was being attributed to those amendments and that in spite of previous explanations. The USSR amendments took due account of existing realities; it was impossible for the time being to ask Member States to abolish measures regulating entries and exits from their respective territories and to cancel their immigration and emigration laws. The adoption of the text of article 11 would, however, have just that result and would therefore be in flagrant contradiction with the provisions of Article 2, paragraph 7 of the Charter.

In the Soviet Union there were exceedingly few restrictions on freedom of movement within the country itself. Moreover, no law prevented persons from leaving the country, but anyone desiring to do so had of course to go through the legally prescribed formalities.

The aim of the USSR delegation in submitting the amendments could not, therefore, be regarded with any suspicion; its intention was not to put any restriction on the freedom proclaimed in article 11 but to ensure that due account was taken of the fact that freedom of movement in any given country and entry into it were regulated by the provisions of the civil code of the country concerned. Laws and regulations existed and they had to be respected.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) protested against the partiality displayed by the Chairman in the conduct of the debates.

MRS. ROOSEVELT (United States of America) called attention to the necessity for the Committee to follow the rules it had drawn up with a view to expediting its work. Representatives should not be allowed to take advantage of the right of reply granted to them by the Chairman in order to make a third speech of a substantive nature.

MR. BARODY (Saudi Arabia) said he would vote in favour of the USSR amendments, which in no way undermined the principles set out in article 11. Those amendments allowed for the fact that in times of national crisis due to various political or economic causes, every Government made use of its right to regulate freedom of movement within its territory. The world was going through a period when national crises were more and more frequent.

THE CHAIRMAN informed the representative of Saudi Arabia that he was obliged to call him to order, for he could no longer permit a speech on the substance of the matter under discussion. Indeed, the general debate was closed and the name of the Saudi Arabian representative did not appear on the list of speakers he had read out.

He then put to the vote the first USSR amendment (E/800, page 33), to add the words "in accordance with the laws of that State" to paragraph 1 of article 11.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the vote should be taken by roll-call.

The vote was taken by roll-call, as follows:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Saudi Arabia, [325] Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Against: Australia, Belgium, Brazil, Canada, Chile, China, Colombia, France, Greece, Haiti, Honduras, Iceland, India, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Philippines, Sweden, Turkey, United Kingdom, United States of America, Uruguay.

Abstaining: Afghanistan, Argentina, Cuba, Denmark, Dominican Republic, Ecuador, Iran, Mexico, Paraguay, Peru, Venezuela.

The amendment was rejected by 24 votes to 9, with 11 abstentions.

THE CHAIRMAN put to the vote the second USSR amendment, to add the words “in accordance with the procedure laid down in the laws of that country” to paragraph 2 of article 11.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the vote should be taken by roll-call.

The vote was taken by roll-call, as follows:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Belgium, Brazil, Canada, Chile, China, Colombia, France, Greece, Haiti, Honduras, Iceland, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay.

Abstaining: Afghanistan, Argentina, Cuba, Denmark, Dominican Republic, Ecuador, India, Iran, Mexico, Paraguay, Peru, Venezuela, Yemen.

The USSR amendment was rejected by 24 votes to 7, with 13 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the delegation of Panama (A/C.3/280).

The amendment was rejected by 28 votes to none, with 13 abstentions.

THE CHAIRMAN put to the vote the amendments submitted by the delegations of Cuba (A/C.3/232) and of Egypt (A/C.3/264), the French texts of which were identical.

Those amendments were rejected by 25 votes to 3, with 12 abstentions.

THE CHAIRMAN put to the vote the proposal of the delegation of Haiti to delete the words “within the borders of each State” from paragraph 1 of article 11.

The proposal was rejected by 15 votes to 8, with 19 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the delegation of Lebanon, to add the words “and to return to his country” to paragraph 2 of article 11 (A/C.3/260).

The amendment was adopted by 33 votes to none, with 8 abstentions.

THE CHAIRMAN then asked the Committee to take a decision on the proposal of the Lebanese delegation to change the place of the phrase “within the borders of each State” in the body of paragraph 1 of article 11.

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MR. CASSIN (France) felt that such a change would result in changing the sense of the article by seeming to attach the restrictive nature of the phrase “within the borders of each State” to freedom of movement, whereas such freedom of movement could not be sufficiently encouraged, not only within a given country but from one country to another.

MRS. CORBET (United Kingdom) pointed out also that the change would be unfortunate for the English text from the point of view of style, whereupon MR. AZKOUL (Lebanon) said he would not maintain his proposal.

THE CHAIRMAN put to the vote article 11 as a whole, as amended by the Lebanese delegation.

Article 11, as amended, was adopted by 37 votes to none, with 3 abstentions.

MR. CASSIN (France) pointed out that France always voted in favour of the most broadminded proposals and that it did so with full realization of the implications, as over 4,000,000 foreigners were resident in its territory.

France was proud that scarcely two years previously it had enacted a law which gave certain guarantees to foreigners liable to expulsion.

At the same time, it could not surrender certain essential prerogatives and it was forced to keep its own laws when, for example, a foreigner forgot to observe the requisite political neutrality.

France thought, however, that the exercise of that right was guaranteed under the provisions of article 27, which embodied all the necessary reservations.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated that his delegation had voted against the proposal of Egypt and Cuba because if it were to replace the basic text it would limit the exercise of the right granted in article 11 to the nationals of the States in question.

His delegation had voted against the proposal of Panama, which was more suitable for inclusion in the covenant than in the declaration.

Finally his delegation had also voted against the USSR amendments because of the existence of article 27. If the limitations desired by the USSR delegation came within the framework of article 27, they were superfluous; if they did not they were not desirable.

MR. BARODY (Saudi Arabia) said he had voted in favour of the USSR amendment because government action was becoming increasingly necessary in times of

crises. His Government however reserved the right to continue to act according to the current laws and practices of his country.

MR. CARRERA ANDRADE (Ecuador) was astonished that the USSR delegation, which claimed it was defending the cause of liberty, had tried to restrict the freedom of movement of the individual, submitting it to the restrictions of the legislation in force in the territory in which he resided. The right to freedom of movement should in no case be limited and any measures in that direction would transform a liberal system into a dictatorial system.

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THE CHAIRMAN pointed out to the representative of Ecuador that an explanation of his vote should not include considerations of a general order.

MR. PAVLOV (Union of Soviet Socialist Republics) said that on account of an interpretation mistake he had not understood that the last vote was on article 11 as a whole.

His delegation would certainly have voted against the adoption of an article which violated the provisions of paragraph 7 of Article 2 of the United Nations Charter and which deliberately ignored the right of each State to regulate as it desired freedom of movement in and departures from its territory at its own frontiers.

The USSR formally protested against the decision of the Third Committee to adopt article 11.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) supported Mr. Pavlov's remarks on the adoption of article 11.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) also asked that his opposition to the adoption of article 11 should be put on record.

The meeting rose at 6 p.m.

A/C.3/321

2 November 1948

Original Text: English, French

Text of articles 10 and 11 of the Draft Declaration (E/800) as adopted by the Third Committee

Article 10

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.

Everyone has the right to the protection of the law against such interference or attacks.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

A/C.3/322

3 November 1948

Original Text: French

France and Brazil: Compromise wording for the French Amendment to Article 12 (A/C.3/244)

Add the following words to Paragraph 1:

“if necessary with the support of the United Nations, in concert with the countries concerned.”

A/C.3/SR.121⁸¹

3 November 1948

Summary Record of the Hundred and Twenty-First Meeting [of the Third Committee]

Held at the Palais de Chaillot, Paris, on Wednesday,
3 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon)

45. Draft international declaration of human rights (E/800) (continued)

Article 12¹

THE CHAIRMAN announced that the basic text of article 12 and the amendments to it were recapitulated in document A/C.3/285/Rev.1. The delegation of New Zealand had withdrawn its amendment (A/C.3/267); therefore the Committee had before it

⁸¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 327–40.

the amendments to that article submitted by the delegations of the USSR (E/800, page 33), Bolivia (A/C.3/227), Cuba (A/C.3/232), Saudi Arabia (A/C.3/241), France (A/C.3/244), the United Kingdom (A/C.3/253), Egypt (A/C.3/264) and Uruguay (A/C.3/268).

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that, in the basic text of article 12, the question of the right of asylum was put in a strictly legal form. He thought that the declaration should explain what was understood by the right of asylum, so that war criminals, fascists, and Nazis hiding abroad and particularly in occupied Germany, could not claim to be persecuted persons. Those people, responsible as they were for the massacre of millions of innocent victims, those traitors to their countries whose misdeeds during the war years were known to all, must not be granted the right of asylum.

[1] Article 15 of the draft universal declaration of human rights (A/777).

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For that reason, Mr. Pavlov thought that the word “everyone” in paragraph 1 of article 12 was too comprehensive. He proposed that the first paragraph should be replaced by a text indicating the three main categories of persons entitled to be granted asylum: those persecuted in connexion with their activity in defence of the interests of democracy or for their scientific activity or for their participation in the struggle for national liberation. Accordingly, the thousands of Spaniards who had left their country to escape from the Franco regime were entitled to asylum, as were those who had fought to free their country from foreign oppression and all those who, in colonial or semi-colonial territories, were carried on the wave of growing national feeling to revolt against a humiliating regime.

Article 12 should be drafted in explicit rather than in theoretical terms. The USSR amendment attained that end with clarity and simplicity. There could be no grounds for its rejection.

MR. CASSIN (France) was prepared to accept the text of article 12 as adopted by the Commission on Human Rights.

He believed that the principle of the right of asylum should be given recognition in the declaration; paragraph 2 contained all the necessary limitations and reservations. The USSR amendment did not, therefore, seem essential.

Mr. Cassin did not think that the word *authentiquement* in the French text of paragraph 2 was a good translation of the word “genuinely”. He would prefer the words *effectivement* or *réellement*.

Explaining his amendment (A/C.3/244), the representative of France criticized article 12 for failing to indicate whose duty it would be to give effect to the right of asylum affirmed in the declaration. In the case of the articles studied so far, the

national society in which the individual was living was required to ensure the rights in question. The right of asylum, however, was a conception of an essentially international character: it was therefore necessary to specify who was to ensure the enjoyment of that right.

France, under whose Constitution asylum was granted to persons persecuted for the defence of liberty, believed that the supreme responsibility should rest with the human community as a whole, represented by the United Nations acting in concert with countries concerned. Any other solution would be illusory and unsatisfactory. The French proposal was submitted in the interests of the victims of persecution as well as of the States called upon to offer refuge.

The question of refugees had been discussed several times by the United Nations; the Third Committee itself had studied the question of the Palestine refugees (117th and 118th meetings). The assumption of such a responsibility by the community of nations would not, therefore, be a theoretical abstraction without factual precedent. The French delegation wished to give juridical and official form to an action already initiated by the United Nations. It firmly believed that its amendment reflected the real wishes of mankind.

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MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) was in favour of the present text of article 12. The aim of his amendment (A/C.3/268), which was very similar to that submitted by the representative of Bolivia, was simply that the right of asylum should extend to asylum in embassies and legations. He would, however, accept paragraph 1 of the basic text if the words "in other countries" were replaced by "within territory of other countries", the word "territory" being given its legal sense and the right of asylum thus being extended to the embassies and legations of the countries concerned.

Mr Jiménez de Aréchaga added that he understood that the right of asylum was subject to limitation by measures of a legal character taken by individual States, provided that those measures remained within the framework of article 27 of the declaration.

MR. ANZE MATIENZO (Bolivia) was prepared to vote for the text adopted by the Commission on Human Rights.

He supported the French amendment and approved the principle of entrusting a world organization, such as the United Nations, with the responsibility of giving effect to the right of asylum.

Turning to his own amendment (A/C.3/227), he recalled that the conception of the right of asylum went back to the earliest periods of history. Temples, holy places and even certain cities, such as Teos, had served as places of refuge. Immunity granted to diplomats was an established principle in diplomatic usage; it extended to

the buildings of embassies and legations and even to the residences of ambassadors; it was so valuable that it had been included in the convention adopted by the Sixth International Conference of American States held at Havana in 1928.⁸²

However, according to that convention, the right of asylum was restricted to political refugees, who only enjoyed the right in cases of extreme urgency, when their lives were threatened, and then only for a limited period.

The Bolivian delegation thought it proper that a country which gave asylum to a refugee should also open to him the doors of its embassy, as the latter also represented the country of refuge.

MRS. CORBET (United Kingdom) thought that article 12 revealed a certain defeatism. The declaration of human rights envisaged an ideal life for all members of society; yet article 12 admitted the existence of persecution within that society. For that reason, Mrs. Corbet believed that article 12 was out of place in the declaration.

Attempting to define the duties of a State which was asked by a persecuted person to grant asylum, Mrs. Corbet thought it desirable to establish whether a person was entitled to enter a foreign country by virtue of being persecuted.

The right of asylum in the constitutions of certain States was more limited than in article 12. Under the Constitutions of Mexico and Uruguay, for example, foreigners were assured free entry into those countries only if they conformed to the immigration laws.

The word "persecution" had a very wide meaning. People could be persecuted for reasons [330] of race or religion, and not only on account of their political activities. The only prosecutions not considered by article 12 to constitute persecution were those arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

The Government of the United Kingdom was ready to guarantee that any persecuted person asking it for refuge would be treated with sympathy. But no State could accept the responsibilities imposed by article 12. The United Kingdom had often had occasion to offer asylum to political refugees, notably to Garibaldi,⁸³ Mazzini,⁸⁴ Kossuth,⁸⁵ Marx and Lenin, but it had not done so under obligation. It had always made use of its right to admit any particular person, and intended to continue to do so in the future.

⁸² The Convention regarding Diplomatic Officers, (1928) 155 LNTS 261, was adopted on 20 February 1928 at the Sixth International Conference of American States held at Havana.

⁸³ Giuseppe Garibaldi (1807–82) was an Italian patriot and military leader who made an important contribution to Italy's unification and independence.

⁸⁴ Giuseppe Mazzini (1805–72) campaigned for Italian unification and independence, and was an early advocate of the United States of Europe.

⁸⁵ Lajos Kossuth (1802–94) is described as the father of Hungarian democracy.

Mrs. Corbet thought that the basic text of article 12 was closely linked to immigration laws, inasmuch as it gave any person or group of persons persecuted for political or other reasons the right to demand admission into the country of their choice. Such was not the intention of article 12; nevertheless, the United Kingdom delegation thought its adoption impossible, as no foreigner could claim the right of entry into any State unless that right were granted by treaty.

Mrs. Corbet defined the right of asylum as the right of every State to offer refuge and to resist all demands for extradition, and explained that that was the meaning of the expression "to enjoy asylum" contained in her amendment (A/C.3/253).

Turning to the French amendment, she drew a distinction between the words "asylum" and "re-establishment", adding that if the United Nations was unable to secure immediate asylum, it should concern itself with the re-establishment of refugees and co-ordinate the efforts of all States wishing to act towards that end. In the last instance, it was for States to admit or not to admit a given person. The French amendment seemed to give the United Nations the right to invite Member States to grant asylum. The United Kingdom delegation could not accept such a principle.

The Egyptian amendment invoked the rules of international law. The only relevant rule was that of the free will of the State and of its right to refuse extradition; consequently, the position of the Egyptian delegation coincided with that of the United Kingdom delegation.

The United Kingdom delegation supported the amendment submitted by Saudi Arabia. It thought, however, that paragraph 1 should be worded as follows: (A/C.3/253):

"Everyone had the right to seek, *and to enjoy* in other countries, asylum from persecution."

Thus amended, the text, while limiting the obligation of the State, would indicate that there was a right of asylum to which persecuted persons could have recourse, that the exercise of that right could not be penalized, and that States which [331] offered asylum to refugees would not be compelled to extradite them.

Article 12, as it stood, was contrary to almost all existing immigration laws; Mrs. Corbet feared that its application might actually lead to persecution by encouraging States to take action against an undesirable minority and then to invite it to make use of the right of asylum.

MR. BARODY (Saudi Arabia) agreed that every persecuted person should be able to enjoy the right of asylum. That right was indisputable, both from the humanitarian point of view and because to deny it would mean the abandonment of the essential principles of the declaration. That did not mean, however, that everyone had the right to obtain asylum in the country of his choice, although that country might not be prepared to receive him. Such a principle would be a flagrant violation of the sovereignty of the State concerned.

Mr. Baroody remarked that a persecutor was often himself a victim of persecution actuated by feelings of revenge. Moreover, victims of persecutions were often obsessed by morbid fears and were not always psychologically sound; a State could not therefore be placed under obligation to receive any victim of persecution without previous investigation.

For that reason, it would not be advisable to recommend the adoption of an article granting to persecuted persons the right to demand asylum in the country of their choice without first establishing whether that country was in a position to receive them.

Article 12 made no provision for consultation with the States called upon to offer refuge; it did not indicate whose responsibility it should be to direct a persecuted person to any particular country.

For those reasons, the representative of Saudi Arabia thought that the article promised more than it should. He therefore proposed (A/C.3/241) the deletion of the words "and be granted" from paragraph 1.

MR. BEAUFORT (Netherlands) thought that the right of asylum was a symbol of international solidarity. He recalled that the Netherlands had in the past given refuge to many refugees. In normal times, it would be possible to implement article 12 as it then was worded. Unfortunately, existing conditions were far from normal. Thus, in 1938 the Netherlands had admitted thousands of German Jews driven out of their own country; however, it had not found it possible to receive all of them.

Therefore, Mr. Beaufort thought it preferable to add the words "to the extent that this is possible" after the words "to seek and be granted" in paragraph 1.

Again, he thought that the French amendment concerned a measure of implementation of article 12 and was out of place in the declaration. If, however, the Committee should decide to accept the French amendment, then he made the suggestion that the words "where necessary" should be added after the words "is required". Such a change would mean that the United Nations would undertake to ensure the application of the right of asylum only in the event of States being unwilling or unable to do so. [332]

MR. PLAZA (Venezuela) entirely approved of the text proposed by the Commission on Human Rights. The Venezuelan Constitution granted the right of asylum to political refugees subject to existing laws and treaties. However, the principle concerned was not a right but a humanitarian practice which the State concerned was free to accept or to reject.

The Venezuelan delegation therefore supported the United Kingdom amendment, on condition that the words "and to enjoy" did not imply an obligation on the part of the State; the Committee was discussing human rights and not the obligations of governments.

Mr. Plaza accepted the amendments of Bolivia and Uruguay; those amendments corresponded to current practice, which should be explicitly established rather than tacitly accepted.

While recognizing the value of the USSR amendment, he thought that article 12 should have a wider scope and should not contain categories so sharply defined.

Finally, he drew attention to the full meaning of the word "persecution" and felt that the declaration should not only attempt to palliate the effects of existing persecution but provide everyone with the opportunity to defend himself against imminent persecution.

MR. SANTA CRUZ (Chile) recalled that the Commission on Human Rights had been instructed in 1946 to formulate the draft declaration.¹ It had studied a great number of problems and was fully acquainted with the question of the displaced persons and victims of persecution who were homeless. The Commission on Human Rights had borne that situation in mind in elaborating the text of article 12.

The objection had rightly been raised that States could not be obliged to receive victims of persecution because there might be serious domestic reasons against their reception. The delegation of France proposed an amendment under the terms of which the United Nations would be designated as being required to secure the right of asylum. The United Nations, with the material resources at its disposal and with the moral authority it possessed, was in a position to fulfil that obligation.

The representative of Chile said that he would therefore support the amendment proposed by France and that he considered its adoption indispensable.

The Chilean delegation would also support the amendments proposed by Bolivia and Cuba.

With regard to the amendment submitted by the USSR, he pointed out that that text had the dual purpose of giving greater precision to the wording of article 12 and of preventing fascists and Nazis from seeking refuge abroad under the pretext of availing themselves of the right of asylum.

According to the USSR proposal, the right of asylum would be granted to persons persecuted for having defended the interests of democracy or for their scientific activity or for their partici-

^[2] See *Official Records of the Economic and Social Council*, First Year, First Session, annex 8, resolution 1/5.

[333]

pation in the struggle for national liberation. Mr. Santa Cruz thought that the scope of article 12 was thereby singularly restricted because, to cite only one instance, the victims of religious or racial persecution were not mentioned in that amendment. The basic text covered all cases including that of warmongers. The Chilean delegation would therefore vote against the USSR amendment.

After the Chairman had stated that the list of speakers taking part in the general discussion of article 12 was closed, MR. PAVLOV (Union of Soviet Socialist Republics) submitted a motion that the list should be kept open.

THE CHAIRMAN put that motion to the vote.

The motion was rejected by 14 votes to 12, with 11 abstentions.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) wished to make his position clear: the representative of the United Kingdom had mentioned Uruguay among the countries whose constitution was less liberal in regard to the right of asylum. The attitude of the Uruguayan delegation would therefore seem to be a peculiar one, since it proposed amendment (A/C.3/268) designed, on the contrary, to extend the benefit of the right of asylum.

In fact, the judgment of the United Kingdom delegation was based on a confusion: immigration and the right of asylum were two quite different things and article 36 of the Constitution of Uruguay restricted immigration and not the right of asylum.

MR. CAMPOS ORTIZ (Mexico) said that he had been forestalled by the representative of Uruguay when the latter had replied to the delegation of the United Kingdom on the subject of less liberal regimes in regard to the right of asylum. Mexico, on the contrary, had a very broad conception of the right of asylum, and it was immigration that was restricted in that country.

In general, he agreed with the text proposed by the Commission on Human Rights. For the first paragraph he preferred, however, the draft proposed by the United Kingdom.

He pointed out the excessively restrictive nature of the USSR amendment, which did not take into account all the forms which persecution could assume.

He declared his agreement with the amendment proposed by Bolivia: the right of asylum in embassies and legations was in fact the ratification of a practice recognized moreover by two international conventions. Therefore Mexico would vote in favour of the Bolivian amendment, if it took into account the suggestion of the representative of Uruguay that it should be made clear that the right of asylum should extend to the "territory" comprised in the precincts of embassies and legations.

Mr. Campos Ortiz considered the French amendment quite opposite and said he would support it.

COUNT CARTON DE WIART (Belgium) pointed out that the general nature of paragraph 1 had been recognized by all the delegations.

On the other hand, he wished to emphasize, since the fact had not been thrown into relief, [334] that the restrictive nature of paragraph 2 constituted a retrogression in regard to the liberal tradition and jurisprudence of many countries, including Belgium – which had refused the requests of several States for the extradition of

persons who were nevertheless undesirable – or of the Netherlands which had granted asylum to Kaiser Wilhelm II after the First World War.

Hence it was necessary to have recourse to certain guarantees in the application of the provisions of article 12. France realized that when it maintained that national sovereignties should yield to the interests of the community. The French amendment entrusted the United Nations, in concert with countries concerned, with the charge of ensuring to victims of persecution enjoyment of the right of asylum.

The Belgian delegation approved the principle of that amendment and would vote for it, with the reservation suggested by the representative of the Netherlands. That solution was all the more acceptable because it would enable recourse to be had to the supreme jurisdiction of the International Court of Justice to decide contentious cases.

With regard to the amendments proposed by Bolivia and Uruguay, he considered that the proper place for the right of extra-territoriality was in a convention regarding application, and not in a declaration of human rights.

MR. SANDIFER (United States of America) supported the text adopted by the Commission on Human Rights subject to the inclusion of the amendment proposed by the United Kingdom. That amendment was, in his opinion, most pertinent. It improved the drafting of the text and appeared to reflect the views of the majority of the Third Committee.

He could not support the amendments presented by Bolivia and Uruguay, which were not relevant there, and should be embodied in separate conventions on diplomatic privileges and immunities.

He thought, too, that the French amendment was not called for as it amounted to a measure of implementation, the importance of which had been clearly shown by the discussion on the matter. It was impossible to agree to the United Nations becoming the trustee for securing the right of asylum without going very thoroughly into the matter. Moreover, the Third Committee was presumably not qualified to deal with that question, which would come within the competence of the Sixth Committee. He would therefore vote against that amendment.

He was also strongly opposed to the amendment proposed by the USSR. Article 12, as it stood in the basic text, set forth very reasonable limitations which there was no cause to change. The United States representative expressed his surprise that the USSR, which fought against discrimination in all its forms, should seek to restrict the benefits of article 12 to certain groups of persons.

MR. HABIB (India) supported the United Kingdom amendment. The basic text of article 12 seemed to indicate that a request made by a foreigner to enter a country was a categorical moral right, whether the country in which asylum was being sought was willing to grant it or not. The United Kingdom amendment made a useful correction to that idea. No one had the right to enter foreign territory without permission from the State governing that territory. If, however, the permission of the State

concerned were given, the right to enjoy fully the asylum granted him by that State could not be disputed.

If the United Kingdom amendment were adopted, the amendment proposed by Saudi Arabia would become unnecessary.

The USSR amendment, in contrast to the text of the Commission on Human Rights, did not cover all cases which might arise and limited the right of asylum to three categories. Victims of religious persecution, for instance, would not be protected under the amendment.

The Indian delegation, furthermore, could not accept the principle of extending the right of asylum to embassies and legations of foreign Powers as that would give rise to serious disorders in non-American countries.

He acknowledged finally the value of the principle underlying the French amendment. He considered it preferable, however, to maintain the wording of the basic text of article 12 and to put the French delegation's proposal in the form of a resolution of the General Assembly.

MR. AQUINO (Philippines), defining the concept of the right of asylum, stated that it was a right which could be claimed by all those, who fleeing from persecution in their own country, sought elsewhere the possibility of enjoying their basic right to existence. That concept did not include the right to residence or the right to work.

The Philippine delegation supported the United Kingdom amendment which further clarified the intention of article 12 and did away with objections based on considerations of national sovereignty.

With regard to French amendment, he considered that measures of implementation should not be included in the declaration.

He recognized the value of the arguments brought forward by the French delegation but thought the right of asylum should be a permanent one which could be exercised in urgent cases; such would not be the case if, instead of applying direct to the authorities of the countries in which they sought asylum, refugees were obliged to apply first to the United Nations.

He appreciated the praiseworthy intentions of the USSR amendment. He agreed of course that war criminals and fascists should be prevented from benefiting from the right of asylum, but he thought it would be a serious mistake to adopt the amendment in question, which would prevent a great many persons from being protected against racial discrimination.

MR. AZKOUL (Lebanon) thought that in the discussion which had just taken place, the conception of the right of the individual had been replaced to a certain extent by that of the obligation of the State. The statement of a right should not, however, depend on the possibility of States to comply with that right. If it were part of the birthright of man, it should be established even if, for accidental reasons, it did not seem possible to ensure immediate implementation. The particular difficulties of each State should be

dealt with in the covenant which was to be drawn up. The [336] declaration therefore should limit itself to setting forth the rights inherent in the human person.

For those reasons, the Lebanese delegation would be inclined to support the text proposed by the Commission on Human Rights which ensured the individual not only the right of seeking asylum, but also the right of being granted asylum. In order to take into account, however, the serious considerations brought forward by several other delegations, it would be ready to accept the wording proposed by the United Kingdom, which was more subjective than the basic text, since it established the right of asylum without specifying who was to give effect to that right, as that could not yet be indicated. Nevertheless, his delegation wished to make it quite clear that by the expression “and to enjoy. . . asylum”, it understood that the individual should be guaranteed the right of being granted asylum, and not merely the right of enjoying asylum in the country which had received him, once that right had been acquired.

As regards the amendment submitted by the French delegation, he did not consider that it brought up the question of implementation, as it merely stated who should be responsible for upholding that right but did not deal with the actual problem of measures of implementation. Whatever conclusions could be reached in that connexion however, the text proposed by the French delegation was, nevertheless, in the Lebanese delegation’s view, rather dangerous, as it placed on the United Nations all the responsibility of granting protection to victims of persecution. Respect for the declaration of human rights and the implementation of its principles should not depend on the existence of the United Nations. Even if the United Nations were to disappear, the principles set forth in the declaration would retain all their moral force.

If the text submitted by the French delegation were changed in the sense suggested by the Netherlands representative, that objection would no longer exist, and the Lebanese delegation would support the amendment.

Finally, he endorsed the arguments already used by previous speakers against the amendment suggested by the USSR representative. If that amendment were applied literally, it would result in practice in the right of asylum being granted only to heroes or scientists. Even the least distinguished person, merely by reason of the fact that he was a human being, had however a right to escape from persecution, and it was the duty of the international community to help him do so.

MR. SHAHI (Pakistan) stated that his delegation extended its support to the text proposed by the Commission on Human Rights. Recognition of the right of everyone to seek and be granted asylum was a welcome step forward; in the past, international law had regarded the right of asylum as accruing to a State by virtue of its sovereign independent status rather than as one of the fundamental rights of man. The inclusion of that right in an international declaration would establish as a principle what was then current international practice.

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It was clear from articles 16 and 17 of the draft declaration that it was necessary to include that right among the fundamental rights of man. If everyone had the right of freedom of thought and expression, a person could obviously preserve his intellectual and moral integrity only by seeking refuge abroad, should his own country deny him the enjoyment of those essential liberties.

After condemning the Nazi and fascist ideologies and the conception of the absolute State, Mr. Shahi emphasized the necessity of guaranteeing to everyone not only the right to seek asylum but also the possibility of enjoying that asylum. The delegation of Pakistan understood the reluctance of certain delegations to impose upon States obligations which would prevent them from exercising their freedom of choice, and might conflict with their immigration laws. There was an unquestionable connexion between the granting of the right of asylum and immigration laws; nevertheless, the Pakistan delegation did not think that, by granting the right of asylum to the persons covered by article 12, a country would seriously endanger its immigration policy, since the number of refugees fleeing from political persecution was seldom so great as to destroy the ethnical balance in that country. Furthermore, there was no reason why a State should not enforce such restrictions upon the entry of refugees as might be considered necessary for national security and public welfare.

The Pakistan delegation had also considered with care the amendment submitted by the Egyptian delegation. It feared that that amendment might change the very meaning of article 12, reducing it to a static formula. Since the right to claim asylum was not admitted by the rules of international law, then to make the exercise of that right subject to such rules, as proposed by the Egyptian delegation, would be tantamount to preventing it from coming into existence until international law had developed sufficiently to include that principle. Another objection to the amendment was that it did not take into consideration cases without any historical precedents, such as that of Kaiser Wilhelm II, for which the rules of international law could not serve as a guide.

As regards the amendments submitted by the representatives of Bolivia and Uruguay to extend the right of asylum to embassies and legations, the Pakistan delegation noted that such an amendment introduced into article 12 the concept of extra-territoriality, a concept which might have dangerous implications. The nations of the East knew better than any others its mischievous application: the history of capitulations in the Ottoman Empire, of the concessions in China, and of similar jurisdictions or rights granted in the Near and Far East, furnished unfortunate examples. For that reason the Pakistan delegation would prefer that the right of asylum should not be extended to embassies and legations.

Mr. Shahi pointed out that if those amendments were adopted, the words "in other countries" in the first paragraph of article 12 should be deleted. The delegation of

Pakistan considered that the amendment submitted by the USSR limited the scope of article 12: the desired reservations were [338] ensured by the provisions of paragraph 2, because, by denying the right of asylum to all those guilty of acts contrary to the purposes and principles of the United Nations they *ipso facto* denied asylum to the Nazis and fascists whom Mr. Pavlov wished to exclude from the benefits of article 12.

Finally, the Pakistan delegation would support the amendment submitted by the French delegation because, while in agreement with those representatives who considered that the measures for implementation should be included in the covenant, it shared the opinion of Mr. Cassin that when a right was proclaimed the party whose duty it was to give effect to that right should also be stated.

MR. WATT (Australia) said that the discussion which had just taken place revealed the importance of article 12 and the necessity of examining it with care.

The Australian delegation supported the proposal of the delegation of Saudi Arabia to delete the words "and be granted" in paragraph 1 of the article. The Australian delegation had more than once pointed out that formulas implying obligation must be avoided in the text of the declaration of human rights. It should be a straightforward, clear and precise statement of the fundamental rights of man and must make no reference to the corresponding obligations of the State. As for the right of asylum, each State must be free to decide the form in which that right, having been proclaimed in the declaration, should be applied. The manner of application might vary according to circumstances, the possibilities which a State had to grant asylum, and the size of the groups making application. The formula proposed by the United Kingdom delegation to ensure that the individual enjoyed asylum once that right had been granted, was excellent and had the complete approval of the Australian delegation. To go further would be to run the risk of serious complications.

The Australian delegation had the same objections to the amendments submitted by the delegations of the USSR and France. The French amendment moreover imposed upon the United Nations an obligation which was not clearly defined and which might lead to unforeseen difficulties. What exactly was asked of the United Nations? To which of its organs would the question of persecuted persons be referred? All those matters deserved the most careful study, possibly elsewhere than in the Third Committee.

As for the extension of the right of asylum to embassies and legations, he shared the opinion of the representatives of Belgium and the United States. Diplomatic immunity was in principle granted to representatives of States. To what other persons did the amendments of Bolivia and Uruguay wish to extend such immunity? To the citizens of the country to which the embassy belonged, or to those of the country where the embassy was situated, or to those of yet a third country? Would

the embassy be able to grant the right of asylum as it thought fit, or would it be expected to accede to the request whenever it was made? All those were questions to which no answer had been given.

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The Australian delegation considered that there existed a general right of asylum and that to go beyond the recognition of that right, would be to go further than one could or should go, at that time, in a declaration of human rights.

MR. RADEVANOVIC (Yugoslavia) said that his delegation was fully aware of the importance of the question dealt with in article 12 of the declaration of human rights. That right, which must be recognized and established, supplemented the list of fundamental human rights. It was at the same time necessary to define it and to limit its application, for it could not be an absolute right, either from the point of view of justice or of morality.

Since the end of the war the General Assembly had, on several occasions, dealt with the general question of the right of asylum, in connexion with the problem of refugees or the extradition of war criminals, traitors and quislings.

There was a serious gap in the text drafted by the Commission on Human Rights since it did not take into account either those special cases or the international provisions relating to them. The limitations contained in paragraph 2 were insufficient: they ignored the new provisions established in post-war international documents, the declarations of the Allied leaders at Moscow, Potsdam and Yalta, the resolutions of the General Assembly of the United Nations, the London Agreement¹ and Law No. 10 of the Allied Control Council in Germany,⁸⁶ all of which related to the prosecution and punishment of war criminals and laid precise obligations upon States to surrender war criminals and traitors who had sought shelter in their territories.

The Yugoslav delegation held that the international declaration of human rights could neither expressly nor tacitly by virtue of a general clause, extend the right of asylum to persons who had been morally condemned by the conscience of the world. There were still many war criminals, former German and Italian officers and nationals of occupied countries guilty of dealing with the enemy, who had found asylum in certain countries, particularly in the Western occupation zones of Germany and Austria. Whenever the Yugoslav Government had tried to secure their extradition it had met with numerous difficulties. It was therefore unable to agree that the benefit of the right of asylum – admittedly a legitimate right – should be extended to war criminals and traitors in virtue of a provision drafted in too general terms.

⁸⁶ Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, 20 December 1945, *Official Gazette of the Control Council for Germany*, No. 3, Berlin, 31 January 1946, pp. 50–55. Control Council Law No. 10 provided the legislative basis for post-war trials held by American Military Tribunals at Nürnberg as well as for national prosecutions before Germany's domestic courts.

The imperfections of article 12 were clearly seen in the light of the abuses that were still occurring daily in violation of international obligations and contrary to the interests of democracy and of international solidarity. Those who had drafted the article had undoubtedly not considered all the aspects of the problem.

The Yugoslav delegation would therefore vote for the amendment submitted by the USSR delegation since that amendment had the merit of de-

^[1] Agreement for the establishment of an International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis, signed on 8 August 1945.

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fining the scope of the article and of bringing it more closely into agreement with the requirements of justice and the interests of peace.

MR. DE ATHAYDE (Brazil) emphasized that the conception of asylum contained in article 12 was one of the oldest in the history of the relations between peoples. That right of asylum was recognized and accepted by the chief civilizations of the world. A declaration of fundamental human rights would be incomplete if it did not explicitly affirm that right.

The Brazilian delegation would therefore lend its support to the general conception as stated in the text drafted by the Commission on Human Rights. It also entirely agreed with the proposal of the delegations of Bolivia and Uruguay to extend the right of asylum to embassies and legations. That proposal was in accordance with current practice in Latin America. It would, however, be more appropriate for it to be inserted in the draft covenant.

As for the French amendment, which the Brazilian delegation accepted in principle, Mr. Cassin would perhaps agree to modify the text a little in order to meet the objections raised during the discussion. He proposed the following new text for paragraph 1 of article 12:

“Everyone has the right to seek and be granted in other countries, asylum from persecution, *with the support, if necessary, of the United Nations acting in concert with the other States.*”

MRS. CORBET (United Kingdom), answering the representatives of Uruguay and Mexico, said that the explanations given by Mr. Jiménez de Aréchaga and Mr. Campos Ortiz had provided her with all the necessary information concerning the right of asylum in their respective countries. With regard to the interpretation of the amendment submitted by her delegation she desired to make it clear that its intention was not to grant to a person fleeing persecution the right to enter any and every country but to ensure for him the enjoyment of the right of asylum once that right had been granted him. The United Kingdom amendment limited the obligation of the State, but gave the individual an assurance that he would continue to enjoy the right of asylum after his entry into the country of refuge.

Her delegation agreed with the comments made by the Australian representative on the proposal of the delegations of Uruguay and Bolivia to extend the right of asylum to embassies and legations; that proposal would be acceptable if the original text of article 12 were amended on the lines she suggested. If that were done the United Kingdom delegation would vote for the proposal, it being understood however that the right of asylum within embassies and legations would be granted temporarily and that the ambassador or minister would have full freedom to grant or refuse it.

Finally, she expressed the hope, that the French representative could not insist on maintaining his amendment, which had essentially the same objects as the United Kingdom amendment, namely to limit the obligation of States.

The meeting rose at 6:15 p.m.

A/C.3/SR.122⁸⁷

4 November 1948

***Summary Record of the Hundred and Twenty-Second Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Thursday,
4 November 1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

46. Draft international declaration of human rights (E/800) (continued)

Article 12 (continued)

THE CHAIRMAN reminded the Committee that the amendments to article 12 were recapitulated in document A/C.3/285/Rev.1.

MRS. KALINOWSKA (Poland) said that the amendments proposed by the United Kingdom (A/C.3/253) and Saudi Arabia (A/C.3/241) would weaken the article. The Spanish Republicans, for example, who might be said to have been fighting for the ideals of the United Nations, had the right to be protected.

Asylum had in some cases been refused to Spanish Republicans, but had been granted to fascists. The representative of the United Kingdom had stated that no one could dictate to a Government about the right of asylum. The Moscow Agreement of 1943 had stipulated that the right of asylum should not protect war criminals from

⁸⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 341–8.

extradition. That agreement was unfortunately not being observed in all cases by Members of the United Nations. Poland, which had perhaps suffered more than most countries from the activities of the war criminals, felt it incumbent upon itself to protest. Nazis were still at large in certain Latin American countries and elsewhere, while asylum had been refused to democrats such as the Spanish Republicans.

She would support the amendment proposed by the USSR delegation (E/800, page 33).

MR. LITOVCHENKO (Ukrainian Soviet Socialist Republic) said that it was impossible to accept the amendments proposed by Bolivia (A/C.3/227) and Uruguay (A/C.3/268). Neither of them had any direct relevance to the declaration; such matters should rather be included in treaties between States. Those amendments might look like an attempt to intervene in matters within the domestic jurisdiction of States and, if adopted, might provide a pretext of misuse of the principle of extra-territoriality.

The USSR amendment (E/800, page 33), which had been criticized on the ground that it was restrictive, stated explicitly what categories of persons should be guaranteed asylum. Article 129 of the USSR Constitution laid down that asylum should be granted to the same categories of persons as those mentioned in the USSR amendment.

The basic text of article 12 was ambiguous to such an extent that it might be used by Governments such as the Franco regime in Spain as a pretext for granting asylum to war criminals.

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He would support the USSR amendment and would oppose the Uruguayan and Bolivian amendments.

MR. CASSIN (France) said that it would be impossible for a right of asylum to exist without confirmation by the United Nations. The United Nations should recognize that right directly. That recognition, however, should not be dogmatic. He therefore urged the adoption of the new draft amendment proposed jointly by France and Brazil (A/C.3/322).

He did not agree with the restrictive conception embodied in the words "to enjoy" in the United Kingdom amendment (A/C.3/253). Moreover, the persecuted would need to receive asylum, not merely the right of asylum.

With regard to the Polish representative's remarks about the Spanish Republicans, France, in accordance with its high traditions, had given asylum to several hundred thousand.

He agreed with the representative of Belgium that it would be more correct in paragraph 2 to replace the word *authentiquement* by the word *réellement*. There had been cases in which extradition of persons seeking asylum for political reasons had been requested on the grounds that they were common law criminals.

The text of the article should be defended against over-expansion and over-restriction. The Cuban amendment (A/C.3/232) was so broad that it might leave a loop-hole for criminals. The USSR amendment (E/800, page 33), on the other hand, was too restrictive and was fully covered by the substance of paragraph 2; its adoption would weaken the text.

The Uruguayan (A/C.3/268) and Bolivian (A/C.3/227) amendments went far beyond the scope of the declaration. He would urge that no attempt should be made to render universal what was a specifically Latin American tradition. That tradition had on certain occasions not received a purely humanitarian interpretation.

MR. PAVLOV (Union of Soviet Socialist Republics) could not accept the joint French and Brazilian amendment. It was tantamount to asking the United Nations to intervene in matters within the domestic jurisdiction of States, in violation of the Charter.

He agreed with the representative of the Ukrainian USSR that the Bolivian and Uruguayan amendments would tend to interfere with national sovereignty and with the relations between Governments and their citizens. The sole purpose of embassies and legations was to permit Governments to transact business with one another.

He disagreed with the representatives of Chile and the United States that the USSR amendment was already covered by paragraph 2 of the [343] basic text. That paragraph was ambiguous and might provide a loop-hole for war criminals.

It might be possible to plead that a crime had taken place before the United Nations had been established, and that, therefore, it was not punishable as being contrary to the purposes and principles of the United Nations. The United States argument would leave that loophole wide open. The representative of the United Kingdom had argued that the USSR amendment (E/800, page 33), which had been based upon article 129 of the USSR Constitution, did not provide sufficient guarantees for asylum; he did not agree. If the USSR amendment were not broad enough, other representatives should add further categories of persons to be protected; he would be glad to support them.

The United Kingdom amendment (A/C.3/253) affirmed the right to seek asylum, but that was of little value unless there were provisions for implementing it. The United Kingdom and Saudi Arabian (A/C.3/241) amendments tended to reduce to nothing the possibilities of receiving asylum. The United Kingdom amendment, however, would be acceptable if any guarantee of asylum were added to it.

He requested a roll-call vote on the USSR amendment, in view of its importance for all persons suffering persecution because of their defence of democracy.

THE CHAIRMAN announced that the Cuban delegation had withdrawn its amendment (A/C.3/232).

He pointed out that the USSR amendment (E/800, page 33) was proposed as a total substitution for paragraph 1 of the basic text. If it were rejected, a vote would be

taken on all other amendments before the Committee. He put the USSR amendment to the vote.

A vote was taken by roll-call, as follows:

The Byelorussian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Canada, Chile, China, Colombia, Denmark, Dominican Republic, France, Greece, Haiti, Honduras, India, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela, Australia, Belgium, Bolivia.

Abstaining: Ecuador, Ethiopia, Iran, Iraq, Saudi Arabia, Afghanistan.

That amendment was rejected by 30 votes to 6, with 6 abstentions.

THE CHAIRMAN put to the vote the Saudi Arabian amendment (A/C.3/241), proposing the deletion of the words “and be granted” from paragraph 1 of the basic text.

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That amendment was adopted by 18 votes to 14, with 8 abstentions.

THE CHAIRMAN called for a vote on the United Kingdom amendment (A/C.3/253) proposing that paragraph 1 of article 12 be amended to read as follows: “Everyone has the right to seek, and to enjoy, in other countries, asylum from persecution.”

He pointed out that the French translation of that text should read: “*et de jouir de l’asile en un autre pays*”.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed that the words “to receive” should be inserted as an essential link between the words “to seek” and “and to enjoy” in the United Kingdom amendment. There was no point in a guarantee of enjoying asylum unless there was also established the right to obtain it.

THE CHAIRMAN ruled that the proposed insertion had already been rejected by the Committee when it had voted on the Saudi Arabian amendment. It could not, therefore, be put to the vote.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that the proposal of the USSR representative constituted an amendment to the United Kingdom amendment. It applied to a new text which was still before the Committee.

MR. PAVLOV (Union of Soviet Socialist Republics), formally invoking rule 102 of the rules of procedure, appealed from the Chairman’s ruling.

He requested a roll-call vote on the United Kingdom amendment.

THE CHAIRMAN put the appeal to the vote in accordance with rule 102.

The Chairman's ruling was upheld by 19 votes to 9, with 12 abstentions.

THE CHAIRMAN put the United Kingdom amendment to the vote.

The vote was taken by roll-call, as follows:

Pakistan, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: Pakistan, Peru, Philippines, Saudi Arabia, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Venezuela, Australia, Belgium, Canada, Chile, China, Costa Rica, Denmark, Dominican Republic, Ethiopia, Greece, Haiti, Honduras, India, Iraq, Luxembourg, Mexico, Netherlands, New Zealand, Norway.

Against: Bolivia.

Abstaining: Poland, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, Yugoslavia, Afghanistan, Argentina, Byelorussian Soviet Socialist Republic, Czechoslovakia, Ecuador, France, Iran.

The amendment was adopted by 30 votes to 1, with 12 abstentions.

MR. SAINT-LOT (Haiti) said that he had voted in favour of the United Kingdom amendment because, while designed to ensure the right of [345] asylum, that amendment did not impose upon States the obligation to grant it. It was because such an obligation was contrary to international law that he had voted for the Saudi Arabian proposal to delete from the original text the words "and be granted".

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay), MR. BEAUFORT (Netherlands) and MR. SHAHI (Pakistan) explained that, as the Saudi Arabian amendment which they had opposed had been adopted by the Committee, they had voted in favour of the United Kingdom amendment because, in the circumstances, it made article 12 somewhat more liberal than it would otherwise have been.

MISS ZULOAGA (Venezuela) stated that she had voted in favour of the United Kingdom amendment because she believed that the obligation to grant asylum should be moral rather than legal.

MR. CASSIN (France) said that he had been unable to vote in favour of the United Kingdom amendment as it unduly weakened the article, but he had not wished to vote against it inasmuch as it represented a certain improvement over the original text as amended by Saudi Arabia.

If the joint French and Brazilian amendment to paragraph 1 of article 12 were accepted, he would be able to vote in favour of that paragraph.

MR. ANZE MATIENZO (Bolivia) had voted against the United Kingdom amendment because he preferred the stronger and more comprehensive text of the basic draft.

THE CHAIRMAN announced that the Netherlands amendment (121st meeting) to article 12 had been withdrawn.

He put to the vote the joint French and Brazilian amendment (A/C.3/322).

MR. CASSIN (France) requested that the vote be taken by roll-call.

A vote was taken by roll-call, as follows:

Saudi Arabia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Uruguay, Belgium, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, France, Haiti, Mexico, Pakistan.

Against: Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States of America, Yugoslavia, Australia, Byelorussian Soviet Socialist Republic, Canada, China, Czechoslovakia, Greece, Honduras, India, Iran, Iraq, Netherlands, New Zealand, Norway, Philippines, Poland.

Abstaining: Saudi Arabia, Venezuela, Afghanistan, Argentina, Denmark, Dominican Republic, Ethiopia, Luxembourg, Peru.

The amendment was rejected by 24 votes to 12, with 9 abstentions.

MR. ANZE MATIENZO (Bolivia) and MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) withdrew their amendments extending the right of asylum to refuge in embassies and legations. Latin American countries considered that right sacred; it was preferable not to submit it to the vote as [346] an adverse vote taken by the Third Committee might create an unfortunate precedent and weaken the principle involved.

In reply to a question by MRS. ROOSEVELT (United States of America), MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) and MR. CAMPOS ORTIZ (Mexico) explained the meaning of their proposal (121st meeting) that the words “in other countries” in paragraph 1 should be replaced by “within the territory of other countries”. If that amendment were adopted, countries which believed that the legal concept of territory extended to their legations and embassies abroad would be free to interpret article 12 in that sense, whereas other countries could interpret it as applying only to their geographical territory.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that, in view of the fact that the Bolivian and Uruguayan representatives had withdrawn their amendments which explicitly mentioned legations and embassies, it would be only consistent if the amendment of Uruguay and Mexico, which dealt with the same subject in veiled terms, were also withdrawn.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) explained that there was a substantive difference between the two amendments in that the amendment still before the Committee permitted each country to decide for itself whether or not its embassies and legations should grant asylum. The amendment would consequently be maintained.

THE CHAIRMAN put the Uruguayan-Mexican amendment to the vote.

That amendment was rejected by 19 votes to 12, with 12 abstentions.

THE CHAIRMAN put to the vote the Egyptian amendment (A/C.3/264) to add at the end of paragraph 1 the words “in accordance with the rules of international law”.

That amendment was rejected by 26 votes to 2, with 11 abstentions.

THE CHAIRMAN ruled that the word “*authentiquement*” in the French text of paragraph 2 would be replaced by “*réellement*”.

At the request of the representative of Poland, the Chairman put the amended text of article 12 to the vote in two parts.

Paragraph 1, as amended, was adopted by 39 votes to none, with 3 abstentions.

Paragraph 2 was adopted by 41 votes to none, with 1 abstention.

The article 12 as a whole, as amended, was adopted by 40 votes to none, with 1 abstention.

MR. CONTOUMAS (Greece) had voted in favour of the Saudi Arabian amendment because, although his country had always been generous in according asylum to the persecuted, he had shared the opinion of many delegations that States should not be obliged to grant asylum, but should be able to do so at their discretion.

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He had voted in favour of the United Kingdom amendment because he felt that, once a State had granted the right of asylum to any person, that right should be freely enjoyed. That appeared to be the most liberal provision that could be made under existing conditions.

He had voted against the USSR amendment because, if States were not obliged to grant asylum, there was no need to define the categories of compulsory asylum and against the Egyptian amendment because international law contained no regulations concerning the right to asylum.

MR. SANTA CRUZ (Chile) had voted in favour of article 12 even though it had been unduly weakened by the Saudi Arabian amendment.

He had voted against the USSR amendment because it would have restricted the right of asylum to certain specific groups.

He deplored the rejection of the joint French and Brazilian amendment, which placed some measure of moral responsibility upon the United Nations, and of the amendments extending the right of asylum to embassies and legations. That practice was current not only in Latin America, but also in Latin American embassies in Europe; thousands of Spanish Republicans had been saved by those embassies during the Spanish Civil War. He hoped that that great Latin American tradition would soon be adopted by the rest of the civilized world.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he had found it possible to vote for paragraph 1 as amended by the United Kingdom delegation, in spite of the fact that the paragraph thus amended was much weaker than either the basic text or the text proposed by the USSR delegation.

He had voted in favour of paragraph 2 on the understanding that no country could give shelter to war criminals on the grounds that their crimes had been committed

before the United Nations had come into being, since the purposes and principles of the United Nations had at that time already been recognized by all democratic peoples. No objection had been raised to that interpretation by any member of the Committee.

MR. CASSIN (France) had voted in favour of the amended text of article 12, imperfect as it was, because it was essential for the declaration to contain an article dealing with the right of asylum. It had been a mistake, however, to recognize the individual's right to seek asylum while neither imposing upon States the obligation to grant it nor invoking the support of the United Nations.

MR. SHAHI (Pakistan) said that he had abstained from voting on the Uruguayan-Mexican amendment because, while his delegation had certain misgivings with respect to the concept of extra-territoriality, it recognized that the right of asylum in embassies and legations was a custom of long standing amongst South American States and believing as he did in the relativity of laws and institutions, he was prepared to con-[348]cede that what might have harmful effects in one part of the world might have beneficial results in another. Hence he had abstained from voting in order not to prejudice the recognition of what the South American peoples might consider a fundamental right.

Article 13¹

THE CHAIRMAN pointed out that the amendments to article 13 were recapitulated in document A/C.3/286/Rev.1.

MR. CASSIN (France) said that the text of article 13 as drafted by the Commission on Human Rights did not cover sufficient ground. It was for that reason that the French delegation proposed certain additions to it (A/C.3/244).

The text should be prefaced by the statement: "Every human being has the right to a nationality."

As the United Nations was itself based on the principle of nationality, it could not accept the existence of hundreds of thousands of stateless persons. While the United Nations itself did not have the right to take the place of a State in that matter, it was its duty to approach States for the purpose of preventing statelessness and to concern itself with the fate of stateless persons. His delegation had therefore also proposed the addition of a paragraph to that effect. The Economic and Social Council was already considering the question of statelessness; it would be greatly encouraged in its work if the declaration stated that it was the duty of the United Nations to concern itself with that question.

MR. BARODY (Saudi Arabia) observed that he would support the USSR amendment (E/800, page 33) to article 13 because that amendment took into account the fact that it was the prerogative of every State to deal, by law, with the subject of nationality.

In reply to a question by the representative of Turkey, the Chairman said that, in the understanding of the Commission on Human Rights, the word “arbitrarily” was not synonymous with “illegally”; it had a wider scope. The Commission had wished to use a general term suggesting a criterion above and beyond the laws of States, to which those laws should conform.

The meeting rose at 1 p.m.

...

[1] Article 16 of the draft universal declaration of human rights (A/777).

A/C.3/324

5 November 1948

Brazil: Amendment to the 3rd paragraph of the French amendment (A/C.3/286/Rev.1)

“The fate of persons temporarily deprived of nationality should become the care of the United Nations”.

A/C.3/SR.123⁸⁸

5 November 1948

Summary Record of the Hundred and Twenty-Third Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Friday,
5 November 1948 at 10.30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

47. Draft international declaration of human rights (E/800) (continued)

Article 13 (continued)

THE CHAIRMAN announced that the Cuban delegation had withdrawn its amendment (A/C.3/232).

⁸⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 348–59.

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MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that his first amendment (A/C.3/268), proposing the addition of a preliminary paragraph, was practically identical with the French (A/C.3/244) and Lebanese (A/C.3/260) amendments to that effect. He preferred, however, the word “everyone”; it was more concise than the French suggestion “every human being”.

Regarding his second amendment, he said that the Commission on Human Rights had understood the word “arbitrarily” to mean some measure which could be carried out in accordance with an unjust law. The more exact meaning of arbitrary was anything done in contravention of a known standard of principles. An arbitrary act was usually an act committed against law, but it could be a just act if it contravened an unjust law. There should be a higher standard of justice to which the laws on deprivation of nationality should conform. If article 29 had not been deleted from an earlier draft by the Commission, his amendment would have been unnecessary, since that article would have interpreted the declaration in accordance with the principles of the Charter.

MR. AZKOUL (Lebanon) agreed with the representatives of France and Uruguay that a statement of general principle was needed. The basic text protected the rights of persons who already possessed a nationality; but there were people who did not possess it. States did not necessarily have an obligation to grant nationality to all who asked for it; but it might be possible to urge the United Nations to consider some method of persuading them to do so. It was desirable that the United Nations should find some way of extending the rights embodied in the declaration to all people.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the USSR amendment (E/800, page 33) merely clarified the basic text by making reference to the domestic competence of every State.

The French amendment proposed to make it the duty of the United Nations to assume functions which were essentially in contradiction with the provisions of the Charter, and which could not in fact be fulfilled. The majority of the Commission had decided that it would be wrong to involve the United Nations in the relations between States and their citizens because that would infringe their sovereignty. If the United Nations became responsible for stateless persons, it would have to assume the financial obligations implied in such responsibility, a special organization and special funds would be needed. The Third Committee was not competent to decide that. It would, therefore, be most unwise to take any hasty decision. If a State received and maintained stateless persons, it did so on its own responsibility and should not be allowed to pass that responsibility on to the United Nations, which was in no way responsible for the circumstances which had given rise to their stateless condition. The wording of the French amendment was meaningless in law.

It was impossible to speak of “a nationality”. A person could only be a national of a given State. If it was impossible to say who would grant that [350] nationality or who would implement that right, it might be taken to mean that the United Nations itself should grant citizenship.

The article assumed the prior existence of nationality. That was correct, since the majority of people did in fact possess nationality. The only statement which would not conflict with the Charter was that no one should be deprived of his nationality. The Lebanese and Uruguayan amendments were, therefore, superfluous. The recognition of the right to nationality in the basic text was indirect, but acceptable. The declaration of human rights was not the proper place to define the right to citizenship.

Replying to the representative of Egypt, Mr. Pavlov regretted that he could not accept the inclusion of the right to change nationality. That was not appropriate in the declaration. The United Nations should not, in any case, encourage changes of nationality but should respect the relations between States and individuals.

COUNT CARTON DE WIART (Belgium) said that he would support the basic text because it seemed the best possible formulation. The French, Uruguayan and Egyptian amendments wished to introduce a right to nationality, so that, eventually, the United Nations might have to assume the implied responsibility and grant that right.

He agreed with the representative of the USSR that that idea should not be included in the declaration, which should also exclude reference to any system by which an international citizenship might be possible, such as the Tangier regime.

He was in favour of retaining the word “arbitrarily”; it did not preclude the possibility of depriving persons of nationality as a sanction in exceptional cases.

The USSR amendment added nothing to the basic text. He would oppose it.

MR. CONTOUMAS (Greece) agreed with the representative of Belgium that the basic text was satisfactory.

If the USSR amendment were adopted, the right to change nationality would not be recognized. The USSR representative had not said explicitly that the provision should be deleted. He suggested, therefore, that recognition of the right to change nationality should be appended to the USSR amendment.

The word “arbitrarily” was satisfactory because it covered all action not in conformity with law. The Uruguayan proposal to substitute “unjustly” went too far.

The Egyptian amendment (A/C.3/264) really stated the obvious because everyone normally had the status to which it referred. The basic text was, therefore, preferable.

Although the difficulties of stateless persons following the two world wars, were well known the Committee was not competent to take action [351] to guarantee the right to nationality, as proposed by the French amendment. He agreed with the representative of France that some effort should be made in that direction; but he also agreed with other representatives that that effort could not be mentioned in the declaration.

He proposed that the Committee should pass a resolution demanding that the United Nations should seek an adequate solution.

THE CHAIRMAN suggested that, while it was open to the representative of Greece to submit a draft resolution, his suggestion about a recommendation on stateless persons would be more appropriate if taken as a general item with chapter III of the report of the Economic and Social Council (item 8 of the agenda).

MR. KURAL (Turkey) said that the word “arbitrarily” was too vague and too broad; it could lend itself to varying and subjective interpretations. As long as common international rules were not clearly established, the word “arbitrary” could be interpreted from very different points of view and the interpretations might run the risk of being subjective and arbitrary, for instance in the case in which a State refused to grant its nationality to a person who had made a request for it. A solution must be found in accordance with generally recognized ideas of justice. It was almost impossible to define exactly what was meant by “arbitrary”. The point to be borne in mind was that the problems of the individual should not be subject to decisions taken outside the scope of the law. For that reason, he proposed to substitute the word “illegally” for the word “arbitrarily”. Turkish law did in fact recognize the principles embodied in article 13.

The USSR amendment could be accepted if there were added to it a provision recognizing the right to change nationality, as the representative of Greece had suggested.

As it stood, the Egyptian amendment opened the door to double nationality. It mentioned the right to acquire nationality but omitted to provide for renunciation of the former nationality.

The French amendment raised very broad questions. It should either be embodied in a separate convention or should be much more fully studied.

If the Turkish proposal were not adopted, he would support the second Uruguayan amendment, although the word “unjustly” was less precise than “illegally”, but, in any case, it was preferable to the word “arbitrarily”.

MR. ANZE MATIENZO (Bolivia) proposed that the position of the word “arbitrarily” should be transferred so that it qualified only the denial of the right to change nationality. He insisted that deprivation of nationality should not be contemplated in any circumstances whatever. Nationality was an inalienable human right. It was independent of the legal status of the place of birth. In law, nationality might be regarded as transitory; but as a right it was inherent.

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He had taken the same position on article 7 (114th meeting), when he had pointed out that no qualification could be applied to the prohibition of exile. Deportation in fact created a category of stateless persons. He would oppose the USSR amendment

because it failed to provide for the right to change nationality and because it based the guarantee of nationality upon law, not upon right.

The qualification “arbitrarily” should, however, apply to the prohibition of denial of the right to change nationality. Such denial might be legal but it would constitute discrimination – and that had already been outlawed by the declaration.

He would oppose the USSR amendment because it failed to provide for the right to change nationality and because it based the guarantee of nationality upon law, not upon right.

He would accept the French, Uruguayan and Lebanese amendments.

He agreed with the representative of Turkey that the Egyptian amendment was unacceptable because it opened the way to double nationality.

THE CHAIRMAN stated that the Bolivian proposal would be put to the vote at the appropriate time.

MRS. ROOSEVELT (United States of America) said that her delegation would support the basic text of article 13, which was designed to make clear first, that individuals should not be subjected to action such as was taken during the Nazi regime in Germany when thousands had been stripped of their nationality by arbitrary government action; and, secondly, that no one should be forced to keep a nationality which he did not want and that he should not therefore be denied the right to change his nationality. In view of the many difficulties and complications which arose in connexion with the problem of nationality, the basic text seemed best from a practical point of view.

The suggestion that a statement should be included to the effect that everyone had the right to a nationality had been considered earlier by the Commission.¹ The question arose, however, how it would be possible to realize that right. Mrs. Roosevelt would like to be able to feel, as the Bolivian representative did, that such a right was inalienable, but that attitude hardly seemed realistic. If a majority of the Committee wished, however, to include a provision to the effect that everyone had the right to a nationality, the United States would not oppose it.

Mrs. Roosevelt could not support the last part of the French amendment, which would impose a duty on the United Nations in connexion with the question of statelessness. The declaration should be a statement of the rights of the individual and should not include mention of the duties of Governments or of the United Nations. She recalled, moreover, that the Economic and Social Council had already passed a resolution asking the Secretary-General to study the problem of statelessness and to make recommendations concerning possible measures that the United Nations might take.² It would therefore

^[1] See document E/CN.4/SR.59.

^[2] See *Resolutions adopted by the Economic and Social Council during its sixth session*, No. 116 D (VI).

be both premature and inappropriate for the declaration to attempt to deal with the problem.

Mrs. Roosevelt objected to the Egyptian and USSR amendments, on the grounds that they seemed to reduce the right to nationality to a mere right accorded the individual by the laws of his own country.

She supported the retention of the word “arbitrarily”, which implied unexpected, irresponsible action without regard for either law or right and was thus stronger than the word “illegally” or the word “unjustly”.

MR. LUNDE (Norway) fully supported the French proposal. It was indispensable that a solemn document like the proposed declaration should proclaim the principle that every human being had a right to a nationality and should condemn the hateful practice by which thousands of people had been deprived of that right.

Certain drafting changes in part (a) of the French proposal might be made, however; the wording used in the Lebanese, Uruguayan or Egyptian proposals might be preferable.

The Norwegian delegation also supported part (c) of the French proposal. It was clearly the duty of the United Nations to act in defence of stateless persons, and that idea should therefore be expressed in the declaration.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) agreed with the USSR representative that the State in which a stateless person happened to reside should not necessarily have to grant that person nationality. He did not agree, however, that his delegation’s proposal therefore had no meaning. If his proposal were adopted, Members of the United Nations would be expected to adjust their national legislation to cover the rights proclaimed in the declaration and to seek means of collective action for ensuring that no person would be deprived of nationality.

The Uruguayan amendment differed from the Egyptian amendment, as the latter would make the right to nationality dependent upon national laws, whereas the former would establish the right in a solemn international declaration.

Referring to the USSR amendment, Mr. Jiménez de Aréchaga observed that it would merely mean that the individual would be granted the rights given him by the State. Such a statement was certainly not necessary in an international document. The declaration had a far wider purpose. Its scope should not be limited by existing legislation but it should bring about changes in legislation that would prevent the existence of statelessness. In seeking to attain that end, justice should be the standard, not mere legality, and justice was a concept which could be defined on an international level.

Mr. Jiménez de Aréchaga recalled that under the Constitution and laws of his own country no citizen could in any circumstances be deprived of his nationality. He realized that that principle was not generally accepted and that the declaration could not therefore state the issue so clearly.

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MRS. CORBET (United Kingdom) found the basic text of article 13 entirely satisfactory. There seemed, however, to be some confusion with regard to the meaning of the word "arbitrarily". That word was used to describe action for which the agent was not required to show just cause either before a court of law or before public opinion. The word was therefore stronger than either "illegally" or "unjustly".

She was surprised that the Turkish representative had seemed prepared to accept the USSR amendment. That amendment was very restrictive and she hoped that the Turkish representative would reconsider his position.

Referring to the Bolivian amendment, she said that the Commission had wisely decided not to state the right to nationality as an inalienable right. There were some occasions when it would be impossible to guarantee such a right. It might be said that a natural-born citizen should in no circumstances be deprived of his nationality, but it could scarcely be maintained that a citizen who had attained his citizenship by fraudulent means could not have his nationality revoked.

If, however, the Committee should decide to state, in accordance with the French, Uruguayan and Lebanese amendments, that every person had the right to a nationality, the United Kingdom would not oppose such a decision; but she drew the Committee's attention to the difficulties that arise in that connexion. She read resolution 116D(VI) of the Economic and Social Council on the subject of stateless persons passed by the Economic and Social Council, which indicated how complicated the problem was and she pointed out that in view of the action already taken by the Council, it hardly seemed necessary for the Committee to pass a resolution such as had been suggested by the Greek representative.

Referring to part (c) of the French amendment, she reminded the French representative that the statement contained therein would lay upon the United Nations duties of a kind which the Committee had, at the 121st meeting, decided should not be stated in the declaration. Furthermore, as the USSR representative had pointed out, no account had been taken of the financial implications of the statement.

She agreed with the Greek representative that the Committee should ascertain whether the USSR proposal was for a substitute text or merely for an addition to the present text. If it was to be a substitute text, valuable provisions in connexion with the right to change nationality would be omitted. Moreover, the USSR text would be restrictive, for the right to nationality would be restricted by the laws of the country concerned.

MR. AZKOUL (Lebanon) said that objections had been raised to the French, Lebanese and Uruguayan amendments on the ground that there was no guarantee for the right they proclaimed. The declaration, however, was not concerned with implementation; it was concerned with stating principles.

The conscience of mankind could not accept that human beings who had not been convicted of crime should be deprived of their nationality and so deprived also of

the economic, political and [355] social rights deriving therefrom. The principle included in the Lebanese proposal was therefore essential to a declaration on human rights; it would express the attitude of the human conscience on the subject and it would, moreover point out to both stateless persons and to States themselves that the problem of statelessness was one which the United Nations and individual States must make every effort to solve.

If that right were asserted, the adoption of part (c) of the French proposal would be unnecessary, for the assertion itself would provide sufficient incentive for the United Nations to encourage action by Member States. The declaration should not hesitate to proclaim even those rights which had thus far not been guaranteed.

MR. AQUINO (Philippines) considered that article 13 was designed, like many other articles of the declaration, to protect the individual against encroachment on his rights by the State. The USSR draft amendment, however, would completely defeat that purpose, for instead of providing for full enjoyment of the right of nationality, it would restrict exercise of that right to what was guaranteed by the laws of the country. The Philippine delegation could not therefore support it.

Mr. Aquino appreciated the high purpose of the French delegation in seeking to include in the declaration commitments which would bind the United Nations to take action on behalf of stateless persons. He recalled, however, that the declaration should proclaim principles and leave matters of implementation to the proposed covenant. The mere fact of membership in the United Nations should make it incumbent upon States to abide by the principles set forth in the declaration.

The declaration should include neither mention of the duty of the United Nations in connexion with the problem of statelessness nor a statement that every human being had a right to nationality. Both ideas touched upon a delicate and complex subject, the study of which had already been recommended by the Economic and Social Council. Until the results of that study were known, no commitment of any sort should be made.

The Philippine delegation would therefore vote for the basic text of article 13.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the purpose of the amendment presented by his delegation was clearly and unequivocally to define the word "arbitrarily", as used in the basic text of article 13.

He wished to stress the fact that the question of nationality – by which was meant a specific relationship between the State and the individual – fell entirely within the internal competence of each State. To grant nationality or to take it away was a prerogative of sovereign States with which no third party should interfere. It was contrary to Article 2, paragraph 7 of the Charter for the declaration to concern itself directly with such matters.

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The thesis supported by the Bolivian representative, that no one could be deprived of his nationality in any circumstances, was unfortunately entirely

impracticable. It was impossible in the world as it existed to force States to accept or tolerate nationals against their will.

It had been said that the word “arbitrarily” had a wider meaning than the word “illegally” and consequently afforded better protection. The USSR delegation did not share that view. That word was entirely open to subjective interpretation, whereas the phrase suggested by the USSR delegation was objective and afforded effective protection, for the legality of any action was easy to determine. Moreover, the vague wording of the original text might give the impression that it was for an authority other than the State to decide whether or not the latter had taken proper action. The USSR delegation could not accept such an interpretation. The United Nations was not a world Government set above the Governments of various States; it could not dictate to those States in matters in respect of which no obligations were imposed by the Charter.

He regretted that he was unable to reply to the United Kingdom representative because of the limited time allowed to each speaker.

MR. GARCÍA BAUER (Guatemala) stated that, while he sympathized with the idea expressed in part (c) of the French amendment, the declaration did not appear to be the proper place for it. He was consequently unable to support that part.

He was equally unable to accept the Bolivian and Uruguayan amendments with respect to the word “arbitrarily”. He agreed with the USSR representative that the word was vague and open to subjective interpretation, as was proved by the different meanings read into it by various delegations. The word “unjustly” gave rise to the same objection.

The delegation of Guatemala proposed that the word “arbitrarily” should be deleted without being replaced by any other word. The declaration would then establish a basic general principle; provision for such categories as naturalized citizens, which were the exception rather than the rule, could be made in the covenant.

He was opposed to the USSR amendment because it countenanced deprivation of nationality in certain cases and because it did not grant the right to change nationality.

He warmly supported the suggestion made by several delegations that article 13 should begin with the sentence: “Everyone has the right to a nationality.”

MR. WATT (Australia) remarked that two opposite views had manifested themselves in the debate: some representatives held that men could be deprived of their nationality in accordance with the laws of their countries while others thought that that should not be done in any circumstances.

He agreed with the United Kingdom representative that naturalized citizens represented a special problem which must be taken into account [357] in the declaration. A Government was entitled, for example, to deprive of their nationality

naturalized citizens who had obtained that nationality either by fraud or with the intent of overthrowing the Government in question.

He would support the basic text of article 13, which appeared to be a happy compromise between the two extreme views expressed in the Committee.

The Australian delegation would also support the insertion of the sentence: "Everyone has the right to a nationality." As the Lebanese representative had said, the declaration should contain a statement of the basic rights of the individual; the implementation of those rights could be dealt with elsewhere.

The USSR amendment was not acceptable. The Committee would do well to note that, if the word "arbitrarily" were defined in article 13, that definition would apply to it in all the other articles in which it was used.

While the suggestion contained in part (c) of the French amendment was both pertinent and humane, the declaration should not mention duties of the United Nations; they were adequately described in the Charter. Moreover, the Economic and Social Council was already dealing with the question of statelessness. Part (a) of the French amendment might perhaps be modified by the addition of the words: "or to an equivalent status under the protection of the United Nations"; even that, however, was not the best way to achieve the purpose desired by the French representative.

MR. SANTA CRUZ (Chile) declared that he would vote in favour of the basic text of article 13 with the addition of the introductory sentence suggested by France, Lebanon and Uruguay for the reasons given by the Lebanese and Uruguayan representatives.

The interpretation put on the word "arbitrarily" by the USSR delegation was not acceptable. As had been made clear in the course of the debate, that word was intended to have a broader meaning than "illegally"; laws, too, could be arbitrary. Furthermore, it should be remembered that the word had been used throughout the declaration, and that a definition once given would apply wherever it appeared.

The USSR representative had apparently misunderstood the purpose of the declaration; that purpose was not to impose laws on any sovereign State, but to enable the people of a State to judge for themselves whether the laws under which they lived were in conformity with the principles of the declaration. If the Hitler regime were still in existence, the result of adopting the USSR amendment would be to justify the acts of that regime rather than to protect individuals against them. The Chilean delegation would not be able at any time to accept amendments of so restrictive a nature as those proposed by the USSR representative. Furthermore, it was strongly in favour of the right to change nationality, traditionally recognized on the American continent, and suppressed by the USSR amendment.

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MR. CASSIN (France) felt that the basic text of article 13 should be maintained. The word “arbitrarily” which appeared in that text had a two-fold meaning: no one could be deprived of nationality contrary to existing laws, and those laws themselves must not be arbitrary. The use of that word was an admonition to Governments; it did not represent any encroachment upon their rights.

He emphasized the fact that, while the basic draft of article 13 was good, it did not go far enough. Although the members of the Committee remained government representatives, in the drafting of a declaration of universal import they met as an Assembly seeking the universal good. They could not close their eyes to the fact that, in an international order based on the principle of national sovereignty, the existence of persons rejected by their countries was a source of friction. The declaration should proclaim that every human being had the right to a nationality, just as it proclaimed that everyone had the right to marry; it was not called upon to implement either right.

With regard to the last part of his amendment, Mr. Cassin said that the fact that the Economic and Social Council was already seized of the matter was an argument in favour of rather than against, stating in the declaration, as a general principle, that the United Nations should concern itself with the fate of stateless persons. He would not, however, object to some other form of words which might be more acceptable to the Committee.

He would be glad to harmonize the first part of his amendment with the similar amendments prepared by the Lebanese and Uruguayan representatives. It might be preferable to retain the words “every human being”, in order to stress the human rather than the legal aspect of the right in question.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) pointed out that all amendments to article 13 except the one presented by the USSR delegation were concerned to some extent with those who had no nationality. The USSR amendment, on the other hand, dealt with those who already had a nationality and who represented the vast majority, and sought to protect them legally against illegal deprivation of nationality.

The USSR amendment respected the principle of national sovereignty, which would be violated by the adoption of the idea that everyone had the right to a nationality. To oblige States to grant nationality to stateless persons was tantamount to interference in their internal affairs and was therefore contrary to the Charter.

Mr. Demchenko understood the USSR amendment to be a total substitution for the basic text of article 13, which meant that no mention would be made of the right to change nationality. As such a right applied to single cases, which were the exception and not the rule, it should not be included in the declaration, or it might

be interpreted as an appeal and encouragement to those who wished to leave their country. Under the [359] Charter, it was the duty of the United Nations to promote respect for national Governments.

Certain representatives had opposed the USSR amendment because it stated that persons could be deprived of their nationality only in accordance with national laws. Mr. Demchenko was not aware of the existence of any other kind of law governing that subject.

In reply to the Philippine representative, he pointed out that the USSR amendment provided, by its reference to national law, the very guarantee of protection which the Philippine representative sought to secure.

As there were no more speakers on his list, the Chairman stated that the general debate on article 13 was closed.

The meeting rose at 1:20 p.m.

A/C.3/307/Rev.1/Add.1

6 November 1948

Additional articles proposed for the draft Declaration (E/800)

Addendum to document A/C.3/307/Rev.1

Yugoslavia: (A/C.3/233)

Insert the following three articles:

A

“Any person has the right to the recognition and protection of his nationality and to the free development of the nation to which he belongs.

“National communities which are in a state community with other nations are equal in national, political and social rights.”

B

“Any national minority, as an ethnical community, has the right to the full development of its ethnical culture and to the free use of its language. It is entitled to have these rights protected by the State.”

C

“The rights proclaimed in this Declaration also apply to any person belonging to the population of Trust and Non-Self-Governing Territories.”

A/C.3/296/Rev.1/Corr.1

6 November 1948

**Recapitulation of Amendments to Article 19 of the Draft
Declaration (E/800)**

Corrigendum to Document A/C.3/296/Rev.1

Delete the amendment presented by Yugoslavia which will be found in document A/C.3/307/Rev.1/Add.1.

A/C.3/SR.124⁸⁹

6 November 1948

***Summary Record of the Hundred and Twenty-Fourth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Saturday, 6 November
1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

48. Draft international declaration of human rights (E/800) (continued)

Article 13 (continued)

THE CHAIRMAN recalled that the general debate on article 13 and on the amendments to it, which were recapitulated in document A/C.3/286/Rev.1, was closed, and that the Cuban amendment (A/C.3/232) had been withdrawn (123rd meeting).

He stated that the various amendments would be put to the vote.

He put to the vote the Egyptian amendment (A/C.3/264).

That amendment was rejected by 26 votes to 1, with 8 abstentions.

Pointing out that the representatives of France (A/C.3/244), Lebanon (A/C.3/260) and Uruguay (A/C.3/268) had submitted almost identical amendments, the Chairman put their proposal for the insertion of a preliminary paragraph to the vote in the following form: "Everyone has the right to a nationality."

That amendment was adopted by 21 votes to 9, with 6 abstentions.

⁸⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 359–67.

THE CHAIRMAN put the USSR amendment (E/800, page 33) to the vote.

That amendment was rejected by 26 votes to 7, with 3 abstentions.

THE CHAIRMAN put to the vote the Guatemalan amendment (123rd meeting) calling for the deletion of the word “arbitrarily”.

That amendment was rejected by 24 votes to 1, with 10 abstentions.

THE CHAIRMAN put to the vote the Bolivian amendment (123rd meeting) which proposed to transpose the word “arbitrarily” so that it would qualify only the denial of the right to change nationality.

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That amendment was rejected by 24 votes to 5, with 13 abstentions.

MR. ANZE MATIENZO (Bolivia) stated, in explanation of his vote, that his delegation considered that any deprivation of nationality was arbitrary and that there could be no just laws prescribing that measure.

THE CHAIRMAN put to the vote the Uruguayan amendment (A/C.3/268) to substitute the word “unjustly” for the word “arbitrarily”.

That amendment was rejected by 20 votes to 3, with 16 abstentions.

THE CHAIRMAN put to the vote the Turkish amendment (123rd meeting) to substitute the word “illegally” for the word “arbitrarily”.

That amendment was rejected by 24 votes to 9, with 7 abstentions.

THE CHAIRMAN stated that the Brazilian representative had submitted the following text (A/C.3/324), which was acceptable to the French representative, as a substitution for the third paragraph of the French amendment: “The fate of persons temporarily deprived of nationality should become the care of the United Nations.”

That sentence was to be added to the basic text of article 13. It was inspired by the ideas contained in the French amendment and represented a mere drafting change.

MRS. ROOSEVELT (United States of America), MR. PAVLOV (Union of Soviet Socialist Republics), MR. CONTOUMAS (Greece) and MR. AQUINO (Philippines), thought that the Brazilian amendment was of a substantive rather than drafting nature and could not therefore be put to the vote without a debate.

The word “care” implied that financial responsibilities would have to be assumed by the United Nations, whereas the word “concern”, which had been used in the French amendment, had implied moral responsibility. The Committee could not vote on any text which had financial implications without having before it an estimate prepared by the Secretary-General.

MR. DE ATHAYDE (Brazil) was prepared to replace the word “care” by the word “concern” which was, in fact, a better translation for the word *préoccupations* used in the French original. The word “concern” did not necessarily refer to concrete material care.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) remarked that, under rule 142 of the rules of procedure, the Committee could not vote on the Brazilian amendment until a financial estimate of the costs involved had been prepared.

Moreover, the amendment dealt with a matter which was not intimately connected with the substance of article 13, and might well be considered separately. He consequently asked that the vote should be postponed.

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THE CHAIRMAN said that moral rather than material responsibility was involved, as the Brazilian representative had explained. Furthermore, estimates of any financial implications of any of the separate articles in the declaration need not be before the Committee until a vote was taken on the declaration as a whole.

He consequently ruled that the Brazilian amendment could be put to the vote immediately.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) appealed from the Chairman’s ruling.

The appeal was rejected by 24 votes to 8, with 10 abstentions.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated that he would vote against the Brazilian amendment because he could see no reason to distinguish between those temporarily deprived of nationality and those permanently deprived of it.

THE CHAIRMAN put the Brazilian amendment (A/C.3/324) to the vote.

That amendment was rejected by 31 votes to 6, with 3 abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) regretted that the Committee had seen fit to reject the USSR amendment, the intention of which had been to emphasize the fact that the question of nationality was essentially within the domestic jurisdiction of every State and that, under Article 2, paragraph 7 of the Charter, the United Nations could not set itself up as a judge of whether the actions of a State were arbitrary or well founded. That amendment would, moreover, have provided a far better legal basis for any person wishing to dispute the justice of an action taken against him than was supplied by the basic draft of article 13.

While USSR law, like that of most countries, provided for a change of nationality, it was wrong to mention such a right in the declaration. The United Nations should not set the seal of its approval on what was, in many cases, an unpatriotic action. The USSR delegation was utterly unable to accept such an attitude.

If the part of article 13 dealing with the right to change nationality were maintained, he would have to abstain from voting on the article. He requested that the article be put to the vote in three parts.

THE CHAIRMAN put to the vote the first part of article 13, reading as follows:

“Everyone has the right to a nationality.”

That part was adopted by 31 votes to 1, with 11 abstentions.

THE CHAIRMAN put to the vote the second part of article 13, reading as follows:

“No one shall be arbitrarily deprived of his nationality.”

That part was adopted unanimously.

THE CHAIRMAN put to the vote the third part of article 13, reading as follows: “or denied the right to change his nationality”.

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That part was adopted by 36 votes to 6, with 1 abstention.

THE CHAIRMAN put to the vote the whole of article 13, as amended.

Article 13, as amended, was adopted by 38 votes to none, with 7 abstentions.

MR. BARODY (Saudi Arabia) remarked that he had voted in favour of the USSR amendment because he was prepared to vote in favour of any text which made it clear that the United Nations should not interfere with the domestic legislation of States.

He had supported the Turkish amendment for the same reason and because he preferred precise words to vague ones.

MRS. NEWLANDS (New Zealand) had voted in favour of the first sentence, in spite of the pertinent objections to it raised by the United Kingdom representative at the previous meeting, because she felt that it proclaimed a right that should be included in a declaration which was intended as a statement of general principles and was not supposed to contain provisions for implementation.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) had voted in favour of the second part on the understanding that the word “arbitrarily” meant in a manner other than as provided for in the laws of the country concerned.

MR. AZKOUL (Lebanon) had voted against the Brazilian amendment because he considered that the idea it contained was implicit in the first sentence of article 13 and was therefore unnecessary.

MR. DEHOUSSE (Belgium) had voted in favour of article 13 and all its parts because, in his opinion, none of them constituted an illegal interference with the internal affairs of States. While he agreed with the USSR representative that nationality was one of the subjects covered in Article 2, paragraph 7 of the Charter, – a text to which his delegation attached the greatest importance – he pointed out that, by accepting any international agreement, a State surrendered some measure of its

national sovereignty. It could not be said, therefore, that the Charter forbade the United Nations to deal with the question of nationality.

MR. APPADORAI (India) accepted the principle that everyone had the right to a nationality, but had abstained from voting because the implications of that principle would become sufficiently clear only after the Economic and Social Council had completed its study of the subject.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) had voted in favour of the first part of the second sentence on the understanding that the word “arbitrarily” meant “in any other manner or in any other case than as provided for in the laws of the country concerned”.

He had voted against the remainder of that sentence because he considered that a mention, in the declaration, of the right to change nationality was an infringement of the sovereign rights of States.

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*Article 14*¹

THE CHAIRMAN announced that the basic text of article 14 and the amendments thereto were recapitulated in document A/C.3/287.

MISS BERNARDINO (Dominion Republic) hoped that a member of the Commission on Human Rights would explain the previous history of article 14 to the Committee, particularly the grounds for not mentioning divorce in paragraph 1.

MR. BARODY (Saudi Arabia) said that the word “full” in paragraph 1 of the basic text was ambiguous, because it did not necessarily mean “of full age according to the law”. In any case, the law was not the same in all countries or even within all parts of the same country, as, for example, in the United States of America. “Full age” might also cover aged and decrepit couples whose marriage might not be desirable.

To cover both those objections, he had proposed (A/C.3/240) to substitute for the word “full” the words “legal matrimonial” and qualify it by inserting the phrase “within every country”.

MR. CASSIN (France) said that he had proposed (A/C.3/244) that the word “both” should be deleted from paragraph 2 because it was obviously superfluous.

Concerning the article as a whole, he said that the basic rights in relation to marriage were often disregarded. It was the specific act which led to the foundation of a family.

The representative of Saudi Arabia had rightly brought up the question of the meaning of “full age”. The Commission had intended it to mean the age at which persons were capable of procreating. States were competent to decide that age according to local conditions.

The reason for specifying that marriage might be contracted only with the full consent of the intending spouses was that the custom still existed whereby parents,

guardians or others arranged marriages without the consent of the spouses. Marriage was a basic right; it should not be negotiated like a treaty or a business deal.

The Commission had devoted particular attention to the question of equality of rights as between man and woman. It had agreed that such equality should apply at the moment of contract, during the marriage and at the time of dissolution. The USSR amendment (E/800, page 33) specified only one form of dissolution – divorce – whereas there might be several forms. The Commission had not specifically mentioned divorce, contenting itself with a broad general formula “as to marriage”, because divorce did not exist in some countries and because it had wished to respect the varying legislation on marriage in all countries. The whole question of divorce was a matter of slow evolution. The United

^[1] Article 17 of the draft universal declaration of human rights (A/777).

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Nations should be extremely careful about the way in which it dealt with the matter. The United Nations could express an ideal standard; but it should leave it to the countries themselves to progress at their own rates of evolution. The Economic and Social Council had already set up a commission on the status of women, which was still dealing with equality between men and women. The statements in the declaration should not be too detailed.

The Commission had adopted paragraph 3 unanimously. He would vote for the Commission’s text of article 14, with the minor change proposed in the French amendment; and he hoped that the Committee, by adopting the article unanimously, would show its approval of the Commission’s work.

MR. AZKOUL (Lebanon) explained that he had a practical end in view in proposing the addition of the words “free and” before the words “full consent” (A/C.3/260). Parents could force a girl to give her full consent to a marriage she did not wish, but, logically, they could not force her to give her free consent.

He would not insist upon the first part of his amendment calling for a transposition of the paragraphs. He had thought that it might be more logical to state a general principle about the family before covering the details.

MR. CAMPOS ORTIZ (Mexico) said he realized that the prohibition against discrimination which he proposed to add (A/C.3/266) was a repetition of article 2. Admittedly, that technical objection existed; but he was convinced that certain ideas should be repeated again and again if the need arose. The prohibition against discrimination, which had always been observed in Mexican history and law, would strengthen the article immeasurably in the eyes of the common man. The declaration was addressed to the common man, not to diplomats and technicians. He urged that the value of such an appeal should override the technical objection. There

had been notorious cases of discrimination in marriage, particularly by the Nazis. To repeat the prohibition would strengthen the immediate appeal of the article.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the Preamble to the Charter expressly declared the equality of the rights of men and women. To achieve that equality was one of the main aims of the United Nations. The USSR delegation had always advocated the fullest and most consistent equality between men and women. It was essential to declare that equality with reference to entering into marriage because even then it did not exist in certain countries. In Japan, for example, girls who had not even reached puberty were still virtually sold into marriage. Equality should also be guaranteed during marriage and when the family was founded. It should apply to both property rights and to the bringing up of the children.

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In USSR law, all property acquired before marriage was held separately, but everything acquired subsequently was held in common. The principle was fully in accordance with the Charter. Divorce was often a tragedy for women. The husband might take the entire property with him; that was legal in some countries. The law should defend the economically weaker partner – the woman. Equality of rights should, therefore, be upheld at the time of divorce even more than on entering into marriage and during marriage. Even in certain parts of some advanced countries a woman was still a chattel. That was unjust.

He would support the Mexican amendment. It was most opportune: in certain parts of the United States, for example, mixed marriages were heavily penalized.

MRS. CORBET (United Kingdom) said she would vote for the Commission's text.

The USSR amendment to paragraph 2 and the Mexican amendment were superfluous because their substance had already been covered by article 2. To insert them in article 14 might weaken the effect of article 2 in qualifying all the other articles in the declaration.

The USSR amendment to paragraph 3 was equally superfluous. There was a danger, too, that it might be interpreted as giving the State overriding authority over the family.

There was no great objection to the Lebanese amendment to transpose the paragraphs; but the present order gave a logical development.

She opposed the Egyptian and Saudi Arabian amendments because the words "full age" clearly implied full physical development. The Saudi Arabian amendment also omitted the idea of equal rights as between men and women. With regard to the English text of the French amendment she preferred to use the Commission's translation of the word *contracté* – "entered into". The deletion of the word "both" was logical.

MR. DEHOUSSE (Belgium) said that he would support the USSR amendment, subject to a drafting change in the French text. The words *doivent jouir* should be substituted for the word *jouissent*. The present tense of the verb might give the impression that it was a fact that rights were already enjoyed, whereas, in reality,

they were simply desired by progressive persons. The enjoyment of the rights mentioned had not yet been achieved in some countries. In his own country there had been considerable progress in recent years; political equality was a fact, and the last remnants of inequality in civil matters were fast vanishing.

The Saudi Arabian amendment could not be accepted; it was both a truism and a tautology. The Committee should not limit itself to restricting an international declaration of principles to what already existed in the various legal systems.

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MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) supported the Mexican amendment. It was most important to make the strongest possible appeal to the common man. He disagreed with the representative of the United Kingdom that that addition to article 14 would weaken the effect of article 2. He suggested, however, that some form of words such as “or any other limitation” should be added to the Mexican text. There might be cases of limitation due to political causes or to class distinctions.

MR. DE ATHAYDE (Brazil) said he would vote for the basic text. Paragraph 3 was, however, too vague. He proposed that the words “of the law” should be added to qualify protection.

MR. KAYALY (Syria) said he would vote for the basic text. He felt, however, that the words “full age” were ambiguous and unsatisfactory from the medical-legal point of view, since they did not state what that age was. He would accept the word “full”, however, if it were understood to be equivalent to “maturity”, but he shared the doubt raised by the representative of Saudi Arabia.

He preferred the words “free consent” to the words “full consent” in the basic text.

He regretted that paragraph 1 omitted any mention of the physical fitness of the intending spouses. He would have liked to see some expression included which would have required some form of premarital medical examination.

He agreed that the family should be guaranteed protection and hoped that some provision for that would be written into the measures for implementation.

MR. CONTOUMAS (Greece) said that he would vote for the basic text. He agreed with the representative of France that marriage viewed in the widest sense included divorce.

He asked whether it was the intention of the USSR amendment that the first paragraph of the basic text should remain intact. If so, there would be a repetition.

MISS ZULOAGA (Venezuela) supported the Mexican amendment. The repetition of the prohibition against discrimination – which was in accordance with her country’s Constitution – would strengthen the article.

She agreed with the Uruguayan suggestion that the phrase should be expanded and completed.

MR. PAVLOV (Union of Soviet Socialist Republics) could not agree with the United Kingdom representative that the USSR amendment to paragraph 3,

suggesting the addition of the words “by society and the State”, was unnecessary because the idea was already implicit in that paragraph. On the contrary, unless it was explicitly stated that it was for the State and society to protect the family, which was a natural unit of society and the fate of which might determine the fate of a nation, a family in need of protection would not know where to turn. There was no reason to oppose the clear and simple idea contained [367] in the USSR amendment, which imposed an obligation on the State to ensure the right granted in paragraph 3.

It had been remarked that the words in paragraph 1, “rights as to marriage”, referred also to the dissolution of marriage. The Committee should not be afraid, however, to make an explicit mention of divorce. That mention was far from superfluous, as the inequality of men and women was more pronounced in the case of divorce than in the other phases of marriage. In countries in which divorce was practised, women should have the same rights in that respect as men.

He accepted the drafting change proposed by the Belgian representative.

The meeting rose at 1:15 p.m.

A/C.3/325

8 November 1948

Original Text: English, French

**Belgium: Compromise amendment to Article 15 of the draft
Declaration (E/800)**

Replace the two paragraphs of article 15 by the following text:

“Within the limits of public interest, everyone is entitled to own property alone as well as in association with others.”

A/C.3/SR.125⁹⁰

8 November 1948

***Summary Record of the Hundred and Twenty-Fifth Meeting [of the
Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday

8 November 1948, at 10:45 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

⁹⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 367–79.

49. Draft international declaration of human rights (E/800) (continued)***Article 14 (continued)***

MRS. BEGTRUP (Denmark) thought article 14 one of the most important in the declaration, particularly to women, for whom marriage was not only a family tie but also a decisive factor in their social life.

For that reason particular care should be given to the study of the position of women in connexion with marriage and to the drawing up of regulations defining the legal aspect of marriage and its possible dissolution.

Her delegation thought it necessary, moreover, in order to lay stress on the dignity of the wife and mother, to indicate that husband and wife were on a footing of absolute equality, both legally and morally. It was also important to emphasize in article 14 the fact that the dignity of the human person could only be safeguarded if every possibility of discrimination was eliminated.

Referring to the proposed amendments, she asked the Chairman of the Commission on Human Rights to define the exact meaning of "equal rights as to marriage". For if the term "marriage" covered the case of a dissolution of the contract, article 14 should not contain the word "divorce". If, however, that idea were not contained in the text, her delegation would prefer the amendment submitted by the USSR (E/800, page 33), which specified divorce.

Finally, she supported the Lebanese (A/C.3/260) and Mexican (A/C.3/266) amendments, which made the text of the article clearer and more easily understandable to everyone.

MR. CARRERA ANDRADE (Ecuador) recalled that the authors of the various amendments to article 14 had explained the significance of equal [368] rights in marriage and he stressed the fact that those rights should be upheld at every stage of marriage, in other words, during marriage and after the dissolution of the contract. It was necessary therefore to make that article complete by introducing the question of divorce.

Generally speaking, his delegation wished to keep the text of paragraph 1 after substituting the expression "legal age" for the expression "full age".

He also supported the Mexican amendment (A/C.3/266) and the Uruguayan amendment to it (124th meeting) which emphasized the need for abolishing all discrimination in marriage, as well as the USSR amendments.

He proposed that in paragraph 2, amended as suggested by the Lebanese delegation, the expression "of both. . . spouses" should be replaced by the expression "of both contracting parties", which he considered more legal.

As it considered the protection of the family by the State to be recognized by the constitution of every country, his delegation approved the addition to paragraph 3 of the expression "by the State" (E/800, page 33). It was not essential, however, to

mention in that article the protection of society, recommended in addition by the USSR amendment, for society had no definite means at its disposal to ensure such protection.

Pointing out the importance of the principles set forth in article 14, MR. BEAUFORT (Netherlands) could not accept the addition to paragraph 2 proposed by the USSR delegation. The first paragraph dealt adequately with the equal rights of both spouses as to marriage. There was therefore no need to repeat that same idea in paragraph 2.

Without wishing to enter into any discussion on the subject of divorce, he disapproved of discriminatory measures in that event. The case of men and women should be dealt with on an equal basis.

Pointing out that it would be deplorable to mention divorce in article 14, he regretted that certain people founded a family without realizing the importance of that act. Divorce was a disrupting factor in society and to mention unnecessarily and explicitly in the declaration of human rights the principle of the equal rights of both spouses as to divorce would imply, at least to ordinary men all over the world, that the United Nations approved divorce on the same footing as marriage.

Referring to the second USSR amendment, he agreed that society and the State were responsible for protecting the family. He was afraid, however, that to adopt that amendment might give Governments a pretext to interfere with the natural rights of the family which were, in his opinion, beyond the reach of State laws. He could not therefore vote in favour of the USSR amendment.

His delegation approved the Lebanese amendment, but thought the one submitted by Saudi Arabia (A/C.3/240) could result in the State making the right to marry and found a family conditional upon unacceptable restrictions.

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The Egyptian amendment (A/C.3/264), in his view, ignored the principle of the equal rights of both spouses as to marriage and consequently could not be adopted.

Finally, he wondered whether the Mexican amendment did not detract from the importance of the solemn declaration on the general principle of non-discrimination made in article 2. The Committee should reject that amendment so as not to give the impression that the provisions of article 2 did not apply to other articles of the declaration, article 14, for instance.

MISS BERNARDINO (Dominican Republic) considered that, from the discussion which had just taken place, it was evident that article 14 was not worded sufficiently clearly and might give rise to an interpretation which would not correspond to the principles set forth in the first few articles of the declaration.

Her delegation wanted the idea of absolute equality between men and women as to marriage, which had been accepted by all delegations, to be specifically

expressed, for the nations and individuals should be able to rely not only on the spirit but also on the letter of the declaration. There were countries which had not yet granted women absolute equality from the legal point of view. The ultimate goal of article 14 should therefore be to influence governments to revise their legislation, if necessary, in order to abolish any disability affecting women in connexion with marriage.

The delegation of the Dominican Republic would vote in favour of the Mexican amendment, which was based on the most elementary human justice. It would also vote in favour of the Lebanese amendment which gave a more liberal interpretation to the article. It agreed with the French delegation (A/C.3/244) that it was unnecessary to say "both spouses".

Finally, it would support the amendment submitted by the USSR delegation, but thought the concept of equality as regards divorce should be mentioned in the first paragraph, together with equality as regards marriage.

MR. BARODY (Saudi Arabia) recalled that, at the previous meeting, he had reserved the right to explain the second part of the amendment submitted by his delegation.

Before doing so, however, he wished to point out, in reply to the objections raised to the first part of that amendment, that, in English, the expression "full age" did not necessarily include the idea of marriageable age, which the authors of the text had certainly had in mind. The expression "legal matrimonial age", proposed by his delegation, took into account the physiological aspect of the question, for in practically no country was the union of persons of non-marriageable age allowed. Moreover, exceptions to that rule could only be rectified, where they did exist, by national legislation and not by a declaration such as the one which the Committee was called upon to draw up.

If, however, certain delegations had doubts on the subject, his delegation would not object to introducing into the English text of its amendment the word "mature" suggested by the Syrian representative.

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Neither would it insist on the retention of the words "within every country", which had been included with the sole purpose of taking more fully into account the differences existing between the national legislations of various countries. His delegation would agree to the substitution of "legal age" for "legal matrimonial age", as had been suggested.

The object of the second part of the amendment submitted by his delegation was to substitute in the first paragraph the expression "are entitled to the full rights as defined in the marriage laws of their country" for "are entitled to equal rights as to marriage". His delegation did not necessarily reject the idea of equality contained in the basic text when it proposed to substitute the words "the full rights" for

“equal rights”, for it considered that the rights of men and women as to marriage should be assessed in qualitative rather than quantitative terms. It was for that reason that the respective rights of each sex were so clearly defined in all civil codes. Certain rights were identical for both men and women whereas others were different, either for reasons of a biological nature or because they referred to activities and responsibilities which were necessarily not the same for men and women. Thus an expectant mother should enjoy certain rights and privileges which could not be granted a man, whereas a man, generally speaking, enjoyed the right, not recognized for a woman, of passing on his name to his descendants. Many other instances could be quoted.

In Saudi Arabia, marriage constituted a sort of social contract defined by law and that system had successfully survived some fourteen centuries. A Moslem woman could own, inherit and dispose of property, and that without her husband's consent. In the event of a divorce, she automatically received a sum of money which the husband had agreed to pay before their marriage was celebrated. Her material fate did not depend therefore on the decision of a tribunal, a decision often long delayed in some countries. Those two instances were sufficient illustration of the extent to which Islamic law was explicit on the smallest details of marriage.

He wished, in that connexion, to emphasize the fact that apparently the authors of the draft declaration had, for the most part, taken into consideration only the standards recognized by western civilization and had ignored more ancient civilizations which were past the experimental stage, and the institutions of which, for example, marriage, had proved their wisdom down through the centuries. It was not for the Committee to proclaim the superiority of one civilization over all others or to establish uniform standards for all the countries in the world.

His delegation would therefore abide by the second part of its amendment, as it considered that the matrimonial traditions of every country should be respected to the same degree.

MRS. KALINOWSKA (Poland) stated that her delegation would vote in favour of the Mexican [371] amendment, in the modified form proposed by the Uruguayan delegation (124th meeting), because it introduced a fundamental idea inherent in a true concept of democracy. Since discrimination of one type led to another, the Polish delegation thought it logical to condemn, together with discrimination on grounds of sex, all other forms of discrimination that might affect freedom in marriage.

The weakness of the arguments adduced to prove the inequality of the sexes had been revealed in practice. In Poland, from the end of the seventeenth century onwards and especially during the Second World War, women had shown that they were able to play the same part as men in all spheres. For that reason the Polish delegation would like to see included together with the concept of the

equality of rights, that of the equality of responsibility, which was recognized in her country in the laws on the family and marriage.

Poland, though it opposed easy divorce, would vote in favour of the first USSR amendment, since it was important to be explicit on that point. The man in the street would not, of course, ponder all the shades of meaning in the text, and if it was desired to give him the assurance that equality would obtain in cases of divorce, that assurance must be given unequivocally.

The Polish delegation would also vote for the second USSR amendment. There were countless cases in which the family needed the protection of society and the State: it had to be assisted through special provisions relating to expectant mothers, nurseries for infants, food priorities in emergencies or in under-developed countries, and the like. The question might also have other aspects: by expressly laying upon the State the obligation of assuring the protection of the family, it might perhaps be possible to prevent expectant mothers and babies from being put into concentration camps, as unfortunately still happened in Franco Spain or Greece, for instance.

The Polish delegation would vote against the amendments submitted by Saudi Arabia and Egypt since their adoption would imply a denial of the principle which it was proposed to establish.

It would vote for the Lebanese proposal, which it considered satisfactory.

Finally, the Polish delegation would prefer the retention of the formula "with the full consent of both intending spouses" since it conveyed more fully the idea of absolute equality between the sexes upon which article 14 was based.

She regretted that the United Kingdom representative should have opposed the USSR amendment since she had hoped all women would wish to vote for proposals affirming the equality of rights between men and women.

By adopting some excellent amendments, the Committee had the opportunity of improving a text which was already fairly satisfactory, and she would appeal to all delegations to contribute [372] by their votes to the adoption of a principle essential to the progress of humanity.

MR. AZKOUL (Lebanon) was in favour of article 14 as adopted by the Commission on Human Rights.

The latter had discussed at length the term "as to marriage" and had decided that it covered all phases of marriage.¹ The USSR amendment consequently added nothing to article 14.

Moreover, if the average person read the declaration, he would have the impression that the General Assembly of the United Nations had put marriage and divorce on the same footing. But marriage was an institution, whereas divorce was merely an exceptional and regrettable aspect of that institution.

He did not oppose the second USSR amendment, since he thought it was the duty of the State to protect the family.

He was in favour of the amendment submitted by Saudi Arabia, since it added precision to the basic text. He also favoured the French amendment.

The Egyptian amendment did not seem to him acceptable, since it omitted certain essential factors.

Finally, the Lebanese delegation thought it would be useful to include in article 14 a reference to the principle of non-discrimination. Since, however, it did not know how far the Mexican amendment on that point would impair the efficacy of article 2, it would abstain from voting upon it.

MISS ZULOAGA (Venezuela) emphasized that in national law the motives justifying divorce were not the same for men and women. The USSR amendment consequently gave article 14 greater legal precision.

The Venezuelan delegation had always preferred conciseness, considering that too many details would weaken the declaration of human rights. In the case in point, however, the USSR amendment, far from weakening the text of the article, enlarged its scope.

It was the same with the Mexican amendment on non-discrimination. The Venezuelan delegation had no hesitation in approving it, the more so as the Constitution of Venezuela provided, in its article 47, for State protection of the family “whatever its origin”.

MR. APPADORAI (India) expressed his full approval of the basic text of article 14 with the amendment proposed by the French delegation. He would request the Chairman to take a separate vote on the proposed deletion of the word “both” in paragraph 2.

He was unable to vote for the amendment submitted by Saudi Arabia, as it was contrary to the spirit of the first paragraph and as he preferred the term “of full age” to “of legal matrimonial age”.

While approving, its underlying principles, the Indian delegation did not believe that the Mexican

^[1] See documents E/CN.4/SR.58 and E/CN.4/SR.62.

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amendment would be sufficient to abolish all discrimination.

MRS. ROOSEVELT (United States of America), replying to the question asked by the representative of Denmark, pointed out that the Commission on Human Rights had interpreted the term “marriage” in its widest sense. Article 14, in its original draft, dealt with all stages of marriage from the contract to the divorce.

It was in her opinion unnecessary to mention within that article the principle of non-discrimination, which had been adequately covered in article 2 of the declaration.

The second part of the USSR amendment did not seem necessary since the word "protection" used in the original text also implied the means of ensuring that protection.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Committee must take all the necessary steps to ensure absolute equality between men and women. Article 14 of the declaration of human rights should therefore not be confined to half-measures.

The objections raised by the representatives of the United States and Lebanon were not convincing. The purpose of his amendments was not to encourage divorce but to ensure the equality of husband and wife during marriage and in the case of divorce, as well as the effective protection of the family by society and by the State.

As regards the equality of husband and wife, in divorce, the USSR amendments took the human factor into account, for the refusal to grant a divorce in the case of a family crisis was tantamount to a flagrant denial of freedom.

In answer to the United States representative, he would point out that it was not enough to state, in the declaration, that the family had the right to protection without specifying by what means that protection would be ensured.

MRS. BEGRUP (Denmark) thanked the United States representative for the explanations she had given of the term "as to marriage". She considered it necessary, however, to point out that the French term was better than the English, and suggested the latter might be made clearer if the words "equal rights as to marriage" were replaced by the words "equal matrimonial rights".

Her delegation would vote in favour of the Lebanese and Mexican amendments.

MR. CASSIN (France) believed that the Committee should work for social progress and at the same time so draft the declaration of human rights as to make it acceptable to all. Bearing those considerations in mind, he thought the basic text of article 14 was satisfactory.

He agreed with the representative of India that the term "of full age" was preferable to "of legal matrimonial age" proposed by the representative of Saudi Arabia. If that expression were used, child marriages, recognized as legal in certain countries, would be justifiable.

The expression "as to marriage" was the widest that could be used; it covered the whole of [374] married life, that is, the dissolution of marriage as well as marriage. Countries which had divorce laws could not after all impose the use of the word "divorce" in the declaration when certain national constitutions did not admit it. That was why he preferred the term "as to marriage", which was very satisfactory.

He would be prepared to accept the Lebanese amendment on condition that its purport was to substitute the word "free" for the word "full" and not to use both words in juxtaposition.

In answer to the representative of Ecuador, he pointed out that he was prepared to replace the words *des deux époux* (of both spouses) by the words *des futurs époux* (of the intending spouses); indeed the latter term corresponded exactly to the term used in the English text.

As to paragraph 3 of article 14, he felt that the text was adequate if it specified the need for protection. Such protection should not be provided solely by the State; it must be provided at all stages from the social group to the world community not only by public bodies but also by private or religious institutions, wherever they existed.

The French delegation would vote in favour of the basic text together with the Lebanese amendment which constituted a minor drafting change. The other amendments, though extremely interesting, were in his opinion unnecessary.

MRS. IKRAMULLAH (Pakistan) said all civilized countries could accept article 14, which she thought was designed to prevent child marriage and marriages contracted without the consent of both parties, and also to ensure protection of women after divorce and the safeguarding of their property.

Since the laws of Pakistan recognized all the rights referred to in article 14, her delegation was prepared to accept it. She would wish to make it clear, however, that "equal rights" must not mean "identical rights". Identical rights for women as to marriage could in some cases be a liability to them rather than an asset. That point had been ably put by the representative of Saudi Arabia, and the Pakistan delegation would have been the more ready to support his amendment as the Mohammedan laws of marriage in all countries where they are applied gave adequate safeguards to women. Unfortunately however, she could not support the amendment, as she feared it would enable countries with laws discriminating against women to continue to apply them.

The Pakistan delegation opposed the Mexican amendment because it completely disregarded the religious factor as a hindrance to marriage.

THE CHAIRMAN put to the vote the Egyptian amendment which substituted the following text for that of article 14 (A/C.3/264):

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"Everyone has the right to found a family, which is a fundamental element of society, and is entitled to the protection of that family."

The amendment was rejected by 36 votes to none, with 3 abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics) said he had voted against the amendment because it did not take into account the essential concept of the equality of men and women in all questions relating to marriage.

THE CHAIRMAN put to the vote the proposal submitted by the delegation of Uruguay at the 124th meeting to add the words "or any other limitation" at the end of the Mexican amendment.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) explained that the aim of his proposal was to condemn not only limitations due to race, nationality or religion, but also such limitations as might be due to class distinction or political beliefs.

MR. GARCÍA BAUER (Guatemala) stated he would be unable to vote in favour of the proposal submitted by the delegation of Uruguay, as acceptance of the principle it involved would remove every possibility of marriages being prevented for legitimate and justifiable reasons, for example reasons based on medical objections.

The proposal was rejected by 22 votes to 7, with 11 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the delegation of Mexico (A/C.3/266), proposing to insert at the beginning of article 14, before the words “men and women”, the following words: “Without any limitation due to race, nationality or religion”.

MRS. KALINOWSKA (Poland) requested that the vote on that amendment should be taken by roll-call.

A vote was taken by roll-call, as follows:

In favour: Argentina, Burma, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Guatemala, Haiti, India, Mexico, Norway, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Belgium, Canada, China, France, Greece, Honduras, Iraq, Luxembourg, Netherlands, New Zealand, Pakistan, Syria, United Kingdom, United States of America.

Abstentions: Afghanistan, Bolivia, Brazil, Iran, Lebanon, Saudi Arabia.

The amendment was adopted by 22 votes to 15, with 6 abstentions.

MR. ANZE MATIENZO (Bolivia) stated that, while he was in agreement with the substance of the Mexican agreement, he had abstained from voting because he thought that the principle of non-discrimination was already established in article 2 of the declaration; it was therefore unnecessary to restate that principle each time a risk of discrimination was involved.

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MR. CONTOUMAS (Greece) also agreed with the substance of the Mexican amendment, but had voted against it for the reason given by the representative of Bolivia.

THE CHAIRMAN put to the vote the new text of paragraph 1 of article 14 proposed by the representative of Saudi Arabia (A/C.3/240). The text would be voted upon in two parts.

He put to the vote the first part of the amendment: "Men and women of legal matrimonial age within every country have the right to marry and to found a family."

That part of the amendment was rejected by 24 votes to 4, with 7 abstentions.

THE CHAIRMAN put to the vote the second part of the amendment: "and are entitled to the full rights as defined in the marriage laws of their country".

That part of the amendment was rejected by 38 votes to 1, with 6 abstentions.

THE CHAIRMAN put to the vote the Syrian proposal to replace the word "full" in the English text of paragraph 1 of article 14 by the word "mature".

The proposal was rejected by 22 votes to 6, with 12 abstentions.

THE CHAIRMAN put to the vote the Danish proposal to replace the words "equal rights as to marriage" in paragraph 1 by "equal matrimonial rights", in the English text.

The proposal was rejected by 19 votes to 7, with 13 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the USSR delegation (E/800, page 33) proposing the addition, at the end of paragraph 2, of the sentence: "Men and women shall enjoy equal rights both during marriage and when divorced."

The amendment was adopted by 17 votes to 16, with 9 abstentions.

MR. CONTOUMAS (Greece) agreed with the substance of the amendment, but had voted against it because he thought that it constituted an unnecessary repetition, divorce being already covered by the formula "as to marriage" in paragraph 1.

THE CHAIRMAN put to the vote the Lebanese amendment (A/C.3/260) proposing the insertion of the words "free and" before the words "full consent" in paragraph 2.

The amendment was adopted by 36 votes to none, with 5 abstentions.

THE CHAIRMAN put to the vote the proposal submitted by the representative of Ecuador for the substitution, in paragraph 2, of the words "contracting parties" for the word "spouses".

The proposal was rejected by 27 votes to 13, with 3 abstentions.

There being no objections, it was agreed that the French text should read des futurs époux and the English text "of the intending spouses".

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THE CHAIRMAN put to the vote the second part of the amendment submitted by the USSR, proposing the addition of the words “by society and the State” at the end of paragraph 3 of article 14.

MRS. KALINOWSKA (Poland) requested that the vote on that amendment be taken in parts.

THE CHAIRMAN put to the vote the USSR proposal to add the words “by society” at the end of paragraph 3.

That proposal was adopted by 22 votes to 13.

THE CHAIRMAN put to the vote the USSR proposal to add the words “and the State”.

That proposal was adopted by 25 votes to 12, with 5 abstentions.

THE CHAIRMAN then put to the vote the full text of article 14 as amended.

Article 14, as amended, was adopted by 37 votes to 3, with 3 abstentions.

MR. AZKOUL (Lebanon) explained that his delegation had voted against the adoption of article 11, partly because it repeated the concept of equality between men and women twice for no reason at all, and partly because while affirming the principle of equality during the actual period of marriage and at its dissolution, it did not provide for the need to ensure such equality also at the time of the conclusion of the marriage contract.

The Lebanese delegation reserved its right to put the question before the General Assembly.

MR. CASSIN (France) stated that his delegation had been compelled to vote against article 14, not on account of its substance, but because it was unable to accept the text as it stood.

Referring to the French text, he pointed out in particular that, according to paragraph 1 of article 14, men and women were entitled to *droits égaux* (English text: “equal rights”), while under paragraph 2 they were to enjoy the *mêmes droits* (English text: “equal rights”). Those two terms were close in meaning but not identical, and it was uncertain which of them would prevail in cases of legal dispute. The declaration of human rights had to be clear and explicit, and no inconsistencies could be tolerated in the text.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said his delegation had voted in favour of the USSR amendment because it considered that in questions of marriage, equality was the minimum condition to be assured to women. In Uruguay, divorce was granted to women on request, without grounds having to be produced, so that women’s rights in that respect were superior to those of men. That was a mark of social progress, of which Uruguay was rightly proud.

MR. DEHOUSSE (Belgium) supported the French representative's remarks concerning the addition to paragraph 1 of article 14 of the clause on non-discrimination in respect of race, nationality or religion proposed by the Mexican delegation. Like Mr. Cassin, he thought that the clause might be taken to imply that all grounds for discrimination as to marriage not cited in article 14 could be maintained, which could not fail to [378] weaken the general principle of non-discrimination affirmed in article 2 of the declaration.

Nevertheless, the Belgian delegation, which had voted against the Mexican amendment, had supported the adoption of article 14 as a whole, in a spirit of conciliation.

MR. WATT (Australia) stated that his delegation had voted in favour of the adoption of article 14 despite some doubts arising from the somewhat unfortunate wording of that article.

As regards the various amendments, the Australian delegation had voted against the first USSR amendment which merely reiterated an idea already mentioned in the text; it had voted against the second USSR amendment because it thought that protection of the family should not be limited to that offered by society and the State, and against the Mexican amendment because it considered it inadvisable to reaffirm, in a rather restricted form, a principle already established in article 2 of the declaration.

MR. SANTA CRUZ (Chile) pointed out that his delegation had not taken part in the general discussion on article 14, as its point of view had been adequately expressed by many other delegations.

The delegation of Chile had voted in favour of the adoption of that article despite the gaps mentioned by the representative of France, because it approved of it in principle. Nevertheless, it hoped that amendments to rectify drafting errors would be proposed before the plenary meeting at which the draft declaration would be submitted to the General Assembly.

The Chilean delegation had voted in favour of the Mexican amendment because it thought that in drafting a declaration of human rights account should be taken of the fact that reality did not always correspond to the principles it was intended to establish.

It had also voted in favour of the USSR amendment, which proclaimed equality as to the dissolution of marriage, without, however, upholding the right of divorce.

MR. MACDONNELL (Canada) had voted against the Mexican amendment, because he considered that the subject had already been dealt with in article 2.

MR. BARODY (Saudi Arabia) stated that his delegation had voted in favour of the Syrian delegation's proposal to substitute the words "mature age" for "full age" in the English text, as the former specified the physical pre-condition of

marriage while the latter did not necessarily refer either to the legal or the marriageable age.

On the other hand, the delegation of Saudi Arabia had not cast its vote in favour of article 14 as a whole because it could not agree, for reasons already stated, to any provisions of that article which might possibly conflict with Islamic law.

MR. CHANG (China) stated that his delegation had abstained from taking part in the final vote on [379] article 14 because the gaps in that article were too serious to be overlooked.

That fact demonstrated once again the importance of avoiding undue haste in drafting; a document such as the one the Committee had to prepare must be the outcome of long reflection and thorough study.

The Chinese delegation thought that the General Assembly's attention should be drawn to the matter.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that at all stages of the work on the draft declaration of human rights, the USSR delegation had striven to ensure absolute equality between men and women. Article 14, which established equality as to marriage, was a progressive article and in adopting it, the United Nations would indeed be up to date in its work.

The USSR delegation wished to congratulate all the women of the world whose long struggle for liberation had finally been crowned by a real success.

MRS. BEGRUP (Denmark) recognized that the text of article 14 in the form in which it had been adopted contained a regrettable repetition. However, her delegation believed that, even if it did contain a repetition, a text which clearly established equality between men and women in all the stages of marriage was preferable to a better draft which left any room for doubt in that respect.

The Danish delegation would nevertheless welcome any amendment likely to improve it without restricting its scope.

MR. CONTOUMAS (Greece) having expressed the wish to take up the allusion made to his country in the Polish representative's speech, THE CHAIRMAN stated that, according to the rules of procedure, the general discussion being closed, he could only allow members to explain their vote.

MR. CONTOUMAS (Greece) replied that if he wished to avoid abusing his powers, the Chairman must either prevent the representative of one State Member of the United Nations from levelling charges at another Member State, if necessary calling such a representative to order, or give the floor to the representative against whose country the charges have been made, so as to allow him to answer them.

MRS. NEWLANDS (New Zealand) explained that her delegation had abstained from taking part in the final vote because it was unable to accept the text of article 14 as amended by the Mexican delegation, that is, limiting non-discrimination – a principle established in article 2 – to grounds of race, nationality and religion.

The delegation of New Zealand also fully endorsed the observations made by the representatives of France and China.

The meeting rose at 1:15 p.m.

A/C.3/SR.126⁹¹

8 November 1948

***Summary Record of the Hundred and Twenty-Sixth meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
8 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

50. Draft international declaration of human rights (E/800) (continued)

Article 15¹

THE CHAIRMAN noted that the basic text of article 15 and the amendments to it were recapitulated in document A/C.3/288/Rev.1.

He called on the members who had submitted amendments to explain their proposals.

MR. DE LA OSSA (Panama) said that his delegation had proposed (A/C.3/280) the addition of the words “in accordance with general law” at the end of the first paragraph of article 15, because such an addition was needed in the case of a right in the protection of which the State would necessarily have to take a particularly active part.

Furthermore, his amendment would make the text more generally acceptable since many countries, with their varying national laws regarding the ownership of property, would hesitate to agree to the basic draft.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) pointed out that the Uruguayan amendment (A/C.3/268) applied only to the French text of article 15. The French words *posséder des biens* might be misleading, and would certainly give the wrong impression if translated literally into Spanish. Many countries made a legal distinction between possession and ownership; the word *propriété* should be used to convey the idea of ownership.

MR. PAVLOV (Union of Soviet Socialist Republics) observed that the USSR proposal (E/800, page 33) to include a reference to the laws of the country where the property was situated was entirely consistent with his Government’s general

⁹¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 380–90.

position that the laws of the country concerned should always be taken into consideration.

The addition of the word “illegally” in the second paragraph of article 15, as suggested by his delegation, would further strengthen the reference to law.

Various countries had widely differing views in regard to the ownership of property. In the USSR for examples certain categories of property were allowed the individual, but all large units of property such as mines, means of communication banks, large industrial and commercial enterprises etc. were owned either by the State—which meant the people as a whole – or by smaller groups such as co-operatives. Article 15 should therefore be drafted in general terms so as to include all the concepts of ownership. In order to ensure equality in international law for the different social structures in the world, the article should contain specific reference to the laws of

^[1] Article 18 of the draft universal declaration of human rights (A/777).

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the country concerned. The right of each country to follow its own laws regarding the ownership of property would thus be respected.

Referring to the Cuban amendment (A/C.3/232), he could not agree with the first paragraph in which mention was made of the right to own such property as met “the essential needs of decent living” and helped “to maintain the dignity of the individual and the home”. If such details were included, then the article should also state that the right to own property should not interfere with the general welfare and that the property owner should not be allowed to infringe the rights of the non-property-owner. However, any such detailed analysis was unnecessary.

The USSR found the second paragraph of the Cuban amendment acceptable.

MR. SANTA CRUZ (Chile) said that the amendment proposed by his delegation (A/C.3/249) was based on a text to be found in the Bogotá declaration. That amendment had been first presented in the Drafting Committee which had examined the text of the draft declaration adopted at the second session of the Commission on Human Rights – a text in which reference had been made to the laws of the country concerned. The Chilean delegation had found such a reference meaningless. To say that rights should be granted in accordance with the law might mean, under some laws, that there was an unlimited right to property, and under other laws it might mean no right to property at all. The USSR delegation and the Drafting Committee had recognized the validity of the Chilean delegation’s argument and had adopted the proposed amendment.¹

At its third session, however, the Commission had adopted the text before the Committee.² That text did not make clear the essential point, which was the extent to which the right to ownership of property was a fundamental human right. To say that “everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home...”,

would be to define how much property should be considered an inherent right of the individual. Ownership of anything more than that might be legal and just, but could not be considered a basic right. Moreover, the word “property” as used in the Chilean amendment could be interpreted to mean property owned either privately or collectively.

He supported the Uruguayan amendment to the French text.

MRS. ROOSEVELT (United States of America) supported the basic text of article 15, which she found definitely superior to all others.

The USSR proposal that the right to own property should be limited by the laws of the country concerned would make the right meaningless and the proclamation of it in an international document quite useless.

^[1] See document E/CN.4/AC.1/SR.8.

^[2] See document E/CN.4/SR.61.

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The USSR suggestion that “arbitrarily” should be interpreted as “illegally” was also unwise. The declaration should use the word “arbitrarily” which was far wider in its import than “illegally”.

Referring to the Cuban and Chilean amendments, she said those proposals would imply a limitation on the right to own property which her country would find undesirable. Furthermore, it would be difficult to define the exact meaning of the “decent living” referred to in both the amendments. She recalled that the Commission had adopted the compromise text before the Committee only after having discussed thoroughly the ideas contained in the various amendments before the Committee.

Mrs. Begtrup (Denmark) took the Chair.

MRS. CORBET (United Kingdom) also supported the Commission’s text of article 15, as it expressed simply and clearly the basic ideas about property which should be set forth.

It was generally agreed that the ownership of property was subject to the laws of the country concerned, but there seemed no need to include such a provision in the declaration. For that reason she was opposed to both the USSR and Panamanian amendments.

As regards the word “arbitrarily”, she explained that the word was not synonymous with “illegally”, since an act that was arbitrary might at the same time be legal; “arbitrarily” should therefore be retained.

She could not support the Cuban and Chilean amendments as there was almost always danger that the underlying meaning would be distorted if the fundamental human rights were described in too great detail.

MRS. LINDSTRÖM (Sweden) said she had taken little part in the debate on the draft declaration as she had found the basic text generally acceptable; it included, in fact, principles which were already being applied in Sweden.

She had, however, considered proposing that article 15 should be amended to include the words “in his own country”. It was not always wise that the right to own private property should be unlimited, especially when the property consisted of large interests in a foreign country. She had refrained from presenting such an amendment in the hope that draft article 27 as well as the laws of the various countries would cover her point.

She would, however, support paragraph 1 of the USSR amendment, which laid down very reasonable limitations on the right of ownership.

She would also vote for paragraph 2 of the USSR amendment. The word “illegally” was clearer and more restrictive than “arbitrarily”; the latter might, for example, be interpreted to conflict with Swedish law which allowed the expropriation of private property for public use.

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MR. SAINT-LOT (Haiti) pointed out that as many countries no longer admitted the absolute right to property, the draft declaration would be going counter to the trend of historical evolution if it laid down such a right.

On the other hand, to limit the right to what was provided by rational laws, as suggested by the USSR delegation, was not appropriate, for specific reference to such laws would be a concession to nationalism that was contrary to the purpose of the universal document under discussion.

He could not support the Cuban and Chilean amendments; the concept of “decent living” was too subjective and would be open to many varied interpretations.

In order to correct the unduly individualistic nature of the basic draft of article 15, yet not to go to the other extreme of setting up national laws as a criterion for determining the limits of the right to own property, he proposed the addition, to paragraph 1, of the sentence:

“This right shall be exercised in conformity with the public interest.”

MR. DEHOUSSE (Belgium), referring to the USSR proposal, stressed the fact that there was no reason for the declaration, which was only a recommendation and imposed no obligations on countries, to contain reference to national laws. If, at international conferences, constant references were made to national laws, there would be a tendency to stabilize the status quo in each country and no progress would be made. He therefore opposed the USSR amendment.

He also opposed the Cuban and Chilean amendments because the concepts of “essential needs” and “decent living” were vague. A similar lack of precision made the Panamanian amendment unacceptable.

The Uruguayan amendment to the French text was important, for there was a legal distinction between possession and ownership. The amendment should therefore be adopted.

He proposed that the following text (A/C.3/325) should be substituted for the basic draft of article 15:

“Within the limits of public interest, everyone is entitled to own property alone as well as in association with others.”

That was a compromise text which might meet several of the points of view that had been presented. It would moreover reflect the present stage in the development of democratic thought.

Mr. Malik (Lebanon) resumed the Chair.

MR. AQUINO (Philippines) preferred the basic draft of article 15; it would affirm the right to own property and ensure the full exercise of that right by protecting the individual against possible encroachment by the State.

The intention behind the first part of the USSR amendment was commendable, but the adoption of the amendment would fix the stamp of approval on existing property laws, whether they were good or bad. A deplorable situation such as existed in [384] the Union of South Africa, for example, where arbitrary laws preventing any but members of the white race from owning certain types of property, would thus receive United Nations sanction.

He also opposed the second part of the USSR amendment. “Illegal” and “arbitrary” were not necessarily the same, and if “arbitrary” were interpreted in article 15 to mean “illegal”, its meaning in the other articles would thereby be affected.

He could not support the Cuba, Chilean and Panamanian amendments, for they all contained ideas that were not clear and that could easily be misinterpreted.

The Haitian amendment was noble in purpose but was not sufficiently realistic at the current time when it was still necessary to take national laws into account.

MR. WATT (Australia) pointed out that if the second part of the USSR amendment meant “No one shall be illegally deprived of his property”, the meaning was clear; but if the word “illegally” was used to define the word “arbitrarily”, the meaning of the latter word would be modified in all other articles.

He agreed that article 15 might, like many other articles, be termed individualistic. In setting forth the rights of individuals, however, it would be difficult to avoid an individualistic approach. Amendments such as those of Haiti and Belgium did not seem necessary, as the second paragraph of article 27 would adequately cover any restrictions on individual rights to property which might be advisable.

The Australian delegation would vote for the basic text.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated that his delegation could not vote for the USSR amendment; it served no purpose and did not add to the value of the document. A similar amendment to that article had been rejected by the Commission on Human Rights.¹

The Cuban and Chilean amendments were much closer to the ideas of his delegation; nevertheless, those amendments would tend to protect only minimum property rights. His delegation felt that the protection of property should be broader, and that in no case should there be confiscation of property without compensation.

The Belgian amendment was unnecessary, since article 27 was sufficient to cover the requirements of the “public interest”.

The Haitian amendment did, however, introduce a new idea in stating that the right to own property must be exercised in conformity with the public interest, and it would constitute a concrete criterion to be used in the implementation of rights set forth in the declaration.

He would therefore support the basic draft of article 15, with the addition of the Haitian amendment.

^[1] See document E/CN.4/SR.61.

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He urged again his delegation’s amendment in regard to the French text.

MR. CASSIN (France) stressed the difficulty of arriving at a perfect text for article 15. The basic draft was admittedly weak.

The Chilean amendment had endeavoured to deal with the essence of the problem in defining to what extent the right to own property could be called a fundamental human right. All countries recognized the right to a minimum amount of property, without which a man lost his dignity and self-respect. The concept of individual property, however, varied in the different countries and an adequate definition of property would require a more explicit draft than those of the Cuban and Chilean delegations.

The basic text was not satisfactory. He preferred the wording of the first part of the Belgian amendment to the French text of the article.

However, the words “within the limits of public interest” in the Belgian amendment were less satisfactory than the expression used in the Haitian amendment, for the latter stressed that the right to property should be exercised in conformity with the public interest, whereas the former merely stated an idea which was already sufficiently covered by article 27.

Paragraph 2 of article 15 must be retained, for it was imperative to ensure the protection of individual property against arbitrary acts, whether legal or illegal.

He further supported the Uruguayan amendment as a drafting change in the French text.

MR. CONTOUMAS (Greece) agreed with the representative of France concerning the Belgian amendment, but did not consider the Haitian amendment necessary.

Referring to the French text, the Greek representative proposed that the first part of article 15 should be worded in accordance with the first part of the Belgian

amendment, but the idea contained in the words “within the limits of public interest” should not be included.

Paragraph 2 of the original draft should be retained.

MRS. NEWLANDS (New Zealand) supported the basic text of article 15.

As an additional objection to the USSR amendment, she pointed out that in some cases, particularly where movable property owned by non-nationals was concerned, the laws of more than one country might apply.

MR. AZKOUL (Lebanon) observed that both the USSR and Panamanian amendments tended to bring the right to property into line with the laws of each country. He supported the objections already raised to those amendments, and pointed out that the laws of the country should not violate the rights proclaimed in the declaration.

The Cuban and Chilean amendments raised a second point, namely, the minimum property rights of each individual. The Lebanese delegation would [386] be glad to support a text which clearly defined minimum property rights. The amendments proposed were not clear and did not seem to apply the right to own property above that minimum.

A third idea was introduced by the delegations of Haiti and Belgium, which wished to insert a clause to guarantee that the ownership of property would be in conformity with public interest. The Haitian amendment might be acceptable to the Lebanese delegation if it were worded differently. An individual could be asked not to act against the general interest, but he could not be obliged to use his property in the general interest. If the Haitian proposal were therefore worded in the negative, the Lebanese delegation would be able to support it.

The Belgian proposal, stating that everyone was entitled to property “within the limits of public interest” might be interpreted to mean that a State could, by invoking general welfare, prohibit the right to property entirely. For that reason, the Belgian proposal was unacceptable.

The Lebanese delegation would support the basic draft with the Uruguayan amendment to the French text.

MR. MEYADEH (Iran) stated that, in view of the various explanations given, he wholeheartedly supported the basic draft of article 15, but suggested that the words “of his property” in paragraph 2 should be replaced by “of his possessions and the benefits deriving therefrom”.

MR. SANTA CRUZ (Chile) said that the Cuban and Chilean amendments reflected the text adopted at Bogotá. It had been argued that those amendments set forth a minimum right to property, but did not provide for ownership beyond that minimum. That was, however, a misinterpretation, for the amendments merely laid down what should be considered the fundamental human right in regard to property.

It had also been objected that the terms of the amendments were too vague. The declaration, however, was a statement of general principles which would be interpreted by the peoples of the world according to their varying concepts.

MR. CHANG (China), while expressing appreciation of the amendments proposed, stated that his delegation preferred the original draft.

MR. DE ATHAYDE (Brazil) wished to support the basic text of article 15, to which no substantial improvement would be made by the amendments. The draft was clear and in keeping with the spirit of the declaration.

MR. PAVLOV (Union of Soviet Socialist Republics) had noted that certain delegations objected to the inclusion of references to national laws. In his opinion, it was important to determine what provisions came within the purview of national legislation and what were subject to international law.

It had been suggested that the word "illegally" was not sufficiently clear, but he felt that the word arbitrarily could only be interpreted subjectively.

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The French representative's observations on the question of property in the USSR were not entirely accurate. It was true that the individual could own his own house and personal belongings, but it was considered personal or individual, rather than private property. It enabled him to participate, as an individual, in the life of the community. The expression "private property" was not liked in the Soviet Union, owing to the fact that it could be acquired in other parts of the world through the exploitation of the masses. It was wrong that some individuals should own a great deal, while others starved, and therefore, the mines, transportation services, banks and so on, could not be privately owned in the Soviet Union.

The USSR delegation was prepared to respect the points of view of other delegations, but in its turn, expected the same consideration on the part of those delegations.

MRS. ROOSEVELT (United States of America) expressed the view that both the Belgian and Haitian amendments introduced substantial changes and therefore could not be considered by the Committee at that stage of the discussion. In her opinion, the point raised by the Swedish representative, as well as that contained in those two amendments, were covered by the provisions of article 27.

She reminded the Committee that it was important to avoid hasty decisions to alter a text that had been as carefully thought out as the draft declaration.

THE CHAIRMAN pointed out that the Belgian and Haitian amendments were attempts at compromise between the original text and certain of the amendments to it. It was questionable, therefore, whether they introduced substantial changes, or not.

MR. DEHOUSSE (Belgium) drew attention to the fact that the compromise amendment (A/C.3/325) attributed to Belgium and Haiti had been submitted by the Belgian

delegation only. The amendment was based on a Uruguayan proposal, the original text and the provisions of article 27, and had been put forward in a spirit of conciliation.

MR. SANTA CRUZ (Chile) requested the Chairman to use his discretionary powers in respect of amendments that could be regarded as compromise proposals.

THE CHAIRMAN announced that he would put the amendments to the vote in the following order: Cuba, Chile, Belgium, Haiti as amended by France, Greece, USSR, Panama and Iran.

As no objections had been expressed to the Uruguayan drafting suggestion (A/C.3/268), he considered it adopted.

At the request of the representative of Union of Soviet Socialist Republics, the Chairman put the Cuban amendment (A/C.3/232) to the vote in parts.

The first paragraph was rejected by 23 votes to 3, with 13 abstentions.

The second paragraph was rejected by 19 votes to 10, with 8 abstentions.

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MR. SANTA CRUZ (Chile) withdrew his amendment (A/C.3/249), as the Cuban proposal had been rejected. He explained that he had abstained on the second paragraph of the latter, as the idea was already contained in the basic text.

THE CHAIRMAN called the Committee's attention to the Haitian amendment, which was to be inserted at the end of paragraph 1 of article 15.

MRS. CORBET (United Kingdom) expressed the view that the Haitian amendment introduced an entirely new principle. It went much further than the provisions of article 27 and therefore, could not be considered by the Committee without further discussion.

After a short discussion, THE CHAIRMAN reopened the debate on the Belgian and Haitian amendments.

MR. CASSIN (France) warmly supported the Haitian amendment because it retained paragraph 2 of article 15 and stressed the social aspect of the right to own property.

MR. AQUINO (Philippines) felt that the most convincing arguments against the adoption of the Belgian and Haitian amendments were those put forward by the Belgian, Haitian and French representatives themselves, when they had maintained that the Cuban and Chilean amendments introduced elements which were not relevant to the content of article 15. As had been pointed out by the Australian representative, the necessary limitations to the various rights were laid down in article 27.

MR. PAVLOV (Union of Soviet Socialist Republics) asked the Belgian representative whether, in his amendment, he would be prepared to insert the words "in accordance with the laws of the country where such property is situated" after the phrase "within the limits of public interest". Private property was too frequently in conflict with the public interest, but the insertion of the USSR amendment in that particular place would even introduce a moral element into the article.

Should the Belgian amendment be rejected, he reserved the right to submit his amendment again with respect to the basic text.

THE CHAIRMAN announced that the same amendment could only be voted on once by the Committee and that it was for the USSR representative to choose the text in relation to which he wished to submit it.

MR. CHANG (China) realized that the right to private property was abused, but expressed the view that article 27 was the appropriate place for strengthening the limitations to the various rights. He recognized the good intentions of the authors of the two amendments, but still felt that the carefully prepared basic text was preferable.

MRS. CORBET (United Kingdom) emphasized again that the Haitian amendment went much further than the provisions of article 27, which stated that the rights of the individual would be subject “only to such limitations as are necessary. . .”.

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The Belgian amendment was acceptable, except that it would delete paragraph 2 and in any case, she preferred the basic text. Her Government was not opposed to the limitation of the right to private property, but article 27 seemed the appropriate place in which to insert that principle.

MR. DEHOUSSE (Belgium) said he had already expressed his opposition to the USSR amendment. In his opinion, it was not right to make constant references to national laws in documents emanating from international conferences. The concept of the public interest, to his mind, was more flexible and progressive than the concept of national laws.

In reply to the United Kingdom representative, he said he had considered accepting the retention of paragraph 2, but had decided it would weaken the purpose of his amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) then moved, as an amendment to the Belgian amendment, the addition of the words “in accordance with the laws of the country where such property is situated”. That sub-amendment would then only refer to the exercising of the right to own property.

THE CHAIRMAN put the USSR amendment to the Belgian amendment to the vote.

That amendment was rejected by 25 votes to 11, with 6 abstentions.

THE CHAIRMAN then called for a vote on the Belgian substitute text for article 15 (A/C.3/325).

That text was rejected by 19 votes to 8, with 10 abstentions.

THE CHAIRMAN then put to the vote the sentence which the Haitian representative proposed for insertion at the end of paragraph 1 of the basic text.

That proposal was rejected by 18 votes to 11, with 12 abstentions.

On the suggestion of the Greek representative, it was agreed that the French text of article 15, paragraph 1 should read as follows: *Le droit à la propriété est reconnu à toute personne, aussi bien seule qu'en collectivité.*

The English text would remain as originally drafted.

In reply to the request of the representative of the Union of Soviet Socialist Republics, the Chairman refused to put to the vote the text of paragraph 1 of the USSR amendment, on the grounds that it already had been rejected by the Committee.

MR. PAVLOV (Union of Soviet Socialist Republics) appealed against the Chairman's ruling. THE CHAIRMAN put that appeal to the vote.

The Chairman's ruling was upheld by 19 votes to 8, with 10 abstentions.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) explained that he had voted against the Chairman's ruling, because there was a difference in meaning between the USSR amendment, as a sub-amend-[390]ment to the Belgian amendment, and as an independent amendment.

THE CHAIRMAN put the Panamanian amendment (A/C.3/280) to the vote.

That amendment was rejected by 20 votes to 8, with 9 abstentions.

THE CHAIRMAN put to the vote the USSR amendment to paragraph 2 of article 15 (E/800, page 33).

That amendment was rejected by 23 votes to 8, with 7 abstentions.

THE CHAIRMAN put to the vote the Iranian amendment to paragraph 2 of article 15.

That amendment was rejected by 20 votes to 2, with 17 abstentions.

THE CHAIRMAN put article 15 as a whole to the vote.

Article 15 as amended with regard to the French text, was adopted by 29 votes to none, with 1 abstention.

MR. PAVLOV (Union of Soviet Socialist Republics) said he had voted in favour of article 15, as a whole, on the understanding that illegal actions were included within the meaning of the word "arbitrarily".

In the opinion of the USSR delegation, the Chairman did not have the right to reject an amendment on the strength of his own interpretation of it. Each delegation represents a Government and it was for the Committee and not the Chairman, to decide on the various amendments put forward. The USSR delegation considered the Chairman's ruling on the USSR amendment to article 15, paragraph 1, illegal and unjustified.

The meeting rose at 6:30 p.m.

A/C.3/326

8 November 1948

Original Text: English, French

Text as adopted by the Committee for articles 12 to 14 of the draft Declaration (E/800)

Article 12

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 13

Everyone has the right to a nationality.

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

Article 14

1. Without any limitation due to race, nationality or religion, men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the free and full consent of the intending spouses. Men and women shall enjoy equal rights both during marriage and at its dissolution.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

A/C.3/247/Rev.1

9 November 1948

Original Text: English, French

Saudi Arabia: Amendment to article 16 of the draft Declaration (E/800)

Delete, in the second part of this article, the following words: “to change his religion or belief, and freedom”.

The article would then read as follows:

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

A/C.3/SR.127⁹²

9 November 1948

Summary Record of the Hundred and Twenty-Seventh Meeting [of the Third Committee]

*Held at the Palais de Chaillot, Paris, on Tuesday,
9 November 1948, at 10:50 a.m.*

Chairman: MR. CHARLES MALIK (Lebanon).

51. Draft international declaration of human rights (E/800) (continued)

Article 16¹

THE CHAIRMAN pointed out that the amendments to article 16 submitted by the delegations of the USSR (E/800, page 33), Peru (A/C.3/225), Cuba (A/C.3/232), Saudi Arabia (A/C.3/247) and Sweden (A/C.3/252) were recapitulated in document A/C.3/289/Rev.1.

MRS. LINDSTRÖM (Sweden) stated that freedom of religion had existed in her country for a long time. Consequently, her delegation accepted the basic text of article 16, with one reservation.

Pointing out the danger inherent in manifestations of political fanaticism, she recommended a policy of tolerance towards individuals who pro-

^[1] Article 19 of the draft universal declaration of human rights (A/777).

[391]

fessed religious beliefs, as well as those who had none.

She thought it necessary therefore to propose an amendment (A/C.3/252) to article 16 with a view to ensuring the protection of individuals against any kind of religious intolerance.

MR. PAVLOV (Union of Soviet Socialist Republics) drew the Committee's attention to the fact that his amendment (E/800, page 33) stressed the need to ensure "freedom of thought and freedom to perform religious services". The text of article 16, as adopted by the Commission on Human Rights, merely announced the right of

⁹² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 390–404.

freedom of thought, conscience and religion, whereas the USSR amendment expressly guaranteed the enjoyment of that right.

The USSR delegation placed particular emphasis on freedom of thought which it was necessary to sanction in order to promote the development of modern sciences and which took account of the existence of free-thinkers whose reasoning had led them to discard all old-fashioned beliefs and religious fanaticism. The times when scientists were condemned to be burnt at the stake were past, and science occupied a most important place in human life.

Furthermore, Mr. Pavlov pointed out that certain religious practices represented a real danger for society. Thus, in South Africa, strange beliefs had, even recently, found expression in human sacrifice. For that reason the delegation of the USSR felt that national legislation had to put an end to such inhuman and barbaric practices.

In conclusion, Mr. Pavlov drew attention to the fact that in the Far East, for example, there existed sects whose religious fanaticism led them to flagellation and savage mortification. The purpose of the USSR amendment was to condemn such public ceremonies, which were contrary to the requirements of morality and could have deplorable effects on society, particularly on children who witnessed practices of that kind.

MR. BAROODY (Saudi Arabia) proposed that only the first sentence of article 16 should be retained, as it sufficiently safeguarded freedom of thought, conscience and religion. He was surprised to find that the Commission on Human Rights had sponsored an article wherein, after stating those three freedoms, it had concentrated exclusively on freedom of religion and the right to change religious beliefs, without any mention of the right of the individual to change his general conception of things and the dictates of his conscience. He wondered whether the members of the Commission on Human Rights had not been afraid, in discussing the delicate matter of freedom of thought and conscience, to take a stand openly on the basis of their different political ideologies.

Explaining the reasons behind his amendment (A/C.3/247), Mr. Baroody pointed out that throughout history missionaries had often abused their rights by becoming the forerunners of a political intervention, and there were many instances where peoples had been drawn into murderous conflict by the missionaries' efforts to convert them. [392]

So it was that bloody and unjustifiable crusades organized in the name of religion, had had as their real economic and political purpose the acquisition of a place in the sun for the surplus populations of Europe. Religious wars between Catholics and Protestants had caused, in Europe, the death of millions of persons of both faiths which differed but little from each other.

Mr. Baroody felt that religion was essentially a manifestation of an emotion. He did not feel he should analyse in detail the complex psychological elements which

characterized religion, but he wished to point out that even at that time when, according to some, tolerance prevailed, the dangerous weapon of propaganda was being used in all parts of the world to stir up peoples' religious or other beliefs. Every section of mankind could, if it so desired, make clever use of such an aim to appeal to the religious beliefs of some other section which for a given material reason might not be able to fall in with the plan proposed or which might simply want to avoid any recourse to such an aim. A man often considered himself to be superior to his neighbour merely because he was richer. Similarly, certain groups of people had claimed throughout history to be God's chosen people or to belong to a superior religion, merely because they were more powerful than their neighbours of a different faith. Those who believed in God should admit that all human beings, regardless of their religion, were equal before Him. As to those who did not believe in God, they should understand that in playing upon the religious beliefs of others they might draw the world into a new murderous crusade. For the Arab world, a good religion was one which advocated a reciprocal spirit of kindness and tolerance among mankind.

For those reasons Mr. Baroody wished the Committee to make the declaration as clear as possible and omit any provisions apt to serve as an easy pretext for exciting hatred and encouraging dangerous differences of opinion.

The delegation of Saudi Arabia would even be ready to accept article 16 provided the words "freedom to change his religion or belief, and" were omitted.

MRS. ROOSEVELT (United States of America) fully supported the text of article 16. She recalled that that article had been adopted by the Commission on Human Rights only after lengthy debate and as a result of consultation with representatives of different religious organizations.

She observed that the Peruvian amendment (A/C.3/225) might be interpreted as prohibiting the teaching of religion.

The Cuban amendment (A/C.3/232) only mentioned the freedom to profess a religious or philosophical belief, which would exclude the cultural, scientific and political aspect of that freedom provided for in article 16.

The delegation of the United States would vote against the USSR amendment, which subjected freedom of thought, conscience and religion to national laws.

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Mrs. Roosevelt felt that the amendment of Sweden was unnecessary in view of the fact that article 27 of the declaration expressly covered the points of that amendment.

Noting that the right to change one's belief was one of the essential elements of freedom of religion, she could not accept the deletion proposed by the representative of Saudi Arabia.

She stressed that freedom of thought gave everyone the right to believe as well as not to believe, which should satisfy the representative of the USSR. On the

other hand, it would be useless to mention in article 16 the requirements of public morality, all guarantees in that respect being provided in article 27 of the declaration.

She felt that the progress of civilization and the development of education would put an end to the barbaric practices to which the USSR representative had referred.

In conclusion, Mrs. Roosevelt, being convinced that the basic text of article 16 was satisfactory, pressed for its adoption.

MRS. CORBET (United Kingdom), while supporting the views expressed by the United States representative, stated that her delegation would have preferred a simpler text. But article 16, which had been discussed at length before being adopted by the Commission on Human Rights, was an excellent compromise text uniting the different views expressed. The delegation of the United Kingdom would, therefore, support that article.

As to the amendment of Peru, Mrs. Corbet regretted its failure to deal with freedom of thought.

On the other hand, she could not agree that freedom of thought, conscience and religion should be limited by national law, and in view of the fact that her country attached great importance to the freedom of religion in teaching, practice, worship and observance, she would vote against the amendment proposed by the USSR delegation.

While appreciating the purpose of the amendment of Saudi Arabia, she felt, however, that article 16 should include the right to change one's religion. She could not, therefore, accept that amendment.

In conclusion, she felt that the Swedish amendment was useless as the safeguards provided in it were already included in article 27.

MR. CONTOUMAS (Greece), sharing the points of view expressed by the representatives of the United States and the United Kingdom, accepted the whole of article 16 as adopted by the Commission on Human Rights which he, too, felt to be a compromise text.

He wondered, however, whether the phrase "freedom. . . to manifest his religion or belief" might not lead to unfair practices of proselytizing. He mentioned, in that connexion, that he had had occasion to observe real religious competition in a country where all religions were represented. In fact, free lodgings, material assistance and a number of other advantages were offered to persons who agreed to belong to one religion or another.

Mr. Contoumas understood that the representative of Sweden shared his apprehensions to a certain extent, But he felt that the danger of such [394] unfair practices was a threat, not only to the minority groups of a given country, as Mrs. Lindström had indicated, but also to the religious majority. While, admittedly, every person should be free to accept or reject the religious propaganda to which he was

subjected, he felt that an end should be put to such unfair competition in the sphere of religion.

Without making a formal proposal on the matter, the delegation of Greece would be ready to submit a proposal on that problem if it was considered useful by the Committee.

Mr. Contoumas objected to the USSR amendment which subjected freedom of thought, conscience and religion to the laws of the different countries and to the requirements of public morality. Care must be taken not to encroach upon the field of action of the national legislatures, and on the other hand the declaration of human rights should embody guiding principles for the use of the various Governments. As regards the limitations imposed by the requirements of public morality, they were covered by article 27.

MR. DEHOUSSE (Belgium) said that his delegation would confine itself to a few remarks on the different amendments to article 16.

The amendment presented by the USSR delegation might, in a sense, appear to be wider in scope than the text adopted by the Commission on Human Rights; that was brought out particularly in Mr. Pavlov's statements. Upon careful comparison of the two texts, however, it became apparent that the basic text had, in fact, a much wider scope than the USSR text, which did not mention the concepts of freedom of conscience and freedom of religion. Moreover, the Soviet Union amendment included a reference to the laws of the country concerned which could lead to the opposite of what the USSR delegation wished to attain, as it might permit the maintenance of certain religious practices which, from a humanitarian point of view, it would be better to ban. The delegation of Belgium was, therefore, unable to support that amendment.

The amendment submitted by the delegation of Peru was also of a restrictive nature, inasmuch as it limited freedom of conscience to the profession of a religious faith and left out the wider idea of freedom of conscience as applied to philosophical and scientific concepts. Consequently the delegation of Belgium was equally unable to accept the text proposed by Peru.

The amendment of Cuba gave rise to a number of objections, one of which was an objection of form, for, strictly speaking, there was no such thing as "philosophical belief". If the Cuban delegation maintained its amendment, it should at least rectify that erroneous expression.

Mr. Dehousse agreed with the remarks made by the representative of Saudi Arabia in criticism of intolerance and showing to what extremes fanaticism and sectarianism in the religious and other fields could lead. But the delegation of Belgium could not agree with the proposal of the delegation of Saudi Arabia to delete an entire [395] section of the text dealing with external manifestations of freedom of conscience.

It would be unnecessary to proclaim that freedom if it were never to be given outward expression; if it were intended, so to speak, only for the use of the inner man. It was necessary, however, to stress the external manifestations of creeds by which expression was given to beliefs. In that sense, the Saudi Arabian amendment was also restrictive.

Mr. Dehousse then expressed his desire to know the exact implication of the amendment presented by the delegation of Sweden. The proposal had apparently been inspired by praiseworthy intentions, but it seemed vague both in conception and in form. What, precisely, was, in the field of religion, the meaning of the phrase “interfere unduly with the personal liberty of anybody else”? In professing or propagating a faith one could, to a certain extent, interfere with the freedom of others by seeking to impose an unfamiliar idea upon them. But proselytism was not limited to any one faith or religious group. If it was an evil, it was essentially an evil from which all sides had to suffer. Consequently the delegation of Belgium could not accept the Swedish amendment as long as its exact intentions were not clear.

In conclusion, Mr. Dehousse stated that he would vote for the text of article 16 proposed by the Commission on Human Rights.

MR. SANTA CRUZ (Chile) reminded the meeting that all the ideas contained in the different amendments to article 16 had been discussed at length in the Commission on Human Rights.

Recalling also the part played by Mr. Malik, the Chairman of the Third Committee, in the drafting of article 16, Mr. Santa Cruz announced that his delegation would vote in favour of that text and would oppose all amendments, for the reasons put forward by the representatives of the United States, the United Kingdom and Belgium, with whose views he entirely agreed.

MR. AQUINO (Philippines) stressed that while men agreed in general as to what they considered as their essential freedoms, they frequently differed in the profession of their opinions and faiths. Nothing could show that more clearly than the statement by the representative of Saudi Arabia. For him, religion was the manifestation of an emotion; for others – including Mr. Aquino – it was the expression of faith. It was, therefore, inevitable that the definition of freedom of religion should give rise to differences of opinion. Article 16 was the result of a compromise based on the spirit of conciliation and tolerance shown by the Commission on Human Rights. For that reason the delegation of the Philippines would vote for it.

His delegation would vote against the amendment presented by the delegation of Peru, because it retained only one form of freedom of thought: freedom of religious thought.

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Furthermore, it considered that the amendment of the delegation of Cuba also was negative and restrictive in character.

His delegation shared the anxiety of the Swedish delegation to ensure effective protection for the individual from the manifestations of religious fanaticism. It was obvious that so long as attempts at religious proselytism remained within the limits of public order, freedom of thought was not threatened: quite on the contrary, the free exchange of religious ideas was one of the healthiest signs of freedom and democracy. But when religious action left the realm of pure thought, it might constitute a threat from which human society must be protected. His delegation thought, however, that the basic text contained all the guarantees desirable.

Analysing next the amendment submitted by the USSR, he wished to reaffirm from the beginning that he had not the slightest doubt as to the intentions which had inspired that amendment. But the noblest intention was not sufficient to justify a text which went in a direction diametrically opposed to the aim sought. What the declaration on human rights should attempt to do, was to express a common philosophy for all nations and thus further the advancement of the human race. But the USSR amendment, if adopted, would result in maintaining the *status quo* in the world; it was, therefore, clearly reactionary in character.

Finally, he pointed out to the representative of Saudi Arabia that the precedents of the Crusades and the wars of religion he had evoked, far from militating against the adoption of article 16, clearly demonstrated the utility of provisions designed to prevent a repetition of such conflicts.

THE CHAIRMAN announced that the delegation of Saudi Arabia had withdrawn its first amendment, and that it formally proposed that article 16 should be amended by the deletion of the following words: "to change his religion or belief, and freedom" (A/C.3/247/Rev.1).

MR. CASSIN (France) said his delegation would vote in favour of the text of article 16 as drafted by the Commission on Human Rights. The substance of that text had not been contested in the Commission, and the only objections made to it had been general objections on wording.

The amendments before the Committee were inspired by various considerations. Certain amendments – such as those of the USSR and Sweden – called for a legal check on excessive manifestations of religious proselytism. But a text proclaiming human rights and freedoms could not contain any limitations, even legitimate ones. The French delegation was the first to condemn barbarous manifestations of every kind; it had admitted that moral requirements and public security might inspire certain perfectly admissible limitations of the external manifestations of religion. It found, however, all the guarantees necessary in that respect in the general provisions of article 27.

His delegation feared that the text proposed by the USSR delegation might go beyond its aim, [397] for it might, if the case arose, result in limiting freedom of thought itself. For that reason his delegation could not vote in favour of it.

He recognized that it was a delicate matter for the holders of certain religious beliefs to see it proclaimed that all men had the right to change their beliefs. He admitted that a certain lowering of respect for those religions might result from the adoption of that clause. But the Committee must place itself on the broader plane of humanity as a whole. Not content with proclaiming freedom of thought, it must adopt all the consequences of that proclamation; and one of the most important corollaries of freedom of thought was the freedom of the individual to change his opinion.

In that connexion, he pointed out that the wording of the French text of article 16 was less satisfactory than that of the English. The French text used the term *croyance* which had an essentially religious flavour, whereas the English text used the wider term "belief".

He therefore proposed to improve the French text by replacing *croyance* by *conviction*; in suggesting that purely formal alteration, he wanted it to be understood that he did not wish in any way to change the meaning or the wording of the English text, nor the intention of the authors of the article.

MR. BEAUFORT (Netherlands) emphasized the fact that freedom of thought was one of the essential rights of man and that, that being so, the declaration owed it to itself to recognize and protect that freedom unreservedly.

The amendments proposed, in particular those of the USSR, Peru and Saudi Arabia, were unfortunately of a kind to restrict freedom of conscience and religious freedom in such a way that they were no longer guaranteed, in the full meaning of the term. The USSR amendment, in particular, gave the State the possibility of interfering in the religious life of its nationals, which made it unacceptable in the eyes of his delegation.

He admitted that man was free, if he so desired, to change his beliefs, but he thought that that right was implicitly included in freedom of conscience. However, the text established by the Commission on Human Rights was simple and clear, and his delegation would, therefore, vote in its favour.

MR. KURAL (Turkey) was also in favour of the original text of article 16 for the same reasons as the numerous speakers who had preceded him.

MR. CHANG (China) declared that in discussing article 16, the Committee was dealing with one of the most important principles in the declaration. From the eighteenth century, when the idea of human rights was born in Western Europe, freedom of thought had figured among the essential human freedoms and had covered the idea of religious freedom. He felt, moreover, that freedom of thought included freedom of conscience as well as religious freedom, but, as the declaration was destined for the vast mass of the world's population, it should never be criticized for being too explicit.

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He declared that 1869, the date of the publication of Darwin's treatises, really marked the beginning of the so-called conflict of religion and science. The effects, already eighty years old, of that manifestation of the human spirit could not be sufficiently deplored, and its influence could be felt in the Committee itself. For that reason he stressed the necessity of studying the problem of religious expression in its true perspective.

In order to throw more light on the question, he wished first of all to explain to the Committee how the Chinese approached the religious problem. Chinese philosophy was based essentially on a firm belief in a unitarian cause, expressed on the human plane by a pluralistic tolerance. That philosophy considered that man's actions were more important than metaphysics, that the art of living should be placed above knowledge of the causes of life, and that the best way for man to testify to the greatness of the Divinity was to give proof of an exemplary attitude in this world. In the eyes of Chinese philosophers, it was pluralistic tolerance, manifesting itself in every sphere of thought, conscience and religion, which should inspire men if they wished to base their relations on benevolence and justice.

Returning to article 16, Mr. Chang said he had heard with sympathy and respect the objections raised by the representative of Saudi Arabia. For the countries of the Far East, the nineteenth century, with its expansion of Western industrialism, had not always been very kind and he admitted that missionaries had not always limited themselves to their religious mission.

He expressed the opinion, however, that freedom of thought was well protected by the text proposed by the Commission on Human Rights. During the discussions in the latter, it had been agreed that freedom of belief was an integral part of freedom of thought and conscience, and if special emphasis was laid on the necessity of protecting it, that was to ensure the inviolability of that profound part of thought and conscience which, being largely emotional, was apt to lead mankind into unreasoned conflict.

MR. ENCINAS (Peru) explained that his delegation, feeling that the freedoms of thought, conscience and religion, although closely connected, should be treated in three separate articles, had retained for article 16 only the idea of religious freedom, momentarily setting aside the other two rights, in the interests of a better drafting. He could not, therefore, be accused of wishing to restrict one or other of those freedoms.

Several representatives, including some members of the Commission on Human Rights, had, however, pointed out in their speeches that the basic text of article 16 was the result of a compromise between divergent views. The Peruvian delegation fully appreciated how difficult it was to arrive at a compromise of that sort and, therefore, wished to withdraw its amendment (A/C.3/225) and support the original draft.

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MRS. IKRAMULLAH (Pakistan) noted that once again the USSR delegation was proposing an amendment which limited the scope of the right proclaimed by subjecting it to the special provisions of national legislation. The aim of the declaration was to define the principles which should regulate a civilized society. The USSR amendment ran counter to that aim for it could not be said that every national body of laws had reached the same level in the social field.

Her delegation understood the difficulties peculiar to each country, but thought that they were met by the general reservations of article 27.

In conclusion, she wished to stress the necessity of not adopting any article which might shock the religious sentiments of the different peoples.

MR. SAINT-LOT (Haiti) wished, in the name of the great mass of free-thinkers, to make a reservation concerning the text of article 16. That text, contrary to the method generally adopted by the Commission on Human Rights, was not drawn up in broad general terms. An attempt had been made in it to proclaim not only freedom of belief, but also the right of the individual to change his belief. There was, therefore, ground for astonishment that its authors had not thought of making it still clearer by affirming the right not to believe.

As to the French text, the French delegation had proposed to replace the term *croyance* by the broader term *conviction*. That was a judicious alteration, with which his delegation was glad to associate itself.

It would, therefore, vote for the original text amended in the sense suggested by Mr. Cassin.

MR. AZKOUL (Lebanon) stated that his delegation attached the greatest importance to article 16; the Lebanese delegation would not be able to give the same enthusiastic support to the declaration if it did not embody article 16. Even if the list of social, economic, political and juridical rights of man were complete and adequate, it would count for nothing if man were denied freedom of thought and belief. Those were essential freedoms which made life richer and constituted the supreme goal of all aspirations.

As it stood, article 16 met the main wishes of the Lebanese delegation, for it condemned all interference, not only in the outward manifestations of man's daily life, but also in the development of his inner being. As the Chinese representative had said, religious freedom, the freedom of thought and of conscience, ensured the integrity of inward beliefs and the possibility for each individual to determine his own destiny. That was the reason for the special mention in article 16 of the freedom for an individual to change his belief, as such a change might be at the root of a new spiritual impulse.

Studied in the light of such considerations, the proposed amendments tended to suppress the essential elements of article 16 and should, therefore, be rejected.

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Mr. Azkoul regretted that he was obliged to confirm the opinion of the representative of the Philippines on the USSR amendment. Hitherto the Lebanese delegation had welcomed the initiative taken by the USSR in the field of social progress, even when the proposals made were difficult to realize at the current stage of human development. Consequently, it was with regret that it had to recognize the reactionary character of the USSR amendment, not only because of its refusal to ensure the individual's right to change his belief, but on account of the fact that it did not even agree to explicit recognition of religious freedom. The Lebanese delegation could not accept a draft which might have as one result the obstruction of religious teaching.

His delegation would also have to oppose the other amendments submitted, since in one way or another they would have a restrictive effect on article 16.

MR. ANZE MATIENZO (Bolivia) stressed the fact that article 16 was concerned with a great problem of the human spirit, namely, religious belief and mutual tolerance. That was why the Bolivian delegation felt obliged to give expression to the anxiety it felt on account of the wording of that article, which was more of a sophism than a proclamation of principles. In their desire to keep in line with realities its authors had failed to give it a sufficiently lofty design.

The Bolivian delegation would have liked a brief and eloquent article regarding freedom of thought and belief; that condition would have been fulfilled if only the first phrase of the draft had been retained.

However, while using the right to express its opinion in the name of the freedom of thought which it intended to defend, the Bolivian delegation also intended to show a spirit of tolerance, and would therefore accept article 16 with all that it was meant to imply.

MR. PLAZA (Venezuela) considered that the second part of article 16, as drafted by the Commission on Human Rights, did no more than develop the principle proclaimed in the first part, by enumerating different freedoms. But, like all enumerations, that second part was necessarily restrictive. The Venezuelan representative therefore preferred that only the first phrase of article 16 should be retained. Article 3 confined itself to proclaiming the right to life, so why could the same simplicity not be observed in connexion with freedom of thought and religion, which was also one of the most important rights of the declaration?

The Venezuelan representative thought the amendment submitted by the USSR delegation was worded in very broad terms which did not imply any restriction. In fact, as the USSR representative had pointed out, freedom of thought implied freedom of conscience and religion. That amendment therefore included the same aim as the basic text.

On the other hand, it mentioned "the laws of the country"; in view of the fact that the terms of the amendment submitted by the USSR coincided with those of his

country's Constitution, [401] the delegation of Venezuela would not hesitate in voting in its favour. If the USSR amendment were not adopted, it would vote in favour of the basic text with reservations concerning its application in Venezuela.

MISS BERNARDINO (Dominican Republic) pointed out that the representatives of the United States and of the United Kingdom had explained that the drafting of the text of article 16 was the result of detailed study and that religious personalities of the whole world had been consulted on the subject. The article, as it stood, deserved the consideration of the Committee, and the delegation of the Dominican Republic would vote in its favour.

MR. DE ATHAYDE (Brazil) stressed the fact that article 16 was the most important article in the entire declaration of human rights. Men had, in fact, always struggled and suffered to secure the right to freedom of thought and conscience.

The Brazilian representative considered that the basic text of the article was complete and that the detailed enumeration which followed the declaration of the principle constituted the essence itself of the philosophy which should be at the basis of that article. He considered that the restrictions or limitations to which religious manifestations or practices should be subject in the common interest, were provided for in article 27.

The delegation of Brazil would give its entire support to article 16.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that he wished to make two observations concerning article 16. First, he thought that it laid too much stress on religious freedom; actually, and especially at that very time, freedom of thought should be extended particularly to the realms of politics and science. Secondly, article 16 had proclaimed freedom of conscience; that concept was not provided for by law, and was, therefore, out of place in a legal document.

Mr. Jiménez de Aréchaga could not share the opinion of the Venezuelan representative concerning the USSR amendment. He considered that article 27 provided adequate means of supervising the application of the rights laid down in the declaration. His delegation would never vote in favour of a clause which permitted a country's laws to control the exercise of the right to freedom of thought.

MR. GARCÍA BAUER (Guatemala) considered that article 16, which was the outcome of age-long struggles, was the most important of all the articles in the declaration. It was only right to recognize that the Commission had studied it very carefully.

Referring to the amendments which had been presented, the representative of Guatemala pointed out that in the USSR amendment the only question raised was freedom of thought and the right of the individual to express his belief, whereas freedom of conscience was not mentioned, and religious freedom was dealt with in a questionable manner. Moreover, he could not accept a clause which subordinated the application of a right to the provisions of national legislation. As the

representative of Belgium had already pointed out, to arrive at a positive result, it was necessary for the Governments to adjust their legislation to [402] the principles consecrated by the United Nations; they should not try, contrariwise, to make those principles subject to the laws of their respective countries.

The clause contained in the USSR amendment also subordinated the application of article 16 to the requirements of public morals. Mr. García Bauer considered article 27 covered that question sufficiently. Consequently he would not support the Soviet Union amendment.

As to the amendment submitted by the Cuban delegation, he considered that, as at present drafted, it was less broad in scope than the basic text of article 16.

The Swedish amendment which was intended to complete article 16 was superfluous for the reasons he had already stated in connexion with the USSR amendment. In his opinion, article 27 gave all the necessary guarantees in that respect.

In conclusion, Mr. García Bauer stated that his delegation would have preferred an article drafted in a more concise manner and more forceful, but he was prepared to vote in favour of article 16 as it stood, as proof of his willingness to compromise.

MR. ABADI (Iraq) said he would have preferred to see article 16 divided into three parts, each of which would have been accompanied by an explanatory clause. The first would have dealt with freedom of expression, which would have extended to freedom to express scientific opinions as well as religious or philosophical convictions. The second part would have dealt with religious freedom as such, namely, the relationship between human beings and God; and the third part would have dealt with freedom of worship, namely the relationship of man with society.

Mr. Abadi thought such a proposal might have given rise to a very useful discussion but as he did not wish to submit a formal amendment at that stage of the discussion, he supported the amendment submitted by Saudi Arabia in its new form.

MR. PAVLOV (Union of Soviet Socialist Republics) did not understand why certain representatives had objected to the amendment submitted by his delegation, unless there was some misunderstanding. The fundamental point of the USSR amendment was inspired by a rule which had always been followed by his Government, namely, not to be content to affirm a right but to guarantee it.

Certain representatives had objected to the USSR amendment because it mentioned only freedom of thought and omitted freedom of conscience. The delegation of the Soviet Union considered that the expression "freedom of thought" was sufficiently broad in scope and included scientific and philosophic thought as well as thought in its religious forms. The USSR delegation considered that it was necessary to respect all forms of thought.

Mr. Pavlov stated once more that it might be essential, in certain cases, to restrain the free manifestation of religious beliefs, as for instance in the case of death ritual.

He therefore maintained the USSR amendment because he considered that [403] it was not contrary to the principles set forth in the declaration of human rights.

He felt that article 16 was unbalanced and that it discriminated in favour of religious freedom. He also thought that the detailed enumeration figuring in that article was not a very happy one.

MR. KAYALY (Syria) argued that the principle of freedom of thought was really laid down in three articles of the draft declaration: article 16 which dealt with freedom of thought and religion; article 17 which dealt with freedom of opinion, and with freedom to express that opinion, and article 18 which dealt with freedom of assembly and association.

In order to understand article 16 fully, it was essential to know the reasons which had led its authors to include ideas with a controversial background. The discussion of those ideas had shown that there were various trends of thought and practically all the representatives had expressed their fear of seeing the different forms of freedom of thought restricted in any way.

Mr. Kayaly wondered whether, in order to obviate all controversy, doubts and apprehensions, it would not be wise merely to state the principle in article 16, without going into details which would be more suitably inserted in the covenant or in the measures of implementation. He thought it might be preferable simply, in a short article, to define all that was required by contemporary civilization: freedom of thought, freedom of conscience and freedom of religion. Since the amendment submitted by Saudi Arabia, in its revised form, fulfilled those conditions, the Syrian delegation would vote for it.

Moreover, if all the nations finally decided to base their relations on tolerance and on respect for the opinions of others, it would be unnecessary to include controversial clauses in the declaration; it would be enough to state general principles.

MRS. LINDSTRÖM (Sweden) remarked that a number of representatives had maintained that in view of the existence of article 27, the clause which she wished to add to article 16 was redundant.

She pointed out that similar observations had been made by members of the Committee in connexion with other articles and that, in some cases, it had been decided that it was necessary to reiterate principles which had already been stated.

It had frequently been said in the Committee that the declaration of human rights was meant for the man in the street. It could hardly be hoped, however, that the latter would know the declaration by heart and would always be able to find the relevant article. Mrs. Lindström quoted practical examples to show that some repetition in the text of the declaration was desirable. Hence she considered that she had good reason for maintaining her amendment.

MR. BAROODY (Saudi Arabia) urged that the reference to the individual's right to change his religion should not be retained in article 16. He asked the French

representative whether his Government had consulted the Moslem peoples of North Africa and other French territories before accepting that text, or whether it intended to im-[404]pose it on them arbitrarily. He also asked the other colonial Powers, notably the United Kingdom, Belgium and the Netherlands, whether they were not afraid of offending the religious beliefs of their Moslem subjects by imposing that article on them.

He reminded the representative of Lebanon that 40 per cent of the Lebanese population was Moslem, and asked him whether the whole of that population had authorized him to approve article 16 *in toto*. Mr. Baroody asked those questions because mention had been made of the fact that the Commission on Human Rights had consulted various religious bodies.

Mr. Baroody analysed the revised version of his amendment and pointed out that to mention the individual's right to change religion was superfluous, as that particular freedom was implied in the principle of freedom of belief.

In connexion with the remarks of the representative of China, Mr. Baroody stated that Mr. Chang was over-optimistic in believing that missionaries should be given a chance not to repeat past mistakes. Mr. Baroody did not question the high personal integrity of most missionaries, but he feared that many would still be used for the ends of certain alien political forces.

He hoped there would be no opposition to his revised text, in view of the fact that it retained all the essential ideas contained in the basic text of article 16.

MR. PÉREZ CISNEROS (Cuba) observed that, as a believer, he wished to speak in the name of all men – for all, whether they knew it or not, had some kind of faith even those who had no religious belief – and all could attain the same moral elevation. He therefore considered that no distinction should be made between the different faiths, which were all worthy of respect. That was why the Cuban delegation had submitted its amendment (A/C.3/232), which took into consideration the two essential aspects of human belief: the philosophical aspect and the religious aspect.

In his opinion, article 16 was among those which had been least well drafted by the Commission on Human Rights. It began with a phrase which meant nothing, as it stated a right which was evident, which existed *a priori* and which need not be defended. The rights which did need defending were, for example, freedom of information and freedom of expression.

The second part of the article was unsatisfactory; it placed too much emphasis on the individual's right to change his religion, and thus weakened the absolute value of freedom of thought, conscience and religion proclaimed in the first phrase. The scale of values was thus not observed.

Nevertheless, in a spirit of conciliation, the Cuban delegation was prepared to accept the second part of article 16, but it requested that its amendment should be put

to a vote and that in any case the parts of the basic text of article 16 should be voted on separately.

The Cuban delegation, for its part, would not be able to vote for the first phrase.
The meeting rose at 1:20 p.m.

A/C.3/SR.128⁹³

9 November 1948

***Summary Record of the Hundred and Twenty-Eighth Meeting
[of the Third Committee]***

*Held at the Palais de Chaillot, Paris, on Tuesday,
9 November 1948, at 3:20 p.m.*

Chairman: MR. CHARLES MALIK (Lebanon).

52. Draft international declaration of human rights (E/800) (continued)

Article 16 (continued)

THE CHAIRMAN announced that the general debate on article 16 had been concluded.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that his amendment (E/800, page 33) be put to the vote in four parts.

THE CHAIRMAN put to the vote the words: "Everyone must be guaranteed freedom of thought".

Those words were rejected by 23 votes to 9, with 8 abstentions.

THE CHAIRMAN put to the vote the words: "and freedom to perform religious services".

Those words were rejected by 24 votes to 9, with 8 abstentions.

As a result of those two votes, The Chairman stated that the rest of the USSR amendment was automatically rejected.

MR. PÉREZ CISNEROS (Cuba) pointed out that his amendment (A/C.3/232) should read as follows: "Every person has the right freely to profess a belief or conviction on any subject. This right includes. . ."

THE CHAIRMAN put that amendment to the vote.

The amendment was rejected by 26 votes to 5, with 10 abstentions.

⁹³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 405–15.

THE CHAIRMAN put the Saudi Arabian amendment (A/C.3/247/Rev.1) to the vote.

That amendment was rejected by 22 votes to 12, with 8 abstentions.

THE CHAIRMAN put the Swedish amendment (A/C.3/252) to the vote.

That amendment was rejected by 27 votes to 10, with 7 abstentions.

As no objections were expressed to the French representative's suggestion (127th meeting) to substitute the word *conviction* for *croyance* in the French text, the Chairman considered it adopted by the Committee.

He then called for a vote on the first phrase of the basic text of article 16.

That phrase was adopted by 44 votes to none, with 1 abstention.

At the request of the representative of Saudi Arabia, the Chairman put the words "this right includes freedom to change his religion" to the vote by roll-call.

A vote was taken by roll-call, as follows:

In favour: Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Costa Rica, Domini-[406]can Republic, Ethiopia, France, Greece, Haiti, Honduras, India, Lebanon, Mexico, Netherlands, New Zealand, Norway, Panama, Philippines, Sweden, Turkey, United Kingdom, United States of America, Venezuela.

Against: Afghanistan, Iraq, Pakistan, Saudi Arabia, Syria.

Abstaining: Argentina, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Denmark, Iran, Paraguay, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Those words were adopted by 27 votes to 5, with 12 abstentions.

THE CHAIRMAN put the remainder of article 16 to the vote.

The remainder of the article was adopted by 34 votes to 1, with 10 abstentions.

THE CHAIRMAN put article 16, as a whole, to the vote.

Article 16, as modified in respect of the French text, was adopted by 38 votes to 3, with 3 abstentions.

MR. CASSIN (France) said he had been unable to accept the Saudi Arabian amendment and had voted for the original text, because his country, by tradition, respected the rights to freedom of thought and to religion. In reply to a question asked by the representative of Saudi Arabia at the 127th meeting, he stated that his Government would never take any action which would impair the attachment of the Moslems of the French Union to the latter.

MR. PÉREZ CISNEROS (Cuba) said he had abstained in the vote on the first phrase of article 16 because, in his opinion, it could be interpreted as a meaningless statement. He had also abstained on the second phrase of the article, because it was already covered by the provisions of the first phrase. He had, however, voted in favour of the article as a whole.

MR. PAVLOV (Union of Soviet Socialist Republics) said he had voted for the article as a whole, even though the USSR amendment, designed to improve the text, had been rejected. The USSR Constitution contained a fuller and clearer definition of freedom of thought and religion than was contained in the draft declaration. The functions of State and Church were separated and the right to both religious and anti-religious propaganda was permitted. Other countries, however, were not as progressive as his own and therefore, it would have been too much to expect them to subscribe to the same guarantees as the USSR. He had voted for article 16, because the right to freedom of thought was included and, therefore, the position of science was guaranteed.

MR. CONTOUMAS (Greece) said he had voted for article 16, on the understanding that it did not authorize unfair practices of proselytism.

MR. CAMPOS ORTIZ (Mexico) stated that in voting in favour of article 16 of the international declaration of human rights, the Mexican delega-[407]tion had done so on the understanding that the part "freedom. . . to manifest his religion or belief in teaching. . ." referred to the freedom of man to instruct others in his beliefs or religion within those necessary limitations, in order to ensure recognition and respect for the rights of others requirements of morality, public order and the general welfare, as stated in article 27 of the draft declaration.

MRS. BEGRUP (Denmark) said she had abstained on the Saudi Arabian amendment and on article 16 as a whole, because, in her opinion, the first phrase of the article would have been sufficient. The adoption of the second phrase would mean that the representatives of some 300 million Mohammedans would be unable to support the draft declaration.

Furthermore, from the discussion it could be seen that the various delegations would interpret the provisions of the declaration in different ways, and therefore it would have been advisable to have as wide and as general, but as short, a text as possible.

MR. DEHOUSSE (Belgium) said he had voted for the original text of article 16, as neither the Swedish nor the USSR amendment seemed to improve it. He again called the USSR representative's attention to the fact that there was no need to refer to national laws in the declaration, as it would not be a legally binding document.

The Saudi Arabian representative had claimed that the Belgian Government was carrying out a reactionary policy with respect to the Mohammedan population of the

Congo and Ruanda Urundi. In the first place, the Mohammedan population of those districts was very small and further, his Government had never had, nor would it have in the future, the intention of compelling that population to change its religion. Further, under the United Nations Charter, his Government was under no obligation to consult those peoples.

MR. HABIB (India) drew attention to article 19 of the new Indian Constitution, guaranteeing the right to freedom of religion, which included the right to convert or be converted; that applied to the 40 million Moslems of India as well as to all others. The adoption of the Saudi Arabian proposal would have been a tragedy.

MR. PLAZA (Venezuela) had voted for article 16, on the understanding that the State would be able to carry out investigations of the kind he had described at the previous meeting.

MR. KAYALY (Syria) had abstained in the vote on article 16, although the Syrian Constitution guaranteed the right to freedom of religion. As it stood, the article seemed to violate the spirit of the other articles of the declaration. Secondly, certain countries which had supported it still refused to teach the Darwinian theory in their schools.

The article would have an unfortunate effect on many people in many parts of the world and there did not, actually, seem to be any need for such an insertion. The Syrian people remembered the oppressive policy carried out by the French Government during the period when their country was under French mandate and were convinced that the same oppressive policy was being carried out in North Africa.

MRS. CORBET (United Kingdom) drew the Committee's attention to the fact that her Government had consulted the British colonies on the whole of the draft declaration.

MR. AZKOUL (Lebanon) said he had voted for article 16 because its provisions were not in contradiction with the Lebanese Constitution.

Mr. Aziz (Afghanistan) had voted against the second phrase of article 16 because the reasons put forward by the Saudi Arabian representative were in conformity with the religious beliefs and social principles of his country. Afghanistan reserved the right to conform to Moslem laws with regard to the question.

MR. CAÑAS (Costa Rica) said he had voted for the basic text of article 16.

Article 17¹

THE CHAIRMAN noted that the amendments to article 17 were recapitulated in document A/C.3/294/Rev.1.

MR. PÉREZ CISNEROS (Cuba) felt that a bloc of votes existed within the Committee which would prevent any amendment from being accepted.

He could recognize the excellence of the basic text, but considered that the Cuban amendment (A/C.3/232) would improve article 17. It was briefer than the original draft and set forth the relevant ideas in a logical and chronological order. Before the right to freedom of opinion, the right to freedom of investigation had to be presupposed. The right to freedom of expression should follow, and afterwards, the right to disseminate thought through any media and regardless of frontiers. He had not included the right to the protection of the individual's ideas, but that was implicit in the amendment.

MR. GRUMBACH (France) said the purpose of the French amendment (A/C.3/244/Rev.1) was to emphasize the fact that rights could not be separated from duties. In regard to article 17, he was referring to the dangers of false information, slander and so on.

MR. PAVLOV (Union of Soviet Socialist Republics) said, with reference to the USSR amendment (E/800, pages 33 and 34), that freedom of speech could not be permitted for the propagation of aggression. The United States Press and also their European imitators had been advocating a policy of aggression for some time, in disregard of General Assembly resolution 110(II). A war psychosis was being encouraged by the reactionary Press with the twofold aim of crushing the democratic forces at home and of frightening the countries with whom negotiations were being carried out. As far as the USSR was concerned, that policy

^[1] Article 20 of the draft universal declaration of human rights (A/777).

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had been remarkably unsuccessful. It was obvious, of course, that not all of the United States Press was guilty and that the policy of aggression did not reflect the views of the American people.

The purpose of the second part of the first amendment was to determine how freedom of speech and of the Press could be implemented. At the current time, freedom of the Press was for the very few, and large masses were deprived of their right to express their opinions. The reactionary Press reflected the views of the big newspaper trusts, but not the views of the ordinary people. In that regard, he drew attention to the fact that the majority of the Press had opposed the election of Roosevelt in 1932 and again, on the occasion of the contest between Roosevelt and Dewey,⁹⁴ 95 per cent of the Press in the large cities had supported Dewey. An American statesman, Mr. Harold Ickes, had said that a large part of the United States newspapers did not reflect public opinion because they were controlled by big business concerns.⁹⁵

⁹⁴ Thomas Edmund Dewey (1902–71) was the Republican Party candidate for President of the United States in the 1944 election.

⁹⁵ Harold LeClair Ickes (1874–1952) served as Franklin D. Roosevelt's Minister of the Interior and was largely responsible for implementation of the social security legislation known as the New Deal.

United States trade unions, women's organizations and youth organizations should be given more of an opportunity to express their points of view, so that the Press would more consistently reflect democratic ideas and the desire for peace. The object of freedom of speech and of the Press, protected by the law, should be to prevent the spread of fascism and war propaganda.

MR. DE LEÓN (Panama) said his amendment (A/C.3/280) presented no real change to the basic text; it merely separated the ideas contained therein. In his opinion, too little emphasis had been given to the right to freedom of expression in the basic draft, when, actually, the extent to which that right had been exercised was the key to modern world conditions.

MR. AQUINO (Philippines) said that article 17 recognized the right to hold opinions without interference and the right to seek, receive and impart information through any media, regardless of frontiers. By implication, the words "regardless of frontiers" implied ideological barriers as well as physical frontiers. In some countries, that sacred freedom was at the basis of the common free way of life, while in others, it was a beautiful but an empty abstraction. It was essential, therefore, to adopt article 17.

Referring to the USSR representative's statement, he emphasized that the fundamental freedoms were not conferred by the State; its purpose was to guarantee them and it could not infringe them. The USSR representative, however, wanted to amend article 17 so as to make the State responsible for ensuring freedom of opinion and expression. The effect of the USSR amendment would be to create a controlled Press such as existed in all totalitarian countries.

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The United States Press was bad in many ways. In his opinion, however, the fact that the Press had supported Dewey and yet had allowed a sufficient flow of information so that he had been defeated, proved that the Press was still a free one.

He felt that the French amendment was already covered by the provisions of article 27. The Cuban and Panamanian amendments seemed to him to be only duplications of the basic text.

The Philippine delegation, therefore, would give its support to the original draft of article 17.

MRS. NEWLANDS (New Zealand) stressed that her delegation considered the declaration as the document in which general principles should be proclaimed. The draft covenant and the suggestions for implementation formed, with the declaration, the three essential elements of the proposed bill of human rights and all parts of the bill should be adopted at the same time.

In view of the character of the declaration, therefore, the straightforward statement of principle as given in the basic text of article 17 should be retained. That draft was substantially the same as a text that had been adopted by the Conference on

Freedom of Information held at Geneva in the spring of 1948.¹ At the same time, the Conference had prepared three conventions designed to amplify and give legal substance to some of the ideas contained in article 17. That the amplification of the text of article 17, which was proposed in paragraphs 1 and 2 of the first USSR amendment, would be entirely inadequate to ensure freedom of opinion and expression and the free flow of ideas was particularly apparent when it was studied in connexion with the three draft conventions prepared by the Conference.

She was also opposed to the USSR proposal (E/800, page 34) that freedom of thought and expression should be limited by the interests of national security. The limitations provided in article 27, paragraph 2, of the declaration were quite sufficient to protect the public interest and they were set forth in that article in such a way as to show that only unusual circumstances would justify restrictions on fundamental human rights.

The Cuban, French and Panamanian amendments would in no way improve the basic text and the New Zealand delegation could not, therefore, support them.

MRS. CORBET (United Kingdom) favoured the basic text of article 17, which had been adopted by a large majority after it had been fully discussed at the Conference on Freedom of Information.² The text took into account the different opinions on the subject and was a compromise draft which the Committee should not change unless there were compelling reasons for doing so. The United Kingdom delegation did not oppose the principles contained in the French, Cuban and Panamanian amendments. The French point, however, was better covered by the provisions of

[1] See *Final Act of the United Nations Conference on Freedom of Information*, annex B.

[2] See document E/CONF.6/SR/10.

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article 27; and the separation of freedom of opinion and freedom of expression, suggested by Panama, seemed unwise as the two ideas were inalterably linked.

Referring to the USSR amendments she noted that the words “in accordance with the principles of democracy” might be restrictive. The word “democracy” was interpreted differently by different representatives. Whereas the USSR Government felt that the State was the best judge in matters of information, her own Government considered that full freedom to criticize was one of the most important safeguards of democracy. The definition of the word “fascism” which was used in the USSR amendment, was another point on which the two delegations would not agree.

Paragraph 2 of the first USSR amendment contained an interesting idea. Experience in the United Kingdom, however, had proved that the people could make their will felt regardless of the political opinions most frequently advanced in

the Press – a fact which was true also of the United States, as a recent election in that country had proved. In countries where so many different shades of opinion were allowed, the problem of furnishing material resources for expressing their opinions to all who might wish such assistance would be complicated indeed. The problem would naturally be greatly simplified if only one opinion were to be expressed.

MR. HOFFMEISTER (Czechoslovakia), pointing out the difficulties involved in an article such as the one under discussion, observed that the Third Committee had itself violated the article when it decided to limit freedom of expression by restricting the time allotted to each speaker.

Article 17 attempted to summarize the results of the Conference on Freedom of Information, but it did not take sufficient account of all the views that had been expressed at that Conference. It did not, for example, refer in any way to the letter or spirit of resolution No. 2¹ drafted by Mr. Dehousse, the representative of Belgium on the Third Committee, and adopted unanimously by the Conference, which contained a statement against propaganda or any information that was contrary to the purposes of the United Nations, and which specifically mentioned the necessity of preventing a renewal of fascism and aggression. The basic draft of article 17 was weak in that it did not include that idea. Mr. Hoffmeister asked that the text of resolution No. 2 should be distributed to members of the Committee so that they could consider it in connexion with article 17.

The Czechoslovak delegation supported all of the USSR amendments as they gave concrete expression to the purposes of the Geneva resolution and the United Nations Charter. Just as the Committee had, at the 88th meeting, agreed to restrictive measures on narcotic drugs, so it should take action to prevent the spread of dangerous germs of fascism and nazism and of all propa-

[¹] See *Final Act of the United Nations Conference on Freedom of Information*, annex C.

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ganda designed to provoke hatred between nations. Moreover, the USSR amendments would ensure that freedom of the Press was a reality for, as Lenin had said in 1919, as long as the Press was dominated by capitalist interests there was no truth to the claim that freedom of the Press existed.

MR. DE ATHAYDE (Brazil) said that although no true democracy was possible without the freedoms outlined in article 17, those freedoms were still endangered. Freedom of opinion and freedom of expression were in fact always the first freedoms to be attacked when democracy was being threatened. Brazil therefore attached great importance to article 17.

The French amendment was correct in recognizing that responsibilities and rights could not be separated, but the idea of responsibility should be included elsewhere.

The Brazilian delegation approved the basic text of article 17.

MR. KAYALY (Syria) pointed out that the basic text of article 17 outlined principles contained in the Constitution and laws of his country and he would therefore support it.

The draft amendments would add nothing of value to the text. The opening sentences of paragraphs 1 and 2 of the first USSR amendment, for example, were more in the nature of statements to be contained in a preamble and would be inappropriate in the article itself.

The idea of responsibility, found in the French draft amendment, was a good one but it too should not be placed in an article which proclaimed a principle.

When the declaration was ratified, people everywhere would find that article 17 made clear the rights to freedom of opinion and expression to which they were entitled. Those rights should be applied to all peoples, of all races, whatever their situation, whether they were free, under mandate, or in a colonial status. Any nation that called itself democratic could not but feel the deepest shame if it failed to grant the freedoms outlined in the article.

MR. GARCÍA BAUER (Guatemala) thought that since the first sentence of paragraph 1 of the first USSR amendment was primarily concerned with guaranteeing the enjoyment of the rights set forth in article 17, it should be included in the part of the draft bill of human rights which would deal with implementation, rather than in the declaration. Moreover the words "in accordance with the principles of democracy" were unnecessary, as article 27 covered that basic idea.

Paragraph 2 of the first USSR amendment described a duty of the State towards its citizens and therefore had no place in the draft declaration.

The second USSR amendment mentioned the right to "freedom of thought". Since that right had already been stated in article 16, there was no need to repeat it in article 17.

The other amendments proposed would not improve the basic text of article 17, which he hoped would be adopted.

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MRS. ROOSEVELT (United States of America) felt that as no human rights were more fundamental than freedom of opinion and expression, it was essential that those rights should be set forth unequivocally. Since the basic text of article 17 achieved that purpose, she supported that draft. She recalled, moreover, that the text was substantially the same as that adopted by the Conference on Freedom of Information and it had consequently already been approved by a large number of Governments.

The wording of the USSR amendments, especially in regard to the interests of national security, might be interpreted to justify repression of the right to freedom of opinion and expression. It was dangerous to try to set forth the purposes for which those rights should be used, for the list could not be complete and the result might be that the basic rights would thereby be undermined. Furthermore, the first sentence of paragraph 1 of the first USSR amendment, while it might have relevance to the

document as a whole, was undoubtedly restrictive if used in a particular article. Paragraph 2 of that amendment was plausible at first sight, but in reality it described a method for subjecting the Press to control by the State.

She also opposed the French amendment, which would weaken article 17 by making its meaning less clear.

The Cuban and Panamanian amendments would not improve a text which had already received the most careful consideration of the Sub-Commission on Freedom of Information and the Press, the Conference on Freedom of Information and the Commission on Human Rights.

In reply to the remarks of the USSR representative regarding the Press in the United States, she pointed out that although she did not always approve of all that the Press of her country did, the opinions of the owners of most of the large newspapers could be found on the editorial page only, for such papers were rarely guilty of bias in reporting the actual news. Furthermore, there were many small and completely independent newspapers throughout the country. People in the United States had proved that they could read the news and make up their own minds regardless of the editorial policies of the papers they read. In the final analysis, people in her country controlled the Government and controlled the Press.

Referring to the USSR suggestion that the people should be given the material means for expressing their opinions, she recalled that the presidential election held a short time previously in the United States had been clearly influenced by the labouring classes who were free and able to publish newspapers of their own without help from the Government or any other agency. Those newspapers truly represented the views of the trade unions and of the working man.

MR. DEHOUSSE (Belgium), in reviewing the various amendments, said he did not see the usefulness of either the Cuban or Panamanian amendments.

The French amendment stated a principle with which he agreed but which should be discussed [414] later, in connexion with a general convention on the subject of freedom of information, as it concerned freedom of the Press more particularly than freedom of opinion in general.

The Soviet Union proposal to limit the freedom of opinion and expression by the requirements of national security was an idea which had been thoroughly discussed at the Conference on Freedom of Information. If such a reservation were made, other reservations would also be needed and the article would become far too complicated. He therefore opposed that USSR proposal.

Referring to paragraph 2 of the first USSR amendment, he agreed with the argument against it advanced by the United Kingdom representative. Abuses of the Press resulting from Government control were far more to be feared than abuses resulting from private control.

The second sentence of paragraph 1 of that amendment contained three distinct ideas, as it mentioned fascism, aggression, and hatred as between nations. The latter two were in accordance with the principles of the Charter and were acceptable to the Belgian delegation; but fascism, which he hated as intensely as did the USSR representative, could not be used in a legal document in which it was not clearly defined. That sentence of the USSR amendment should therefore be voted on in parts.

The Belgian delegation approved the basic text of article 17 but thought it would be useful to add a sentence such as the second sentence of paragraph 1 of the first USSR amendment, without, however, the word "fascism".

He agreed with the representative of Czechoslovakia that article 17 should have followed resolution No. 2 of the United Nations Conference on Freedom of Information and have referred to the purposes and principles of the United Nations. He hoped it was not too late for the Czechoslovak representative to present an amendment to that effect.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the USSR amendments; they provided guarantees for freedom of opinion and expression and thus gave the widest interpretation to those freedoms, the development of which would strengthen international collaboration and world peace. Article 17 would be meaningless unless it pointed the way towards the implementation of the rights it proclaimed.

The basic text emphasized the rights of small groups of people, such as newspapermen, rather than the rights of the wider masses. Moreover it did not prevent a renewal of fascism and aggression but gave every opportunity to those who wished to carry on fascist propaganda that would lead to war. In view of the serious weaknesses of the basic article, the USSR amendments which were democratic in substance, were necessary. All delegations who wanted peace, friendship among nations and real freedom would undoubtedly support those amendments.

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MR. PLAZA (Venezuela) thought paragraph 1 of the first USSR amendment, by giving details not appropriate in a general declaration of principle, would restrict rather than broaden the scope of article 17. All necessary limitations to the freedom laid down in that article were covered by draft article 27.

Paragraph 2 of that amendment was good in substance but it should not be included in a declaration which set forth the rights of the individual, rather than the obligations of the State.

The French amendment was unnecessary and might lead to a misinterpretation of the original text.

The Venezuelan delegation therefore supported the basic text of article 17.

The meeting rose at 6:15 p.m.

A/C.3/328

10 November 1948

Original Text: French

Belgium: Amendment to Article 18

“Every person has the right to assemble peaceably and to associate freely with others.”

NB. This text consists exclusively of terms taken from the Cuban amendment of which it constitutes a shortened draft.

A/C.3/SR.129⁹⁶

10 November 1948

Summary Record of the Hundred and Twenty-Ninth Meeting [of the Third Committee]

Held at the Palais de Chaillot, Paris, on Wednesday,
10 November 1948, at 10:30 a.m.

President: MR. CHARLES MALIK (Lebanon).

53. Draft international declaration of human rights (E/800) (continued)

Article 17 (continued)

MR. GRUMBACH (France) pointed out that, as the representative of the United States had stated at the previous meeting, the Committee was faced with one of the fundamental principles to be set forth in the declaration.

Article 17 had already been the subject of thorough consideration in the course of debates at the United Nations Conference on Freedom of Information, at Geneva,¹ and in the Commission on Human Rights. It was the first time that the article was being discussed by the Third Committee and it would also probably be debated upon at a plenary session of the General Assembly. That should not give rise to astonishment or complaints, as it was certain that the article would bring the Committee face to face with very real difficulties. Representatives were, indeed, more than ever exposed to the danger of using expressions to which different interpretations might be given. It would be a very serious matter to agree on words, only to realize later that those words were being interpreted as meaning

⁹⁶ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 415–27.

the contrary of what the article was supposed to express. Members of the Third Committee had a heavy responsibility and it would be unworthy of them to try to evade explanations.

He agreed that, of all the amendments proposed, the double amendment submitted by the USSR delegation (E/800, pages 33 and 34) was the most important. The USSR delegation should not see any expression of hostility in the attitude of the other delegations towards its amendment, for it was only natural that representatives should raise queries when it was a question of defining

^[1] See *Final Act of the United Nations Conference on Freedom of Information*, annex B.

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such an important right as that of freedom of opinion and expression.

He particularly wished to ask the USSR delegation what it understood by the word "fascism". The Press of certain countries had, in fact, not long previously dubbed as fascists certain persons who did not deserve that epithet. That was a most serious accusation and he was afraid that the second part of the first paragraph of the USSR amendment might give rise to some measure of confusion if it were accepted.

Speaking next on the freedom of the Press, he pointed out that there had always been general agreement that it should have certain limits. The discussion which had taken place in Geneva in April 1948, however, as was shown in a striking manner by the record of the meeting held on 7 April 1948 by the Conference on Freedom of Information,¹ had proved to what extent one and the same idea could be differently interpreted by various delegations.

It was for that reason that his delegation, though it agreed that the USSR amendment contained ideas which were perfectly acceptable, could not give its support to a text the drafting of which was insufficiently clear and might in the future give rise to confusion.

MR. CONTOUMAS (Greece) associated himself with the objections which had been made previously against some of the amendments to article 17 and particularly against the amendment submitted by the USSR.

He then pointed out that in his opinion the French text of article 17, contained a drafting error. The words *par quelque moyen d'expression que ce soit* referred in fact to the rights to seek (*chercher*), receive (*recevoir*) and impart (*faire connaître*) information, whereas logically they could only refer to the right to impart (*faire connaître*) information.

The English text more correctly employed the term "media" which could be applied to all three ideas.

MR. AZKOUL (Lebanon) stated that the various criticisms made in the course of the previous meeting and during the current meeting had sufficiently convinced him that it would be preferable to accept the basic text of article 17.

He wished, however, to call the Committee's attention to a danger to which the first USSR amendment might give rise, were it adopted. That danger had not yet been mentioned. It was, nevertheless, a very real one as it might affect the very principle of the right to freedom of thought and of expression. In effect, according to the first sentence of the USSR amendment, the backing of the law would not be guaranteed for the various media of freedom of expression unless those media had as their aim to serve the cause of international co-operation and peace. To accept that text would be to accept making an inalienable right of the individual dependent on ends which should themselves be dependent on that right, for the primary aim of international co-operation and peace should be to guarantee that all men enjoyed their inalienable rights.

[¹] See E/CONF.6/C.4/SR/9.

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MR. WATT (Australia) said that he would limit his remarks to certain fundamental questions.

He reminded the meeting that, at the time of the Conference on Freedom of Information at Geneva, two schools of thought had existed: one maintained the need for absolute freedom while the other put the stress on responsibility and tended to strengthen measures of control. The latter argument, while recognizing the right to freedom of information, desired a stipulation that it should serve definite ends, and considered that, apart from the pursuit of democratic aims, full freedom should not be allowed and that it was desirable to take measures against any abuse. Generally speaking, delegations were ready to agree to certain restrictions; in one of its proposals, the United States had itself suggested certain restrictions, on obscene publications, for instance. Unfortunately, delegations had not been able to reach agreement, except on the question of warmongers.

In that connexion, he recalled that the USSR delegation was not alone in considering that question which, by virtue of Article 1 of the Charter, was of primary importance in the United Nations, which had already condemned incitement to war and stressed the need to continue to combat warmongers in resolution 110(II) of the General Assembly, as well as in resolution No. 2 of the United Nations Conference on Freedom of Information.

Although, however, Members of the United Nations had more than once expressed their unanimity in condemning incitement to war, they had not been able to reach agreement on the way to settle that problem. His delegation, for its part, did not think that to establish censorship was all that was needed to remedy that evil. In its view, the most effective method of combating warmongering propaganda was to facilitate the propagation of truthful news.

Analysing the amendment submitted by the USSR delegation (E/800, page 34), he stated that his delegation could not accept the change which the USSR proposed

to make in article 17 if its first amendment were not accepted by the Committee. The text which the USSR proposed to substitute contained, in effect, a limiting clause which, by making freedom of information dependent on interests of national security, did, in point of fact, give Governments the possibility of establishing extensive censorship.

Neither could his delegation accept the first paragraph of the first USSR amendment (E/800, page 33) which contained some terms, the definition of which had in no way been agreed upon.

His delegation thought that such an important right as that which article 17 was to proclaim should be stated with the maximum of brevity and simplicity and should not be weakened by an enumeration of its limitations and the exceptions to it.

His delegation would, therefore, vote in favour of the text drawn up by the Commission on Human Rights and approved by the fifty-four nations which had met at Geneva for the Conference on Freedom of Information.

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MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) agreed that article 17 was of very great importance in the declaration since it proclaimed freedom of thought and of expression.

Referring to the basic text of that article he was of opinion that not only did that text not safeguard freedom of the Press but it did not even mention it. Certain delegations considered that text a satisfactory compromise because it had been approved by the Conference on Freedom of Information and adopted by the Human Rights Commission.

His delegation, however, thought that article 17, in its basic form, was meaningless and even contrary to the spirit of the Charter since it did not take into account the principle of national sovereignty. Indeed, the expression "through any media" could be interpreted as meaning that any methods could be resorted to, including dishonest practices such as blackmail, calumny and intimidation, in order to receive and impart information and ideas. It was for that reason that, in his delegation's view, it was essential that methods for seeking and imparting information and ideas should be compatible with the requirements of national security. The expression "through any media" went too far and laid a false interpretation on the real meaning of freedom of thought and expression.

Moreover, he was afraid that the text of article 17 might be too confused and incomprehensible to the average man for whom the declaration was intended.

Emphasizing the fact that only the law could guarantee for every individual the benefit of freedom of thought and expression, he added that it should not be possible for that freedom to be used for fascist propaganda and aggressive aims or to incite hatred among nations. The Committee should, therefore, adopt the USSR amendment worded to that effect.

He expressed his astonishment at the stand taken by the United States representative who blamed the USSR amendment for being restrictive. He pointed out that the only restrictions which could be found in that amendment were related to the propagation of fascism, acts of aggression and hatred between nations.

Replying to the Belgian representative who, while expressing his hatred of fascism, was not aware of any legal definition of the term, he enjoined the Committee not to be content with words or half-measures. The declaration should specifically abolish the danger of fascism.

As to the imparting of ideas and information, his delegation was convinced that opinions could not be freely expressed in a Press entirely dominated by private ownership and trusts. Only the participation of the Government in the activities of the Press could guarantee absolute freedom of expression. In that connexion, the representative of the Philippines seemed to have a better opinion of the United States Press than Mrs. Roosevelt herself, who had admitted in effect that certain articles in the United States Press, and leading articles in particular, put forward the views of the paper's owner. Assuming that another part of those articles was reserved for trusts, monopolies and capitalist enterprises in general, [419] he wondered what place the opinion of the working classes and the poor had in the United States Press.

In conclusion, his delegation unreservedly supported the amendment submitted by the USSR delegation.

MR. COROMINAS (Argentina) emphasized the fact that article 17 was perhaps the most important of the whole declaration, for without it the individual would be deprived of freedom of expression, which was his most effective weapon for defending democratic institutions and the very principles on which the declaration was based.

The amendment submitted by the Cuban delegation (A/C.3/232) was, in his delegation's view, an admirable synthesis of the freedoms which article 17 would protect: freedom to seek and to impart information, making for the intellectual, spiritual and professional development of the individual; and freedom of opinion and expression, which was essential for the free exchange of ideas, itself a sign of progress.

Nothing could affect the right to freedom of thought, which would always exist even if a stranglehold were kept on it by some external force. The expression of that thought could, however, be checked and that had to be prevented. He was afraid that the amendments proposed to article 17 might limit freedom of expression in one way or another. The recognition of that right would, on the contrary, be strengthened if the Committee agreed to the Cuban amendment.

MISS KALINOWSKA (Poland) stressed the fact that all the resolutions adopted by the United Nations in connexion with incitement to war and the propagation of tendentious news had, as their primary aim, the establishment of responsibility.

If the amendment submitted by the USSR delegation emphasized that aspect of the problem, it was because of its importance with relation to freedom of information, especially if abuses committed in the name of that liberty were to be avoided. The question had already been discussed at length and the need to go into the subject again was to be deplored. Those who were fighting against incitement to hatred and who were fighting for peace would not abandon their efforts, however, and they could not be blamed for that.

The USSR amendment (E/800, page 33) aimed at ensuring the exercise of the right of freedom of expression, in accordance with democratic principles and in the interests of world peace. It also aimed at preventing the propagation of fascism, aggression and hatred.

In Nazi Germany, monstrous crimes had indeed been committed without a definition existing in the world of what it had been decided to call “genocide” and in spite of the fact that that type of crime had not been legally recognized. In the same way, it seemed of little use to define what was meant by “fascism” each time that word was mentioned. During the war waged against fascism, the Allies knew very well what that word meant.

The second paragraph of the USSR amendment dealt with the principle of equality. The Press, the radio and the cinema were powerful means of propaganda, and it was a well known fact that in [420] capitalist countries, they were subsidized by large commercial enterprises. Calling to account the freedom of the American Press, in defence of which the United States representative had spoken at the 128th meeting, she said that the newspapers of the workers’ Press were not widely on sale, whereas copies of *Time* and *Life*⁹⁷ were to be found in the smallest towns.

It had been admitted at the Conference on Freedom of Information that the remedy to such a state of affairs lay in granting State aid to the various groups of society. Replying to the United States representative, who had expressed doubts as to the way in which such aid would be carried out and as to the control thus exercised by the State, she explained that such an organization existed in her own country where the State did not control, but did offer constructive assistance to, various groups: trade unions, women’s organizations, professional associations, artistic groups etc. In the United Kingdom itself, the example of the BBC could be cited to prove that radio benefited through not being a private enterprise.

The material aid provided for in paragraph 2 was also aimed at improving the status of artists, writers, musicians and painters who suffered from the commercial regime under which they existed in most countries.

Her delegation would therefore give its wholehearted support to the amendment submitted by the USSR delegation.

⁹⁷ *Life* was a weekly newsmagazine published by Henry Luce from 1936 until 1972, and then sporadically afterwards. It had a circulation that exceeded 10 million copies.

MR. RADEVANOVIC (Yugoslavia) drew the Committee's attention to an important omission in article 17; it would be filled by the USSR amendment.

Pointing out that the declaration was not a document with force of law, which would be applied as such by the States, he claimed that the general ideas contained in it should be their guide. There was even some truth in the view, voiced by some representatives, that the declaration was a profession of faith, a common philosophy of human rights.

The Committee was at work after a frightful war, the causes and aims of which were well known. The declaration should not pass over in silence the danger to international peace and civilization which propagating fascism and aggression and provoking hatred as between the nations constituted, nor should it fail to condemn such propaganda and such provocation.

The Yugoslav delegation saw no restriction of the freedom of the Press in a condemnation of that kind. Freedom of opinion and expression was not merely an individual human right; it contributed to moulding public opinion, and thus affected the common weal and the peace of society. The whole world, understanding as it did the extreme peril of certain ideas and activities which constituted a threat to peace and international co-operation, demanded that the declaration should make no parallel between such activities and the exercise of a legitimate human right.

The Yugoslav delegation rejected any idea that the individual should be granted the right to sow hatred as between the nations and to instigate [421] aggression and war. The question before the Committee was not one of mere detail which could be left to national law to decide, but of a statement of principle. It was true that national law would have to put those principles into effect in each country, but the declaration must lay down principles of international scope. To condemn fascism was certainly not anti-democratic; but it would be anti-democratic to tolerate fascism and encourage its spread.

Paragraph 2 of the USSR amendment aimed at abolishing the abuses of the commercial Press which had become a monopoly controlled by high finance, and at granting material assistance to the democratic Press; it thus completed the text of article 17.

The Yugoslav delegation would, therefore, vote for that amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) regretted that he had so little time to reply to the remarks made by several representatives about the USSR amendment.

The views of the Belgian and French representatives had surprised him; they had rejected the mention of fascism in article 17 under the pretext that there existed no legal definition of that term. Countries which had suffered occupation by the Axis forces had no need for a legalistic definition to tell them the nature of the horrors of fascism. Mr. Grumbach had been only too well aware of it during the years when the Red Army was fighting fiercely against that ghastly ideology. Only three and a half years after the end of the war he seemed to have forgotten.

Describing fascism as the bloody dictatorship of the most reactionary section of capitalism and monopolies, Mr. Pavlov pointed out that the Yalta and Potsdam Conferences had defined the meaning of the word. He could not credit the sincerity

of the arguments which had attempted to justify the refusal to write a condemnation of fascism into article 17. To fight fascism in the Press was not enough; other and stronger methods were needed.

Replying to the representative of the United States, who had stated that the Press in the USSR was subject to governmental control and censorship, Mr. Pavlov pointed out that newspapers in his country had a printing run totalling 27 million copies and that most of them were exempt from any kind of State control.

THE CHAIRMAN said that in accordance with the Committee's decision to restrict the length of interventions (108th meeting), he must cut the representative of the USSR short.

He declared the list of speakers closed and called upon the Committee to vote on article 17.

MR. DEHOUSSE (Belgium) asked the representative of the USSR whether he would accept the following sentence in substitution for the second part of paragraph 1 in his amendment:

“No one shall abuse these freedoms by instigating aggression or hatred as between the nations or by opposing the aims and principles of the United Nations.”

[422]

MR. PAVLOV (Union of Soviet Socialist Republics) said that he was sorry that he could not accept the Belgian representative's suggestion, because he believed that his own amendment answered a definite purpose. If his amendment were not adopted, however, he would be prepared to vote for the text which the representative of Belgium had read, if he formally proposed that it should be adopted.

Mr. Pavlov asked that his amendment should be put to the vote in parts. He requested that each of the sentences which made up paragraph 1 should be voted upon separately, by roll-call.

MR. DEHOUSSE (Belgium) recalled that at the previous meeting his delegation had expressed the wish that the vote on the second sentence of paragraph 1 of the USSR amendment should be taken separately on each of the three ideas contained in it.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) requested that each of those three votes should be taken by roll-call.

THE CHAIRMAN put to the vote the first sentence of paragraph 1 of the USSR amendment (E/800, page 33).

The vote was taken by roll-call, as follows:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Ecuador, Haiti, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Afghanistan, Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Costa Rica, Cuba, Denmark, Dominican Republic, France, Greece, Guatemala, Honduras, India, Lebanon, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines,

Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela.

Abstaining: Burma, Colombia, Ethiopia, Pakistan, Peru, Saudi Arabia.

That sentence was rejected by 32 votes to 8, with 6 abstentions.

THE CHAIRMAN put to a vote the following sentence: "Freedom of speech and the Press shall not be used for purposes of propagating fascism."

A vote was taken by roll-call, as follows:

In favour: Afghanistan, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Ecuador, Ethiopia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Canada, Costa Rica, Cuba, Denmark, Greece, Guatemala, Haiti, Honduras, India, Lebanon, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay.

Abstaining: Argentina, Australia, Belgium, Brazil, Chile, China, Colombia, Dominican Republic, France, Pakistan, Peru, Saudi Arabia, Venezuela.

That sentence was rejected by 23 votes to 10, with 13 abstentions.

[423]

THE CHAIRMAN put to a vote the following sentence: "Freedom of speech and the Press shall not be used for purposes of propagating aggression."

A vote was taken by roll-call, as follows:

In favour: Afghanistan, Belgium, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Dominican Republic, Ecuador, Ethiopia, Haiti, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Canada, Costa Rica, Cuba, Denmark, Greece, Guatemala, Honduras, India, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay.

Abstaining: Argentina, Australia, Brazil, Chile, China, Colombia, France, Lebanon, Peru, Saudi Arabia, Venezuela.

The sentence was rejected by 21 votes to 14, with 11 abstentions.

THE CHAIRMAN put to the vote the following sentence: "Freedom of speech and the Press shall not be used for provoking hatred as between nations."

A vote was taken by roll-call as follows:

In favour: Afghanistan, Argentina, Belgium, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Haiti, Pakistan, Peru, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Against: Canada, Costa Rica, Cuba, Greece, Guatemala, Honduras, India, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines, Sweden, Syria, Turkey, Union of South Africa, United Kingdom, United States of America.

Abstaining: Australia, Brazil, Chile, China, Colombia, France, Lebanon, Venezuela.

The sentence was not adopted, 19 votes being cast in favour and 19 against, with 8 abstentions.

THE CHAIRMAN put to the vote paragraph 2 of the USSR amendment.

Paragraph 2 was rejected by 34 votes to 8, with 4 abstentions.

MR. SAINT-LOT (Haiti) reminded the Committee that his delegation had always fought in the United Nations for the uncompromising application of the principle of non-discrimination. To his regret, he had not, therefore, been able to vote for the adoption of that part of paragraph 1 of the USSR amendment which read to the effect that freedom of speech and the Press should not be used “for purposes of propagating fascism”; adoption of a clause of that sort would have permitted the United Nations to set up a form of discrimination so vaguely defined that it might be feared that it would open the way to all other forms of discrimination proscribed by Article 2 of the United Nations Charter.

The Haitian delegation had voted, however, for all other parts of paragraph 1 because their [424] intention had been to eliminate every source of international discord – and that was fully in accordance with the aims of the United Nations.

His delegation had also voted for paragraph 2 of the USSR amendment because it coincided in all points with the Haitian idea of democracy and of the State’s duties towards the underprivileged.

MR. PÉREZ CISNEROS (Cuba) explained that, for general reasons, his delegation had voted against the USSR amendment on the principle that it was not appropriate in the declaration to balance the statement of a right with that of the duties incumbent on the State.

Moreover, his delegation had been led particularly to vote against the second part of the first paragraph because of the incomplete and consequently unacceptable enumeration it contained; his delegation considered in fact that in addition to fascism there existed Nazism and other political theories equally dangerous to human dignity.

MR. SANTA CRUZ (Chile) said that his delegation was opposed to the adoption of the second part of the first paragraph of the USSR amendment for the reasons which had already been stated by several delegations. It had, however, abstained from taking part in the three separate votes occasioned by that sentence since it thought it could not pronounce itself against each of the ideas when expressed separately. It was in respect of the restrictive character of the whole clause that his delegation would have wished to mark its disapprobation.

Moreover, article 28 of the draft declaration stipulated that “Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.” Since all totalitarian regimes tended to promote the establishment of conditions contrary to the provisions of article 28, the fact that the USSR

amendment only mentioned the necessity of combating fascism constituted a grave omission, which his delegation could not accept.

MRS. CORBET (United Kingdom) said her delegation had voted against the second part of the first paragraph of the USSR amendment, not because it did not approve its principle – on the contrary – but because it considered that its place was not in article 17. The general provisions of article 27 and the very spirit of the Charter of the United Nations were, moreover, sufficient to ensure for the individual the guarantees which the USSR delegation had felt obliged to state in its amendment.

MR. APPADORAI (India) said his delegation had voted against the first paragraph of the USSR amendment for the reasons which the United Kingdom representative had just given.

MR. CONTOUMAS (Greece) said also that while agreeing on the substance of the USSR amendment, his delegation had been led to reject it mainly in order to preserve so far as possible the [425] text submitted by the Commission on Human Rights. Nor was that the only reason.

The text proposed by the USSR delegation contained terms on the definition of which the delegations – as shown by the general discussion – were not in agreement: thus, for some, the term fascist applied to the majority of regimes excluding the so-called popular democracies, while for others, it extended to communist dictatorships.

MR. WATT (Australia) pointed out that his delegation had already urged that the second sentence of the first paragraph of the USSR amendment should not figure in article 17.

The vote in parts had placed the majority of the delegations in a difficult position by submitting for their decision ideas acceptable in themselves but which they could not approve when placed in their true setting. His delegation had, therefore, abstained from voting, considering that the question which the Committee should really have been called upon to settle was whether restrictions of the kind proposed by the USSR delegation should or should not be introduced in that paragraph.

MR. CARRERA ANDRADE (Ecuador) stated that his delegation had voted in favour of the USSR amendment, because, apart from its value in itself, that amendment condemned any propaganda for fascism, or propaganda which would provoke hatred as between nations and above all, because it contained an explicit condemnation of fascism.

In voting in favour of the amendment, the delegation of Ecuador had only expressed the heartfelt sentiments of the people of Ecuador.

MR. BAROODY (Saudi Arabia) stressed the fact that he had voted for the prohibition to use the freedom of the Press in order to provoke hatred as between nations,

because he esteemed that any negative attitude concerning that essential principle was criminal, whatever the reasons which might be invoked to justify such an attitude.

He had, on the other hand, abstained in connexion with the prohibition to use the Press for purposes of propagating fascism because he considered that the term "fascism", like that of democracy, was too liable to different interpretations to be used in a legal document.

MR. GRUMBACH (France) stated that his delegation had abstained when the USSR amendment was voted upon, although it was in agreement with all the ideas on which the Committee had been asked to state its opinion.

His attitude had been prompted by the fact that he could not accept the explanations given by the USSR representative, particularly his definition of fascism. To that definition, the French delegation wished to oppose the following: "A totalitarian, one-party regime which excludes any participation of the opposition in the Government, all real freedom of opposition, and which employs censorship in time of peace".

Mr. Grumbach pointed out to the USSR representative that he did not think that he had forgotten [426] what exactly was meant by fascism; his definition, on the contrary, appeared to him to have undergone less change than Mr. Pavlov's had done.

MR. KURAL (Turkey) explained that his delegation had voted against the USSR amendment because it considered that it was out of place in article 17, although it had no objection to the ideas which it contained.

The word "fascism", as had been seen, was difficult to define and subject to various interpretations. As to questions concerning aggression and incitement of hatred, Mr. Kural did not think they were in their proper place in the article under discussion, although naturally he approved the principles.

In that connexion he wished to remind the meeting that the incitement of aggression and hatred had been expressly condemned in several texts of the United Nations, in the adoption of which the Turkish delegation had always taken part.

MR. CHOUDHARY (Pakistan) fully endorsed the observations made by the representative of Saudi Arabia concerning the USSR amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the USSR delegation, having fought for the adoption of its amendment, wished to point out that it was easier to explain the reasons for its rejection than to justify them.

He regretted, in particular, that the Committee had not seen fit to maintain the mention of incitement to hatred, although there had been 19 votes in its favour and 19 against. Public opinion would certainly appraise correctly the attitude of certain delegations. Those who had voted against the truly democratic idea contained in that

phrase had thereby recorded their unwillingness to oppose propaganda the purpose of which was to provoke hatred as between nations.

In reply to THE CHAIRMAN, who requested him to confine his remarks to an explanation of his vote, MR. PAVLOV asked at least to be permitted to say to the French representative that the USSR had deviated less than any other nation from the true concept of democracy as interpreted by the Allies during the war.

MR. CAÑAS (Costa Rica) explained the reasons which had moved his delegation to vote against the USSR amendment.

It had voted against the first sentence of paragraph 1 because it considered the wording less satisfactory than that of the original text and because the sentence contained a legal provision implying that the exercise of the right granted would depend on the will of the State.

His delegation had voted against the second sentence of paragraph 1 although it fully shared the ideas expressed – because the term “fascism” was not satisfactorily defined, a fact which robbed the condemnation of all force.

MR. CAÑAS pointed out that he knew of no Government at that time which did not lay claim to [427] being a democratic Government; the term “fascist” could consequently be applied to all those who opposed the authorities in power: it was easy to foresee the possible consequences of such a definition in the field of information and the Press.

It was in order to prevent that situation from arising that the Costa Rican delegation had voted against paragraph 1 of the USSR amendment.

It had voted against the mention of incitement to hatred because that mention served no useful purpose. Obviously, a Government which had decided upon a course of aggression would take no measures to prevent the organs of the Press from provoking hatred and inciting to war; quite on the contrary. The Costa Rican delegation had, therefore, been unable to support a statement which it could not but consider purely platonic.

The same remarks applied to paragraph 2 of the USSR amendment; any Government which wished to favour the newspapers that supported its policy to the detriment of the opposition Press could always claim that the latter was fascist.

MR. INSRAN (Paraguay) explained that his delegation had voted against the USSR amendment although the ideas it contained, voted separately, were in no way objectionable. The delegation of Paraguay had been unable to support the separate elements of a proposal which was unacceptable as a whole because it was contrary to the purpose of article 17.

The meeting rose at 1:30 p.m.

A/C.3/SR.130⁹⁸
10 November 1948

Summary Record of the Hundred and Thirtieth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Wednesday,
 10 November 1948, at 3:25 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

54. Draft international declaration of human rights (E/800) (continued)

Article 17 (continued)

MR. DE LA OSSA (Panama) felt it was necessary to separate the references to freedom of opinion and expression, but as the majority of the Committee was opposed to his amendment (A/C.3/280), he withdrew it.

THE CHAIRMAN put the Cuban amendment (A/C.3/232) to the vote.

That amendment was rejected by 25 votes to 5, with 5 abstentions.

THE CHAIRMAN then put to the vote the following part of the second USSR amendment (E/800, page 34): “wherein is included freedom of conviction and freedom of access to sources of information and means of communication for the transmission of information in the territory of his own country and also in other countries”.

[428]

That part was rejected by 20 votes to 6, with 10 abstentions.

THE CHAIRMAN then put to the vote the following part of the second USSR amendment: “within limits corresponding to the interests of national security”.

That part was rejected by 22 votes to 9, with 5 abstentions.

THE CHAIRMAN put the French amendment (A/C.3/244/Rev.1) to the vote.

That amendment was rejected by 18 votes to 8, with 9 abstentions.

THE CHAIRMAN put article 17 as a whole to the vote.

Article 17 was adopted by 36 votes to 6.

MR. ORIBE (Uruguay) said he had voted for article 17, on the understanding that it did not authorize censorship, or any form of State interference, in peacetime.

⁹⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 427–37.

Experience had shown that the State, by supplying newsprint and other material resources, could manoeuvre itself into the position of being the sole source of information.

MR. CONTOUMAS (Greece) had voted for article 17 on the basis of the English text, in the hope that the drafting sub-committee would delete the word *d'expression* after *moyen* in the French text.

MR. GRUMBACH (France) had voted for article 17, but had also voted for the French amendment which was in conformity with article 11 of the French Declaration of the Rights of Man and of the Citizen. He realized that other representatives had not been able to accept the French amendment because of the fear that it would be abused.

MR. RADEVANOVIC (Yugoslavia) had voted against article 17 because it contained no safeguards against warmongering and the growth of fascism.

MR. PAVLOV (Union of Soviet Socialist Republics) explained why he had voted against article 17. His delegation had submitted a substitute text (E/800, page 33) which would have insured that freedom of opinion and expression, and of the Press, would not be used to promote fascism and hatred between nations. Those freedoms, in other words, would have been subordinated to democratic principles.

The USSR amendment had also proposed that the masses should be allowed freely to express their views and to that end, should be given the necessary material resources. Finally, it had suggested an additional clause with a view to abolishing warmongering and pornography.

As it read, article 17 would be interpreted as a direct encouragement to the development of fascism and the propagation of aggression. It would permit Press agents to carry out harmful activities in the countries in which they were located and instead of strengthening international goodwill, would be used as a cover for war propaganda.

MR. DEMCHENKO (Ukrainian Soviet Socialist, Republic) had voted against article 17 because, instead of guaranteeing the basic rights of free-[429]dom of opinion and expression, it was inadequately drafted and would allow fascists and warmongers to continue their propaganda. That propaganda was being encouraged by certain Governments and the article, as it read, would permit interference in the internal affairs of sovereign States.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said he had voted against article 17 for the reasons he had given previously and for those put forward by the USSR representative.

*Article 18*¹

THE CHAIRMAN noted that the basic text of article 18 and the amendments to it were recapitulated in document A/C.3/295/Rev.1.

MRS. ROOSEVELT (United States of America) said her amendment (A/C.3/223) would make no substantial change in the article and merely stressed the desirability of the group defence of rights. On further consideration, her delegation had decided to withdraw the amendment and to support the terse and compact original text.

Three of the amendments to article 18, if adopted, would destroy its succinct character and, as she had pointed out before, it was easy to distort the basic rights of the declaration by stressing either the affirmative purposes or the negative limitations of those rights.

In regard to the USSR amendment (E/800, page 34), she said that it did not seem possible that phrases such as “in the interests of democracy” or “fascist or anti-democratic nature” could be used to justify the repression of free assembly and free association. Further, as the amendment was drafted, it was more an expression of the State’s obligation than a declaration of an individual right.

In her opinion, the Cuban (A/C.3/232) and Panamanian (A/C.3/280) amendments were too detailed and the Uruguayan amendment (A/C.3/268) seemed to be covered by the provisions of article 27.

MR. PÉREZ CISNEROS (Cuba) considered his amendment (A/C.3/232) more logical than the basic text because it separated the two rights contained therein, in the manner followed by most of the constitutions of Member States. One of those rights was permanent, while the other was exercised from time to time.

The right to hold an informal gathering was stressed, as was also the existence of a “common interest of any nature”.

In his opinion, it was necessary also to state the right of workers to associate together to protect their legitimate interests, as that right was not recognized in many countries.

He supported the Uruguayan amendment, the first part of which was in accordance with the

^[1] Article 21 of the draft universal declaration of human rights (A/777).

[430]

Cuban amendment and the second part of which was implicit in the terms of article 16.

The Panamanian amendment was acceptable, but to his mind, was less clear than the Cuban amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) said that article 18 should include more than a general declaration of rights, and in conformity with the position always taken by his delegation, proposed means by which those rights could be guaranteed. Further, the right to freedom of assembly had to be broadened and it had to be used to protect the democratic way of life. All gatherings of an anti-democratic nature should be forbidden by law.

The text submitted to the Commission by the Drafting Committee¹ had more closely resembled the USSR amendment than the basic text before the Committee,

but it had been emasculated by the adoption of an amendment from the Chinese delegation.² It was evident that there was a tendency to reduce to a minimum any reference to democratic rights and freedoms and to exclude any provision designed to prevent the development of fascism, which was endangering world peace and security.

Three and a half years had passed since major and smaller Powers alike had been united in the struggle against Nazism and fascism; a number of documents bore witness to that unity of purpose. The USSR, unlike so many of her allies, was still faithful to the objectives of those documents and to the United Nations Charter, in particular.

He drew attention to the situation in Western Germany, where the military potential was being developed and fascist organizations were making their appearance. Those facts had to be faced and steps taken to ensure that the monster of fascism did not arise again. With that end in view, any incipient fascist activities had to be curbed from the very start. The right to freedom of assembly must not be allowed to be abused by the fascist elements which existed in almost every European country, except those with a people's democracy, which guarded against them by law.

The purpose of the USSR amendment was to guarantee the right to freedom of assembly to democratic forces and to exclude the possibility of the abuse of that right by fascist elements.

MR. DE LA OSSA (Panama) did not believe that the conciseness of the basic text was sufficient reason for ignoring worthwhile amendments.

He withdrew the Panamanian amendment (A/C.3/280) in favour of the amendment put forward by the Cuban delegation.

MR. ORIBE (Uruguay) recognized the need to have legal texts drafted as concisely as possible, but felt that that did not exclude the possibility of broadening the article by the addition of an adjective. It was true that article 27 referred to the requirements of public order, but to complete

^[1] E/CN.4/95, article 19.

^[2] See E/CN.4/102 and E/CN.4/SR.61.

[431]

the meaning of article 18, so that it would be understandable to the ordinary man, he felt it was necessary to insert the word "peaceful" before "assembly".

The Uruguayan amendment (A/C.3/268) might be covered to a certain extent by the provisions of article 27, but he did not consider it redundant to state that everyone was free to belong to an association or free not to. Recent history had shown that even in highly developed countries that particular right was not always respected. It was useful, therefore, for article 18 to state it expressly.

MR. DEHOUSSE (Belgium) considered the freedoms set forth in article 18 the most sympathetic of all those for which men had fought and died. The rights to freedom of assembly and association were an essential part of the life of the State and society.

From the point of view of constitutional law, article 18 was undoubtedly too concise. It did not state whether the individual had the right to freedom of peaceful, or of armed, assembly; or whether such assembly must be public or could be private. The Belgian Constitution contained a much clearer definition of that particular right. The right to freedom of association, likewise, was not clearly defined. For those reasons it seemed obvious that every delegation would be able to accept article 18; he therefore supported it.

He could not accept the USSR amendment. It contained a reference to national legislation which was inappropriate in an international declaration, as he had stated many times before. Nor could he accept the reference to fascism, for the reasons he had given at the 128th meeting. The USSR representative's statement on his amendment had contained some good and true points, in particular with respect to conditions in Western Germany. His amendment, however, did not correspond to those remarks.

The Cuban amendment contained certain irrelevancies. It was not necessary to refer to "common interest" and the word "legitimate" would have no clear meaning unless defined.

From the point of view of democratic processes and especially as regarded trade union rights, he supported the Uruguayan amendment. He suggested, however, that the word *pacifiques*, in the French text, should be substituted for *paisibles*, and that in the French text the proposed addition to paragraph 2 should read as follows: "*Nul ne peut être obligé de faire partie d'une association.*"

MR. ORIBE (Uruguay) explained that the Belgian representative's drafting suggestions were incorporated in the original Spanish text of the Uruguayan amendment.

MR. SAINT-LOT (Haiti) pointed out that the declaration, when finally adopted, would be regarded as a kind of super-constitutional document. How then would the terms of article 18 be recon-[432]ciled with the penal codes of the various Member States, the larger concept of an international declaration of human rights with the requirements of public order?

In every country, there were associations of evil-doers and what would happen when they justified their activities under the terms of article 18? It was unfortunate that the Panamanian representative had withdrawn his amendment, for as the article then read, organizations such as the Ku Klux Klan⁹⁹ could find in the declaration a legitimate reason for their existence. What would be the use of national laws, if there was a higher authority to which such organizations could appeal?

He regretted that the United States representative had withdrawn her amendment. Had she not done so, he would have begged her to delete the word "especially". In that way, such organizations would not have been able to make use of the provisions

⁹⁹ The term Ku Klux Klan describes organizations with origins in the post-Civil War United States. They are characterized by racist and similar extremist views, and by violent action including lynching.

of article 18. As he was not permitted to submit a new amendment at that time, he would raise the question in the General Assembly.

In reply to a point raised by the representative of Haiti, the Chairman recalled that the draft declaration had been submitted to all Member States of the United Nations and the comments of governments had been solicited. During the previous two years, States not members of the Commission on Human Rights had therefore had the opportunity – of which many had taken full advantage – of making clear their position on the various articles. That fact justified limiting the current debate on the document.

THE CHAIRMAN also drew the Haitian representative's attention to article 28 of the draft declaration, which, if read in connexion with article 18, would perhaps dissipate some of his fears regarding the latter. The declaration must be read as a whole; only thus could it be correctly understood.

MR. SAINT-LOT (Haiti), after thanking the Chairman for his explanations, pointed out that if the meaning of each article could not be understood without reference to other parts of the declaration, the document would not be simple enough to be understood by all peoples throughout the world.

MR. COROMINAS (Argentina) thought the basic text of article 18 was not sufficiently precise; it was schematic, as the Belgian representative had pointed out. The result was that it had no real meaning.

Nothing was said of the purpose for which persons might assemble or form associations; yet a specific statement of that nature was necessary. It was important to specify, for example, that every person had the right to associate with others to promote or protect such legitimate interests as trade union interests, especially since that right was at that time denied by certain Governments.

The Argentine delegation supported the Cuban draft amendment, which clarified the great concepts of freedom of assembly and association. The amendment was based on a similar article in the [433] Bogotá Declaration and would undoubtedly receive the support of the American States which had adopted that Declaration.

MR. AZKOUL (Lebanon) pointed out that article 18 was intended to cover both the right to freedom of assembly and association and the right of the individual freely to participate in a meeting or belong to an association. The English and French drafts of the article did not make both of those rights clear; each text stressed, in fact, only one of the rights. The French text set forth the right of the individual to participate in meetings or associations, but there was no guarantee that the assembly or association would itself be allowed. Moreover, the individual's freedom as regards membership in an association was not specified. The English text, on the other hand, guaranteed freedom of assembly and association but did not cover the right of the individual to take part in, or belong to, the assembly or association.

The Lebanese delegation did not favour the basic text, yet it was not in a position to present a substitute draft.

The Cuban and Panamanian amendments were designed to correct the defects of the Commission's text. Although certain improvements might be made in the Cuban amendment, it was generally acceptable, for it stated clearly both the rights with which the article was concerned.

Referring to the USSR amendment, he said that it would be contrary to the spirit of the declaration to say that the inherent right of freedom of assembly and association should be dependent on "the interests of democracy". That phrase would be acceptable only if the word "democracy" could be interpreted to mean respect for human rights; but if the phrase had that meaning it was obviously unnecessary.

He was glad that the Chairman had drawn attention to draft article 28 which should be considered in connexion with the objections to article 18 raised by the USSR and Haitian representatives. Those objections would be even more fully met if a draft article 29 as proposed by the Lebanese delegation (A/C.3/262) were adopted.

MR. GRUMBACH (France) agreed with the criticisms of article 18 made by the Lebanese representative. That draft did not clearly affirm the rights to freedom of assembly and association, and his delegation would therefore favour some amendments to it.

Speaking of the first part of the Cuban amendment, he thought that both formal public meetings and informal private gatherings should be mentioned, but did not think the phrase "in connexion with matters of common interest of any nature" should be included. As the Belgian representative had said, meetings might be held in connexion with matters which were not necessarily of common interest.
[434]

In the second part of the Cuban amendment the word "legitimate" was ill-chosen, for the reasons explained by the Belgian representative. The enumeration of the interests for the protection of which associations might be formed was perhaps somewhat dangerous, as all enumerations were, but it did in fact seem to cover all the essential points.

The second part of the Uruguayan amendment presented a valuable addition to the text, which should be adopted.

MR. BARODY (Saudi Arabia) asked that a member of the Commission should explain to the Committee why the Commission had decided not to elaborate the rights set forth in article 18. In other articles of the draft declaration comparable or equally important rights had been explained in greater detail, as for example the right to freedom of thought, conscience and religion mentioned in article 16.

He observed that amendments designed to bring the various articles into closer conformity with cultures other than the Western should not be rejected merely on the grounds that the text should be as succinct and concise as possible. If that reasoning held there, it should have been applied in the consideration of article 16.

MR. MENCEL (Poland) considered the basic draft of article 18 abstract and inadequate. In his own country the important rights of assembly and association

were not only recognized but also guaranteed by law. Article 18 would represent a step backward if it made no provisions for guaranteeing the rights it set forth.

A text should be adopted that would lead to laws guaranteeing the rights to assembly and association in all countries, and in Non-Self-Governing and Trust Territories as well. It should moreover be one that would prevent the persecution of individuals for belonging to cultural or intellectual groups, such as that carried on by the Committee on Un-American Activities in the United States. Furthermore, it should contain specific provisions against organizations of a fascist or anti-democratic nature.

Since the USSR amendment provided in concrete terms for the necessary legal guarantees of the freedom of assembly and association as well as for guarantees against abuses of that freedom, the Polish delegation would support it.

MR. PLAZA (Venezuela) was in favour of the Cuban amendment to article 18. There was a difference between freedom of assembly and freedom of association; the latter contained an idea of permanence that was not to be found in the former. The Bogotá declaration took that difference into account by adopting two separate articles for the two separate rights. The Cuban amendment followed the same principle; yet it included nothing that was contrary to the ideas in the basic text of article 18.

He also supported the Uruguayan proposal that no one should be compelled to belong to an association.

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He did not agree with the USSR draft amendment; the words “fascism” and “anti-democratic” should not be used in a legal document since they had not been defined. They might even be interpreted in such a way as to lead to a violation of the rights proclaimed.

MR. ANZE MATIENZO (Bolivia) thought the concise form of article 18, far from constituting a reason for criticism, was in fact highly commendable. The Bolivian delegation therefore supported the basic text, but with the addition of the Uruguayan amendments which were needed to complete the article.

Speaking of the USSR amendment, he was opposed to any restriction on the right of freedom of assembly and association. His country had felt the effects of Nazism and fascism, but it believed that the surest way to cure those evils was to ensure basic freedom. Free human beings always tended towards good and repudiated evil. Moreover, the word “fascism” was difficult to define and its inclusion in article 18 might lead to abuses.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) stressed the fact that the freedoms laid down in article 18 were still not universally recognized. The struggles to obtain them had gone on for centuries and were still continuing. In a memorandum of the World Federation of Trade Unions to the Economic and Social Council at its seventh session, it had been shown that eleven countries, Members of the United Nations, violated the basic right of association of trade unions.¹

Further, in many countries leaders of organizations interested in the cultural development of the working classes had been persecuted and the members dispersed.

The basic text of article 18 would not lead to changes in the deplorable conditions still existing in some countries. The USSR amendment, however, was designed legally to guarantee the right to the elementary freedom of assembly and association. Moreover, whereas the basic text would actually make possible associations that were anti-democratic in character, the USSR amendment would forbid such associations. In that respect, it would satisfy the point raised by the Haitian representative. Finally, the USSR amendment would clarify the meaning of the whole article and would state the purpose for which the rights were to be used.

The Ukrainian delegation would therefore support the USSR amendment.

MRS. CORBET (United Kingdom) thought that article 18 was one of the simplest and most direct articles of the declaration and that there was no need to attempt to improve it.

It had been asked why article 16 elaborated the right to freedom of thought, conscience and religion, while article 18 did not explain the rights laid down therein. The rights in article 16 had not been so well defined in history as the rights in article 18 and it therefore seemed necessary to be more explicit in proclaiming the former.

^[1] See E/822.

[436]

Speaking of the first part of the Cuban amendment she saw no advantage in trying to separate the right to assembly from the right to association; not only were the two very closely connected, but no more would be achieved by separating them than would be achieved by the original text. The mention of formal public meetings or informal gatherings in the Cuban text also seemed unnecessary, for both kinds of meetings were implicit in the words used in the basic text of article 18. Further, the phrase "in connexion with matters of common interest" was not advisable, for sometimes matters not of that nature might be involved. Such a phrase therefore would seem to restrict rather than broaden the text of article 18. Finally the use of the word "peaceably" in the Cuban amendment was unnecessary since that idea was adequately covered by article 27.

The second part of the Cuban proposal attempted to give in detail the kinds of interest in the promotion or protection of which associations could be formed. In order not to omit some point, the words "or other nature" had been added. Thus no purpose was served by the enumeration. The basic text seemed simpler and better.

The USSR amendment was unacceptable to the United Kingdom delegation since it would frustrate the very purpose of article 18. In the USSR it was the practice of the Government to suppress any society or association that was opposed to or criticized the Communist Party. The purpose of the USSR amendment seemed

to be to ensure that such a situation could continue. A further objection to the USSR amendment arose from the fact that the word “anti-democratic” was unquestionably interpreted very differently by the USSR and United Kingdom Governments.

Turning to consideration of the Uruguayan amendment, she thought it raised a new and controversial idea. The notion of compulsion was not clear. Did it refer to compulsion by the State or by non-official bodies? Moreover, what was meant by association? If, for example, association could mean a trade union, the Uruguayan amendment could be interpreted to prohibit the closed shop; yet the Committee would probably agree that such a prohibition should not be included in the declaration. She could not therefore support the Uruguayan amendment.

...

A/C.3/329

10 November 1948

Original Text: English, French

Texts of Articles 15 to 17 of the Draft Declaration (E/800) as Adopted by the Committee

Article 15

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

A/C.3/330

10 November 1948

Original Text: French

**France: Amendment to the Cuban amendment to
Article 18 (A/C.3/232)**

“Every person has the right to assemble peaceably with others in a formal public meeting or a private gathering.”

“Every person has the right to associate with others for the promotion and protection of interests of a political, economic, religious, social, cultural, professional, trade union or other nature.”

NB. This text consists exclusively of terms employed in the Cuban amendment of which it constitutes a shortened draft.

A/C.3/331

11 November 1948

**Poland: Compromise text for article 18
(A/C.3/295/Rev.1)**

“Everyone has the right to freedom of assembly and association, *of which the activity is in conformity with the aims and principles of the United Nations Charter.*”

A/C.3/332

11 November 1948

Iraq: Amendment to article 19 of the draft Declaration (E/800)

1st paragraph

Delete the word “everyone” and replace by the words “every citizen”. Replace the words “government of his country” by the words “affairs of his state”.

3rd paragraph

Replace the word “will” by the word “consent”.

Add the following after the word “people”: “exercised through periodic elections, referendum or plebiscite”.

Article 19 should then read as follows:

1. *Every citizen* has the right to take part in the *affairs of his state*, directly or through his freely chosen representatives.
2. Everyone has the right of access to public employment in his country.
3. Everyone has the right to a government which conforms to the *consent* of the people *exercised through periodic elections, referendum or plebiscite*.

A/C.3/SR.131¹⁰⁰

11 November 1948

***Summary Record of the Hundred and Thirty-First Meeting
[of the Third Committee]***

*Held at the Palais de Chaillot, Paris, on Thursday,
11 November 1948, at 3 p.m.*

Chairman: MR. CHARLES MALIK (Lebanon).

56. Draft international declaration of human rights (E/800) (continued)

Article 18 (continued)

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that justifiable criticism had been directed against the basic text of article 18. It had many defects of substance, particularly its failure even to mention such organizations as the trade unions, with their millions of members. He thought that the United Nations and Governments should not give the same protection to bankers' associations and monopolies as to trade unions.

The basic text of article 18 reflected the policy of the International Labour Organization, which made no distinction between employers and employed and accorded to associations of employers rights not possessed by the trade unions. An attempt was being made to lessen, or even to destroy, whatever influence the unions might have on international and national political life. If the unions were not protected by the Declaration of Human Rights, they would not obtain protection from any other document. The Committee should therefore adopt the USSR amendment (E/800, page 34).

¹⁰⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 437–448.

The representative of the United Kingdom appeared to suspect the intentions of the delegation of the Soviet Union and to believe that its amendment was communist in aim.¹ Such an approach was contrary to the spirit of the United Nations

^[1] See 130th meeting.

[438]

and to the interests of the common man, for whom, basically, the declaration should be drafted.

MRS. NEWLANDS (New Zealand) said the study of the amendments to article 18 confirmed her opinion that her delegation had been right to hold that the declaration should not go beyond a general statement of principles and should not include measures for implementation.

The New Zealand delegation fully accepted the principle of the right of freedom of assembly and association, but was aware that the circumstances in which that right might be exercised might vary in so many ways and cases that it would need a long convention to list every such detail. It would have to be at least as compendious as the Convention on Freedom of Association and Protection of the Right to Organize,¹⁰¹ which included a preamble and twenty-one articles. In her view, the amendments submitted by the USSR and by Cuba (A/C.3/232) added nothing of substance to the basic text. The USSR amendment, moreover, by providing that national law should forbid certain types of association, raised difficult problems, which had already been mentioned, as to interpretation and application.

The Uruguayan amendment (A/C.3/268) stating that no one might be compelled to belong to an association raised certain special difficulties. The representative of the United Kingdom had already pointed out (130th meeting) that the meaning of the word “compelled” might give rise to doubt and certain cases might be conceived in which legal recognition of the right not to belong to an association might introduce an element of constraint. It was sometimes essential, in the interests of a particular group of individuals, to impose conditions for belonging to an association, and it was sometimes even necessary to demand that all members of the group concerned should belong to the association. An example was that of professional associations responsible for supervising the conduct of those carrying on some special profession. In New Zealand that was the case with the bar associations.

She was uneasy, too, about the question of the membership of trade unions. She would raise the matter again when the Committee examined article 21, paragraph 3, of the declaration but she would point out right then that, in accordance with the law of New Zealand, a person had to be a member of his trade or professional union if he

¹⁰¹ The Convention concerning Freedom of Association and Protection of the Right to Organize, (1950) 68 *UNTS* 17 (Convention No. 87), was adopted on 9 July 1948 at the Thirty-first Session of the General Conference of the International Labour Organization.

wished to enjoy all the advantages provided by the law. That introduced an element of constraint which made it difficult for her Government to accept the Uruguayan amendment. Protected as it was against abuses, the New Zealand trade union organization could hardly be considered as not conforming to the general principles of freedom of assembly and association.

That question, moreover, was on the agenda of the Conference of the International Labour Organization to be held at Geneva in June 1949. The Third Committee should therefore adopt an article couched in fairly general terms so as not to [439] make it difficult, if not impossible, for the competent specialized agency seized of that question to reach the best possible solution.

The New Zealand delegation therefore asked the Committee to adopt the basic text of the article.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the representative of the United Kingdom had said that the advantage of the basic text of article 18 lay in its brevity. Other things being equal, it was obvious that brevity was a decisive argument; but it should be taken into account that the majority of the members of the Committee had criticized the text of article 18 on the grounds that there was almost nothing in it. The USSR amendment would give it a meaning since it included a legal guarantee. It did not confine itself to stating the right to freedom of assembly and association, but guaranteed that freedom.

Such a guarantee was not superfluous because, although it existed in the USSR, there were some conservative democracies in which, even when that right was recognized in theory, certain categories of people were prevented from taking advantage of it in practice; trade unions, for example, were refused the use of halls or the authorization to hold meetings.

Mr. Pavlov wished to see article 18 directed against organizations of a fascist nature. The existence of such organizations affected the whole world and they should therefore be prohibited in the International Declaration of Human Rights. It was essential to prevent the spread of an organization such as the Ku Klux Klan, for example.

MR. WATT (Australia) pointed out that article 18 had been criticized on the ground that it was too short to contain enough ideas. It would not necessarily be better if it were expanded. The basic text of article 18 was couched in very general terms. It would certainly be useful to define its meaning in certain cases, but its general character should be retained in any case.

The representative of Cuba had not replied to the arguments against his amendment (A/C.3/232); the Australian delegation would therefore be satisfied with the basic text.

The Uruguayan amendment (A/C.3/268) was important and deserved considerable study. From the philosophic point of view, it was certainly very attractive, but from the practical point of view it was dangerous because it was drafted in a negative form. The representatives of New Zealand and the United Kingdom had adduced

examples to show how difficult it might be to eliminate the kind of constraint for which that amendment provided. It was hard, therefore, to set up such a general principle. If the Uruguayan amendment were rejected, it would not mean that anyone might be compelled to belong to any association whatever; the question would remain pending and would be studied at a later stage.

Mr. Watt was opposed to the USSR amendment.

Finally, he had no objection to the Belgian amendment (A/C.3/328), but preferred the basic [440] text of article 18, which he believed to be perfectly acceptable.

THE CHAIRMAN pointed out that the Polish amendment (A/C.3/331), in his opinion, related to the substance of the question. If any member of the Committee, therefore, raised an objection, that amendment could not be considered acceptable.

MR. MENCEL (Poland) asked that his compromise text (A/C.3/331) should be adopted unanimously. He supported the principle of the USSR amendment, but he was submitting the new text because reservations had been made on that amendment.

Some members of the Committee apparently were dubious as to whether the words "fascist or anti-democratic" used in the USSR amendment were clear enough; he himself had no doubts. In any case, the Polish amendment should not give rise to discussion since it referred purely and simply to the Charter.

MR. CONTOUMAS (Greece) warmly supported the Polish amendment. He would merely request its sponsor to express his idea more logically, for it was possible to conceive of associations with purposes and principles other than those expressed in the Charter of the United Nations but yet of some value.

He therefore proposed the following wording: "... of which the activity is not contrary to the aims . . ."

MR. MENCEL (Poland) accepted the alteration proposed by the representative of Greece.

MR. SAINT-LOT (Haiti) pointed out that the word "activity" could hardly refer to both "association" and "assembly". He suggested that the word "nature" should be substituted for the word "activity".

MR. DEHOUSSE (Belgium) thought that the word "activity" should be retained, since freedom of assembly and association should be restricted only when its abuse had inadmissible results. It was, therefore, not so much to the nature of an assembly as to its activity that reference should be made.

MRS. CORBET (United Kingdom) did not think that it was possible to speak of the aims and activity of an assembly or an association. Moreover, loyalty to the principles of the Charter was the governing idea of the declaration.

She suggested that the words "of which the activity is" should be deleted from the text proposed by Poland.

MR. WATT (Australia) recalled the terms of the preamble, and pointed out that the words which the Polish representative proposed to add to article 18 would be better placed in the preamble of the declaration.

MR. CASSIN (France) proposed the following wording: "... of which the character or activity is not contrary ..."

MR. MENCEL (Poland) accepted the French representative's suggestion.

He pointed out to the Australian representative that a reference to the United Nations Charter [441] already existed in article 12 of the declaration, and that thus articles 12 and 18 constituted precedents for the preamble.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) pointed out that the Polish amendment envisaged that the rights laid down in article 18 could only be exercised within the framework of the aims and principles of the Charter. The latter was therefore a criterion for distinguishing between the use and the abuse of those rights. It would be for Governments to ensure that associations and their members conformed to those principles.

MRS. ROOSEVELT (United States of America) expressed her agreement with the representatives of Australia and Uruguay. If a restriction, such as the one envisaged in the Polish amendment, were included in article 18, it should also be included in other articles.

She would support the basic text of the article.

MR. DEHOUSSE (Belgium) pointed out that the Polish amendment added nothing to article 18, since the Charter had already been accepted by the United Nations, of which it was the common law. Moreover, he considered it dangerous that the executive powers could suspend the right of assembly and association according to their interpretation of the aims and principles of the Charter.

He suggested that the words "the character or" should be deleted from the Polish text as amended by the representative of France.

MR. CHANG (China) expressed his agreement with the representatives of Australia and Uruguay. It had so often been mentioned in the organs of the United Nations that the Charter could not be interpreted in any way which could justify interference in the internal affairs of Member States, that he feared that, if the Polish amendment were accepted, the right to freedom of assembly and association might be interpreted as either restricting national legislation, or as being capable of exercise in defiance of the laws of the various States.

MR. ANZE MATIENZO (Bolivia) regretted that he could not take part in the debate. He did not think that it was necessary to invoke the United Nations Charter on every occasion and for every article.

He would abstain from voting on the Polish amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) considered that the Polish amendment was a slight, but nevertheless valuable, improvement to the basic text, and that it endowed article 18 with more substance and with greater significance.

That, however, could in no way lead him to withdraw his own amendment. If, on the other hand, certain delegations thought that the latter went too far, the Polish

amendment could serve as a compromise solution, although Mr. Pavlov only regarded it as a makeshift.

A reference to the Charter was not necessarily always advisable, as for example in the case of the right to work, to leisure and to rest. In the article under discussion, it did not harm the text; it was, on the contrary, entirely appropriate. Without that reference the text might equally well cover associations of criminals, or societies such as the Ku Klux Klan, which were condemned by the Charter.

MR. KAYALY (Syria) thought that the Polish amendment was prompted by the fear that the right of assembly and association might be abused; similar fears, however, could be entertained concerning all the rights already studied. Article 18 should confine itself to generalities.

Mr. Kayaly was disposed to adopt the basic text but without the modification introduced by the Polish amendment.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) wished to know whether the Polish representative would accept the following addition to the text of the article:

“Nobody shall exercise that right contrary to the purposes and principles of the United Nations.”

The wording of the Polish proposal seemed to him vague and left the door open for arbitrary interpretation. It would be possible for Governments to prohibit demonstrations *a priori*, and that would be a direct infringement of the freedom of assembly and association. The Uruguayan notification would insure that judgment could only be made *a posteriori*. In that wording, the text appeared to him less dangerous than that of the Polish amendment.

MR. ABADI (Iraq) expressed his entire agreement with the speakers who had opposed the Polish amendment. The latter had a restrictive meaning, and its adoption in its existing form would be a step backward.

MR. AQUINO (Philippines) thought that it was doubtful whether the Polish amendment was acceptable.

He agreed with the remarks of the Bolivian representative that it would be undesirable to single out the article under discussion and make it the only one which included a reference to the Charter. The Polish amendment supposed a previous authorization for what, in his country, was a constitutional right. It had clearly a restrictive meaning.

MR. AZKOUL (Lebanon) stated that the Polish amendment was superfluous, if not dangerous. The USSR representative had said that all the articles might require a reference to the Charter. That was true; a certain number of articles would, in fact, demand it. There was, therefore, no reason why such a reference should be made in article 18 and not in the preceding articles.

Article 28 should be adequate to dispel the Polish fears.

MR. SAINT-LOT (Haiti) wished to make some explanatory remarks and to draw the attention of jurists to a special aspect of the problem.

He was referring to the restriction which certain representatives saw in the control of the right of assembly and association. So far the Committee had studied the exercise of individual freedoms recognized in the majority of countries; the restrictions of those rights were generally considered to be natural. That was not the case in the [443] question under consideration; even in the most liberal constitutions the right of assembly and association was still in its early stage. The cases in which that right was expressly granted were for the most part exceptional. It therefore appeared dangerous to him to formulate the right to that freedom without restriction.

THE CHAIRMAN put to the vote the Soviet Union amendment (E/800, page 34), which would replace the basic text of article 18.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that his amendment be voted upon in parts.

The vote should be taken first on the part: "In the interests of . . . and unions"; then on the second part: "All societies . . . under pain of punishment".

THE CHAIRMAN put the first part of the USSR amendment to the vote.

A vote was taken by roll-call, as follows:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Afghanistan, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Denmark, France, Greece, Guatemala, Honduras, India, Iraq, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay.

Abstaining: Argentina, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, Haiti, Iran, Mexico, Saudi Arabia, Venezuela, Yemen.

That text was rejected by 29 votes to 6, with 12 abstentions.

THE CHAIRMAN put the second part of the USSR amendment to the vote.

A vote was then taken by roll-call, as follows:

In favour: Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Afghanistan, Australia, Brazil, Canada, Chile, China, Costa Rica, Denmark, Greece, Guatemala, Haiti, Honduras, India, Iraq, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Panama, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Venezuela,

Abstaining: Argentina, Belgium, Bolivia, Colombia, Dominican Republic, Ecuador, France, Iran, Mexico, Peru, Saudi Arabia, Yemen.

The text was rejected by 28 votes to 7, with 12 abstentions.

THE CHAIRMAN suggested that the Belgian amendment (A/C.3/328), which shortened the Cuban proposal, should be considered.

MR. AZKOUL (Lebanon) asked that a separate vote be taken on the term “peaceably” contained in the Cuban amendment.

[444]

MR. CASSIN (France) said that there was some uneasiness among the French-speaking delegations due, in his opinion, to a defective translation of the English text. For that reason he suggested that the following translation: *Toute personne a droit à la liberté de réunion et d’association* should replace the sentence: *Toute personne a le droit de participer librement à des réunions et de faire partie d’associations*.

THE CHAIRMAN did not see any objection to that modification.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to draw attention to the point raised by the Lebanese representative. The terms “peaceably” and “peaceful” were found in the Cuban and the Uruguayan amendments respectively; the same expression also figured in the texts of three other amendments.

He wondered whether it would not be preferable to take the text proposed by the delegation of Uruguay.

THE CHAIRMAN reminded the Committee that it was asked to state its attitude regarding the word “peaceably”.

MR. CHANG (China) pointed out that the amendment furthest removed from the Cuban amendment was the nearest to the basic text.

He asked whether the Belgian amendment, if adopted, should replace the basic text. He thought that the two texts should be compared.

MR. DEHOUSSE (Belgium) recognized that, according to the rules of procedure, the vote by parts was a recognized right; if, therefore the Lebanese representative insisted on a separate vote on the word “peaceably” his request should be granted. He wished, however, to draw his attention to the results which the deletion of the word “peaceably” might have. He wondered whether there was any country which would authorize armed gatherings.

He asked the Lebanese representative to withdraw his proposal.

MRS. ROOSEVELT (United States of America) pointed out the shade of difference between the expressions “freedom of association” and “to associate freely with others”.

THE CHAIRMAN thought that it would be preferable to connect the Belgian amendment with the basic text, rather than with the Cuban amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) suggested that a vote be taken first on the Polish amendment, since it was the furthest removed from the original text. If it were adopted a great many difficulties would disappear.

THE CHAIRMAN did not agree on that. The Polish text was an addition to the basic text; the Polish amendment would be considered when its turn came.

MR. AZKOUL (Lebanon) said that, as a result of the modification proposed by the French representative, he no longer insisted on a separate vote.

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MR. DEHOUSSE (Belgium) pointed out that he did not submit his amendment as an amendment to the Cuban text, but as an amendment to the basic text of article 18.

THE CHAIRMAN considered that the translation proposed by the representative of France did not change the English text and that it appeared acceptable to the French-speaking members of the Committee.

MR. CASSIN (France) stated that he had only wished to clarify the text without submitting an amendment.

THE CHAIRMAN announced that the amendment previously proposed by France (A/C.3/330) to the Cuban amendment had been withdrawn.

He put the Cuban amendment (A/C.3/232) to the vote.

The amendment was rejected by 28 votes to 7, with 11 abstentions.

THE CHAIRMAN put to the vote the Belgian representative's proposal to delete the words "the character or" in the amendment proposed by Poland (A/C.3/331), as amended by the representative of France.

The proposal was adopted by 2 votes to none, with 41 abstentions.

THE CHAIRMAN put to the vote the Polish amendment (A/C.3/331), as amended.

The amendment, as amended, was rejected by 23 votes to 14, with 9 abstentions.

MR. SAINT-LOT (Haiti) considered that the word "pacific" would be preferable to "peaceful" in the amendment proposed by the delegation of Uruguay (A/C.3/268).

MR. PAVLOV (Union of Soviet Socialist Republics) asked what exactly was meant by "peaceful assembly". Some assemblies, even of armed men, might very well in fact pass off peaceably. In his opinion, "peaceful" should be interpreted in the sense of "serving peace".

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) explained that he had not wanted to speak of "pacifist" meetings but purely and simply of assemblies which passed off without uproar, disturbance or the use of arms.

THE CHAIRMAN put to the vote the Uruguayan amendment to insert the word "peaceful" before the word "assembly" in the basic text as modified in respect of the French text.

The amendment was adopted by 21 votes to 16, with 6 abstentions.

THE CHAIRMAN put to the vote the second Uruguayan amendment (A/C.3/268) to add to article 18 the sentence: "No one may be compelled to belong to an association."

That amendment was adopted by 20 votes to 14, with 9 abstentions.

THE CHAIRMAN put to the vote the whole of article 18, as amended.

Article 18, as amended, was adopted by 36 votes to 3, with 7 abstentions.

[446]

MR. GARCÍA BAUER (Guatemala) explained that his delegation had voted against the amendment proposed by the Soviet Union because it considered that the declaration was not the place for the first part of that amendment; and that, moreover, the legal guarantee provided for by that amendment was already assured by legislation of various countries.

While agreeing in substance with the second part of the USSR amendment, the Guatemalan delegation had felt unable to vote for it, because the prohibition referred to therein likewise did not seem to be in keeping with the structure of the declaration, and should be mentioned elsewhere.

MR. SAINT-LOT (Haiti) expressed his complete satisfaction with the new form in which the French representative had proposed that the French text of article 18 should be drafted. He readily supported the new wording.

MR. CASSIN (France) had not voted for the amendment which had been proposed, but he expressed his appreciation of the Polish amendment; he had had to abstain from voting on it, however, because the principle it set forth, while quite correct, was a general one which did not apply to article 18 alone.

He would be very glad if the principle in the Polish amendment were brought up again when article 27, defining certain restrictions on the various rights and freedoms set forth in the declaration, was considered.

MR. CHANG (China) expressed his satisfaction at the adoption of the Uruguayan amendment, which established an important principle. But he was not too happy about the wording of article 18, because he considered the English text to be ambiguous on account of the fact that it was not certain whether the adjective "peaceful" was applicable only to the word "assembly", or to the two words "assembly" and "association".

MR. CAÑAS (Costa Rica) had voted against the USSR and Polish amendments for reasons which he had already stated during the discussion.

While he warmly agreed with the ideas in the first part of the USSR amendment, he felt they were measures for implementation rather than the recognition of a right.

MR. CONTOUMAS (Greece) had voted against the amendments which had been proposed, with the exception of that of the Polish delegation which was the only one linked to the text proposed by the Commission on Human Rights.

He had not been able to support the USSR amendment because of the use of certain terms which were too vague, such as "democracy" and "fascism".

He expressed his agreement with the French representative regarding the contents of article 27 of the declaration, and hoped that the idea in the Polish amendment would be brought up again at the appropriate time.

MRS. CORBET (United Kingdom) felt that the idea expressed in the paragraph added by the Uruguayan amendment could never be effectively [447] implemented. She had therefore not voted for the second part of the amendment.

MR. AZKOUL (Lebanon) had voted for the text submitted by the Commission on Human Rights and against all the amendments.

He had already explained his attitude towards the USSR amendment. As regards the two parts of the Uruguayan amendment, they had seemed to him to be superfluous, as the restriction in meaning introduced by the word "peaceful" was already contained in article 27 of the declaration and the basic text seemed to him to express sufficiently clearly all the designs of its authors.

In conclusion, the representative of Lebanon supported the observations of the Chinese representative regarding the faulty drafting of article 18, as it had been adopted by the Third Committee.

MR. PLAZA (Venezuela) had voted for the Uruguayan amendment on the understanding that by "peaceful assembly" was meant assemblies at which national laws were not broken.

MR. WATT (Australia) had voted against the second part of the Uruguayan amendment and had abstained from voting on the article as a whole for the same reasons as the United Kingdom delegation.

His delegation reserved the right to raise the question again at a plenary meeting.

MR. PAVLOV (Union of Soviet Socialist Republics) considered that the two parts of the Uruguayan amendment considerably improved the text of article 18. Accordingly he had voted for that amendment, which however did not fully satisfy him.

He would have liked the meaning of the word "peaceful" to be made clear, because some assemblies of an anti-democratic or fascist nature could very well pass off without disturbances, and were not on that account less dangerous to peace. He also regretted that the Committee had not considered it necessary to embody in article 18 the idea of legal guarantees for the freedom of assembly.

He recalled that he had laid great stress on the importance which his delegation attached to the voluntary nature which associations and assemblies should present, and that explained why he had voted for the second part of the Uruguayan amendment.

He regretted that an amendment proposed by the USSR delegation had once more been rejected, as had also the Polish amendment, which might, however, have obtained the concurrence of the majority of the Committee. He stressed the fact that he would have voted against the original text if the Uruguayan amendment, making a concession to some extent to the ideas of the USSR delegation, had not been adopted.

Mr. Pavlov regretfully noted as a sign of the times that some delegations did not wish to be reminded too often of the principles of the United Nations Charter which no longer appeared to them to be as essential as in the past.

MR. LUNDE (Norway) had voted against the text adopted by the Third Committee because he thought the basic text was clearer and simpler; [448] moreover, it exactly corresponded to the law of his country.

The addition of the word “peaceful” seemed to him superfluous, and he had associated himself with the remarks made by the Australian and United Kingdom representatives with regard to the second part of the Uruguayan amendment.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) thanked the Chinese representative for his wise and apposite remarks on the text of the article adopted by the Committee, but regretted that he was unable to change its terms.

MR. MENCEL (Poland) had abstained from voting on the final text, which he did not consider precise enough.

He regretted that the Committee had not seen fit to approve the reference to the principles of the Charter, and affirmed that his delegation would see that those principles were mentioned in other articles of the declaration, as well as in the preamble.

MR. AIKMAN (New Zealand) said his delegation had voted against the second part of the Uruguayan amendment and the final text for the reasons given in the statement of the New Zealand representative.

He reserved the right to reopen the question when a draft declaration was submitted to the General Assembly.

THE CHAIRMAN announced that, on 13 November, the Committee would consider the report of its Sub-Committee 2.

The meeting rose at 6:10 p.m.

A/C.3/SR.132¹⁰²

11 November 1948

***Summary Record of the Hundred and Thirty-Second Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Thursday,
11 November 1948, at 8.30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon)

57. Draft international declaration of human rights (E/800) (continued)

Article 19¹

THE CHAIRMAN noted that the basic text of article 19 and the amendments submitted thereto were recapitulated in document A/C.3/296/Rev.1.

¹⁰² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 448–56.

He announced that the Yugoslav amendment (A/C.3/233) would not be considered during the discussion of article 19. The Yugoslav delegation had withdrawn its amendment but would submit its proposal later, as additional articles to the declaration.

MRS. LINDSTRÖM (Sweden), pointing out that article 19 laid down a fundamental right without which there could be no democratic Government, thought it was desirable that the article should make clear how the will of the people should find expression in order to ensure that it was the real basis of the Government.

[¹] Article 22 of the draft universal declaration of human rights (A/777).

[449]

For that reason the Swedish delegation proposed (A/C.3/252) the addition to paragraph 3 of the words “manifested in general and free elections or in equivalent, free voting procedures”. The phrase, “in equivalent, free voting procedures” had been included to take into account the fact that some primitive people were not accustomed to elections such as were held by more civilized peoples.

MR. CAÑAS (Costa Rica), explaining the joint amendment submitted by Colombia and Costa Rica (A/C.3/248), said that the right of everyone to take part in the government should be completed by a statement of the right to oppose the government and to promote its replacement by legal means. If the latter right were lost, all human rights could be lost. The Nazi and fascist governments – like all tyrannical regimes – had been able to deprive the people of all fundamental human rights precisely because they had first deprived them of the basic right to oppose the Government. States that had shown such an interest in preventing a renewal of fascism should realize that the amendment would serve that purpose, for the right it laid down was in itself a negation of fascism.

That joint amendment should therefore be adopted, for it would provide the best possible guarantee that the rights proclaimed in other articles of the declaration would be respected.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that his delegation’s amendment (E/800, page 34) specified that election should be held periodically by secret ballot, and should be universal, and equal. The amendments proposed by other delegations would restrict democratic election procedures since they failed, in one way or another, to cover all the points mentioned in the USSR amendment. The Cuban amendment (A/C.3/232) was unsatisfactory because it did not contain the ideas of universal and equal elections; the French amendment (A/C.4/244/Rev.1) said nothing of the secret ballot or of equal and universal elections; the Swedish amendment was more nearly adequate, but it still failed to describe fully the correct election procedures.

Speaking of the joint Colombian and Costa Rican amendment, he recalled that it was because Hitler and Mussolini had been allowed to oppose their respective Governments that they had eventually been able to come to power. The USSR delegation therefore hesitated to accept the amendment, for it might provide the possibility for fascist elements to overthrow the Government.

He asked for an explanation of the meaning of the amendment proposed by the Egyptian delegation (A/C.3/264). If that amendment meant that no government should be a tool of another Government, he was prepared to accept it.

[450]

MR. CASSIN (France) found the first two paragraphs of the basic text of article 19 acceptable.

He proposed an amendment (A/C.3/244/Rev.1) to paragraph 3, however, because, as it stood, it was not comprehensible to minds trained in the tradition of Roman law. It could not logically be stated as an individual right, that the government should conform to the will of the people; such a right was a collective right on the part of the people as a whole. The French amendment was not designed to change the substance of paragraph 3, but merely to clarify it. The paragraph should first make plain that the will of the people was the source of authority and should then speak of how that will should be expressed.

The French delegation did not oppose the Swedish amendment, nor would it object to the USSR suggestion to specify that elections should also be universal, equal and by secret ballot. Since, however, even among very democratic peoples, election procedures differed – in certain cantons of democratic Switzerland, for example, elections were not held by secret ballot – the important point was that the elections should be sincere. A general statement of principle that could cover all sincere systems of election therefore seemed preferable.

MR. COROMINAS (Argentina) thought article 19 should be clarified and simplified in order to achieve a text which would hold good for future generations.

In paragraphs 1 and 2 the word “everyone” was too general. Did the word mean, in paragraph 1, everyone legally empowered to take part in the Government; and in paragraph 2, did it mean everyone with the capacity required for public employment? As regards paragraph 3, the text as a whole was confusing, as the French representative had already pointed out.

The Cuban and USSR amendments contained valuable suggestions for clarifying the meaning. He thought that the words “having legal capacity”, which appeared in the Cuban amendment, should be used to qualify “everyone” in paragraphs 1 and 2 and that mention of periodic, universal, equal and secret elections should be included. Furthermore the article should be simplified by combining the three paragraphs into one.

MR. SAINT-LOT (Haiti) opposed the inclusion of the idea of a secret ballot, which was found in the USSR and Cuban draft amendments. A secret ballot could be

carried out only if the voters were able to read and write. Illiterate people would thus be excluded from voting and the suffrage would no longer be universal. The USSR amendment, which spoke of a universal election by secret ballot, would therefore be self-contradictory.

He recalled that hundreds of thousands of inhabitants of his country who had been unable to read and write had still had the courage to fight for their independence. Moreover, illiteracy was [451] usually the result of oppression of the masses by the minority in control and was no reason to deprive human beings of civil rights.

He thought the words “sincere and free” would best qualify the elections that the Committee wished to describe.

MRS. CORBET (United Kingdom) supported the basic draft of article 19, which set forth the three basic ideas of a democratic government. Those ideas might be elaborated in the proposed covenant on human rights, but there was no need for further details in the declaration.

The USSR amendment contained a dangerous idea in that it stated, “The State shall *consider* the will of the people . . .” It would seem from those words that the State might disregard the people’s will if it so desired; yet in a democratic society the State must be *bound* by the will of the people.

The USSR, Cuban, French and Swedish amendments all included mention of elections. The United Kingdom did not object to the substance proposed but it realized, especially since its recent experience in preparing a bill on electoral rights, how complex the subject was. It would be impossible to set forth in the declaration all the detailed provisions needed to ensure free elections, and the United Kingdom delegation thought it entirely sufficient to affirm that Governments must be freely chosen and must conform to the will of the people. If, however, the Committee should decide to include the matter of elections in article 19, the Swedish amendment seemed to offer the best draft and, moreover, it would meet the important point raised by the Haitian representative.

The United Kingdom attached the greatest importance to the right to oppose the Government, for without that right there could be no real democracy. That right seemed implicit, however, in paragraph 3 of article 19 and was further protected by the right to freedom of opinion and expression set forth in article 17.

Speaking of the Egyptian amendment, she thought the addition suggested in it was unnecessary, since a Government that conformed to the changing will of the people must act freely to give expression to that will.

The first point raised in the Uruguayan amendment was apposite. It might be well to adopt some general clause explaining that “everyone” did not refer to prisoners, children, lunatics etc. Thus the meaning of “everyone” would be plain throughout all the articles of the declaration.

The second part of the Uruguayan statement was not altogether clear; she hoped the Uruguayan representative would explain it further.

MRS. KALINOWSKA (Poland) drew attention to a mistake in the English translation of the USSR amendment. The English word “consider” was [452] inaccurate; the Russian word meant “to take into account and to be bound thereby”.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the USSR amendment be translated into English by “The State shall *conform* to the will of the people . . .”

MR. SANDIFER (United States of America) was prepared to support the basic text of article 19. He was not opposed, however, to the inclusion of periodic, free, universal and secret elections – an idea which, although it was implicit in the words “freely chosen representatives”, was so fundamental to a truly democratic Government that to include it would not overburden the declaration with details.

Of all the amendments submitted, the Cuban seemed the most desirable. He suggested, however, the deletion of the words “having legal capacity”, as there was a danger that the right might become meaningless if it were to be dependent on national legal considerations. If the Cuban amendment meant that a person must fulfil certain reasonable requirements in order to participate in the Government, that point was sufficiently covered by the general limitation clause contained in draft article 27. If the Cuban delegation would be willing to accept the suggested deletion, the United States would support the amendment.

Referring to the inclusion of the idea of a secret ballot, he said that experience in his country had shown that a secret ballot was necessary if the election was to be fair and impartial.

He opposed the USSR and the French amendments for the reason that both seemed to emphasize the obligations of the State. The declaration, however, was concerned with the rights of the individual.

As regards the joint Colombian and Costa Rican amendment, he agreed completely with the views of the United Kingdom representative.

In reply to the second point raised in the Uruguayan amendment, he pointed out that the words “his country” made plain that the rights proclaimed belonged only to citizens of a State and not to aliens.

The United States delegation wished to explain that it interpreted paragraph 2 to mean that all had the same opportunity for public employment. Public employment should be based on free and equal competition without any discrimination whatsoever. That did not mean, however, that no regard should be paid to loyalty to the country or other reasonable factors. As the United States representative had said earlier in the debate, the United States Government thought the right to public employment was subject to limitations in the interest of public order and welfare. Exclusion of persons with subversive political views or of those not loyal to the laws and constitution of the country was not considered to be a violation of the principle contained in the draft declaration. Article 27 of the declaration covered that point. [453]

MR. LUNDE (Norway) thought the basic text of article 19 was satisfactory and that it implied the idea of free elections.

He would be willing, however, to support the Cuban amendment as amended by the United States.

Nor had he any objection to the French or Swedish proposals. The second part of the Swedish proposal was particularly valuable and should be included in whatever text was finally adopted.

The USSR and other proposals introducing further details seemed unwise. In that connexion, he drew attention to the fact that his country could not accept the notion of equal elections, for, because of the geographical distribution of the population, the votes of some people, in sparsely populated areas, were given greater weight in order to ensure protection of their particular interests.

MR. DEHOUSSE (Belgium) said the Uruguayan proposal was not, strictly speaking, an amendment; it was rather a piece of advice, and contained two sensible observations. The word "everyone" obviously did not apply to foreigners, children, the aged, lunatics and so on. Secondly, some of the rights implicit in article 19 could not be exercised on foreign territory.

He agreed with the French representative that any trained mind would object to article 19 and considered his amendment the most acceptable that had been put forward. He disagreed with him, however, concerning the importance of the secret ballot. It was still the best method that had been devised for ensuring free elections. The exceptions he had referred to were unimportant because they applied to small communities with a long tradition behind them. In the opinion of the Belgian representative it was also necessary to specify that there should be several lists of candidates and therefore, he requested the French representative to accept the following addition to his amendment: ". . . held by secret ballot and with several lists".

He agreed with the substance of the USSR amendment, except that it did not refer to the need for several lists of candidates and introduced a reference to the State.

He supported the first part of the joint Colombian and Costa Rican amendment, but was not sure of the meaning of the words "equality of electoral opportunities and of access to the means of propaganda". It would be unrealistic to expect too much of the Government.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) felt that article 19 was one of the most perplexing in the whole declaration. The preceding articles were concerned with the rights of man, while article 19 dealt with the rights of the citizen. It would not, however, be sufficient to insert the word "citizen"; [454] the Commission had attempted to include too many ideas in the one article.

Elections could be held in accordance with the provisions of the USSR amendment without being free. It was impossible to eliminate evil practices by including a provision such as that in paragraph 3 of article 19 which referred to the "will of the

people". Who was to be allowed to vote and under what conditions could a list of candidates be submitted? It was all very well to state that elections were to be held by secret ballot after a free campaign in which all political parties were to be allowed to take part. In the nineteenth century, public opinion had sometimes been misled by violence; in the current period, election results were being falsified and the right to freedom of expression forbidden.

The Committee obviously agreed that the will of the people should be freely expressed. Any such general formula as had been put forward, however, could produce the very opposite result.

The Cuban amendment was more forceful than the one put forward by the Colombian and Costa Rican representatives, but should be changed to read as follows: "Every person who is legally entitled, may participate in the government of his country . . ."

The second Uruguayan observation was designed to avoid situations such as the one that had existed in Uruguay during the war. At that time, German citizens living in Uruguay had tried to carry on, as a group and in Uruguayan territory, activities implying participation in the political life of their country of origin, such as voting in the plebiscites organized by Hitler; that had not been allowed by the Government of Uruguay.

In reply to the Belgian representative, he said that he had, unfortunately, been unable to draft an article which seemed to him more constructive than the basic text.

MR. CONTOUMAS (Greece) said that for more than a century, his country had respected the principles set forth in article 19 and therefore he had no objections to the substance of the various proposed amendments. He did, however, feel that the questions raised in those amendments more rightly belonged in a declaration of people's rights than in the document under discussion.

He agreed that the word "everyone" was not satisfactory but thought that the same confusion would exist if the words "every citizen" were substituted for it.

It was the people and not the individual who freely chose their representatives and therefore he suggested the deletion of the word "his" in paragraph 1.

The French amendment, as amended by the Belgian representative, appeared to be the most acceptable.

The Swedish amendment also should be taken into consideration.

MR. GARCÍA BAUER (Guatemala) agreed with the Uruguayan representative that the word [455] "everyone" was not sufficiently clear. As in the case of article 14, it would have to be determined who, legally, could or could not take part in the government of his country. He also considered that the second observation put forward by the Uruguayan representative should be incorporated in the text.

The USSR and Cuban representatives had emphasized the necessity for elections by secret ballot. During the drafting of the 1945 Guatemalan Constitution, careful attention had been given to that question and owing to the fact that a certain

proportion of the population was illiterate, provision had been made for both a secret and an open vote. As the Haitian representative had pointed out, illiterate people could only participate in an open vote. To take into consideration the situation which existed in countries, a proportion of whose population was illiterate, a similar provision should be included in article 19.

The words "having legal capacity", in the Cuban amendment, were not sufficiently clear. He agreed with the substance of the French amendment but did not consider the declaration the appropriate place for it.

The joint Colombian and Costa Rican amendment was acceptable, but its provisions were already implicitly covered in article 17 and in the Commission's draft of article 19.

The Swedish amendment would be a useful addition to article 19 and deserved special attention.

The Egyptian amendment was not sufficiently clear.

MR. ABADI (Iraq) did not feel that it was the Government which mattered, but the State, in other words, the legal framework which was at the service of men who might be fallible. He therefore proposed that paragraph 1 should read as follows (A/C.3/332): "Every citizen has the right to take part in the affairs of his State, directly or . . ."

Paragraph 2 appeared to him to be superfluous and paragraph 3 inadequately drafted. The concept of the will of the people had bothered political scientists for some time and therefore, he suggested the following re-wording of paragraph 3: "Everyone has the right to a Government which conforms to the consent of the people, exercised through occasional elections, referenda or plebiscites."

The USSR amendment emphasized the problem of elections, and on the other hand, stressed the active will of the people, behind the law.

Subject to the acceptance of the changes he had suggested, he would support the basic text of article 19.

MR. AZKOUL (Lebanon) recognized the imperfections of the basic text, but after careful consideration, had come to the conclusion that the various amendments would not improve it sufficiently to warrant their adoption.

The Cuban representative had attempted to qualify the word "everyone". It had to be remembered, however, that the adoption of such a qualification would involve the Committee in the reconsideration of articles 5 and 11. Further, the word had to be interpreted in the light of the provisions of article 27. The amendment also made no reference to the provision contained in paragraph 2 of article 19 and for both those reasons, he would be unable to support it.

He agreed with the principle of the Egyptian amendment to the effect that every country should be free from foreign influence, but felt that it was covered sufficiently by the provisions of paragraphs 1 and 3.

The joint Colombian and Costa Rican amendment was also covered by the provisions of paragraphs 1 and 3 and besides, its adoption would introduce the question of implementation.

The fact that elections would be held periodically and by secret ballot would not ensure that they would be free. Further, there were many other aspects, such as the desirability of having several lists of candidates – a point raised by the Belgian representative – that could be introduced with respect to the rights set forth in article 19. There was no reference to referenda or plebiscites or to the right to equality of electoral opportunities and of access to the means of propaganda, raised by the Colombian and Costa Rican representatives.

MR. CAÑAS (Costa Rica) said it would not be necessary for him to explain to the Belgian representative the meaning of the final part of his amendment, as that explanation had already been given by the Uruguayan representative. There were electoral frauds before and during elections and, on occasions, the activities of political parties were curtailed either by the Government, the police or the army.

The idea that the Press should be forbidden to publish opposition propaganda or that radio stations should be forbidden to broadcast it, was repugnant to his delegation. The Government in power must recognize the rights of the opposition, for unless the majority accepted the minority's right to become the majority, democracy could not exist.

He drew the Committee's attention to the fact that the English text of the joint Colombian and Costa Rican amendment should begin with the words, "Every person . . ."

The meeting rose at 11.10 p.m.

A/C.3/244/Rev.2/Corr.1¹⁰³

12 November 1948

Original Text: French

France: Amendment to article 19 of the draft Declaration (E/800)

“The authority of government shall be founded on the will of the people as expressed in elections which shall be conducted periodically and must be

¹⁰³ A/C.3/244/Rev.2 reads: “The authority of any government is founded on the will of the people as expressed in elections which shall be conducted periodically and must be universal and equal and be held by secret ballot or by an equivalent procedure ensuring free vote.”

universal, equal and be held by secret ballot or manifested in equivalent, free voting procedures.”

A/C.3/333

12 November 1948

China: Compromise suggestion for article 19 of the draft Declaration (E/800)

1. Everyone, *as a citizen*, has the right to take part in the government of his country directly or through freely chosen representatives.
2. Everyone has the right of free and equal access to public service in his country.
3. The will of the people is the source of the authority of government; this will shall be expressed in elections, universal, equal, periodic and by secret ballot, or manifested in equivalent, free voting procedures.

A/C.3/334

12 November 1948

United Kingdom: Redraft proposal for paragraph 3 of the Chinese compromise suggestion for article 19 (A/C.3/333)

3. “The will of the people is the source of the authority of government. This will shall be expressed in elections which shall be conducted periodically and must be universal, equal and be held by secret ballot or manifested in equivalent, free voting procedures.”

A/C.3/335

12 November 1948

Uruguay: Text proposed to replace paragraph 3 of article 19 of the draft Declaration (E/800)

3. “Everyone has the right to require that the government of his country should conform to the constitutional system which has been freely established by the will of the people.”

A/C.3/SR.133¹⁰⁴

12 November 1948

***Summary Record of the Hundred and Thirty-Third Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
12 November 1948, at 10:55 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

58. Draft international declaration of human rights (E/800) (continued)

Article 19 (continued)

MR. DE ATHAYDE (Brazil) said that the right of everyone to take part in the government of his [457] was at the very root of the organization of a democratic state. If the ideal of government of the people, by the people and for the people were to be achieved, it was essential to establish the three fundamental principles set forth in the three paragraphs of the text proposed by the Human Rights Commission, namely the right to elect and to be elected, the right of access to public appointments and the right to require the Government to conform to the will of the people.

His delegation felt, however, that the text would be more complete if, as suggested in the USSR amendment (E/800, page 34), it specified that the will of the people should be expressed by means of universal suffrage on a basis of equality and by secret ballot. He pointed out in that connexion that the secrecy of elections did not imply that illiterates would be automatically barred from the polls.

Hence his delegation would vote in favour of the original text of article 19 and the last part of the USSR amendment, which it proposed should be added to the third paragraph of the text.

MR. CASSIN (France) appreciated that the general discussion on article 19 had been highly instructive for everybody, but he still adhered to the principle of the amendment submitted by his delegation at the 132nd meeting.

Hence he would vote in favour of the first two paragraphs of article 19 as drafted by the Human Rights Commission. As regards the third paragraph, however, he thought that in order to be more acceptable to the broad mass of the peoples, it should clearly state the principle that "the authority of any Government is founded on the will of the people".

At the same time his delegation was prepared to incorporate in the amendment it had submitted the previous day (A/C.3/244/Rev.1) the most important passages of

¹⁰⁴ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 456–67.

the amendments submitted by the USSR and Swedish delegations. To that end it proposed the following wording for paragraph 3 (A/C.3/244/Rev.2):

“The authority of any Government is founded on the will of the people as expressed in elections which shall be conducted periodically and must be universal and equal and be held by secret ballot or by an equivalent procedure ensuring a free vote.”

He had felt unable to support the Belgian delegation’s proposal concerning several lists of candidates. The last clause of the redraft proposed by him met the objections, expressed by some delegations, to the secret ballot. Moreover, as it was to be clearly established that the authority of the Government was “founded on the will of the people”, his delegation had considered it unnecessary to keep the original wording of paragraph 3 which said that “Everyone has the right to a Government which conforms to the will of the people.”

MR. PLAZA (Venezuela) regarded article 19 as drafted by the Human Rights Commission as a happy and concise definition of a complex right from which none of the essentials were omitted.

His delegation, however, viewed favourably the amendments submitted by the delegations of the [458] USSR, Cuba, France and Sweden, which all proceeded from the idea that article 19 should, in addition, contain a reference to the principle of universal, free and secret elections, which were the best guarantee of democracy and marked one of the greatest advances in modern times.

The choice between the various amendments was a difficult one. Whilst the USSR amendment stated the principle in concrete terms, it approached the problem from the point of view of the obligations of the State: for that reason his delegation could not support it. The disadvantage of the Cuban amendment (A/C.3/232) was that it applied to the first paragraph which the Venezuelan delegation would like to stand in its original form. The French amendment (A/C.3/244/Rev.2) would have been an improvement if it had stated the right in a more direct and concrete manner. Yet it seemed the most satisfactory, and his delegation would vote for it, subject to the addition of the text proposed by the Belgian delegation at the 132nd meeting.

If the Committee did not adopt the French amendment, his delegation would vote in favour of the Swedish amendment (A/C.3/252) which it regarded as less explicit than the French text but more satisfactory than the original text.

His delegation would also support the amendment submitted by the Columbian and Costa Rican delegations (A/C.3/248) which stated a progressive principle which Venezuela had already incorporated in its legislation.

MR. WATT (Australia) said the general discussion had shown what a difficult task it was to draft a declaration of the type of the human rights declaration. The amendments to the original text had elicited just as much criticism as the text itself.

He realized that article 19 was not the best one prepared by the Human Rights Commission, but its general structure was understandable if the many difficulties brought to light in the course of the discussions were borne in mind.

Dismissing the objections one after the other, he pointed out first of all that it was an implied term of the word "everyone" that it did not extend to minors, lunatics, and other persons under a legal disability. Those exceptional cases were fully covered by the general provisions of article 27 and did not have to be taken into consideration.

It had also been suggested that the word "everyone" should be replaced by the words "every citizen", on account of the delicate problem of alien residents. That was also an invalid objection since the text specified that everyone had the right to take part in the government of his country. No ambiguity was possible. There was ambiguity, however, in the expression "having legal capacity" proposed by the Cuban delegation; those words could not possibly be admitted unless they were accompanied by a particularized definition which would be out of place in the body of the article.

Paragraph 2 of article 19 had been criticized for its reference to public employment to which everyone would have the right of access, but those were public appointments and hence of importance for the whole community. The point of the paragraph was to enable any citizen not only to take [459] a passive part in the government of his country but also to take an active or executive part therein.

He then analysed the various amendments submitted. The most important point they raised was that of the secret ballot. The importance of the secret ballot was not in the secrecy surrounding the vote, but in the fact that the secrecy was intended to make the vote a free one. The primary object was to ensure the free and independent expression of the will of the people; that principle should be established, but it was not one of the purposes of the declaration to go into the particulars of the application of the principle.

Therefore, his delegation would not object to the omission of the word "secret" if that was the Committee's desire.

The joint Colombian and Costa Rican amendment dealt with questions of detail. In Australia, for example, broadcasting facilities were placed at the disposal of the leaders of the principal political parties at election times; but a declaration was not a suitable vehicle for expressing those details.

Whilst appreciating the doubts which had prompted the Iraqi delegation to submit its amendment (A/C.3/332) he felt unable to agree to several points in it. For example, in preference to the rather vague phrase "affairs of his state" he would prefer the more specific expression "government of his country"; he also preferred the version whereby the Government was expected to take the "will" of the people into account to the more passive version whereby a Government was to conform to the "consent" of the people.

On the whole his delegation agreed that paragraph 3 of article 19 should be redrafted and hoped that the Committee would be able to prepare a satisfactory text on the basis of the amendments submitted by the delegations of the USSR, Sweden and particularly France.

Should such drafting prove difficult in plenary committee, a drafting sub-committee might be instructed to prepare a generally acceptable text.

MR. PANDO MACHADO (Cuba) said that article 19 had given rise to more differences of opinion than any other, as was evidenced by the number of amendments it had provoked.

He introduced his delegation's amendment (A/C.3/232) by saying that it was not an original text but one which had been discussed at the Pan-American conference at Bogotá. The amendment had the advantage of expressing in concrete, precise and short form all the essential elements necessary to ensure to the individual the right to take part in the government of his country.

His delegation had noted with pleasure the favourable comments on its proposal by many delegations including that of the USSR, though the last-named had criticized it for failing to specify that elections should be universal and periodic. But the Cuban delegation did not consider that those two epithets would add anything to the text, for they did not correspond to facts as [460] encountered in the practice of States. Actually there was hardly any country in which all citizens without any exception took part in elections.

The United States delegation had agreed to the Cuban wording subject to the omission of the words "having legal capacity". His delegation's reason for inserting those words was to allow no margin for error in the text, for there were several categories of citizens who did not enjoy the franchise, such as lunatics, minors and, in some countries, even women.

The Australian representative had, however, said very pertinently that exceptional cases were covered by the provisions of article 27.

If it was agreed that that was so, his delegation would not insist on the retention of the words "having legal capacity".

MRS. NEWLANDS (New Zealand) said she regarded article 19, which dealt with one of the fundamental and essential elements of democracy – everyone's right to take part in the government of his country – as one of the most important in the declaration.

Some of the amendments, including those submitted by the USSR and Cuba, raised questions previously discussed by the Human Rights Commission. That Commission had declined to allow the expression "will of the people" (which occurred in its text) to be qualified by the words "as expressed in elections, which shall be conducted periodically and must be universal and equal and be held by secret ballot"¹ (which were restated in the form of an amendment by the USSR) on

the grounds that such terms referred to matters of detail which were out of place in the general declaration of principle.

There was no need to repeat that in New Zealand elections were conducted on those lines; but her delegation appreciated nevertheless that cases might occur where the secret ballot, for example, might be inappropriate or inadvisable.

With regard to the French amendment, without wishing to start a philosophical discussion she would say that the statement that the authority of government was founded on the will of the people as expressed by free elections was open to challenge. In some countries that authority was actually based on written constitutions which could not be amended save in certain predetermined conditions.

Hence her delegation could not support the French amendment.

On the other hand, she thought that the Swedish amendment contained some interesting passages such as for example its references to the method of enabling the will of the people to be expressed while at the same time avoiding the difficulties inherent in the secret ballot.

The joint Colombian and Costa Rican amendment restated the general principle already con-

^[1] See E/CN.4/SR.62.

[461]

tained in the first paragraph of article 19 and in article 17, and therefore seemed redundant.

She concluded by saying that her delegation would not fail to take note of the useful suggestions put forward during the discussion, particularly the wording proposed by the French delegation.

For the time being, however, her delegation was concentrating on the text proposed by the Human Rights Commission.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) thought the wording adopted by the Human Rights Commission for article 19 was satisfactory on the whole but would be improved by the addition of the USSR amendment.

Some delegations had said that that article was not sufficiently clear and might even be deleted: his answer was that, on the contrary, article 19 was very important and ought to appear in a declaration of human rights.

The declaration should clearly establish everyone's right to elect his representatives and to be elected as representative, and he regretted that the application of that right, which appeared in nearly all national constitutions, was subject to limitations in some countries where very many people were unable to take part in the government of the country on the grounds of race, colour, sex, political opinion, property or birth. Out of the 547 million subjects in the British Empire, 499 million were not represented in the

House of Lords or in the House of Commons. Millions of inhabitants of colonial territories were still unable to use their vote to voice their objections to government measures which were frequently directed against the interests of the majority.

He countered the French representative's description of Switzerland as a model democratic State by pointing out that in Switzerland women did not enjoy the franchise.

Furthermore, the very principles on which his country's Government was based were opposed to the theory that the common people could not aspire to public office. In the Ukrainian SSR power was entirely in the hands of the soviets of the towns and villages. Of the 415 deputies including 112 women elected in 1947, for example, 177 were workers, 126 were farmers and agricultural workers and 112 were intellectuals and employees.

His delegation supported article 19 paragraph 2 whereby everyone was given the right of access to public employment in his country regardless of considerations of birth or property. It regretted that in some countries that right was denied to persons holding truly democratic views on the pretext of humiliating "loyalty" tests or on the grounds that they belonged to a left-wing party. By that denial a large part of the population was being kept away from public office and the will of the people was disregarded.

His delegation felt that paragraph 3 of article 19 was inadequate as it stood and should be supplemented by the USSR amendment which emphasized that the will of the people could only be expressed in elections to be conducted periodically and which had to be universal and equal and held by secret ballot. The principal objection to that amendment was that its requirement of a secret ballot would deprive a part of the population, particularly illiterates, of their voting rights. But universal suffrage could easily be guaranteed by constitutional provisions. The criticisms levelled at the USSR amendment were unjustified.

His delegation would therefore support that amendment.

MR. CHANG (China) said that he had listened very carefully to comments by the different delegations on article 19 of the declaration and proposed a new version of that article based on the suggestions of various delegations (A/C.3/333).

Dealing first with paragraph 3, he said that the declaration should proclaim human rights and not stress the authority of Government, as the French delegation's amendment did. For that reason his delegation in paragraph 3 of its amendment proposed that "the will of the people" should become the subject of the first clause. The paragraph would read as follows:

"3. The will of the people is the source of the authority of government; this will shall be expressed in elections, universal, equal, periodic and by secret ballot, or manifested in equivalent free voting procedures."

In the first paragraph of article 19 his delegation proposed adding the words "as a citizen" immediately after the word "everyone". That addition took account of the

amendments proposed by the delegations of Cuba and Uruguay. Moreover, the Human Rights Commission had adopted a similar wording in article 20, which began with the words “Everyone, as a member of society”. The French text of this paragraph might be simplified by the omission of the words “qu’elle a”.

In his country the civil service had been in existence for a long time and he emphasized the importance of the idea, not yet realized in the Western world, that civil servants should be recruited by the competitive method to make sure that only qualified persons took a direct part in the public service of their country. Hence he proposed paragraph 2 of article 19 should be amended to read as follows:

“2. Everyone has the right of free and equal access to public service in his country.”

MR. SANTA CRUZ (Chile), in reply to the representative of Argentina, explained that the Human Rights Commission had split article 19 into three paragraphs so as to indicate more clearly that it dealt with three distinct ideas, all of them essential to the establishment of a democratic State.

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Regarding the criticisms directed against the first two paragraphs of that article, his delegation agreed with the Australian representative and proposed the retention of the text adopted by the Human Rights Commission. On the other hand it agreed to any amendments likely to improve the wording of paragraph 3.

Whilst the amendments submitted by France and China provided a perfect synthesis of constructive comments made by the various delegations, he proposed nevertheless that those amendments should state that elections should be genuine and authentic.

He would answer the Ukrainian SSR representative’s criticisms of certain countries by saying that the fact that one and the same Government had remained in office for years was not particularly strong evidence that it represented the will of the people. Furthermore, he did not regard single lists containing virtually only one name as consistent with the definition of universal suffrage.

For those reasons he proposed adding a word such as “genuine” or “authentic” before the word “elections” in the French and Chinese amendments.

MRS. CORBET (United Kingdom) was pleased to note that the Committee had apparently reached agreement on the substance of article 19 of the declaration.

Her delegation thought it desirable, however, to propose an amendment (A/C.3/334) introducing some drafting changes in the second sentence of paragraph 3 as contained in the Chinese amendment.

Moreover, it agreed to the addition of the word “genuine” or “authentic” in paragraph 3, as proposed by the Chilean representative.

She thought it would be preferable not to have set up the drafting sub-committee of which the Australian representative had spoken.

MR. PAVLOV (Union of Soviet Socialist Republics) also noted that the Committee seemed largely to have reached agreement on the substance of article 19 of the declaration.

In reply to the representative of Haiti (132nd meeting) who had mentioned the illiteracy in his country and in many other countries, he said that the declaration could not be based on the conditions prevailing in countries where illiterates were in the majority. It was to be hoped that educational endeavours would make their influence felt in those countries and generally reduce the number of illiterates.

The USSR had found itself in a similar position after the revolution and used to possess a large number of illiterates. To meet that difficulty those illiterates, as well as deaf and blind persons, had been granted the right to be assisted by a friend, neighbour or relative in filling in their voting slips and whilst that was a slight deviation from the principle of the secret ballot it did ensure universal suffrage.

Hence he was unable to see what danger the guarantee of the secret ballot could give rise to.

His delegation regretted to note that in some countries large sections of the population were barred from voting on the grounds of race, prop-[465]erty, sex, birth or political opinion. In the United States, for example, where every elector was required to satisfy a minimum property qualification and to be a taxpayer, less than 50 per cent of the 90 million electors had voted in the recent elections. Those figures might be compared with those of the recent elections in the Soviet Union, where out of 101,717,000 electors 101,450,000 (or 99.7 per cent) had voted.

His delegation preferred the wording of paragraph 3 as given in the French amendment to that of the Chinese amendment because the latter expressed a hope rather than a necessity.

It should be categorically stated that the authority of the Government was founded on the will of the people. In the Soviet Union for example, 1,400,000 representatives of the will of the people were taking a direct part in government.

MR. DEHOUSSE (Belgium) said he had little to add to the statement he had made at the previous meeting. Of the amendments submitted since he had spoken, his delegation would not support that of the Iraqi delegation which mentioned referenda and plebiscites as a means of expressing the will of the people: those were methods to be resorted to only in certain carefully defined circumstances which in other cases met with very distinct political objections.

It was difficult to say whether the French or Chinese was the better of the two amendments submitted by the respective delegations. He personally preferred Mr. Cassin's text, possibly because Mr. Chang's version had not yet appeared in French. However that might be, both those amendments had the advantage of taking account of the secret ballot which was the best guarantee of free and genuine elections. There was no real basis for the objection of illiteracy; where it existed it should be removed

and the citizen should be raised to the status of an elector fully conscious of his responsibilities. As illiteracy still existed in the world, however, it must be taken into account, and that could be done by means of the amendment submitted by the Chinese and French delegations, the wording of which was sufficiently elastic.

He felt bound, however, to refer to the observation he had made (132nd meeting) about the need for several lists of candidates because the very essence of the democratic system was the electoral competition between different political parties. In the absence of a guarantee of a competition based on the existence of several lists of candidates, the whole democratic character of free, equal, periodical and secret elections might be distorted.

Hence, his delegation felt bound to abide by the amendment which it had submitted at the previous meeting and which it re-submitted as an amendment to both the French and Chinese texts.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said the Committee's discussion had shown that there was a possibility of reaching a generally acceptable solution.

Speaking on the French and Chinese proposals, he mentioned that in his country the authority of [465] Government was founded not on popular elections but on the Constitution. That was his reason for suggesting that paragraph 3 of article 19 should be replaced by the following text (A/C.3/335):

“Everyone has the right to require that the Government of his country should conform to the constitutional system which has been freely established by the will of the people.”

That had the advantage of laying down the principle of the constitutionality of governmental authority. The popular character of the government would be guaranteed by the provisions of the first paragraph.

Furthermore, his delegation would like it to be clearly established that when the Committee came to vote on article 19, adoption of that article would imply acceptance of the following principles:

1. Absolute equality of the political rights of men and women;
2. A ban on any discrimination in the grant and exercise of political rights on the grounds of race, colour, sex, language or property;
3. A ban on any discrimination in the granting and exercise of political rights on the grounds of political opinion.

His delegation would have liked to see the general reservations concerning non-discrimination mentioned in article 2 restated in article 19. In any case his delegation urged that it should be fully understood that the interpretation of article 19 would have to be indissolubly linked with the interpretation of article 2.

MR. ANZE MATIENZO (Bolivia) said he would not press the draft amendment he had submitted; it introduced no more fresh factors than the draft submitted by the Chinese delegation.

The first paragraph of his text had differed from the Chinese text in so far as it claimed the right of citizenship for any person not under a legal disability, whilst the Chinese text merely spoke of “everyone, as a citizen”.

The second paragraph had been worded as follows: “everyone not disqualified on moral or intellectual grounds has the right of access to public employment”. He was surprised that this text had been criticized as being too restrictive. Surely public office involved responsibilities towards the community and it was natural, therefore, that public office should not be entrusted to anybody disqualified on moral or intellectual grounds.

His third paragraph had been based on the various drafts submitted by Costa Rica and Colombia, France and the USSR.

That amendment had expressed his delegation’s view on the subject. As, however, it had not been deemed acceptable, he would support the new French text, subject to the addition of the Belgian amendment.

MR. SAINT-LOT (Haiti) regarded article 19 as one of the most important in the declaration since it established the right to vote and since, by [466] that very right, the peoples would be enabled to confirm the rights and freedoms proclaimed in the declaration of human rights. The free exercise of the franchise was the means whereby the peoples could express or withdraw their confidence in their Governments.

For those reasons he felt that the Third Committee should do its utmost to establish that right in the strongest possible terms. No representative had protested against the limitation introduced by the mention of the secret ballot, and yet that was precisely the pretext which might be used by any Government which was not truly democratic to justify such restrictions as they might be induced to introduce to limit universal suffrage. Such Governments might, for example, require the elector to draw up his own voting slip and thus disfranchise a section of the working masses.

He reminded the members of the Committee that they were drafting a declaration which was not addressed solely to the Western hemisphere, but to the entire world; and according to figures supplied by UNESCO, illiteracy was still very common, 85 per cent of the population of the world being illiterate.

He urged the French representative, whose nation had done so much in the fight for universal suffrage, and the Chinese representative, in whose country there were still so many illiterates, to drop the words “secret ballot” from their amendments.

He was surprised that the Cuban delegation by introducing the words “having legal capacity” should continue to advocate a formula which was also capable of lending itself to restrictive practices.

Universal suffrage was one of the latest of man’s conquests and had not yet been sufficiently consolidated, for electoral fraud was extremely difficult to prevent. Accordingly, he thought it preferable not to place a further weapon in the hands

of people desirous of “rigging” elections; it would be better merely to mention universal suffrage, while emphasizing that it should be genuine and authentic, without referring to the secret ballot.

MR. GARCÍA BAUER (Guatemala) noted that the Committee had heard several divergent views which deserved very careful consideration.

He therefore proposed the appointment of a drafting sub-committee with instructions to study those points and to prepare a combined text incorporating all the points of view.

MRS. LINDSTRÖM (Sweden) considered that the new proposal submitted by the Chinese delegation took the different points of view into account and might be regarded as an acceptable compromise solution. Accordingly she would withdraw her own amendment and considered it unnecessary to employ the services of a drafting sub-committee.

MR. DEHOUSSE (Belgium) said he was all the less inclined to support the idea of appointing a drafting sub-committee on article 19 since it [467] would be necessary before long to establish a sub-committee to co-ordinate the text of the declaration as a whole.

MR. ABADI (Iraq), MR. CONTOUMAS (Greece) and MR. CHANG (China) also expressed themselves against the idea of appointing a drafting sub-committee to deal with article 19.

MR. COROMINAS (Argentina), MR. SAINT-LOT (Haiti) and MR. CAÑAS (Costa Rica) supported the Guatemalan representative’s proposal on account of the many amendments to which article 19 had given rise.

MRS. BEGRUP (Denmark), seconded by MRS. CORBET (United Kingdom) and MRS. NEWLANDS (New Zealand), proposed that the authors of the various amendments should meet unofficially to prepare a joint text.

MR. PAVLOV (Union of Soviet Socialist Republics), seconded by MR. KAMINSKY (Byelorussian Soviet Socialist Republic), made a formal proposal to adjourn the discussion on article 19 until 4.30 p.m., when it should be resumed, on the understanding that the authors of the various amendments would use the intervening time to draft a joint text.

MR. GARCÍA BAUER (Guatemala) withdraw his proposal in favour of the one submitted by the representative of the USSR.

THE CHAIRMAN asked for a vote on the motion for the adjournment.

He made it clear that the authors of the various amendments would remain at liberty to consult with one another with a view to drafting a joint text.

The motion was adopted unanimously.

The meeting rose at 1:20 p.m.

A/C.3/SR.134¹⁰⁵

12 November 1948

***Summary Record of the Hundred and Thirty-Fourth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
12 November 1948, at 4.30 p.m.

Chairman: Mr. CHARLES MALIK (Lebanon).

59. Draft international declaration of human rights (E/800) (continued)

Article 19 (continued)

THE CHAIRMAN reminded the Committee that the discussion on article 19 of the draft international declaration of human rights was closed.

Agreement had been reached on the deletion of the words “as a citizen” from the first line of paragraph 1 of the compromise text proposed by China (A/C.3/333).

MR. PÉREZ CISNEROS (Cuba) was ready to accept paragraph 1 of the Chinese compromise proposal, but reserved his decision on paragraphs 2 and 3.

THE CHAIRMAN put to the vote the proposal of the representative of Greece (132nd meeting) to delete the word “his” before the words “freely chosen representatives” in paragraph 1 of the text of article 19 as adopted by the Commission on Human Rights.

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The proposal was adopted by 30 votes to 2, with 1 abstention.

THE CHAIRMAN put paragraph 1, as amended, to the vote.

Paragraph 1, as amended, was adopted by 37 votes to 1, with 2 abstentions.

MR. ABADI (Iraq) made it clear that, in the opinion of his Government, it was understood that the word “Government” in the English text could in no case be applied to a clique which had seized power, but that it referred essentially to the entire structure of the Government and the State.

THE CHAIRMAN put to the vote the proposal to add the words “and equal” after the words “Everyone has the right of free” in paragraph 2.

¹⁰⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 467–72.

*The proposal was adopted by 41 votes to none, with 1 abstention.
It was decided, by 27 votes to none, with 15 abstentions, to substitute the word "service" for the word "employment" in the English text.*

THE CHAIRMAN put paragraph 2, as amended, to the vote.

Paragraph 2, as amended, was adopted by 43 votes to none, with 3 abstentions.

MR. CHANG (China) suggested a few changes in the compromise text which he had proposed for paragraph 3 (A/C.3/333). The paragraph would read as follows:

"The will of the people is the basis of the authority of government; this will shall be expressed in periodic elections, which shall be universal, genuine, equal, and held by secret ballot, or manifested in equivalent free voting procedures."

MRS. CORBET (United Kingdom) withdrew the proposal which had been made by her delegation concerning paragraph 3 (A/C.3/334), in view of the improvements made by the representative of China in his compromise text.

MR. CASSIN (France) thought the formula he had presented (A/C.3/244/Rev.2) was preferable, but that the compromise text of the representative of China, as then worded, would fit better into the declaration as a whole.

In those circumstances, he withdrew his amendment.

MR. SAINT-LOT (Haiti) requested that the text proposed by China for paragraph 3 should be put to the vote in parts and that the vote should be taken by roll-call on the words "by secret ballot".

MR. PÉREZ CISNEROS (Cuba) withdrew his amendment (A/C.3/232).

MR. COROMINAS (Argentina) declared he would vote in favour of article 19 as a whole but he pointed out that paragraph 3 of that article as drafted in the text proposed by the representative of China constituted rather a statement of fact and did not establish a right.

Furthermore, he thought that while the balloting should be secret, the counting of the votes should be public.

[469]

MR. AZKOUL (Lebanon) wondered whether the last phrase of the French text of paragraph 3 (A/C.3/333) referred to the elections or to the will of the people. According to the English text, it would seem that the proposal referred to the will of the people: in that case, the French text would have to be improved.

He asked the representative of Haiti to accept the term "secret ballot".

MR. SAINT-LOT (Haiti) feared that, in an attempt to obtain absolute secrecy, the universal character of the secret ballot might be affected.

MR. PAVLOV (Union of Soviet Socialist Republics) suggested the following wording: "The will of the people *shall be* the basis of the power. . ."

MRS. CORBET (United Kingdom) preferred the word "authority" to "power".

MR. AQUINO (Philippines) preferred “the will of the people is the source of the authority” to “the will of the people *shall be* the basis of the authority”. This was a recognition of a fact.

MR. PÉREZ CISNEROS (Cuba) requested that the words “secret ballot” should be replaced by the words “secret vote”. The remark made by the representative of Argentina on that point had been quite correct.

MR. BAROODY (Saudi Arabia) wished to explain, before the vote was taken, why he would vote in favour of the Egyptian amendment (A/C.3/294) and why he would abstain from voting on most of the other amendments.

He thought the Egyptian amendment admirably concise, yet comprehensive, but it could perhaps be made still clearer by the addition of the words “at the same time” after the words “freely and”.

With respect to the various other amendments, he thought they went into too much detail as regards electoral and other procedures.

THE CHAIRMAN made it clear that the term “secret ballot” should not be understood to mean the counting of the ballot-papers, which should be public, but the casting of the ballot-paper in the electoral box, an act which should be performed in private.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that to show a spirit of conciliation, he was ready to withdraw his amendment if the representative of China would accept the following wording for the beginning of paragraph 3: “The will of the people *shall be* the basis of the authority of the Government.”

He asked the representative of Belgium whether he would agree to withdraw his amendment, which he thought took into account too many details which were not applicable in all countries. If the Committee adopted the Belgian amendment, the text of article 19 would be in contradiction with the electoral procedures of the USSR, for example, which differed in certain aspects from those of other countries. He thought that might even be considered as a kind of intervention in the domestic affairs of his country, and he insisted that each country should be willing to respect the [470] customs and practices of other countries. It would be sufficient if article 19 noted the necessity for free elections and equal suffrage for all.

MR. DEHOUSSE (Belgium) shared the view of the USSR representative with respect to the substitution of “shall be” for “is”, but he strongly regretted that a proposal had been made to substitute “basis” for “source”. He asked the representative of China whether he would insist upon that word.

He would also like the words “according to the party system” to be inserted after the word “periodic”; that would permit the introduction into article 19 of the idea of duality or plurality of parties, which was essential to the efficient functioning of the democratic system.

He asked that a roll-call vote should be taken on the Chinese amendment.

He was quite satisfied with the last part of paragraph 3, “or by equivalent free voting procedures”. However, he thought “secret vote” preferable to “secret ballot”

because, as the Chairman had pointed out, the word “ballot” referred either to the electoral procedure as a whole, or to the counting of ballots. It was quite obvious that while the secrecy of the vote must be assured, balloting should take place in public.

He did not think it necessary to add the words “and universal suffrage” after the words “free voting procedures” as the representative of Haiti had suggested. Such an addition would, he considered, make the whole of paragraph 3 quite unreadable.

MR. CASSIN (France) thought the expression “the will of the people *is* the source of the authority. . .” was much stronger than “the will of the people *shall be* the basis of the authority”, since it stated a principle. That was, in his opinion, a point of fundamental importance.

Referring to the remark of the Cuban representative, he admitted it was better to speak of “vote” than “ballot”, in order to avoid confusion between the vote, which must be secret, and the counting of the vote, which must take place in public.

As regards the amendments made by the Chinese representative to his compromise text, he pointed out that the word “genuine” should immediately precede “periodic elections”; obviously the whole of the election proceedings, not just the actual vote, should be genuine.

He approved the Belgian amendment in principle, but noted that it was scarcely in accordance with French law: in France there were several voting procedures, and it would be difficult, in some cases, to have several lists.

MR. CHANG (China) thought the expression “the will of the people *is* the source of the authority. . .” was a positive statement of fact; “shall be the basis”, on the contrary, would indicate that such was not always the case in certain countries. It was for that reason that he preferred “shall be the basis”, it being generally understood that the will of the people should in all cases be the basis of the authority of the Government.

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That wording should also satisfy the Argentine representative, since it was no longer a simple statement of fact, but the proclamation of a right.

He proposed the following wording for paragraph 3:

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections, which shall be universal and equal, and shall be held by secret vote, or by equivalent free voting procedures.”

MR. DEHOUSSE (Belgium) pointed out that, in his country, plurality of lists was synonymous with plurality of parties. The conception he wished to introduce into the text of the article was that of the plurality of parties, and he proposed to add the words “according to the party system” after “which shall be conducted periodically”.

THE CHAIRMAN stated that it would be impossible in practice to introduce that amendment into the English text.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) thought the Belgian amendment unacceptable in that it modified the substance of the article.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed with Mr. Kaminsky, and recalled that, in his country, the bourgeois class had ceased to exist. There thus remained only workers and peasants, and the Communist Party by itself was capable of looking after their interests. Did they want the USSR to import a foreign bourgeois class in order to re-establish the party system? Did they want the USSR to liquidate its existing system and renounce its existing social structure? Under the prevailing system, there was no justification for the creation of other parties.

The Belgian amendment was absolutely irreconcilable with the social structure of certain Member States.

MR. DEHOUSSE (Belgium) withdrew his amendment as a conciliatory gesture.

He pointed out, however, that there existed in the USSR not only the Communist Party, but also the non-party bloc.

The representative of Haiti asked that the vote be taken by roll-call on the retention of the words “and held by secret ballot” in paragraph 3.

The vote was taken by roll-call, as follows:

In favour: Afghanistan, Argentina, Australia, Belgium, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, France, Greece, Honduras, India, Iran, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, Uruguay, Venezuela, Yugoslavia.

Against: Guatemala, Haiti.

Abstaining: Bolivia, Canada, Ecuador, Lebanon, Mexico, Saudi Arabia, United States of America.

[472]

By 38 votes to 2, with 7 abstentions, the words were retained.

THE CHAIRMAN put to the vote the last text proposed by the Chinese representative for paragraph 3.

That text was adopted by 39 votes to 3, with 3 abstentions.

MR. GARCÍA BAUER (Guatemala) said he had voted against the text proposed by the Chinese representative because he thought it out of place in the declaration.

MR. DEHOUSSE (Belgium) requested that the vote on the amendment proposed by Colombia and Costa Rica (A/C.3/248) be taken in parts, the first going as far as the words “by legal means”.

THE CHAIRMAN put that first part of the amendment to the vote.

That part was rejected by 18 votes to 14, with 9 abstentions.

THE CHAIRMAN declared that the amendment as a whole was rejected. He put article 19 as a whole, as amended, to the vote.

Article 19, as amended, was adopted by 39 votes to 1, with 1 abstention.

MR. SAINT-LOT (Haiti) stated that he had voted against the text of article 19 in its final form.

He protested against the “secret” nature of the vote. That term might be used as a pretext for any restrictions the non-democratic countries might wish to impose.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) had voted against paragraph 3 of article 19. It contained expressions of a philosophical kind which he considered out of place there.

MR. CASSIN (France) had thought the words “equal access” had been replaced by the words “free and equal access” in the second clause. He had voted for paragraph 3, and for the text as a whole.

A declaration of rights should express collective rights as well as individual rights.

He regretted that the word “is” had been replaced by the words “shall be”; that substitution reduced the scope of text. Nevertheless, the adoption by the Committee of a formula of that kind was in itself an achievement.

MR. CARRERA ANDRADE (Ecuador) had abstained from voting on the Chinese amendment because, in his opinion, the Commission’s original text was more complete.

Paragraph 3 of the Chinese amendment contained concepts which were doubtless on an exalted philosophical plane, but which were out of place in article 19.

MR. SANDIFER (United States of America) had abstained from voting on paragraph 3. He thought, in fact, that the first part of that paragraph proclaimed a political principle rather than a human right, a theoretical concept rather than a human concept.

As regards paragraph 2, he agreed with the substance, the principle of free periodic elections; [473] but considered the details of the text unsatisfactory.

MR. PLAZA (Venezuela) had voted in favour of article 19 in its amended form.

He regretted the withdrawal of the Belgian amendment and the rejection of the Colombian and Costa Rican amendments, which would have completed the text admirably.

MISS BERNARDINO (Dominican Republic) was glad that it had been agreed to delete the word “citizen” in the original Chinese amendment (A/C.3/333). That word would have been contradictory to article 2 of the declaration, according to which all the rights and freedoms proclaimed in the declaration were recognized as applying to any persons, without distinction as to race, colour, sex, etc.

The representative of the Dominican Republic regretted that there still existed constitutions which granted the status or condition of citizenship only to male nationals, openly denying those rights to women.

MR. PAVLOV (Union of Soviet Socialist Republics) had voted in favour of the compromise which had finally been adopted, and which had been arrived at as a result of sincere collaboration between many delegations. It was one of the all too rare cases when the Committee had adopted progressive ideas. The conciliatory spirit manifested on that occasion was very encouraging, and gave grounds for unbounded hope in the future of the United Nations. That new spirit of co-operation had just led to concrete and positive results.

The USSR delegation was particularly pleased to see that its wishes on a number of points had been taken into account; gaps in the text had been filled, and a statement of the principle of freedom of elections had been inserted into the text.

The meeting rose at 6:30 p.m.

A/C.3/341

13 November 1948¹⁰⁶

Original Text: English, French

**Texts of articles 18 to 20 of the draft Declaration (E/800)
as adopted by the Committee**

Article 18

Everyone has the right to freedom of peaceful assembly and association.
No one may be compelled to belong to an association.

Article 19

1. Everyone has the right to take part in the government of his country directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be universal and equal and shall be held by secret vote or by equivalent free voting procedures.

¹⁰⁶ Although the English version of this document bears the date of 13 November 1948, article 22 (article 20 of the draft) was not adopted until 15 November 1948. The French version of the document bears the date of 15 November 1948, which would appear to be correct. However, the French version indicates that the original document was issued in English.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

A/C.3/267/Corr.1

15 November 1948

New Zealand: Amendments to the preamble and articles 10, 12, 20, 21, 22, 23 and 27 of the Draft Declaration (E/800)

Article 21 – Replace the words “is entitled” by the words: “have the right”.

Delete the word “the” between the words “through” and “membership”.

Paragraph 3 of article 21 would then read as follows:

“Everyone has the right to the protection of his interests through membership of trade unions.”

A/C.3/339

15 November 1948

Original Text: French

France: Amendments

I. Amendment to the title:

Substitute the word “universal” for the word “international”.

II. Introductory clauses of the preamble:

Adopt the phraseology of the United Nations Charter

We, the peoples of the United Nations

No. 1 (unchanged)

No. 2 Whereas *ignorance of* and contempt for human rights are *one of the essential causes of human suffering*; whereas, particularly before and during the Second World War, *Nazism and Racialism engendered countless acts of barbarism* which outraged the conscience of mankind;

No. 3 (unchanged)

No. 4 . . .Whereas, in the Charter, *we have* once more *re-affirmed*

III. Final operative clause of the preamble:

Proclaim

through our representatives in the General Assembly, this Declaration etc. . .

A/C.3/340

15 November 1948

**Chile: Compromise suggestion for Article 20 of the draft
Declaration (E/800)**

Replace the words “social security” by “*be biologically and economically protected against the fear of insecurity*”.

A/C.3/SR.137¹⁰⁷

15 November 1948

***Summary Record of the Hundred and Thirty-Seventh Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
15 November 1948, at 11.30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

**62. Draft international declaration of human rights
(E/800) (continued)**

THE CHAIRMAN announced that the General Committee had requested the various Committees to take measures to avoid unnecessary discussion. At the end of the following meeting he would ask the Committee to decide on a time limit for the submission of amendments to the preamble of the declaration.

¹⁰⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 496–500.

On the request of the representative of Chile, it was agreed that the time limit to be set for the submission of amendments to the preamble would also apply to the amendments affecting articles 27 and 28.

THE CHAIRMAN announced that the first seventeen articles had already appeared in four of the official languages and that the Chinese text would be ready by the end of the month.

*Article 20*¹

MR. AIKMAN (New Zealand) pointed out that the New Zealand amendment to article 20

^[1] Article 23 of the draft universal declaration of human rights (A/777).

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(A/C.3/267) was consequential to the New Zealand amendment to article 22 and, in view of this, wondered what would be the best procedure to follow.

MR. ALVARADO (Peru), supported by MR. CASSIN (France) and MR. SAGUÉS (Chile), considered that the New Zealand amendment to article 20 was based on an erroneous interpretation of the expression “social security”. As it was used in article 20, it meant social justice in the broad sense and not the protection of the individual from want in the narrow technical sense.

On the understanding that he would be able to reintroduce his amendment to article 20 if the New Zealand delegation’s amendment to article 22 were adopted, MR. AIKMAN (New Zealand) withdrew his amendment.

In order to speed up the work of the Committee, and because the Argentine amendment (A/C.3/251/Corr.1) was substantially the same as article 22, MR. PAVLOV (Union of Soviet Socialist Republics) requested the Argentine representative to withdraw it, and submit it in connexion with article 22.

MR. PÉREZ CISNEROS (Cuba), supported by MR. ALVARADO (Peru), considered it most important that the Committee should hear an explanation of the exact meaning of the expression “social security” in article 20 from a member of the Commission on Human Rights.

MR. COROMINAS (Argentina) pointed out that the words “as a member of society” in the present text were superfluous since everyone was automatically a member of society. The declaration should not try to obligate States to recognize rights, as they might not be able to implement them fully. The last phrase of the basic text of the article was open to objection because it referred to later articles which had not yet been drafted in final form and would have to be read before article 20 became fully intelligible. That might weaken the effect of article 20 at that stage of the debate. Moreover, article 20 should be able to stand by itself.

Social security, in his view, meant the right of the individual to be protected against the consequences of a reduction, suspension or loss of the ability to earn a livelihood. Governments should make the effort to protect the individual against certain unforeseen eventualities which might result in loss or lack of livelihood.

Social security was not in itself a new kind of right; it was the culmination of an aspiration which had reached fulfilment in some national legislations as the result of struggles throughout the past century. It was, however, a right which differed from and was independent of all other rights; and it should be stated as such in the declaration. It should not be made dependent upon other rights. The defect of the basic text was that it suggested that social security was dependent. That the USSR amendment (E/800, page 34) itself implied that social security was an independent right was shown by the words “in particular” in its second sentence. The last phrase of the USSR amendment coincided with the basic views of the Argentine delegation, which agreed [498] that implementation must be conditioned by the social and economic resources of each State.

Article 20 referred to social security in its broad sense. He agreed with the representative of France that it would be generally understood in that sense.

MR. PÉREZ CISNEROS (Cuba) said that the Cuban amendment (A/C.3/232) would meet part of the Argentine representative’s objection to the basic text. To refer to later articles weakened article 20; the article should stand by itself. The form of words proposed in his amendment had been used several times previously in the declaration. An alternative might be to substitute for the words “set out below” the words “as defined by the present declaration”. A statement of social rights was one of the most important points in the declaration; it should not be weak or vague.

MR. DE LA OSSA (Panama) said that the basic text was acceptable, but it failed to specify that social security should be guaranteed throughout the individual’s existence. His amendment (A/C.3/280), therefore, proposed insertion of the phrase made famous by Lord Beveridge, a recognized authority on the subject.¹⁰⁸ Protection should be afforded, for instance, to the posthumous child. Mr. de la Ossa would vote for the basic text with the Panamanian amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) recalled that, in the Commission on Human Rights, the French and Lebanese representatives had proposed the insertion in the declaration of article 20 to serve as a preamble to articles 21 to 26, in order to emphasize the importance of the economic and social rights stated therein.¹ Those rights had not appeared in any of the previous declarations of the rights of man; their inclusion was a result of the social progress achieved in the nineteenth and twentieth centuries.

¹⁰⁸ William Henry Beveridge (1879–1963) wrote a seminal report on social services that provided the foundation for the post-Second World War welfare state in Britain.

The USSR amendment to that article (E/800, page 34) comprised two parts. The first stressed the need to ensure for every individual a real opportunity to enjoy all the rights mentioned in the declaration. It should be noted in passing that the Argentine representative had entirely failed to take that first part into account in his observations.

The second part of the USSR amendment laid emphasis on the special importance of economic, social and cultural rights, which were mentioned separately, and further singled out the right to social security. It then indicated what measures might be taken to ensure those rights, with the qualification that due regard should be paid to the organization and resources of each State.

Mr. Pavlov drew attention to the fact that the words "social security", as used in his amendment, were broader in meaning than the concept of social insurance, which was covered in article 22, and referred to social welfare in general. Such matters as disability, unemployment and old age were dealt with concretely in article 22; for that reason, the Argentine amendment (A/C.3/

^[1] See E/CN.4/SR.67, E/CN.4/SR.71, E/CN.4/SR.72 and E/CN.4/120.

[499]

251/Corr.1), which also made specific mention of them, should be considered in connexion with that article. Article 20 did not attempt to give a definition of social security, but merely stressed its importance.

The text of article 20 as adopted by the Commission on Human Rights was inadequate and couched in too general terms. The USSR amendment, on the other hand, was clear and concrete, and contained not only the idea that the State and society must ensure to the individual the realization of social, economic and cultural rights, but also the idea that they must give him a real opportunity to enjoy all the other rights set forth in the declaration.

Mr. Pavlov agreed that article 20 should apply to the whole life span of the individual. He therefore supported the principle of the Panamanian amendment.

MR. CASSIN (France) remarked that the USSR representative had correctly traced the history of article 20. The Commission had had before it five articles dealing with social rights,¹ which were different in character from any rights outlined in earlier declarations of the rights of man. They all had in common the fact that national effort and international co-operation were needed for their realization. In order to avoid repetition of some such statement in every article, the Lebanese and French delegations had proposed the text of article 20, to serve as an introduction to the subsequent articles. It was not intended as a statement of any right but as an "umbrella" article. Amendments dealing with specific social rights should therefore be considered in connexion with articles 21, 22 and 23.

The French delegation had wished the words "social security" to appear in article 22. When, however, the Commission had decided to delete them from that article,² the French delegation, thinking it inconceivable that an international declaration of

human rights drafted at the present moment in history should not contain a single mention of them, proposed their insertion, in a broadly humanitarian rather than in a technical sense, in article 20, where they were then to be found.

If the Committee agreed with the New Zealand representative that the words “social security” in their technical sense should be used in article 22, some phrase of a general nature, such as “protection against social insecurity” or “social justice” should be used in article 20, in order to prevent confusion. The words “social security” must, however, appear somewhere in the declaration. If they were not inserted in article 22, Mr. Cassin reserved the right to bring the matter up again with respect to article 20.

He pointed out that the only controversial parts of the article appeared to be the phrase “social security” and the final words, “set out below”. He thought the article as a whole should be retained, but agreed with the Cuban representative that the final words should be replaced either by the phrase proposed by the latter, or by some other form of words which would make the statement contained in article 20 an independent one. The rights “set

[¹] See E/CN.4/95, articles 23–7.

[²] See E/CN.4/SR.71.

[500]

out below” were only some of the rights to which the broad general statement should apply; that statement should not be bounded by the limited attainments of contemporary society.

Mr. Cassin was not opposed to the substance of the USSR amendment. He did not think, however, that a special guarantee should be made of the economic and social rights, important as they were. It would be preferable, at the end of the declaration to add an article urging States to do their utmost to guarantee the rights granted in the document and to alter their laws, if necessary, for that purpose.

MR. SANTA CRUZ (Chile) agreed with the USSR and French representatives that article 20 had been intended as a preamble to articles dealing with economic and social rights.

He too thought the Argentine amendment should be reintroduced in connexion with article 22, as it dealt with social security as protection of the individual in any circumstances which made it impossible for him to earn his living. Social security was used in a much broader sense in article 20. It referred also to the protection of the right to subsistence, the right to work, the right to medical services not only of those who, through some circumstance, lost their capacity to work but of all human beings in all circumstances.

In order to avoid confusion with respect to the meaning of the words “social security” in article 20, he thought the article might be redrafted to begin as follows:

“Everyone, as a member of society, has the right to be protected, biologically and economically, against insecurity.”

He supported the Cuban amendment for the reasons given by the Cuban and French representatives.

He found the USSR amendment too long. He did not, however, have any quarrel with the ideas it contained, in particular, the guarantee of economic, social and cultural rights by the State and society. As those rights differed from all other rights in that they required positive action by the State before they could be enjoyed, it was quite proper to impose a definite obligation on the State in that regard.

The meeting rose at 1:5 p.m.

A/C.3/SR.138¹⁰⁹

15 November 1948

***Summary Record of the Hundred and Thirty-Eighth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
15 November 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

63. Draft international declaration of human rights (E/800) (continued)

Article 20 (continued)

MR. MAYBANK (Canada) defined his delegation's attitude towards article 20 and the three [501] following articles and said that after careful consideration the Canadian delegation had decided to abstain in the vote. However, he wished to emphasize that his abstention should not be interpreted as opposition to the principles set forth in those four articles.

Whatever obligations might arise under the Declaration of Human Rights, the Canadian Federal Government would not invade the field of Canadian provincial jurisdiction in such matters as education. For that reason the Canadian delegation would abstain. By the legislative measures it had adopted, the Canadian people had shown its support of the principles stated in the articles mentioned above and would continue to respect them in the future as it had respected them in the past.

MRS. ROOSEVELT (United States of America) emphasized that the essential elements of article 20 were the two phrases "through national effort and international co-operation" and "in accordance with the organization and resources of each State". By the use of those phrases in article 20, the Commission on Human Rights

¹⁰⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 500–14.

had intended the article as something of an introduction to the subsequent articles. It had therefore effected a compromise between the views of certain Governments, which were anxious that the State should give special recognition to the economic, social and cultural rights of the individual and the views of Governments, such as the United States Government, which considered that the obligations of the State should not be specified. The Commission hoped that the text it had drafted would be adopted without amendments or important modifications.

She went on to consider the various amendments made to article 20 (A/C.3/297/Rev.1). The USSR amendment (E/800, page 34) stressed the obligations devolving on the State and attached special importance to economic, social and cultural rights. But the declaration should enunciate the rights of man and not the obligations of the State. Furthermore, economic, social and cultural rights, though important, were not more important than political rights.

The amendment proposed by the Argentine delegation (A/C.3/251/Corr.1) modified the logical structure of the part of the declaration to which it referred. It was because article 20 had been conceived as an introduction to subsequent articles that it referred to economic, social and cultural rights, as well as to social security. It would perhaps have been preferable to use a term other than "social security", and a suggestion to that effect had been made. The text proposed by Argentina, which retained only social security would thus have a restrictive sense. Mrs. Roosevelt hoped that the Argentine delegation would not press its amendment.

To the representative of the United States, the amendment of Panama (A/C.3/280) had a too familiar ring.

The delegation of New Zealand had suggested (A/C.3/267) that the reference to social security should be deleted from article 20 and inserted in [502] article 22. That proposal was not devoid of logic, but, again, it should not be forgotten that article 20 was intended to serve as an introduction to article 22.

The representative of the United States thought that the Cuban amendment (A/C.3/232) should not be retained. She emphasized that the initial text of article 20 was the result of a compromise, which it would be preferable not to question again. She suggested, however, that the words "set out below" should be replaced by the words "defined in the present declaration".

MR. COROMINAS (Argentina) observed that the text of article 20 was the result of a compromise between the members of the Commission on Human Rights, but not between the members of the Assembly. The Third Committee must achieve a compromise in its turn. Reference had been made to the history of article 20 and to the large number of drafts which had been taken into account. One of those drafts,¹ stated that "everyone had the right to social security" and added that the State had a duty to maintain or ensure the maintenance of measures for the protection of the individual against the consequences of illness, disability, etc. and all other

loss of livelihood for reasons beyond his control. Motherhood and children should be granted special protection. Thus the article clearly emphasized social security. Later social security seemed to have been relegated to the background and the vague text at present before the Committee agreed upon.

He considered it important to distinguish between the social security resulting from a certain way of life, and social insurance, which was an administrative function, private or public. The Argentine amendment aimed at securing recognition of the principle of social security, which should be clearly established in the declaration.

The Panamanian amendment referred to the protection of man from the cradle to the grave. Man, however, existed even before he reached the cradle and for that reason measures had been envisaged for the protection of pregnant women.

MR. CAMPOS ORTIZ (Mexico) thought it necessary, as did the representative of the United States, to retain article 20 as an introduction to the articles which followed. But the article should be improved.

The USSR amendment was of the very greatest importance, stressing as it did the duty of the State to take the necessary measures to ensure for every individual a real opportunity to enjoy the rights enumerated in the declaration. But the representative of Mexico thought it would be preferable to define the obligations of the State in a separate article.

While expressing his agreement with the Argentine amendment, he regarded it as more readily applicable to article 22.

The Mexican representative considered that the first part of the article (“Everyone, as a member

^[1] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement, No. 1, annex A, part I, article 26.

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of society, has the right to social security”) was neither sufficiently precise nor sufficiently general. The article would acquire greater precision by the addition of the words: “from the cradle to the grave” as proposed in the Panamanian amendment, thus introducing an idea recognized by recent legislation in the United Kingdom. The second part of the article would be improved by the Cuban amendment, which would make the article what the Commission had obviously intended.

MR. CARRERA ANDRADE (Ecuador) proposed the deletion of the last three words “set out below” and that article 20 should read as follows:

“Everyone, as a member of society, has the right to social security as well as to the realization of the economic, social and cultural rights set forth in articles 21, 22, 23, 24, 25 and 26 of the present declaration, through national effort and international co-operation and in accordance with the organization and resources of each State.”

The representative of Ecuador pressed for the retention of the phrase “social security”. A principle was involved which was recognized by the majority of Latin

American States and which should not be confused with social insurance, by which was understood the solution adopted by Great Britain in regard to the problem of social security.

MR. AZKOUL (Lebanon) was of the opinion that, if the Committee envisaged any reference to social security in the article under discussion, it would perhaps be better to use different terms, which would not be ambiguous. Nothing in the text of the article made it possible to distinguish between social security in the broad sense and social insurance. The Lebanese representative also thought that social security was dependent upon the implementation of economic, social and cultural rights and should not be considered on the same level as those rights.

In order to give the concept of social security its full meaning, Mr. Azkoul proposed the deletion from the first part of the article of the words: "social security as well as" and the addition of the words "to social security" in the Cuban amendment after the word "essential". The Cuban amendment would thus read as follows: "essential for his social security, his dignity and the free development of his personality".

The Lebanese delegation was all the more ready to support the Cuban amendment in view of the request it had put forward during discussion of article 3, that the idea of the free development of personality should be introduced in that article; the majority of representatives had then proposed the inclusion of the idea in article 20.

The Lebanese delegation, on the other hand, was unable to accept the USSR amendment. That amendment, which gave almost undue importance to economic, social and cultural rights, nevertheless merely stated that "it is considered desirable that they be implemented". A mere expression of a desire seemed somewhat ineffective in connexion with rights which had been described as of such great importance. The Lebanese representative thought that the principle contained in the USSR amendment would more properly fit in the preamble.

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He thought it would be more appropriate to consider the Argentine amendment when the Committee proceeded to discuss article 22.

Finally, he regarded the Panamanian amendment as entirely unnecessary, since it went without saying that a man had the right to social security from birth to death.

MR. KAYALY (Syria) proposed that the phrase "social security" should be replaced by the phrase "social justice", which would express a broader concept. It would provide a means of reconciling all the points of view which had been expressed. On the other hand, he proposed that there should be no reference to economic, social and cultural rights in article 20, since those rights were the subject of later articles. Article 20 would thus be drafted as follows:

"Everyone, as a member of society, has the right to social justice and is entitled to the realization of that right, through national effort and international co-operation, and in accordance with the organization and resources of each State."

MRS. CORBET (United Kingdom) thought that article 20 should be regarded as an introduction to the succeeding articles, in keeping with the intentions of the Commission on Human Rights.

The words "social security" seemed to give rise to confusion. She pointed out that in Great Britain they had a precise technical meaning. It was not a question of social insurance. Great Britain had a system of family allowances, which had no connexion with insurance, but which formed part of the social security programme.

She could not support the Syrian amendment to the effect that the words "social security" should be replaced by the words "social justice", which derived from a more complex idea. She considered, however, that the reference to social security might be deleted from article 20 and inserted in article 22. She therefore requested the Argentine representative to withdraw his amendment and submit it again during discussion of article 22.

The United Kingdom delegation supported the Cuban amendment as modified by Lebanon.

The Panamanian amendment no longer had any *raison d'être* if, as the Lebanese amendment proposed, the reference to social security were deleted from the first part of article 20. Moreover, social security began before the cradle.

With regard to the USSR amendment, Mrs. Corbet considered that article 20 should guarantee the fundamental rights of the individual. It would be more appropriate for the duties of society and the State to be set out in the covenant.

MRS. NEWLANDS (New Zealand) emphasized that in article 20, the Committee was dealing with the most important part of the declaration, namely, the part which recognized the economic, social and cultural rights of the individual. There seemed to be no difference of opinion in the Committee on that point. It was only on matters of form that agreement had not yet been reached.

The New Zealand delegation had submitted an amendment which was also only a matter of drafting. It suggested that mention should be made in article 22 of "social security", because there those words would have an exact technical meaning [505] which was preferable to the more general meaning they would have in the framework of article 20. The New Zealand delegation had withdrawn its amendment because it attached such great importance to the words "social security" that it did not wish to see them deleted from article 20 without being sure that they would be inserted in article 22. Mrs. Newlands recalled that the Commission on Human Rights had included the idea of social security in the text of article 20 of the draft only because it had been left out of the original draft of article 22.

In connexion with the amendment submitted by the USSR delegation, the New Zealand delegation wished to state that its Government would accept the statement of the State's duties contained therein, including all that it implied in the way of obligations. But it seemed that it would be better if such a statement were inserted

in the covenant rather than in the declaration. For that reason the New Zealand delegation could not support the USSR amendment, although recognizing that the type of rights enumerated in articles 20 to 26 stressed the question of responsibility of the community towards the individual even more definitely than had the rights so far set forth. It was, however, glad to note that the text of article 20 brought out that aspect of the problem by emphasizing the necessity not only for national effort but for international co-operation in order to achieve the social security of the individual.

The New Zealand delegation would therefore vote for the basic text of article 20. In addition it was ready to support any proposal which expressed the idea of social security in any other satisfactory way.

MR. NOSEK (Czechoslovakia) was also of the opinion that article 20 was the introduction to one of the most important parts of the declaration. The idea of social security in article 20 covered all the economic, social and cultural freedoms stated in articles 21 to 26 of the draft declaration.

But it would be wrong to understand by "social security" only the measures designed to protect the social and economic freedoms of men. In the opinion of the Czechoslovak delegation social security represented all economic and, therefore, social conditions which ensured man a decent standard of living. It was therefore not sufficient to state the right to social security. The right to enjoy it must be guaranteed if it was not to be limited to a mere statement of a theoretical right and if all idea of charity was to disappear. It was for the State and society to guarantee the implementation of that right.

It had been argued that the duties of States should not be proclaimed in a declaration of human rights. That objection was the less justified because article 20 touched upon an entirely new type of rights. A purely legal and formal instrument would suffice to ensure implementation of the rights proclaimed in the preceding articles. But, in order to render the right to social security effective it had to have a proper basis – an economic basis without which there could be no social security properly so called.

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It was because it viewed the problem on that basis that the Czechoslovak delegation could not accept the amendment proposed by the Argentine delegation.

On the other hand, the USSR amendment set forth the problem in an accurate and clear manner, and the Czechoslovak delegation would vote for it.

MR. ALVARADO (Peru) observed that at the previous meeting, his delegation had suggested that the phrase "to be protected against social and economic risks" should be substituted for the words "social security", because it had felt that the defective drafting of article 20 would give rise to a protracted discussion. In the view of the Peruvian delegation, the fact that the expression "social security" also appeared in article 22, where it had its real technical meaning, made that clarification indispensable.

As the various speakers who had taken part in the general discussion had emphasized, there was a very distinct difference between social security, in the broad sense of the term, and technical measures such as social assistance, aid to mothers and children, etc., which formed part of the social security programme of most countries.

On the other hand, the concept of social justice included, as a matter of fact, all those aspects of social security mentioned by the representatives of Chile, Ecuador and Mexico, among others. However, as some representatives had expressed the fear that that wording might be wrongly interpreted, the Peruvian delegation maintained its original proposal which expressed in a more accurate way what the authors of the draft declaration had wished to indicate by the term "social security".

At the same time it supported the Cuban delegation's amendment, which also improved the text of article 20. The Peruvian delegation could not support the other amendments for the reasons already expressed by many speakers.

MR. CONTOUMAS (Greece) thanked Mr. Cassin for having summed up the history of article 20 in such a clear way at the previous meeting. The Greek delegation felt that the Committee should not diverge from the general plan proposed by the Commission on Human Rights and that it should retain the general character of article 20 as a preface to the articles which followed.

The main difficulty arising from the text proposed by the Commission on Human Rights was caused by the fact that the expression "social security" had two meanings, a definitely limited technical meaning and a general meaning. It was the latter which the Commission had wished to give it. Mr. Contoumas considered that the Lebanese delegation, in suggesting that those words should be transposed, had found a very happy way of solving the difficulty. Nevertheless in order to define still more accurately the general meaning which should be given to the expression "social security" in the body of article 20, the Greek delegation suggested that, in addition to adopting the Lebanese proposal, the Cuban delegation's amendment should be altered as follows: "essential for his dignity, to the free development of his personality and his social security in [507] general". The addition of the words "in general" would clear up any misunderstanding regarding the interpretation to be given to the words "social security".

On the other hand, he agreed to the deletion of the words "set out below", which might have a restrictive effect on the realization of rights in the social field which could be expected from such international organizations as the International Labour Organization.

The Greek delegation approved the idea expressed in the USSR amendment, as it was convinced that the State should take upon itself the duty of seeing that the rights proclaimed in the declaration were implemented. Nevertheless, that idea did not apply only to the right proclaimed in article 20, and should be placed in a separate

article, which should be added at the end of the draft declaration. Such an article would have the support of the Greek delegation.

Further, the Greek delegation supported the amendment submitted by the Cuban delegation. It could not, however, accept the Argentine delegation's amendment which gave the expression "social security" its narrow meaning. That restricted idea of social security should be expressed in article 22.

In conclusion, he associated himself with the remarks made by various delegations in opposition to the proposal of the Panamanian delegation.

MR. BEAUFORT (Netherlands) wished to submit two drafting amendments on behalf of his delegation, with a view to smoothing out the difficulties which still existed in spite of the clarifications furnished at the previous meeting by the French representative.

He pointed out, first, that the expression "social security" was construed in a very broad sense which included all the social and economic freedoms necessary to ensure the individual's wellbeing. Consequently, article 20 should be drafted as follows:

"Everyone, as a member of society, has the right to social security and, in consequence, to the realization. . . of the economic, social and cultural rights set out below. . ."

On the other hand, while it understood the objections to which the words "set out below" gave rise, the Netherlands delegation felt that it was necessary to maintain the prefatory character of article 20. It suggested therefore that the clause which had been criticized should be replaced by the following phrase: ". . . of which the essential aspects are set out below".

MR. COROMINAS (Argentina) regretted that he was unable to respond to the appeal made by the United Kingdom representative. There was involved a question of principle to which his delegation attached great importance. All national legislations guaranteed the essential rights set forth in the preceding articles of the draft declaration, such as the individual's right to life and to work. But when that same individual suffered a decline in his physical strength, due to illness or old age, society had no right to lose interest in his fate and to leave him to destitution. The aid given to those in need should not be considered as an act of charity on the part of society, but as a right which it owed to the individual.

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The Argentine delegation therefore felt that the right to social security was a principle which should be clearly set forth, independently of the other economic and social rights. The idea of social security was now universal. Social security was both a doctrine and the realization of that doctrine in practice. Even before that idea had become as widespread as it was at present, it had been expressed in the form of human solidarity among the peoples of the world. The way in which social solidarity had been converted into social security constituted a triumph of the proletariat in the

struggle against poverty. In the opinion of the Argentine delegation it would be an unpardonable mistake if the right to social security were not guaranteed in the declaration of human rights. To guarantee it while making it dependent on other economic, social or cultural factors would be to diminish it.

For those reasons the Argentine delegation could not agree to withdraw its amendment.

MR. PLAZA (Venezuela) said that his delegation would vote in favour of the original draft of article 20, with the addition proposed by the Cuban delegation and approved by the French delegation. It was better to retain the broad notion of social security, as opposed to measures of social insurance, which were the only means of implementing the principle set forth in article 20.

He understood the reasons which had prompted the Panamanian delegation to submit its amendment, but he feared that the idea was expressed in a manner which was more likely to be satisfactory from the literary than from the legal point of view. Even under Roman law protection of the individual's security had been extended to include the antenatal period. In order to include that widely recognized principle, he suggested that the Panamanian representative might alter his amendment to read: "from conception to death". The Venezuelan delegation would be able to accept that wording but it would be obliged to vote against the amendment submitted by the Panamanian representative in its present form.

MR. WATT (Australia) emphasized the special importance of the articles concerning social, economic and cultural rights. When article 3 of the draft declaration had been discussed, it had been quite rightly pointed out that those rights had been recognized in theory for a long time, and that it was those rights above all that everybody in the world would expect to find embodied in the declaration. That was why it seemed justifiable to include an introductory article before the proclamation of those rights. The article placed the problem in its true light by emphasizing the need for international co-operation as well as for national action, in accordance with Article 56 of the United Nations Charter.

The many criticisms made of article 20 had been concerned with the form rather than with the substance. It had been said in particular that the term "social security" was ambiguous. But the Committee was faced with a dilemma because, if it agreed to delete those words from article 20, there was nothing to guarantee that they would be included in article 22. As the representative of New Zealand had pointed out, it could not be [509] denied that those words should be included in the declaration. It was for that reason that the Australian delegation would accept the suggestion made by the Greek delegation that the term "social security" should be retained with a clear indication that it was used in a general sense.

There had been many comments made on the other amendments. He, for his part, did not think that the words "set out below" were very appropriate. He would prefer,

either the words “in this declaration”, or the wording submitted by the Cuban delegation, which was a little wide in scope but had the advantage of recalling the reference to man’s dignity and to the free development of his personality which appeared in the other articles of the draft declaration.

On the whole, the question was really only one of drafting. In the opinion of the Australian delegation, the essential point was to ensure that the idea of social security was retained in the declaration.

MR. PÉREZ CISNEROS (Cuba) thanked Mr. Cassin for explaining so clearly why article 20 had been drafted in its present form and why the idea of social security should be retained in that article. From that point of view, he thought that the proposal submitted by the Lebanese delegation was very satisfactory.

He also approved the proposal submitted by the Panamanian delegation which gave a good popular flavour to article 20. The declaration, intended as it was for the ordinary man, should not go into the technical details of antenatal protection, especially as that was already guaranteed by the inclusion of the protection of pregnant women.

He thanked the many delegations which had supported his amendment. Adoption of the amendment was all the more necessary because it was impossible at the moment to foresee what would be the declaration’s final form. The Cuban delegation was firmly resolved to impress the need for giving priority to the articles guaranteeing man’s social rights upon the members of the sub-committee to be set up to arrange the articles. Thus, the wishes of the great majority of people would be satisfied. So long as that was not assured and so long as the document retained its present form, the Cuban amendment seemed logical and necessary.

MR. GRUMBACH (France) said that the French delegation thought that the retention of article 20 if possible in an improved form was essential as an introduction to the other articles concerning social and economic rights.

The discussion on the term “social security” had shown that the members of the Committee were in complete agreement on the substance of the question, but differed in the way in which they wished to express that common idea. The French delegation was ready to accept the term “social security” because it agreed with the New Zealand delegation that it would be better to include the term twice in the declaration than to see it disappear. It would, however, prefer the words “social justice”. That term was included in the Constitution of the International Labour Office and it was the most general term, because there [510] could be no social justice without social security, just as there could be no social security without social insurance.

He emphasized that the legal system of France guaranteed social justice to the individual “from the cradle to the grave”, to use the wording submitted by the Panamanian delegation. He did not think, however, that that wording should be kept in the declaration. He was also opposed to the USSR amendment because it proclaimed the duties of the State, contrary to the rule adopted by the Committee.

In conclusion, the French delegation would accept the amendment submitted by the Cuban delegation.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) emphasized the important position occupied by article 20 in the declaration. The preceding articles dealt with political rights while those which followed article 20 dealt with economic, social and cultural rights. Article 20, therefore, provided the link between those two aspects of the declaration.

Because of its special position, and consequently, because of its special nature, the article was the best place in the whole declaration to ensure the practical application of the rights set forth. It was with that end in view that the USSR delegation had submitted its amendment.

If the declaration were to have any real meaning and yield practical results, it was essential that article 20 should mention the duty of States to guarantee the rights of individuals in the social field. In order to understand that, it was sufficient simply to see what went on in countries whose economy was based on the system of private enterprise. In such countries the only concern of those who controlled the economy was to make big profits. The condition of the workers was not taken into account and no attempt was made to guarantee their security. Manufacturers knew that they could always find labour and they did not therefore see any reason to consider the welfare of the workers. Their chief concern was to obtain the maximum output from each worker. That was the state of affairs in many countries and, under those circumstances, who was to defend the rights of the workers? It was obvious that only the Government could do so effectively.

It was for that reason that the Ukrainian delegation had attempted, throughout the debates on the declaration, to obtain recognition of the absolute necessity to include therein a specific mention of the duties of States. It had often been said that, however just that principle might be, it would be out of place in the declaration and should be included in the covenant, which the Committee would prepare later. He thought, on the contrary, that the declaration itself should include a reference to the duty of States to put its principles into practice. In that way, the covenant would follow quite naturally from the declaration. The declaration should set forth a principle and the covenant should provide the various ways of implementing that principle.

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In considering the objections that had been raised to the USSR amendment, he pointed out that by that amendment each State was given full latitude to take any measures compatible with its resources or its own legislation.

Some delegations had contemplated the deletion of the words "social security" from article 20, asserting that security was a vague concept. He was not of that opinion and he stressed the fact that that concept was clearly set out in article 22.

Finally, the Lebanese representative had levelled at the USSR amendment criticisms which had no bearing on its substance, and should not therefore be taken into account.

His delegation would vote for the USSR amendment, which would make it possible effectively to implement the Declaration of Human Rights.

MR. DE ATHAYDE (Brazil) observed that social security, the fundamental idea in article 20, was one of the aims the democracies had set themselves. Furthermore, he saw in that idea the contribution of the present generation to the social progress of mankind. The basic text of article 20 expressed that idea very clearly. No real improvement would be made in the article by any of the amendments submitted, with the exception of that of the Cuban delegation.

For that reason, he would vote for article 20, as amended by the Cuban delegation.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) expressed himself in favour of the USSR amendment. It was very clear and gave reality to the declaration as a whole. It aimed at ensuring respect of the individual's rights by government measures. The USSR delegation had always upheld that view in the desire to give the declaration a real value. That was especially important, when it was realized that some countries had written into their constitutions theoretical rights, which, in fact, were never implemented.

As regards the criticisms levelled at the USSR amendment, he considered that there was no substance in those made by the Lebanese representative.

Lastly, he thought that the Chilean amendment (A/C.3/340) was too confused. The idea of "biological protection" which it introduced would certainly not be understood by the masses of the people to whom the declaration should also be addressed.

COUNT CARTON DE WIART (Belgium) observed that all delegations were agreed in desiring to preserve the introductory nature of article 20. That article introduced new ideas, while the preceding articles revived ideas expressed in the Declaration of the Rights of Man and of the Citizen of 1789 and in the American Bill of Rights.

In his opinion, the words "social security" should be retained; but they should not be used in the narrow sense, because, as used currently in [512] French-speaking countries, they had a very special meaning.

For that reason, he again brought up the suggestion which had been made by some delegations, that the meaning of the term should be widened by adding the words "social justice" to it.

The phrase "set out below", at the end of article 20, was not apt, and for that reason he favoured the amendment submitted by the Cuban delegation. He hoped, moreover, that the proposed drafting committee would prepare a better draft of article 20.

He then considered the various amendments to article 20. The USSR amendment introduced the idea of duty on the part of the State, and, as had been pointed out, that

idea was out of place in the declaration. Moreover, the State was not alone in having duties. Individuals, professional groups also had duties to fulfil in that sphere. Consequently, the USSR amendment introduced a restrictive element, as it provided that the social guarantees, guarantees that all delegations desired to see realized, should depend solely on the intervention of the law.

The Panamanian delegation's amendment was likewise too limited. Man, in fact, had rights before his birth and even after his death: he had the right to respect for his remains, for example, as well as for his memory and reputation.

MR. PÉREZ CISNEROS (Cuba) moved that the debate should be closed.

The motion was adopted by 16 votes to 15, with 6 abstentions.

MR. AZKOUL (Lebanon) expressed his regret to the USSR delegation for having misinterpreted the USSR amendment. After reading the English text of the USSR amendment, he had realized that the word "desirable" did not apply to the achievement of social security, as he had previously understood, but to the measures to be taken by governments. While admitting that there was no basis for that particular criticism, he maintained his other objections to the amendment.

THE CHAIRMAN put to the vote the USSR amendment (E/800, page 34).

The amendment was rejected by 27 votes to 8, with 8 abstentions.

THE CHAIRMAN put to the vote the Argentine amendment (A/C.3/251/Corr.1).

The amendment was rejected by 19 votes to 2, with 19 abstentions.

THE CHAIRMAN announced that the Syrian amendment would next be voted upon. That amendment comprised three points. It proposed that:

The words "social security" should be replaced by "social justice";

The words "of that right" should be inserted after "realization";

The words at the end of article 20 after "of each State" should be deleted.

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MR. GRUMBACH (France) requested that each part should be voted upon separately.

THE CHAIRMAN put to the vote the proposal to substitute the words "social justice" for the words "social security".

The proposal was rejected by 26 votes to 8, with 8 abstentions.

THE CHAIRMAN put to the vote the proposal to delete the end of article 20 after "of each State".

The proposal was rejected by 34 votes to one, with 6 abstentions.

On the request of the delegations of Australia, the Union of Soviet Socialist Republics, Chile, Byelorussian Soviet Socialist Republic that the texts of the respective amendments should be reproduced for the consideration of the Committee at its following meeting in a single document, THE CHAIRMAN put to the vote the question whether the Committee would take a decision on article 20 and the amendments to it at the present meeting.

It was so decided by 18 votes to 13, with 7 abstentions.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) objected to a vote being taken on some of the amendments and, in particular, on that of Chile, which altered the substance of article 20 and which had only been submitted to the Committee at the present meeting.

THE CHAIRMAN ruled that none of the amendments altered the substance of article 20.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) having contested the Chairman's ruling, it was put to the vote.

The Chairman's ruling was upheld by 18 votes to 7, with 13 abstentions.

MR. PÉREZ CISNEROS (Cuba) pointed out that, although he accepted the amendment submitted to his delegation's amendment by the Lebanese representative, he was unable to accept that submitted by the Greek delegation. He therefore requested that the Committee take a separate vote on the Greek amendment.

THE CHAIRMAN put to the vote the Greek delegation's amendment, proposing the addition of the words "and his social security in general" after the words "and the free development of his personality", in the Cuban amendment.

The amendment was rejected by 21 votes to 4, with 12 abstentions.

THE CHAIRMAN put to the vote the Lebanese amendment, proposing the insertion of the words "his social security" after the words "essential to", in the Cuban amendment.

The amendment was rejected by 18 votes to 17, with 4 abstentions.

MR. PÉREZ CISNEROS (Cuba) pointed out that the English translation of his amendment was not quite accurate. The word "essential" did not convey the idea of the word *indispensable* in French. It would therefore be advisable to substitute the [514] word "indispensable" for the word "essential" in the English text of the Cuban amendment.

THE CHAIRMAN put to the vote the Cuban amendment (A/C.3/232), proposing to delete from article 20 the words "set out below", and to replace them by the following text: "indispensable for his dignity and the free development of his personality".

The amendment was adopted by 24 votes to 12, with 4 abstentions.

THE CHAIRMAN pointed out that the amendment of Ecuador proposing to replace the words “set out below” by the words “set out in the present declaration” served no purpose since the adoption of the Cuban amendment, and MR. CARRERA ANDRADE (Ecuador) withdrew the amendment.

THE CHAIRMAN put to the vote the Chilean amendment (A/C.3/340).

The amendment was rejected by 25 votes to one, with 10 abstentions.

THE CHAIRMAN put to the vote the Peruvian proposal to replace the words “social security” by the words “protection against social and economic risks”.

The amendment was rejected by 26 votes to 3, with 8 abstentions.

THE CHAIRMAN put to the vote the Belgian proposal that the words “social security” should be replaced by the words “social security and social justice”.

The amendment was rejected by 22 votes to 11, with 7 abstentions.

THE CHAIRMAN put to the vote the Panamanian amendment (A/C.3/280).

The amendment was rejected by 21 votes to 5, with 12 abstentions.

THE CHAIRMAN asked the Committee to decide on article 20, as amended by the Cuban delegation.

MR. AZKOUL (Lebanon) requested that the vote should be taken paragraph by paragraph.

THE CHAIRMAN put to the vote the first part of article 20, reading as follows: “Everyone, as a member of society, has the right to social security. . .”

The first part of article 20 was adopted by 38 votes to one.

THE CHAIRMAN put to the vote the second part of article 20, reading as follows: “. . . and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”.

The second part of article 20 was adopted by 31 votes, with 7 abstentions.

THE CHAIRMAN put to the vote article 20 as a whole, as amended.

Article 20, as amended, was adopted by 36 votes to one, with 3 abstentions.

The meeting rose at 6:45 p.m.

A/C.3/232/Corr.1*

16 November 1948

Original Text: French

Corrigendum

Cuba: Amendment to article 21 of the draft declaration (E/800)

Article 21 – paragraph 1

Delete the words “and pay”.

Article 21 – paragraph 2

Add the following text:

“Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and his family.”

Article 21 – New paragraph 4

“Every person has the right to follow his vocation freely, in so far as existing conditions of employment permit”.

[*] This corrigendum also applies to the Cuban amendment as it appears in document A/C.3/298/Rev.1.

A/C.3/SR.139¹¹⁰

16 November 1948

Summary Record of the Hundred and Thirty-Ninth Meeting [of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday,
16 November 1948, at 10:55 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

64. Draft international declaration of human rights (E/800) (continued)

Article 20 (continued)

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) drew attention to the fact that he had suggested the inclusion of a reference to social security in article 3. In that way,

¹¹⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 515–23.

the declaration would have been made more forceful and more topical. He had voted for article 20 as amended by the Cuban representative (A/C.3/232), in the hope that the position of the article would eventually be changed. He did not feel there was any danger that the expression “social security” would be interpreted to mean “social insurance”.

MR. BARODY (Saudi Arabia) said he had voted for the Syrian amendment (138th meeting) because it conformed to Islamic law, under the terms of which “social justice” had a broader and more comprehensive meaning than “social security”. In Saudi Arabia, the institution of *zaka*, a voluntary tax levied for the purpose of assisting the poor and unemployed, was one of the five pillars of Islam. Social security was a recent historical development in Western society, while *zaka* had been an article of faith in actual operation in Moslem communities for almost fourteen centuries.

Furthermore, in Saudi Arabia, as in all Moslem countries, there was the institution of *wagf*, a system whereby the income from property placed in trust was frequently used for the relief of the poor or the unemployed. There also existed other institutions for the same purpose. Those Islamic institutions were not only the equivalent of a social security system, their machinery was simpler, their administration less costly and their effectiveness had stood the test of fourteen centuries. For that reason, he had abstained in the vote on article 20.

MR. AZKOUL (Lebanon) had voted against article 20 because, in his opinion, social security, separated from the various economic and social rights, had no meaning. The article could have been improved by indicating that social security included the realization of those rights instead of referring separately to “social security”, on the one hand, and on the other to “the realization. . . of the rights. . . set out below”.

MRS. NEWLANDS (New Zealand) had voted for the retention of the words “social security” in article 20, so as to be sure that they would appear in the declaration. In accordance with the decision taken at the 137th meeting, however, she reserved the right to return to article 20 if the New Zealand amendment (A/C.3/267) to article 22 were adopted. She had voted against the Argentine amendment (A/C.3/251/Corr.1) because its provisions were outside the framework of article 20.

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MR. PLAZA (Venezuela) had voted for article 20 as amended by the Cuban representative and not for the other proposed amendments, for the reasons he had given during the discussion. It was obvious from the confused manner in which the discussion was proceeding that the Committee had not understood the importance of the points he had raised.

MR. PAVLOV (Union of Soviet Socialist Republics) had voted for article 20. He pointed out, however, that it was the only article which referred to the realization of

the rights contained in it and therefore might be interpreted as weakening the preceding articles. Article 20 could be regarded as a preamble to a new part of the declaration and it should have been stated that, while the later articles were of particular importance, those preceding it would also have to be implemented.

He had wanted to amend the article in order to emphasize the important role of the State with respect to social security. However, the customary objections to the inclusion of such a reference had been raised.

Article 21¹

As his delegation's point of view had been met in regard to article 18, MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) withdrew his amendment to article 21 (A/C.3/268).

MR. SUNDFELDT (Sweden) said that the object of the Swedish amendment (A/C.3/252) was to make clear that the right to form and join a trade union was valueless unless the trade union concerned was allowed to protect its members' interests in every way compatible with the provisions of article 27, paragraph 2. Trade union rights were respected in Sweden, unlike certain other parts of the world. In that connexion, he drew attention to the position of trade unions in Nazi Germany and Fascist Italy. They were allowed to continue to exist but did not have the right to strike and, without that right, the liberty of a trade union was an illusion.

After further consideration, the Swedish delegation had decided that this whole question needed further elaboration and that the International Labour Organization was the appropriate body to carry out that work. It therefore withdrew its amendment to article 21.

MRS. ROOSEVELT (United States of America) said the purpose of the United States amendment (A/C.3/223) had been to clarify paragraph 2. It had been suggested, however, that it could be interpreted as excluding discrimination on grounds of race or nationality and she would therefore withdraw it.

In the United States, equal pay for equal work was understood to mean equal pay for workers living in the same area and working under the same conditions. She had withdrawn her amendment also because she felt there was a danger of drafting an article that would be unsatisfactory to the whole Committee and she consequently requested the

^[1] Article 24 of the draft universal declaration of human rights (A/777).

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authors of the other amendments to withdraw theirs as well.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that unemployment was one of the greatest misfortunes of the working class. Between 20 and 30 million people, not counting the countries of the East, were permanently

unemployed, and even in a country as wealthy as the United States, official figures put the number of unemployed at over two million. With the advent of economic crises, unemployment would increase in the capitalistic countries, and his delegation felt compelled to emphasize the State's responsibility in the matter. The wording of the first USSR amendment (E/800, page 34) was based on a reference in the United Nations Charter.

The USSR amendment would also oblige the State to take measures to prevent unemployment. However, it was worded in a manner which would take into account the fact that unemployment was the inevitable result of a capitalist economy. Unemployment was impossible in the Union of Soviet Socialist Republics, owing to the socialist economy, and the absence of private property and of exploitation. In fact, there was an acute shortage of manpower. The right to gainful employment was laid down in the USSR Constitution.

He understood that employment could not be guaranteed in all countries, but felt strongly that the declaration should state more than generalities and that some provision should be included which would help the unemployed.

In some countries, women were paid much less than men, and for that reason his delegation had submitted a proposed supplementary clause to article 21.

MR. PÉREZ CISNEROS (Cuba) submitted certain amendments to article 21 (A/C.3/232/Corr.1). The USSR amendment to paragraph 2 was clearer than the original and he would consequently vote for it. He supported the Lebanese amendment concerning the individual's right to a free choice of work and his mode of life.

MR. COROMINAS (Argentina) said that the Argentine amendment (A/C.3/251/Corr.1) would not alter the basic concepts of article 21 but would set them out in a more orderly fashion. In his opinion, it was necessary to introduce the idea of fair remuneration in regard to the principle of equal pay for equal work. Paragraph 3 was already covered by the provisions of article 18 and if the Committee agreed with that view, he would withdraw the relevant Argentine amendment. In regard to the other amendments he had put forward, he would be prepared to meet with the authors of similar amendments with a view to preparing a compromise text.

THE CHAIRMAN said that paragraph 3 was undoubtedly covered by the more general terms of article 18, but that it had been thought wise to specify the right in question because of the particular importance of trade union activities in modern economic life.

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MR. AZKOUL (Lebanon) expressed the view that the Lebanese amendment (A/C.3/260) concerning the right to a free choice of work covered by implication both the Swedish and Argentine amendments. The concept of the right to a free choice of a mode of life was designed to protect persons like scientists and artists. It

had not seemed necessary to refer to the limitations on the right set forth in article 21 because of the provisions of article 27.

MR. THORN (New Zealand) said that, as the article now read, it implied that the individual was free to join or not to join a trade union. The New Zealand Government would be unable to accept any text which left any doubt about the power to compel workers to join unions.

New Zealand had been known for its enlightened labour legislation for over fifty years. The Industrial Conciliation and Arbitration Act had worked successfully for over fifty years and had been a great help to unskilled workers, young working people and women workers. In 1936, a law had been passed making it illegal for employers covered by the Act to employ non-union members. It was obvious, therefore, that his Government would be unable to accept the principle of allowing individuals to choose whether or not they would join a trade union.

The New Zealand amendment (A/C.3/267) took into consideration the fact that there was an infinite variety of systems of trade unions and, actually, under its terms the individual would be free not to join a trade union. However, he insisted that the declaration contain nothing incompatible with compulsory trade union membership. He congratulated the Uruguayan representative on having withdrawn his amendment, as it would have been unacceptable to millions of trade unionists.

He reminded the Committee that President Truman had pledged himself to abolish the Taft-Hartley Act which did away with the "closed shop". That step would join the thirteen or fourteen millions of trade unionists in the United States with the tens of millions who existed elsewhere.

The subject had been discussed at a recent Conference of the International Labour Organization and a draft convention had been adopted providing that the right to organize and the right not to organize could not be placed on the same level. The Committee would appear ridiculous if, after accepting the Uruguayan amendments to article 18 (A/C.3/268), it made the same mistake in an even more obvious form.

MR. ANZE MATIENZO (Bolivia) said his delegation considered the basic text of article 21 acceptable in principle as it embodied the basic concepts that the article was designed to set forth. The various amendments offered nothing new, but rather tended to stress some particular aspect of the right mentioned, and reflected views based on [519] the laws of the country making the proposal.

Speaking of paragraph 2 of article 21, Mr. Anze Matienzo pointed out that the general idea of that paragraph was not new but was to be found in the Treaty of Versailles and in subsequent international documents. Present world conditions, however, made an addition to the paragraph desirable: the word "real" should be added before "pay". Inflation and the unstable monetary situation in most countries made it important to specify that remuneration for work should have certain

purchasing power in relation to certain standards of living. If pay received were thought of merely in terms of money, the result might be that the standard of living, which it was hoped to raise, would in fact be lowered. It was therefore important to make the addition he suggested.

MRS. MENON (India) supported the basic text of article 21, with the USSR draft amendment to paragraph 2. That paragraph needed further clarification. Even in countries said to be advanced socially – for example, the United States and the United Kingdom – the principle of equal pay for men and women was not fully accepted. In many countries women were still carrying on a vain fight against inequality and injustice. Moreover, in various parts of Asia and in countries elsewhere, as well as in Trust Territories and Non-Self-Governing Territories, there was still discrimination for reasons not only of sex, but of race and colour. India was opposed to discrimination which compelled women and certain coloured races to accept a lower standard of living than other groups and thought the declaration should clearly condemn that practice.

The Indian delegation could not, however, accept the USSR proposal for a supplementary clause to article 21. It wished to ask the USSR representative to withdraw that proposal.

Mrs. Menon also found the Lebanese draft amendment unsatisfactory as it would place a simple economic right on too general a plane.

MISS BERNARDINO (Dominican Republic) pointed out that although the principle of equal pay for equal work of men and women was widely accepted in national legislation and in international documents, in practice that principle was not applied. Men generally received more favourable treatment and pay than women and the economic welfare of women was thereby jeopardized.

Article 21 would meet the requirements of social justice only if it were drafted in such a way as to protect women specifically against discrimination. The United States draft amendment would have offered a satisfactory text; but since that proposal had been withdrawn, Miss Bernardino would vote for the USSR draft amendment to paragraph 2. Miss Bernardino asked the USSR representative to explain his proposal for a supplementary clause to article 21.

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MR. CONTOUMAS (Greece) stated that his delegation would vote for the basic text of article 21. He thought it important, however, to include in the article the idea of the right freely to choose one's work, which was contained in the Cuban, Argentine and Lebanese amendments. In the Cuban and Argentine amendments, the right to choose one's work was limited by the phrase "in so far as existing conditions of employment permit", whereas in the Lebanese amendment no limit on that right was mentioned. Mr. Contoumas recalled that the right to free choice of work was set forth in the Declaration of Philadelphia of the International Labour Organization

and in that document the limitations of personal ability and knowledge as well of the general welfare were stated. Article 21 of the draft declaration should express the right to free choice of work in accordance with one's ability and knowledge; the public welfare was already sufficiently protected by draft article 27 and there was, therefore, no need to mention that point in the present article.

MR. DE ATHAYDE (Brazil) thought the three paragraphs of article 21 stated in a satisfactory manner the essential principles involved in the right to work. He drew particular attention to the importance of mentioning equal pay for equal work and of setting forth the freedom to form and to join trade unions, which was the best possible way of ensuring the right to work.

He also favoured the idea of free choice of work which was to be found in the Cuban, Argentine and Lebanese amendments. An individual's work, however, should conform to his aptitudes and should be productive.

Mr. de Athayde had hoped that the article would mention work not only as a right but as a social duty; but in view of the fact that the document being drafted was a declaration of rights, he would not press that point.

MR. SANTA CRUZ (Chile), after observing that the rights with which article 21 dealt were included in the Constitution of his country, said that adoption of the Cuban amendment would greatly improve the present draft. The Cuban proposal that paragraph 2 should speak of remuneration that would ensure the worker a suitable standard of living was especially valuable. Mr. Santa Cruz hoped, however, that the Cuban delegation would agree to the words "a decent standard of living" to replace "a standard of living suitable for himself and his family".

Referring to the USSR draft amendment, he did not think it necessary to introduce into the text the idea of the obligation of the State and society to guarantee the right to work. Any obligation of that sort seemed adequately covered by article 20 which was a general statement of the duty of the national and international community in connection with the social rights of the individual.

Mr. Santa Cruz supported the USSR amendment to paragraph 2. Although the principle of non-discrimination for reasons of race, nationality [521] and sex was in fact implicit in the basic text, it might well be stated explicitly.

The USSR proposal for a supplementary clause to article 21 to protect the rights of women seemed unnecessary if that delegation's amendment to paragraph 2 were adopted. Mr. Santa Cruz had, however, no serious objections to that proposal.

Mr. Santa Cruz thought the ideas contained in the Argentine amendment were important but were more appropriately included in article 20, which was a general statement, than in article 21. Moreover paragraph 3 was confusing, since it mentioned the right to associate with others not only for trade union purposes but for other purposes not directly connected with the right to work with which article 21 was concerned.

The right to protection against unemployment should be explicitly stated, but the Committee might avoid repetition if it decided to refer to that right in article 22 only.

MR. ALTMAN (Poland) thought that omission of the mention of the obligation of the State and society in connexion with the right to work and protection against unemployment would make article 21 meaningless and abstract. It had been argued that article 22 covered the point, but article 22 spoke of security in the event of unemployment and was not concerned with measures to prevent unemployment. If the declaration was to go beyond the ideas proclaimed in the eighteenth century, it must lay down clearly the obligations of the State and society to prevent unemployment. That was particularly necessary because in countries with no planned economy the masses of people had to suffer from recurrent periods of financial crisis. The example of his own country, from which great numbers of citizens had been forced to emigrate, but to which many were returning now that work was available to all, should surely prove the value of an economy planned by the State.

Furthermore, the State must ensure the "just and favourable conditions of work" mentioned in paragraph 1 of the present text. In many colonial and semi-colonial areas the conditions of the worker were as deplorable as they had been a hundred years ago in England. Even in the most developed countries, the number of victims of accidents caused by bad working conditions was appalling. In corroboration of that statement, Mr. Altman cited statistics prepared by the International Labour Organization on accidents in the United States, the United Kingdom and France.

Since the USSR amendment to paragraph 1 would adequately state the obligations of the State and society, the Polish delegation supported it.

Mr. Altman preferred the basic text of paragraph 3 to the text proposed by New Zealand. The principle of compulsory membership in a trade union was not included in the laws of his country and was therefore unacceptable to him. [522] He joined the New Zealand representative, however, in welcoming the withdrawal of the Uruguayan amendment which would have deprived the workers of the possibility of defending their rights through trade unions. The solidarity of the workers would have been broken and employers would have been able to impose arbitrary conditions of work. The Taft-Hartley Act, in force in the United States, but recently condemned by the President of that country, was evidence of what might happen if an amendment such as had originally been proposed by Uruguay were adopted.

Mr. Altman regretted the withdrawal of the Swedish amendment. In accordance with rule 111 of the rules of procedure, he wished to put forward that amendment again, in the name of the Polish delegation. The right to strike was of major importance and although the study of that right might be entrusted to the International Labour Organization as a specialized agency, the right itself should be proclaimed in the declaration.

MR. DEHOUSSE (Belgium) was glad to find that the draft declaration included economic and social rights. The Committee was in fact going beyond the eighteenth century concepts by adding those rights to the classic ideas of political rights.

The basic text of article 21 of the draft declaration was satisfactory in general but certain drafting changes were needed. Mr. Dehousse urged that every attempt should be made to achieve as polished a style as possible.

Referring to the USSR amendment to paragraph 1, Mr. Dehousse pointed out that the French text was poorly drafted. He agreed that some statement should be made regarding who would protect the individual against unemployment, but he thought that idea could be stated more simply than was done in the USSR proposal. He therefore suggested that instead of the whole second sentence of the USSR amendment the words "by a full employment policy" should be added to the first sentence. The responsibility of the State to take preventive measures against unemployment was implicit in that phrase and there was the added advantage that the words "full employment" were the same as those used in Article 55 of the United Nations Charter. Mr. Dehousse hoped the USSR representative would adopt his suggestion, for in that case he would be able to support the amendment.

Turning to the consideration of the USSR draft amendment to paragraph 2, Mr. Dehousse recalled that article 2 of the draft declaration enumerated the grounds on which discrimination could not be practised. The partial enumeration in article 21 was inadvisable as it might be legally interpreted to preclude the application of the broader enumeration of article 2. In any case, there was no need to repeat what had been said in article 2.

The USSR proposal for a supplementary clause to article 21 was not clear, and Mr. Dehousse hoped the USSR representative would explain its meaning.

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Speaking of the Cuban and Argentine amendments, Mr. Dehousse thought the intention behind the proposals was good, but they were not clearly drafted and might therefore give rise to some confusion. He supported the idea of free choice of work, laid down also in the Lebanese draft amendment, but thought it unnecessary to add the obvious limitations caused by existing conditions of employment.

MR. THORN (New Zealand) was surprised that the Polish representative had stated he did not believe in the principle of compulsory trade union membership, yet had later said that he agreed with the idea of the closed shop. Those two statements seemed contradictory and the former would certainly seem very out of date to trade unionists in New Zealand.

The Bolivian representative had said that the amendments would add nothing new to the basic text. Such was not the case, however. Mr. Thorn referred to the meeting of the Commission on Human Rights at which the text of paragraph 3 had been accepted¹ and recalled that the Commission had interpreted the words

“Everyone is free to . . . join trade unions” as meaning that an individual was also free not to join. Thus interpreted, article 21 contained the same principle as that to be found in the Uruguayan amendment. He wondered whether the Uruguayan representative had in fact withdrawn his amendment for that very reason. Article 21 would therefore be very unsatisfactory to millions of trade unionists and to several progressive Governments. Mr. Thorn urged the adoption of the New Zealand amendment.

His delegation, however, would be willing to support paragraph 2 of the basic draft if no better text could be found.

He wondered whether as a drafting point the words “and to protection against unemployment” should not be deleted from paragraph 1. They were unnecessary, for the point was adequately covered by article 22.

The meeting rose at 1:15 p.m.

^[1] See E/CN.4/SR.66.

A/C.3/SR.140¹¹¹
16 November 1948

Summary Record of the Hundred and Fortieth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday,
 16 November 1948, at 3:15 p.m.

Chairman: MRS. BODIL BEGTRUP (Denmark).

65. Draft international declaration of human rights (E/800) (continued)

Article 21 (continued)

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) emphasized the special importance of the rights set out in article 21. The right to work was unquestionably essential; but, as many delegations had already noted, the basic text of article [524] 21 did not state that right in a satisfactory manner. It was important, however, that it should be expressed with all the clearness and vigour required, particularly as in many countries, where the economy was based on private enterprise, unemployment was widespread and the life of the workers was particularly hard as a result. Even countries of considerable industrial

¹¹¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 523–37.

importance, such as the United States of America and the United Kingdom, were not immune from that scourge.

The Ukrainian delegation had always considered that the State was better able than any other authority to protect the workers in that respect, and he believed that if the idea of the responsibility of States was included in the declaration, the Committee would have made a great step forward in achieving concrete results and would have shown that it intended to find realistic solutions to the most acute problems of the present time. The amendment to paragraph 1 of article 21 proposed by the USSR delegation (E/800, page 34) was excellent from that point of view, for it showed plainly that the State and society must protect workers against unemployment.

With regard to the USSR amendment to paragraph 2 of article 21, he considered it was essential to state explicitly in the text of article 21 that every individual had the right to equal pay for equal work, without discrimination of race, nationality or sex, because that discrimination was still being practised in some countries. In the Union of South Africa, for example, the average wages of a white worker were about twelve times those of a coloured worker. Even more striking examples of such discrimination were to be found in the colonies. There, the wages of a white worker were often as much as fifty times higher than those of a coloured worker. It was therefore of the highest importance that the USSR amendment should be inserted in article 21. There should be no fear of repeating that all discrimination of race, nationality and sex was to be prohibited so that, when those responsible for such injustices read the declaration, they might perhaps wish to put an end to them.

Similarly, it was important once again to emphasize the principle of equal pay for men and women when they were doing equal work. In a great many civilized countries which considered themselves democratic, women were paid wages fifty per cent lower than those of men. Some delegations, that of Chile for example, had said that the USSR amendment to paragraph 2 of article 21 restated principles contained in paragraph 1. In his opinion that was not quite correct: the USSR amendment to paragraph 2 was not only concerned with the principle of equal pay for equal work, but also mentioned that women should enjoy equal advantages with men, that is to say that, if in certain professions, special advantages in kind were afforded to men, equivalent advantages should also be afforded to women.

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Finally, article 21 laid down the principle of the freedom to form and join trade unions. Some delegations would prefer that that principle should not be mentioned in article 21 because, in their opinion, it had already been included in article 18, which dealt with the right of association. That principle was very important for workers, because it was their only means of defending themselves. At the present time, many Governments were taking steps to limit the rights of trade unions or the scope of their action. Such was the case, for instance, in the United States where

trade union leaders with progressive political opinions were even prosecuted. Similar examples could be mentioned in other countries. For that reason the principle of the freedom to form and join trade unions should be retained in the declaration.

MRS. CORBET (United Kingdom) felt that the text of article 21 as drafted by the Commission on Human Rights was a clear statement of the objectives to be aimed at in the field of employment. For that reason, she hoped the text would be adopted by a very large majority.

In referring to the various amendments submitted to each of the paragraphs of article 21 she expressed the view that the USSR amendment did not conform to the essential character of the declaration, as it would oblige States to guarantee the right to work. Such a guarantee was so all-embracing that it would be difficult to implement it. In her opinion, it was the duty of the State to take such measures as were desirable and practicable to ensure that work was available for all who wished to work. Furthermore by accepting Article 56 of the Charter, all States Members had undertaken to take the necessary steps to realize the objectives set forth in Article 55, which mentioned, in particular, "higher standards of living" and "full employment". It was clear, therefore, that the USSR amendment added nothing to the provisions of the Charter.

She emphasized that her delegation had no objections to the principle that States should take steps to guarantee a stable and high level of employment. She drew attention to the United Kingdom Government's declaration of May 1944 in which it accepted the maintenance of a high and stable level of employment as a primary aim. The present Government of the United Kingdom respected that principle and was taking all the necessary steps to fulfil its obligations under Articles 55 and 56 of the Charter.

The Cuban and Argentine amendments (A/C.3/232/Corr.1 and A/C.3/251) were based on the principle that the individual had the right to engage in any work for which he considered himself fitted. The amendments were far too detailed, however, and if an attempt were made to set forth all the details contained in a simple principle, there was a risk that that list would be incomplete.

The Lebanese amendment (A/C.3/260), which dealt with the right to a free choice of work, also added nothing important to the present text of article 21, which clearly implied that every individual had the right to choose the employment he wanted if that employment was available and if the individual concerned was qualified to do the work. The same amendment proposed the addition of the right to choose "his mode of life". In her opinion, that idea went beyond the scope of article 21, which bore only upon questions of employment.

The Swedish amendment (A/C.3/252) recognized the right to strike and on that point was in accordance with the position of the United Kingdom. Nevertheless there, as no doubt also in certain other countries, that right would have to be

qualified by considerations of public security; in certain cases that right might even have to be suspended until arbitration had taken place. It would be difficult, therefore, to elaborate a text that took all those points into consideration. Furthermore the United Kingdom delegation felt that the declaration should confine itself to stating positive rights. Article 21 proclaimed the right to work and if the individual's freedom not to exercise that right was also included, there might be a danger of creating confusion. For that reason, Mrs. Corbet approved the fact that the Swedish delegation had withdrawn its amendment and if it was to be reintroduced by the Polish delegation, the United Kingdom delegation would vote against it.

With regard to the USSR amendments to paragraph 2, those which laid down the principle of equal pay for equal work, without distinction of race, nationality or sex, had no *raison d'être*, in view of article 2 of the declaration.

The USSR delegation had also submitted an amendment (E/800, page 34), stating that women should enjoy equal advantages with men in their work. The concept of "advantages" was not very clear. If it referred to the wellbeing and protection of women, it should be remembered that the legislation of many countries contained special provisions concerning the work of women. The USSR amendment sought to give women advantages which did not exceed those afforded to men. For that reason and because, on the other hand, the amendment imposed certain obligations on governments, the United Kingdom delegation did not find it acceptable. It would vote for the original text of article 21 as a statement of ideals to be aimed at, on the understanding that it did not imply any commitment on the part of governments to take steps to promote the application of the principle outside the sphere of State employment, where direct negotiation between the trade unions and employers was the practice. As regards the public services, the position of the United Kingdom Government had been publicly stated as being in favour of the principle of equal pay for work of equal value, although it was not felt in present economic circumstances to be the right time to put it into effect.

In regard to paragraph 3 of article 21 Mrs. Corbet felt it contained an explicit statement of the right to form and to join trade unions. It was desirable that that article should be limited to the consideration of that aspect of the problem and not, as suggested in the Argentine amendment, embrace the right of association in other fields, [527] which had been examined in connexion with article 18. The New Zealand amendment (A/C.3/267) was more restrictive than the basic text of paragraph 3, for it could be interpreted to mean that the interests of workers could not be protected unless they belonged to a trade union. That was not the case in many countries, in particular the United Kingdom, where labour conditions established as a result of negotiations between the trade unions and the employers applied to all workers, whether they belonged to a trade union or not.

On the other hand, it would be undesirable for the declaration to state the principle that the individual was free not to exercise his right to join a trade union, as was suggested in the Uruguayan amendment, and she was happy that it had been withdrawn. Otherwise her delegation would have been obliged to vote against the amendment. Not only would there have been obvious difficulties in applying it, but it would also have had the effect of eliminating the principle of compulsory membership of a trade union of a particular profession and the closed shop. She did not want to take a position on the merits of the closed shop, which had been the subject of controversy for a long time, but she did not consider its prohibition to be a fundamental human right and, consequently, it should not be included in the declaration. The chief purpose of paragraph 3 of article 21 was to state the fundamental right to form and to join a trade union. The basic text of article 21 expressed that right perfectly clearly.

All those remarks showed that the text of article 21 as drafted by the Commission on Human Rights was entirely satisfactory. The United Kingdom delegation, therefore, would vote for that text and hoped that it would be approved by the great majority of the Committee.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed the fact that the essential aim of his delegation's amendment was to provide the workers with a real guarantee against unemployment. That was a principle of vital importance. The USSR amendment expressed it very clearly, and pointed out, moreover, by what measures it could be achieved. The USSR delegation wanted the right to work to be a reality. That right could only be guaranteed effectively in countries with an economy possessing certain special features, such as the USSR. In that country, the workers did not labour in order to provide an individual or a private enterprise with large profits. They worked for themselves, for their families and for their country. In those circumstances, work was no longer only a struggle against hunger and poverty. That aspect of the economic life of the USSR explained why, unlike many other countries, it did not know the terrible consequences of unemployment. Twenty years ago the country had had 10,800,000 workers and employees. It now had 33 million. Those figures spoke for themselves and clearly showed that the economic system of the country provided the most effective weapon against unemployment. The same situation, however, did not prevail in every country, and it was for that reason that the workers of [528] those countries should be protected against unemployment.

He was surprised that the United Kingdom representative had not felt obliged to approve the principle that women should receive the same pay as men for equal work, at a time when a commission of the British Parliament was considering that question. The terms of the USSR amendment transformed that principle into reality, and he could see no reason for any opposition to it.

MR. NOSEK (Czechoslovakia) stressed the fact that the fundamental economic and social rights laid down in article 21 were already contained in his country's Constitution. In fact, the Constitution of Czechoslovakia guaranteed the right to work, since the organization of labour was directed by the State on the principles of a planned economy. Moreover, all the workers had the right to a fair wage and that right was guaranteed by the wage policy pursued by the Government in agreement with the trade unions, a policy which was bringing about the gradual rise in the workers' standard of living.

The Czechoslovak Constitution attached special importance to the working conditions of women and young people. A series of special measures regulated the working conditions of women, providing for their care during pregnancy and motherhood. In the same way, the working conditions for young people took into account the requirements for their physical and intellectual development. It was therefore clear that the Czechoslovak delegation could not fail to support the statement of rights contained in article 21.

Mr. Nosek pointed out that article 21 mentioned a right which was not explicitly laid down in the Czechoslovak Constitution, namely the right to protection against unemployment. The Czechoslovak Constitution had not mentioned that right because the country's economy was planned and directed so as to ensure the increasing improvement of the quality and quantity of production, thus permitting a gradual rise in the standard of living of the population. The threat of unemployment was thus removed. During the debate on article 20 the Czechoslovak delegation had already pointed out that social conditions were an integral part, and at the same time the logical result, of economic conditions. Social conditions were dependent particularly on the policy of full employment, mentioned in Article 55 of the Charter, in article 2 of the Final Act of the United Nations Conference on Trade and Employment as well as in other United Nations documents. Moreover, article 21, as worded, did not express that principle of full employment which all progressive modern economies had already recognized as a weapon against economic crises and consequently, against unemployment. The right to protection against unemployment, as laid down in paragraph 1 of article 21, meant only the right to protection against the consequences of unemployment. No mention was made of the duty of the State to prevent unemployment. Protection against its consequences was a sort of charity conferred upon the workers. It was therefore somewhat humiliating to them; moreover, it did not permit an effective struggle to be waged against unemployment.

The USSR amendment likewise mentioned protection against unemployment, but it went further than the text of article 21, since it aimed at imposing on the State and on society the obligation to prevent unemployment. For that reason the Czechoslovak delegation supported the USSR amendment, which would make it

possible to apply successfully the principle of the right to life laid down in article 3 of the declaration. The Czechoslovak delegation hoped, therefore, that the USSR amendment would be unanimously adopted by the Committee.

MR. HABIB (India) stated that his delegation had carefully studied the amendment submitted by New Zealand and that it wished to support it. In his country, in fact, capitalism was making rapid progress, and entailing all the consequences of an industrialization which was proceeding more rapidly than the organization of labour. The Indian Government might have to take measures to remedy that state of affairs. With that aim in view, it had studied the labour legislation of New Zealand and other countries, and it might have to resort to compulsory trade union membership in order to ensure the organization and the protection of labour.

The Indian delegation considered that the wording of the New Zealand amendment was entirely satisfactory for it granted labour the right to be protected by a trade union. Such protection could not be effectively ensured while rival trade unions were competing for members and causing confusion in the working class. The Indian delegation considered that labour should be organized on a national basis.

The original text of paragraph 3 of article 21 seemed to have been prompted by the concepts of the nineteenth rather than the twentieth century. The day when any agreement between workers concerning their rightful claims was considered a conspiracy had long passed.

MR. WATT (Australia) considered that paragraph 3, as drafted by the Commission on Human Rights, was not satisfactory. He regretted that it stated that "Everyone is free to form... trade unions" instead of "Everyone has the right..."

Moreover, to say that everyone was free to form trade unions would be contrary to the legislation of certain countries. In New Zealand and in Australia, for example, it was inconceivable that a small number of persons should form themselves into a trade union which would appeal to arbitration boards and oppose powerful trade unions with thousands of members. It was obvious that there should be freedom to form trade unions in those countries where they did not already exist, but that was not clearly thought out in the text, while the New Zealand amendment, without limiting the right to form a trade union, [530] stressed the right to belong to one. The amendment was therefore in no way restrictive.

He thought he should at that stage make certain points concerning the trade union legislation existing in his country. Without going as far as New Zealand, where trade unionism was compulsory, Australia had had for fifty years trade unions to which the majority of workers belonged. The right to strike existed but all disputes were compulsorily subject to arbitration. The individual, on the other hand, was protected

against any oppression by the trade unions. The latter were registered and were liable to dissolution if they imposed on their members unduly restrictive qualifications for admission, or if they were too arbitrary in their activities. A minimum wage had been fixed, with a scale of increase in proportion to the index of the cost of living, special wages for specially skilled workers, etc. Membership of a trade union, far from restricting the freedom of the individual, was the expression itself of that freedom.

It was not the aim of the New Zealand amendment to have the Third Committee adopt the principle of compulsory trade unionism; while each country would still be free to act as it wished, it did, however, permit it to make a step forward. Although the wording of the amendment could be improved, the Australian delegation accepted the principle of it and would support it.

MR. BEAUFORT (Netherlands) thought article 21 dealt with the most important human rights. It was very understandable that many delegations had considered it necessary to submit amendments to that article. In order to define his delegation's position on those amendments, he reviewed the stages of social development since the last century. In the nineteenth century, certain classes of society did not enjoy normal rights in the economic and social fields. Working conditions in many countries were such that it could be said without exaggeration that the situation of the workers did not appreciably differ from that of the slaves of antiquity. At the end of the nineteenth century the right of association had been recognized, powerful trade unions had been formed and a new social legislation had come into being. Originally, those trade unions were, and could only be, the instruments of class struggle. Social and economic conditions had, however, developed, and in certain countries, including the Netherlands, the associations of employers and employees had changed in character and had become instruments of social and economic co-operation. Those associations were striving to create a new social order, grouping workers on the basis of their crafts, in which there would be no place for any political or economic dictatorship.

It was in the light of that economic and social development that article 21, the subsequent articles and the amendments proposed should be considered.

The Netherlands representative first examined the amendment submitted and subsequently withdrawn by Sweden, and then reintroduced by Poland, that the following should be added to the end of paragraph 1: "Everyone has the right to [531] cease to work, when finding it impossible to work on the economic terms existing or offered." He wished to point out that he had no objection to the right to cease working when working conditions were unjust, and if it could be reasonably expected that only a strike could obtain an improvement. Having regard to the point of view he had expressed concerning collaboration between employers and employees, however, he considered that the right to strike was out of place in the

declaration, and that the latter should not confine itself to corroborating what already existed but, as its preamble already stated, it should represent “the common standard of achievement for all peoples and all nations”.

Mr. Beaufort then turned to the USSR amendment which he did not consider acceptable because, in his opinion, the rights of the State should not be laid down in the declaration. Moreover, as the second paragraph of that amendment repeated part of article 2, it weakened that article. In conclusion he confessed he did not understand the additional clause proposed by the USSR delegation, since that clause was a repetition of paragraph 2 of article 21.

Whilst supporting the principles underlying the Cuban and Argentine amendments, the representative of the Netherlands considered that they contained too many points of detail, which both limited their scope and might lay them open to regrettable misinterpretation.

The right to follow one’s vocation freely, mentioned in the Cuban amendment, was also proclaimed in the first part of the Lebanese amendment. He preferred the latter and would support it. On the other hand, he thought that the proclamation of the right of the individual to choose his mode of life, referred to in the second part of the Lebanese amendment, would be more in place in one of the first three articles of the declaration.

In conclusion, he accorded his support to the New Zealand amendment, which he thought sensible. The right to freedom of association was already guaranteed by article 18; the provisions of article 18 would be completed if article 21 proclaimed the right to join trade unions.

MR. CASSIN (France) said that he would vote in favour of article 21 as drafted by the Commission on Human Rights. He was glad that the right to work appeared at the beginning of that article: it was the outcome of a process of evolution which had begun at the time of the French Revolution with the declaration of 1789, and continued with the Revolution of 1848, and had finally been crowned by the Constitution of 1946.

The text of that article was short. Experience had shown that the shorter a text the more effective it was. For that reason, Mr. Cassin was unable to associate himself with the Cuban amendment; that amendment was interesting, but it alluded to standard of living, a point already dealt with in article 22, so that there was no need to encumber article 21 with it.

He wished to explain that the words “protection against unemployment” did not signify remedy against existing unemployment. Provisions for that were contained in article 22. The meaning of “protection against unemployment” in that case was: measures against the possibility of unemployment. That part of the first paragraph thus corresponded to the wishes of the USSR delegation.

The French representative could not vote in favour of the USSR amendment to paragraph 1 because, in his opinion, the guarantees and responsibilities of the State should be covered by special conventions. Further, article 21 arose from article 20, which had been adopted by the Committee the day before (138th meeting), and which contained the words: “national effort and international co-operation”. That covered the measures that could be taken on the international level by an organization such as the International Labour Organization, for instance.

He then proceeded to examine the amendments proposed by Cuba and the Argentine on the freedom to follow a vocation, and feared that they would favour State control. The Lebanese amendment, on the other hand, left too much scope. That amendment, in fact, when it said that everyone had the right to “a free choice of work and of his mode of life” was failing to take account of social conditions and existing possibilities.

It was important neither to encourage paid idleness nor to turn the right to work into the right to forced labour. Moderation must be observed. For that reason the French representative suggested adding to paragraph 1 of article 21 after the words: “Everyone has the right to work” the words: “best suited to his aptitudes and his vocation”.

Mr. Cassin then proceeded to consider the amendment proposed by the Soviet Union to paragraph 2. He did not approve that amendment for he thought it dangerous to make enumerations; there was always a risk of forgetting some category, which might subsequently have serious consequences. Moreover, it was scarcely necessary to stress that the right to equal pay for equal work presupposed equal economic conditions.

He recalled that the text of paragraph 3 had been drawn up as the result of a compromise reached during the discussion in the Commission on Human Rights. He thought that its principle was good, but that the drafting of the French text should be modified. He proposed that the third paragraph should read as follows: “*Quiconque travaille est libre de fonder, avec d'autres, des syndicats, et de s'y affilier pour la défense de ses intérêts*”.

He regarded the New Zealand amendment with sympathy, as he was convinced that the New Zealand delegation, in proposing that amendment, had not sought to impose its own legislation of other countries; but he considered the amendment unnecessary. The draft proposed by the Commission on Human Rights did not conflict with the New Zealand amendment. It would moreover be possible to reconcile article 27 with paragraph 3 in the form in which it had been voted by the Commission on Human Rights.

Referring next to the amendment moved by Poland, the French representative pointed out that the right to strike was recognized by the constitutions of many countries, including France; he stressed, however, that the declaration of

human rights must be common to all countries. As there [533] were countries where the right to strike was not recognized, it would be better to leave the text of paragraph 3 in the flexible form proposed by the Commission on Human Rights.

MR. AZKOUL (Lebanon) wished to reply to the objection raised by the United Kingdom representative to the Lebanese amendment, which she had reproached for adding nothing to article 21 as drafted by the Commission on Human Rights. He wondered whether the English translation of his text might not have given rise to a wrong interpretation. The right to work, proclaimed in the first paragraph of article 21, did not imply the right to “a free choice of work” required by the Lebanese amendment. In fact, a State could provide its citizens with work without taking into account their aptitudes and preferences.

The United Kingdom representative had also objected that the second part of the Lebanese amendment, concerning the choice of mode of life, did not come within the scope of article 21, which should deal mainly with economic conditions. He thought it would be dangerous to interpret article 21 solely from the economic point of view, ignoring the social angle. Besides, the Commission on Human Rights in using the words “just and favourable conditions of work” had certainly had social conditions in mind, because further on, when referring to economic conditions, it had used the word “remuneration”.

He admitted that the “right to free choice of work” and the right to the choice of “mode of life” in his amendment were two distinct and perhaps widely different things, but thought the compromise proposal made by the French representative might reconcile all points of view.

THE CHAIRMAN pointed out that the French representative had not proposed an amendment; he had simply suggested a different wording for paragraph 1.

The Chairman requested the Committee to proceed to a vote, taking first the amendments submitted to paragraph 1 of article 21.

MR. CONTOUMAS (Greece), recalling that he had been the first to stress the importance of every person’s right freely to follow his vocation, stated that his delegation wished on its own behalf to reintroduce the suggestion put forward by Mr. Cassin. It therefore formally moved that in the first paragraph of article 21, the words: “to the best of his ability and his vocation” be inserted after the words: “to just and favourable conditions of work and remuneration”.

THE CHAIRMAN put to the vote the text submitted by the Argentine delegation to replace paragraph 1 of article 21 (A/C.3/251).

The amendment was rejected by 19 votes to 3, with 16 abstentions.

THE CHAIRMAN put to the vote the USSR proposal to insert after the word “pay” the following words: “and the right to protection against unemployment. The State

and society shall guarantee [534] this right by measures calculated to provide everyone with the broadest opportunities for useful work, and to prevent unemployment”.

The amendment was rejected by 19 votes to 9, with 11 abstentions.

THE CHAIRMAN put to the vote the proposal made by the Greek delegation to insert the words “to the best of his ability and his vocation” after the word “pay” in the first paragraph of article 21.

The amendment was rejected by 14 votes to 6, with 17 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the Lebanese delegation to insert in the first paragraph of article 21 the words “and to a free choice of work and of his mode of life” after the words “Everyone has the right to work”.

MR. AZKOUL (Lebanon) requested that the amendment be put to the vote in two parts.

The amendment was rejected by 14 votes to 13, with 6 abstentions.

In view of that negative vote, the Chairman ruled that there was no reason for retaining the last part of the Lebanese amendment.

She then put to the vote the proposal of the Polish delegation to add the following sentence at the end of the first paragraph of article 21: “Everyone has the right to cease to work, when finding it impossible to work on the economic terms existing or offered.”

MR. PAVLOV (Union of Soviet Socialist Republics) requested that the vote be taken by roll-call.

A vote was taken by roll-call as follows:

In favour: Argentina, Belgium, Burma, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Haiti, Mexico, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Against: Afghanistan, Bolivia, China, Greece, Honduras, India, Netherlands, New Zealand, Pakistan, Panama, Paraguay, Philippines, Syria, United Kingdom, United States of America.

Abstaining: Australia, Brazil, Canada, Chile, Denmark, Dominican Republic, Ethiopia, France, Lebanon, Norway, Peru, Sweden, Venezuela.

The amendment was rejected by 15 votes to 13, with 13 abstentions.

THE CHAIRMAN requested the Committee to consider the amendments submitted to paragraph 2 of article 21.

She first put to the vote the amendment of the Argentine delegation to substitute the following text for paragraph 2: “Every person has a right to a

fair remuneration for the work which he performs on the basis of equal pay for equal work.”

The amendment was rejected by 18 votes to 3, with 16 abstentions.

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THE CHAIRMAN put to the vote the proposal submitted by the USSR delegation to substitute the following text for paragraph 2: “Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work.”

MR. PAVLOV (Union of Soviet Socialist Republics) requested that the vote be taken by roll-call.

A vote was taken by roll-call, as follows:

In favour: Argentina, Burma, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Guatemala, Haiti, Honduras, India, Mexico, Norway, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Australia, Belgium, France, Greece, Lebanon, Netherlands, New Zealand, Paraguay, Philippines, Sweden, Syria, United Kingdom, United States of America, Uruguay.

Abstaining: Afghanistan, Bolivia, Brazil, Canada, China, Panama, Peru.

The proposal was adopted by 21 votes to 14, with 7 abstentions.

THE CHAIRMAN put to the vote the proposal submitted by the delegation of Cuba to add to paragraph 2 as amended, the following text: “Every person who works has the right to receive such remuneration as will, in proportion with his capacity and skill, assure him a standard of living suitable for himself and his family.”

MR. PÉREZ CISNEROS (Cuba) requested that the vote be taken by roll-call.

A vote was taken by roll-call, as follows:

In favour: Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ethiopia, Haiti, Mexico, Panama, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Belgium, Bolivia, China, Denmark, France, Greece, India, Netherlands, New Zealand, Norway, Pakistan, Philippines, Sweden, Syria, United Kingdom, United States of America.

Abstaining: Afghanistan, Burma, Canada, Guatemala, Honduras, Lebanon, Paraguay.

The amendment was adopted by 18 votes to 17, with 7 abstentions.

THE CHAIRMAN put to the vote the proposal of the Bolivian delegation to insert the word “real” between the words “pay” and “equal” in the first part of paragraph 2 as amended.

The amendment was rejected by 17 votes to 6, with 16 abstentions.

THE CHAIRMAN put to the vote the proposal submitted by the Cuban delegation to delete the words “and pay” in the first paragraph of article 21.

MR. PÉREZ CISNEROS (Cuba) pointed out that the amendment was one of form only; the adoption [536] of the Cuban proposal on paragraph 2 made the retention of those words in paragraph 1 unnecessary.

The amendment was rejected by 15 votes to 14, with 10 abstentions.

THE CHAIRMAN put to the vote the proposal of the USSR delegation to add the following sentence to paragraph 2: “Women shall enjoy equal advantages in their work with men and shall receive equal pay for equal work.”

MR. PAVLOV (Union of Soviet Socialist Republics) emphasized that the purpose of the amendment was to guarantee to women all the advantages enjoyed by men without affecting such special advantages as were due to them for physiological reasons.

MR. SAINT-LOT (Haiti), MISS BERNARDINO (Dominican Republic), MR. DEHOUSSE (Belgium), MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) and MRS. ROOSEVELT (United States of America), having pointed out that that sentence reiterated the principle of “equal pay for equal work” already adopted by the Committee, MR. PAVLOV (Union of Soviet Socialist Republics) agreed that the amendment should be put to the vote in two parts, the first part being voted on first.

The first part of the USSR amendment was rejected by 23 votes to 11, with 7 abstentions.

THE CHAIRMAN considered that the second part of the amendment could not be put to the vote separately.

She then put before the Committee the proposal of the New Zealand delegation to redraft paragraph 3 of article 21 as follows: “Everyone has the right to the protection of his interests through membership of trade unions.”

MR. AZKOUL (Lebanon) asked the representative of New Zealand if she would not accept the wording: “Everyone has the right to join trade unions for the protection of his interests”; it expressed the same idea more satisfactorily without giving the impression that membership of trade unions was considered as being the sole means of defence to which the individual had a right to resort.

MRS. NEWLANDS (New Zealand) wished to abide by her original text which exactly conveyed the intentions of her delegation.

MR. COROMINAS (Argentina) reiterated the objections raised at the preceding meeting by his delegation with regard to a reference to trade unions in article 21. In the opinion of the Argentine delegation, freedom of association, established by article 18, necessarily included the right to belong to a trade union.

MR. WATT (Australia) said that, owing to the statement made on the matter by the Chairman at [537] the preceding meeting, he was obliged to oppose that point of view, which was in any case not shared by all members of the Committee.

The amendment was rejected by 18 votes to 10, with 14 abstentions.

MR. CASSIN (France) reserved his position with regard to the drafting of paragraph 3 of the basic text of article 21 and recalled that he had suggested a draft which seemed to him preferable to the text of the Commission on Human Rights.

THE CHAIRMAN placed before the Committee the following text submitted by the Cuban delegation as an additional paragraph to article 21: "Every person has the right to follow his vocation freely, in so far as existing conditions of employment permit."

MR. AZKOUL (Lebanon) proposed the deletion of the second part of that text beginning with the words "in so far as. . .".

MR. PÉREZ CISNEROS (Cuba) requested that the vote on that proposal be taken by roll-call.

A vote was taken by roll-call as follows:

In favour: Belgium, Canada, France, Greece, Lebanon, Netherlands, New Zealand, Norway, Syria.

Against: Afghanistan, Argentina, Bolivia, Cuba, Ethiopia, Haiti, India, Mexico, United Kingdom, United States of America.

Abstaining: Australia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Czechoslovakia, Denmark, Dominican Republic, Guatemala, Honduras, Pakistan, Panama, Paraguay, Philippines, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

The proposal was rejected by 10 votes to 9, with 22 abstentions.

MR. PÉREZ CISNEROS (Cuba) requested that a roll-call vote should be taken on the whole of the text submitted by him as paragraph 4 of article 21.

A vote was taken by roll-call, as follows:

In favour: Afghanistan, Argentina, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ethiopia, Haiti, Honduras, Mexico, Panama, Paraguay, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Belgium, Canada, China, Denmark, France, Guatemala, India, Lebanon, New Zealand, Norway, Pakistan, Sweden, Syria, United Kingdom, United States of America.

Abstaining: Burma, Greece, Netherlands.

The amendment was adopted by 22 votes to 16, with 3 abstentions.

The meeting rose at 6:30 p.m.

A/C.3/SR.141¹¹²

16 November 1948

***Summary Record of the Hundred and Forty-First Meeting
[of the Third Committee]***

*Held at the Palais de Chaillot, Paris, on Tuesday,
16 November 1948, at 8.30 p.m.*

Chairman: MR. CHARLES MALIK (Lebanon).

66. Draft international declaration of human rights (E/800) (continued)

Article 21 (continued)

THE CHAIRMAN stated that article 21, as amended during the previous meeting, would be first voted paragraph by paragraph and then as a whole.

The representatives of Argentina, Haiti and the Union of Soviet Socialist Republics declared that paragraphs 1, 2 and 3 of article 21 had been adopted at the previous meeting, and that consequently they should not be put to the vote a second time.

MR. PÉREZ CISNEROS (Cuba) stated that paragraph 2, in particular, had been already adopted by the Committee in its entirety.

THE CHAIRMAN replied that no paragraph had been voted on in its entirety, with the exception of paragraph 4 (140th meeting). The vote would therefore be taken on the first three paragraphs separately, and then on the whole article.

Paragraph 1 was adopted unanimously.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that the vote on paragraph 2 as amended be taken by roll-call.

The vote was taken by roll-call, as follows:

The Philippines, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Haiti, Honduras, India, Mexico.

Against: Sweden, Turkey, United States of America, Australia, Belgium, Brazil, Canada, China, France, Greece, Lebanon, Netherlands, New Zealand, Norway, Paraguay.

¹¹² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 538–44.

Abstaining: Saudi Arabia, Uruguay, Burma, Guatemala, Pakistan.
Paragraph 2 was adopted by 17 votes to 16, with 5 abstentions.

MR. SANTA CRUZ (Chile) pointed out that paragraph 2 was composed of two sentences each of which had been adopted separately at the previous meeting. Had those sentences been numbered, as separate paragraphs, as they should have been, the vote just taken by the Committee would have been unnecessary.

MR. CASSIN (France) called attention to a discrepancy between the French and English texts of paragraph 3: for *Quiconque travaille* the English text gave merely "Everyone".

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Paragraph 3 was adopted by 32 votes to 1, with 3 abstentions.

THE CHAIRMAN stated that, as paragraph 4 had been adopted at the previous meeting, the article would be put to the vote as a whole.

MR. DEHOUSSE (Belgium) requested a roll-call vote on article 21 as a whole, as amended.

A vote was taken by roll-call, as follows:

Liberia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Mexico, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Haiti, Honduras.

Against: Netherlands, New Zealand, Norway, Pakistan, Paraguay, Sweden, Turkey, United Kingdom, United States of America, Australia, Belgium, Brazil, China, France, Greece, India, Lebanon.

Abstaining: Peru, Saudi Arabia, Afghanistan, Burma, Canada, Guatemala.

Article 21 as amended, was not adopted, 17 votes being cast in favour and 17 against, with 6 abstentions.

THE CHAIRMAN called on speakers who wished to explain their vote.

MR. SANTA CRUZ (Chile) deplored the vote taken by the Committee, of which half the members had refused to recognize a fundamental right which it was essential to include in the declaration, merely because they had not been satisfied with some of the provisions of article 21.

MRS. BEGTRUP (Denmark) stated that she had voted in favour of the article, even though she had considered the drafting imperfect, precisely in an effort to avoid the ridiculous situation in which the Committee found itself, having accepted each part of the article separately and rejected the whole. She hoped it would be possible to reconsider the subject matter of that article.

THE CHAIRMAN remarked that under rule 112 of the rules of procedure the Committee could decide by a two-thirds majority to reconsider the substance of the article.

MR. COROMINAS (Argentina) expressed profound regret that a number of members were absent, and that half of those present had seen fit to vote down a text, the parts of which had been approved by the majority at two separate meetings, thereby excluding from the declaration a vital human right. The various representatives would be hard put to it to explain that action to the workers of their respective countries.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said, with respect to paragraph 2, that he had unreservedly supported the sentence proposed by Cuba (A/C.3/232/Corr.1) and had been just as unreservedly opposed to the sentence proposed by the USSR (E/800, page 34) in the fear that it might be interpreted as permitting discrimination for reasons other than those given. In spite of that attitude, he had voted in favour of the article [540] as a whole, as a negative vote would have meant omission of a right which it was essential to state in the declaration.

MR. DEHOUSSE (Belgium) had voted against article 21 because in its amended form it was a monstrosity. Some parts of it conflicted with others. Moreover, when the words “without distinction as to race, nationality or sex” were seen in conjunction with article 2, it became obvious that they could be interpreted as restrictive, inasmuch as they listed only three of the eight kinds of discrimination given in that article. He wished to make it clear that those who had voted against article 21 had done so not in a reactionary frame of mind but because they did not wish to limit in any way the generous sentiments expressed in article 2 and because they were anxious to draft a document worthy of the United Nations.

MR. CONTOUMAS (Greece) agreed with the Belgian representative. He too had voted against article 21 because the phrase dealing with discrimination was a grave mistake, and also because he had found some parts of the article repetitious and paragraph 4 superfluous.

MR. WATT (Australia) had voted against article 21 for much the same reasons as the Belgian representative.

MR. ALVARADO (Peru) thought that the Committee undoubtedly wanted to include in the declaration an article dealing with the right to work, a right already recognized in numerous conventions. Such an article should, however, be brief, simple and not open to misinterpretation.

Invoking rule 112 of the rules of procedure, he made a motion to reconsider article 21.

In the course of a procedural debate, the Chairman held that rule 117 of the rules of procedure left to the Chairman’s discretion to permit or not explanations of their votes by members, while the representatives of the Byelorussian Soviet Socialist

Republic, Cuba, Union of Soviet Socialist Republics and Uruguay thought that the Chairman could exercise discretion only as regards permitting the explanation of votes before or permitting it after the vote was taken. The representatives of China, France and Belgium interpreted rule 117 to mean that a motion to reconsider did not take precedence over the explanation of votes and that therefore the explanations should continue.

MR. ALVARADO (Peru) postponed his motion until all representatives who wished to explain their votes had had an opportunity to do so.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the USSR delegation had voted in favour of all the parts of article 21 and of the article as a whole. An article dealing with the right to work – one of the most important rights in the declaration – could not be excluded under any pretext whatever. To do so would be to flout the hopes of workers, who represented the overwhelming majority of mankind. The disgraceful situation in which the Committee found itself as a result of its final vote must somehow be remedied.

[541]

The USSR delegation had voted for article 21 because that article recognized the right to work and the right to equal pay for equal work “without distinction as to race, nationality or sex”. The objection that the phrase was restrictive was unjustified: since the word “race” included colour, all the forms of discrimination relevant to employment had been listed. Moreover, had there been a real desire to improve the article, the delegations which had voted against it on the ground that not all forms of discrimination were included could have suggested the addition of other forms. They had not done so. The article had, in fact, been defeated because colonial Powers did not wish to see in the declaration an article forbidding discrimination as to race, nationality or sex in connexion with work.

Article 21 had embodied progressive ideas. Those ideas would have to be introduced into the declaration. Otherwise it would be rejected by the peoples of the world for whom it was intended.

Mr. Pavlov pointed out that the fact that one of his amendments had been rejected had not prevented him from voting for the whole article. He hoped that other representatives would not definitely reject progressive and fundamental concepts merely because they objected to details which could be taken care of by drafting amendments, and that they would agree to reconsider article 21 and insert it in the declaration.

MR. PÉREZ CISNEROS (Cuba) said that he had voted for article 21 although he recognized that it contained defects in drafting; but its positive qualities outweighed its defects. Those defects were due to the absence of the drafting subcommittee which had been proposed repeatedly by his delegation, to the excessive time limitation on speeches and to deadlines for the submission of amendments, all of

which had not been duly considered. Those disadvantages, however, must be accepted since they arose from a procedure adopted by decision of the majority of the Committee.

He regretted that the Committee had rejected an article which had been eagerly awaited by public opinion. He regretted too that the Committee had failed to adopt that part of the Cuban amendment which had embodied the principle that each worker should receive remuneration according to his needs – a principle accepted by the most progressive legislation. He was glad that the Committee had accepted the Cuban proposal that every person had the right to follow his vocation freely, because that implied the free development of the human personality.

The rights laid down in article 21 had already been incorporated in national legislation and in conventions drafted by the International Labour Organization; the General Assembly should not appear less progressive, but should approve the principle of the dignity of human labour. In order to remedy the situation, the Committee should adopt the Peruvian motion.

[542]

MR. CASSIN (France) said that it was unthinkable that the declaration should omit a statement of the right to work. The French delegation had taken the initiative in including that right and did not fear to repeat its belief that it was essential.

He would have voted for article 21 as amended had he not felt that as it stood it presented the same lack of concision as had been experienced in the case of previous articles. He had objected to paragraph 2 on the grounds that the cases of discrimination mentioned therein were too limitative, not because his delegation had the slightest intention of maintaining discrimination of any kind. He had been greatly attracted by the Cuban amendment, which had covered much of the ground which the French delegation had thought of inserting into one of the earlier drafts of the article; but he felt that greater concision would make the declaration a more useful document.

Mr. Cassin welcomed the roll-call vote as an opportunity of placing on record the fact that the French delegation preferred practical realities to specious promises. He supported the Peruvian motion because he was sure that the requisite majority would welcome the opportunity to give the matter fuller consideration.

MRS. ROOSEVELT (United States of America) said that she agreed with other representatives, particularly with those of Australia, France and the USSR, that it would be unthinkable that article 21 should not appear in the declaration. She believed, however, that her vote had been entirely consistent.

She had voted in favour of paragraphs 1 and 3 because they were identical with the text submitted by the Commission on Human Rights. She had voted against paragraph 2. That had implied voting against the USSR amendment. Her conception of the Committee's task differed from that held by the delegation of the Soviet

Union. Paragraph 1 of the USSR amendment introduced measures for implementation which should not be included in what, in her view, was intended to be purely a declaration of principles, and also introduced the idea of State responsibility. Paragraph 2 of that amendment restricted the prohibition against discrimination more narrowly than article 2. Her delegation had no intention of approving discrimination in respect of equal pay on the basis of religion or political opinion; her adverse vote had been dictated solely by the desire that the article, included as it was in an international document, should not be restrictive. She had voted against paragraph 4 because it appeared unnecessary. She had thought it preferable to vote against the whole article so that the Committee would be able to return to the basic text of the article, which contained principles upon which all delegations were in agreement.

She was not in any way opposed to equal pay for equal work; the motive for her opposition to the USSR amendment and to the amended article as a whole should not be impugned, for she was sure that no member of the Committee was acting in bad faith. There might, however, be said to exist basic differences in outlook between certain delegations.

[543]

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said that he had voted for the USSR amendment, for certain others, for the parts of the article as amended and for the whole. His delegation's sense of responsibility had always led it to vote in favour of amendments which it considered progressive. Throughout the discussion it had championed the rights of the workers. The Committee itself, by adopting the paragraphs of article 21 had shown that it, too, favoured that principle.

By voting for the whole, the Byelorussian delegation had avoided contributing to the present situation, which, in his view, could only be called outrageous. He agreed, however, with the representative of Belgium that even the present situation did show that the Committee wished to include in the declaration some statement along the lines of article 21. He regretted that certain Powers had unfortunately influenced a number of delegations to find the amended article unacceptable, perhaps because it now included USSR and Cuban amendments.

MISS BERNARDINO (Dominican Republic) said that she would have voted for the United States amendment, but, since it had been withdrawn she had voted for the USSR amendment to paragraph 2 because she was convinced of the importance of the right of women to equal pay. Many countries still discriminated against women in regard to pay. That was an injustice to the working woman. She had voted for the final paragraph of the Cuban amendment which implied equality for women. In many cases the family was supported exclusively by the woman.

MRS. NEWLANDS (New Zealand) said that she had voted against the article because paragraph 3 was not acceptable. She had voted against the USSR

amendment and against the Cuban amendments to paragraphs 2 and 4, not because she was opposed to them in principle but because she wished to see the article contain only a statement of rights. She regretted that the USSR amendment had been accepted. Her delegation was thoroughly opposed to discrimination but mention of discrimination in article 21 would weaken the force of article 2. Mrs. Newlands would support any attempt to reopen discussion of article 21 in the hope that a better text might emerge. The final text of the declaration should be couched in clear, concise and dignified language.

MR. CHANG (China) thought that the adverse vote on the whole article did not indicate that the Committee had no intention of including an article guaranteeing the rights of labour, but might provide an opportunity for drafting some equivalent article to replace it. The unanimous vote in favour of paragraph 1 and the almost unanimous vote for paragraph 3 showed that it could not be said that the Committee wished to exclude article 21 altogether from the declaration. The amended text, in any case, had certain drafting defects due as the representative of Cuba had suggested to lack of mature consideration. The words "and pay" appeared to be redundant in paragraph 1 in view of the text of paragraph 2; they might be deleted. [544] The narrow majority obtained in the vote on certain paragraphs suggested that the Committee had not been wholly satisfied with them. Article 22, which dealt with the right to a standard of living, was closely connected with the question of pay; it might be possible to merge the two. He supported the Peruvian motion, but believed it might be better to take up article 22 while the Committee meditated an improved draft for article 21.

MR. PLAZA (Venezuela) said that he had voted for the USSR amendment to paragraph 2 and the Cuban amendments because they improved and completed the article by including in it principles which were already embodied in the Constitution of his country. He had abstained from voting on the remainder of the amendments, not because he disagreed with their substance but because he had been dissatisfied with their drafting. He had voted for the whole article because to act otherwise would have been to repudiate a principle to which his country was firmly wedded. He thought that representatives who had been dissatisfied with the article as amended should not have voted against it but should have expressed their reservations before the General Assembly. He supported the Peruvian motion because he considered article 21 as one of the most important in the declaration.

MRS. CORBET (United Kingdom) said that she had voted against the article with the greatest reluctance and with no ulterior motive. An article on that subject should undoubtedly be included in the declaration. Inclusion of the article in its present form, however, would have meant repetition. Paragraph 2 of the proposed text was unsatisfactory because it restricted the principle which had already been laid down in article 2. If the Peruvian motion were accepted, it might be preferable for

representatives to submit complete redrafts of the article rather than amendments; they would be more likely to obtain general acceptance.

MR. BAROODY (Saudi Arabia) said that he had abstained from voting because there had been a number of conflicting amendments, the discussion had shown a lack of compromise, and therefore it had seemed unlikely that general agreement would be reflected in the article as was desirable. Moreover, his country had a legal system which ensured most of the rights enumerated in the article in a different form.

The meeting rose at 11.30 p.m.

A/C.3/342

16 November 1948

Article 21

All paragraphs of which have been adopted separately by the Third Committee, and which has been rejected as a whole

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.

2. Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work.

Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a decent standard of living for himself and his family.

3. Everyone is free to form and to join trade unions for the protection of his interests.

4. Every person has the right to follow his vocation freely, in so far as existing conditions of employment permit.

A/C.3/343

17 November 1948

United States: Amendment to Article 22 of the draft Declaration (E/800)

In paragraph 1 after the words “standard of living” insert the words: “*which shall take into account the needs of his family*”.

Article 22 would then read as follows:

“1. Everyone has the right to a standard of living *which shall take into account the needs of his family*, including food, clothing, housing and medical care, and to social services, adequate for the health and wellbeing of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

2. Mother and child have the right to special care and assistance.”

A/C.3/344

17 November 1948

Norway: Amendment to Article 22 of the draft Declaration (E/800) and to the Yugoslav Amendment to Article 22

1. Amendment to Article 22 as adopted by the Commission on Human Rights. In paragraph 1, delete the words: “*in circumstances beyond his control.*”

2. Amendments to the Yugoslav Amendment to Article 22 (A/C.3/233):

Alternative (1):

“Children whose parents have not contracted marriage are equal in rights to children born in marriage and shall enjoy the same social protection.”

Alternative (2):

“*Children born out of wedlock* are equal in rights to children born in marriage and shall enjoy the same social protection.”

A/C.3/345

17 November 1948

Original Text: French

France: Proposed Amendments to Articles 27 and 28

Article 27

Amend paragraph 1 as follows: “Everyone who has the right freely to develop his personality has duties to the community”.

Amend paragraph 2 as follows: “In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others, *to satisfy the legitimate* requirements of morality, public order and the general welfare in a democratic system, *and to serve the purposes and principles of the United Nations.*”

Article 28

After the word “State” insert the word “group”. Article 28 would then read:

“Nothing in this Declaration shall imply the recognition of the right of any State, *group* or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.”

A/C.3/346

17 November 1948

Original Text: French

France: Amendment to Article 22

Reword Article 22, Paragraph 1, to read as follows:

“Everyone has the right to a standard of living that will provide for the wellbeing of himself and his family, including food, clothing, medical care, and the necessary social services for safeguarding his health and affording security in case of unemployment, sickness, disability, widowhood, old age or other loss of livelihood.”

A/C.3/SR.142¹¹³

17 November 1948

Summary Record of the Hundred and Forty-Second Meeting
[of the Third Committee]

*Held at the Palais de Chaillot, Paris, on Wednesday, 17 November 1948,
at 10:10 a.m.*

Chairman: MR. CHARLES MALIK (Lebanon).

67. Draft international declaration of human rights (E/800) (continued)

Article 21 (continued)

THE CHAIRMAN invited those members of the Committee who wished to explain why they had [545] voted for or against article 21 at the previous meeting to speak.

MISS KLOMPÉ (Netherlands) said her delegation had voted against article 21 as a whole because it could not accept the first sentence of paragraph 2, as given in

¹¹³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 544–52.

document A/C.3/342. That sentence, which was a partial repetition of the idea contained in article 2 of the draft declaration, seemed dangerous, as the Belgian representative had pointed out at the 141st meeting, and somewhat contradictory. Moreover, article 21 as a whole was unnecessarily repetitious.

The Netherlands delegation was, however, very anxious that the article should be reconsidered and that it should explicitly state the right of equal pay for equal work. It supported the United Kingdom suggestion that members of the Committee should be allowed two days in which to present new proposals.

MR. AZKOUL (Lebanon) had voted against article 21 as a whole because he considered that the amendments to it had produced an ill-balanced text, both as regards the relationship of the various parts to each other and as regards the relationship of the article to the other articles of the draft declaration. For example, the second sentence of paragraph 2 of the final draft of article 21 (A/C.3/342) spoke of remuneration to ensure a decent standard of living; yet that sentence was quite inappropriate in view of the word “pay” in paragraph 1 and in view of the fact that article 22 covered the idea of a decent standard of living.

Furthermore, the amendments to the article placed limitations upon the rights proclaimed therein. In the first sentence of paragraph 2 of the final text, discrimination on grounds of race, nationality or sex was specifically prohibited. Such a text would weaken rather than strengthen the article, for discrimination on religious or any other grounds not mentioned might thus be held to be permissible.

Speaking of paragraph 4 of the final text, he said the words “in so far as existing conditions of employment permit” were unnecessary because draft article 27 provided for all the requisite limitations; they were also dangerous because they would give the State an opportunity to interfere and limit unjustly the right to follow one’s vocation freely.

The declaration should certainly not fail explicitly to mention the right to work. He therefore hoped the Committee would reconsider the article. Even if the Committee did not adopt that procedure, however, his delegation would not regret having voted against the final text presented to the Committee, for it was better not to set forth the right at all than to proclaim what would be an injustice.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) said he had voted for the article even though some very good draft amendments to it had been rejected. He felt that certain delegations led by the United Kingdom and the United States, had shown disloyalty towards the work of the Committee in causing the defeat of the article as a whole on account of one amendment of which they did not approve.

The final text of article 21 expressed rights that were basic to human life and a declaration that failed to mention those rights would have no foundation; the articles subsequent to article 21 would be particularly meaningless. Only those who were enemies of the common man and who did not wish to see the principle of equality

prevail could have voted against article 21. The representatives of France and of the United States had both spoken of their special efforts in defence of the rights set forth in the article, yet they had both voted against it. History would remember those who supported the article as well as those who had acted insincerely. He felt that the vote that had taken place should be condemned before the whole world.

MR. CAMPOS ORTIZ (Mexico) had found the final draft of article 21 satisfactory; he had therefore voted for it. He did not agree that the incomplete enumeration of the grounds on which discrimination should not be practised might imply that discrimination on other grounds was permissible. The majority of the Committee had twice voted in favour of including such an enumeration in article 21 and therefore felt it more important to repeat the points contained therein than to omit the enumeration for technical reasons.

The Mexican delegation hoped to be able to suggest a new draft of article 21 which would set forth the principle of non-discrimination in a way which would be generally acceptable to members of the Committee.

MR. KURAL (Turkey) had voted against the final draft of article 21 as a whole in the hope that its rejection would lead to reconsideration of the article by the Committee and thus to a more satisfactory text.

The Turkish delegation approved paragraphs 1 and 3 of the text that had been put to the vote, but objected to the phrase "without distinction as to race, nationality or sex" in paragraph 2, as well as to paragraph 4, for reasons already stated by other delegations.

MR. INSFRAN (Paraguay), stressing his delegation's interest in ensuring that the declaration should be drafted in the best possible form, said he had voted against the final text of article 21 as a whole because he considered the original and briefer draft clearer than some of the paragraphs as amended. He had voted solely in accordance with his own conscience and judgment and had not been influenced by any outside factors. He had supported the Cuban amendments to paragraphs 1 and 3 of the original text (A/C.3/232/Corr.1) but had abstained on the amendment to paragraph 2.

He urged that article 21 should be reconsidered and to that end he supported the proposal made at the previous meeting by the representative of Peru.
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MR. HABIB (India) was certain that no members of the Committee wished to see the substance of article 21 omitted from the draft declaration. He therefore appealed to the Committee to reconsider the article and he urged the adoption of the original text.

MR. DE ATHAYDE (Brazil) had approved certain parts of the final text of article 21, but had voted against the article as a whole. A whole was satisfactory not only because of the value of each of its component parts but because it achieved unity and harmony. Those qualities, however, were not to be found in the text of article 21 on which a vote had been taken.

The Brazilian delegation supported the Peruvian motion for reconsideration of the article for it attached great importance to an explicit statement in the draft declaration concerning the right to work.

MRS. IKRAMULLAH (Pakistan) supported the appeal made by the United Kingdom representative at the 140th meeting, that the original text of article 21 should be adopted.

MR. LUNDE (Norway) felt it necessary to explain his delegation's vote because of the remarks that had been made by the USSR, Byelorussian and Ukrainian representatives.

The Norwegian delegation had favoured paragraph 1 of the final text of article 21 as well as the first sentence of paragraph 2, though it had had some doubts about the wisdom of repeating in that sentence wording that had already been used in a previous article. The second sentence of paragraph 2, however, was unnecessary, as the point it contained was fully covered by article 22; Norway had therefore opposed that sentence. He had supported the New Zealand amendment to paragraph 3, but after the rejection of that amendment, had accepted the original text. Paragraph 4, on the other hand, was not only unnecessary but meaningless and Norway had voted against it. Since two sentences which the Norwegian delegation found entirely unsatisfactory were included in the final draft, that text seemed unworkable and badly drafted and it had consequently voted against the article as a whole. Any suggestions that the Norwegian delegation had been prompted by any motives other than those he had stated were entirely out of order.

He expressed the desire that the Committee should reconsider article 21.

THE CHAIRMAN drew the Committee's attention to the Peruvian proposal that article 21 should be reconsidered and to the United Kingdom suggestion that new drafting amendments to the article could be received until the evening of 18 November. It had also been suggested that the Committee should postpone reconsideration of the article until some later point in its discussion of the draft declaration.

MR. ENCINAS (Peru) would not object to postponing reconsideration of the article.

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MR. PAVLOV (Union of Soviet Socialist Republics) emphasized that the various parts of the text of document A/C.3/342 had already been adopted and could not therefore be reconsidered. Consequently he proposed that any subsequent consideration of article 21 should be confined to possible additions to the parts adopted and to adoption of the article as a whole.

MRS. ROOSEVELT (United States of America) pointed out that it had always been the practice to consider rejection of a whole text to mean rejection of the various parts of that text even though they had been adopted separately. Any of the parts could, of course, be reintroduced and thus reconsidered.

She hoped the Chairman would rule on whether the original text submitted by the Commission on Human Rights could be considered again.

In reply to a point raised by MR. PÉREZ CISNEROS (Cuba), THE CHAIRMAN explained that adoption of the Peruvian motion would mean that the original text of the article and all the amendments submitted to it were again before the Committee.

MR. CASSIN (France) thought the Committee would not be legally bound by any decisions it had taken regarding the parts of article 21 if it voted by a two-thirds majority to reconsider the article. The Committee had the sovereign right to decide to change the article in any way it wished.

MR. ENCINAS (Peru) was opposed to the USSR representative's proposal.

MR. CHANG (China) urged that the Peruvian proposal should be put to the vote on the understanding that no particular text would be used as a basis for discussion but that any suggestion might be made which would lead to a satisfactory and generally acceptable text.

THE CHAIRMAN pointed out that the Committee would be faced with serious difficulties if it decided to receive new substantive amendments. New drafting amendments, however, could be made.

MR. WATT (Australia) thought the USSR view was incorrect for two reasons. Firstly, if a text as a whole was rejected, all its parts were automatically rejected. Secondly, rule 112 of the rules of procedure would apply whether a text were rejected or adopted; the Committee could therefore decide to reconsider the parts it had already adopted.

He agreed with the Chairman that any new amendments of substance would be out of order and he interpreted the Peruvian proposal to mean that the original text of article 21 and all amendments to it should again be considered.

MR. DEHOUSSE (Belgium), urging the Committee not to prolong its debate on procedure, agreed with the French representative that if the Committee voted to reconsider the article in accordance with rule 112 of the rules of procedure, [549] it would be entirely free to change the text as it saw fit.

He suggested that the disagreement over article 21 had arisen largely from a misunderstanding. A simple drafting change in paragraph 2, namely, changing the clause "without distinction as to race, nationality or sex" to "without any distinction", might make the article acceptable.

MR. PÉREZ CISNEROS (Cuba) asked the Chairman to rule whether adoption of the Peruvian proposal would mean that the original text was the basic text before the Committee. He did not agree that such was the case, but thought, like the French, Belgian and Chinese representatives, that the Peruvian proposal for reconsideration would not imply examination of any particular text.

If, however, some particular text was to be re-examined, the only one possible under rule 112 of the rules of procedure would be the final text which had been rejected by the Committee.

MR. ENCINAS (Peru) explained that his proposal plainly meant that the whole of article 21 as originally presented to the Committee by the Commission on Human Rights would be reconsidered.

MR. CHANG (China) said that the adoption of the Peruvian proposal would mean reconsideration of all the previous drafts of article 21. The amendments set forth in document A/C.3/298/Rev.1, as well as those put forward at the previous meeting, could be reintroduced and new changes of a purely drafting character could be suggested. The USSR proposal, on the other hand, would limit the Committee to reconsidering the separate parts of the article which had been adopted at the previous meeting, to which only additions could be suggested.

MR. WATT (Australia) felt that the USSR proposal was covered by the one put forward by the Peruvian representative and that no special status should be given to any particular text. In his view the Committee should take a decision on a motion somewhat along the following lines: "What should be the text of article 21, taking into consideration all the proposals that were made during the discussion as well as the text of article 21 as it appeared in document E/800?"

MR. AQUINO (Philippines) supported the Peruvian proposal, while MR. CARRERA ANDRADE (Ecuador) supported the suggestion of the USSR representative.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said that if the amended text of article 21 had been adopted at the previous meeting, there would have been no question of what text should be reconsidered by the Committee. It had been rejected because of the absence of several representatives. The provisions of rule 112 were perfectly clear, however, and applied equally to proposals that had been adopted or rejected. He therefore supported the point of view of the USSR and Cuban representatives.

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THE CHAIRMAN pointed out that owing to the lack of clarity in rule 112, both the Peruvian and USSR proposals were in conformity with its terms.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) supported the Chinese representative's interpretation of the purpose of the Peruvian proposal and the proposal itself. It was the customary procedure to vote on a text as a whole after having voted it in parts. If the text as a whole was rejected, the various component parts must also be considered as rejected.

MR. PÉREZ CISNEROS (Cuba) proposed that the Committee should accept the following wording: "The Committee decides, in accordance with rule 112 of the rules of procedure, to reconsider the proposal embodied in document A/C.3/342, which was rejected at a 141st meeting." In his opinion, the Peruvian proposal was

not acceptable, owing to the fact that article 21 had been amended and therefore had disappeared. According to the provisions of rule 112, the Committee could only reopen discussion on a question on which a vote had been taken.

THE CHAIRMAN was unable to accept the Cuban representative's interpretation of rule 112. Rejection of the text of article 21 at the previous meeting had been the final stage of the discussion.

MR. SANTA CRUZ (Chile) felt that the Committee was competent to decide whether to reconsider article 21 as drafted when the Chairman had submitted it for discussion, or simply in the form in which it appeared in document A/C.3/342. He appealed to the USSR and Cuban representatives, however, not to insist on their proposals as neither would obtain the support of a two-thirds majority of the Committee. Further, it would be unfortunate if such an important article were to be adopted by a narrow majority. Many representatives had voted against the amended text of article 21 only because they had felt that the wording was inadequate.

He therefore requested that a certain amount of time should be allowed for the submission of new amendments to the text set forth in document A/C.3/342.

THE CHAIRMAN supported the remarks of the Chilean representative.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed that the greatest difficulty which faced the Committee arose from the need for a two-thirds majority vote. Should the proposal to reconsider article 21 be rejected, it would mean that the right to work would not be included in the declaration and that the acceptance of the declaration would be endangered.

He agreed with the Chairman that rule 112 provided for the reconsideration of both adopted and rejected proposals. From the explanations that had been made concerning the vote on the text contained in document A/C.3/342, it could be seen that certain additions should be made to that text. In his opinion, however, it would not be sensible to reopen the whole general discussion [551] on the text of article 21 contained in document E/800. There would be a danger, for example, that representatives would reintroduce the whole series of amendments set forth in document A/C.3/298/Rev.1.

He therefore urged the Committee to reopen the discussion on the basis of document A/C.3/342.

MR. CASSIN (France) supported the remarks of the Chilean and USSR representatives concerning the desirability of drafting an article on the right to work. He could not accept the point of view that adopted texts were sacrosanct. The words "adopted or rejected", in rule 112, made it clear that adopted texts could be changed.

From the legal point of view, he could not accept the USSR or Cuban proposals. After that matter had been clarified the Committee could turn its attention to the practical issues involved. In that regard, he expressed the view that no representative would attempt to hinder the Committee's work by reintroducing an amendment that had already been withdrawn or rejected. He was convinced that agreement could be

reached by the introduction of very few changes in the text contained in document A/C.3/342.

MR. DEHOUSSE (Belgium) said he agreed with the French representative from the legal point of view, and felt it necessary to find a practical solution to the Committee's difficulties. He pointed out that even if the articles of the declaration were adopted separately, if the vote on the declaration as a whole was a negative one, the declaration would not exist.

As the Committee seemed to be in agreement concerning the need to include the right to work in the declaration, he suggested that the principle of reconsideration should be put to the vote, and once agreement had been reached on the principle, a small drafting group, which would include the authors of the various amendments to article 21, should be set up to prepare an agreed text.

The representatives of China, Peru and Cuba supported the Belgian proposal on the understanding that the group referred to by the Belgian representative would be an official drafting sub-committee.

MR. CARRERA ANDRADE (Ecuador) pointed out that there was no rule of procedure which forbade a second vote on the same question. In his opinion, the Committee was competent to overrule the technicality contained in rule 112 and to decide to vote again on the text contained in document A/C.3/342.

In reply to a query from the USSR representative, THE CHAIRMAN said there was nothing in the rules of procedure which provided for two successive votes on the same proposal.

MR. PAVLOV (Union of Soviet Socialist Republics) said he would accept the Belgian proposal, on the understanding that the body referred to would be a formal drafting sub-committee and that document A/C.3/342 would be taken as a basis for its discussion.

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MR. SAINT-LOT (Haiti) moved the adjournment of the meeting.

The motion for adjournment was rejected by 20 votes to 11, with 9 abstentions.

MR. DEHOUSSE (Belgium) said he had suggested an informal drafting group, because its terms of reference would be more flexible. He was, however, prepared to accept the suggestion for an official drafting sub-committee with broad terms of reference.

In reply to the representative of Ecuador, THE CHAIRMAN said he would regard a proposal to take a second vote on the text contained in document A/C.3/342 as an amendment to the rules of procedure, which required a two-thirds majority vote. It would be impossible for him to rule that a second vote could be taken on the same subject, as the rules of procedure now read.

The Chairman put to the vote the following proposal: "The Committee decides, in accordance with rule 112, to reconsider article 21."

*The result of the vote was 39 in favour, none against and 1 abstention.
The proposal was adopted, having obtained the required two-thirds majority.*

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) proposed that a vote should be taken immediately, and without further discussion, on the text contained in document A/C.3/342.

THE CHAIRMAN said he could not comply with the Byelorussian representative's request, because it was not in conformity with the rules of procedure.

MR. LUNDE (Norway) moved the adjournment of the meeting.

The motion was adopted by 26 votes to 4, with 3 abstentions.

The meeting rose at 1:30 p.m.

A/C.3/SR.143¹¹⁴

17 November 1948

***Summary Record of the Hundred and Forty-Third Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Wednesday,
17 November 1948, at 3:30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon)

68. Draft international declaration of human rights (E/800) (continued)

Article 21 (continued)

THE CHAIRMAN reminded the Committee that it had decided at its previous meeting to re-examine the text of article 21. That decision had been reached by a two-thirds majority in accordance with the rules of procedure.

There were two courses open to the Committee: it could either proceed to the consideration of that article immediately, or it could postpone it until the drafting committee which it had been proposed to establish had finished its work.

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MR. CHANG (China) thought that the decision taken by the Committee at its previous meeting could not lend itself to more than one interpretation. The Belgian representative's suggestion had been accepted on the clear understanding that the Committee would immediately set up a drafting committee.

¹¹⁴ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 552–64.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that the Chairman had not mentioned all possible courses open to the Committee. He thought there was a third course, namely, to vote again on the text of article 21 as it appeared in document A/C.3/342, without any preliminary discussion.

His proposal was not a formal one, but was made principally in order to have the opinion of members of the Committee on whether the text of article 21 should be voted upon again.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) asked the Chairman to call for an immediate vote on the proposal for setting up a drafting sub-committee, for a second vote could not be taken on article 21 without re-examining it. In his view, that proposal had priority over the one just made by the representative of the Byelorussian SSR.

MR. ENCINAS (Peru) agreed with the representative of Uruguay. He recalled that, during the previous meeting, the Committee had begun a discussion on procedure which had not been exhausted. Moreover, there was no longer any text which could be used as a basis for discussion.

MR. CONTOUMAS (Greece) and MR. GRUMBACH (France) thought that the essential point of the Belgian delegation's proposal had been to set up a drafting sub-committee. Since that proposal had been adopted, the time had come to put it into operation.

MR. PAVLOV (Union of Soviet Socialist Republics) and MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) were not of that opinion. In their view, the main point of the decision taken by the Committee had been the reconsideration of the text of article 21. That reconsideration should therefore be begun immediately.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) requested, further, that the general discussion on article 21 should be reopened.

THE CHAIRMAN, replying to the representative of the Ukrainian SSR, pointed out that as no formal proposal had been made to that effect, the Committee was not in any way called upon to consider article 21, as set out in document A/C.3/342.

With regard to the proposal made by the representative of the Byelorussian SSR, the Chairman ruled that it was not in accordance with the rules of procedure. In the first place, article 21 could not be put to the vote without previous general discussion.

Moreover, the text of article 21 had already been the subject of a decision taken by the Committee. The Committee had rejected that text. It [554] could not therefore be voted upon again unless the Committee so decided by a two-thirds majority. The procedural aspect under which the Byelorussian SSR proposal was submitted would, however, if that proposal was accepted, result in a second vote on article 21 by the decision of a simple majority, which was contrary to the express provisions of the rules of procedure.

MR. CHANG (China) asked that the discussion on the Uruguayan representative's proposal should be closed, and MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) asked for closure of the general debate.

The motion for closure was adopted by 26 votes to 7, with 3 abstentions.

THE CHAIRMAN put to the vote the question of setting up a drafting committee.

It was decided to set up a drafting sub-committee by 27 votes to 2, with 6 abstentions.

THE CHAIRMAN read out the list of members of the drafting committee, which would consist of representatives of the following countries: Argentina, Belgium, Cuba, Ecuador, France, Greece, Lebanon, New Zealand, Poland, Union of Soviet Socialist Republics, United Kingdom and United States of America.

He defined the terms of reference of the drafting sub-committee as follows. The drafting committee was instructed to prepare a draft text of article 21, taking into account all amendments submitted to the original text and all suggestions made in connexion with that text.

Article 22¹

MISS BERNARDINO (Dominican Republic) stated that, in submitting its amendment to article 22 (A/C.3/217/Corr.2), her delegation had wished to make the meaning of paragraph 2 quite clear.

Generally speaking, there was agreement on the need for granting special protection and assistance to women during pregnancy and in the nursing period. That was an indisputable principle, recognized in the legislation of most States, and one which her delegation wished to see set forth in article 22.

As it stood, however, the second paragraph of article 22 did not refer to expectant and nursing mothers only, but to all women who, having passed through those two phases, were classed generally as mothers. They did not enjoy any special advantages under existing laws; society did not afford them particular protection as mothers, even when they had to struggle under difficult conditions for a livelihood. Generally speaking, the law merely recognized the weakness of women without giving them the necessary weapons to protect that weakness.

For those reasons the delegation of the Dominican Republic wished to establish a clear distinction between the idea of special protection for expectant and nursing mothers and the protection

^[1] Article 26 of the draft universal declaration of human rights (A/777).

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which it would like to have recognized for other mothers as women.

In order that the inalienable right of women to request care and assistance during pregnancy – a right which was included in most legislations – should be established in a just and equitable manner, it was important to define that right clearly and to specify the exact period to which it applied. That was the intention of the amendment presented by the delegation of the Dominican Republic.

MR. PLEIC (Yugoslavia) did not consider that the amendment presented by his delegation needed detailed explanation because its provisions were clear in themselves.

Like discrimination on grounds of race, nationality or religion which affected entire social groups, discrimination against illegitimate children in certain countries, although it involved individuals only, was nevertheless a serious infringement of human rights and as such should not be tolerated.

Although he did not wish to discuss the reasons which even at the present time explained the inequality of treatment of children born out of wedlock in certain countries, Mr. Pleic noted that such children were deprived in varying degrees and in varying forms of family rights, property rights and inheritance rights; positions in certain departments and certain public offices were sometimes barred to them. Thus, from birth, numerous human beings suffered injury to their personal dignity and were deprived of fundamental rights.

In certain capitalist countries, the percentage of children born out of wedlock was as high as 30 per cent of the total number of children born. That meant that thousands of citizens were held responsible for a state of affairs that was completely beyond their control.

The Yugoslav delegation was of the opinion that the declaration could not ignore that form of inequality. It therefore requested the insertion of a provision to proclaim the equality of illegitimate and legitimate children and to guarantee children born out of wedlock the same social protection as that granted to other children. It was only in that way that the principle of the equality of all men in rights, proclaimed in article 1 of the declaration, would be fully implemented.

Mr. Pleic hoped that no one would raise the objection that article 1 was adequate to deal with the particular problem raised by his delegation. If that reasoning were followed to its logical conclusion, it could be stated that it would be sufficient for the declaration to contain only two articles: article 1, which would guarantee all human rights, and article 27, which would guarantee protection against any possible infringement of those rights. Nevertheless, the very aim of the declaration was to clarify the principle of the equality of individuals proclaimed in article 1, to emphasize the fundamental rights which were most frequently violated and to ensure the implementation and the enjoyment of those rights.

The fact that the fundamental rights of illegitimate children were constantly violated was proved by the existence, in the majority of contemporary positive legislations, of exceptional provisions for [556] the legitimation of illegitimate

children, i.e. provisions enabling them, on an individual and exceptional basis, to enjoy complete equality of rights with other citizens. Those provisions thus gave an official character to the violation of the principle of the equality of all men. On the contrary, that equality should be sanctioned by the declaration of human rights, and should no longer depend on individual action.

Mr. Pleic also hoped that no one would protest that the Yugoslav amendment would result in encouraging an increase in the number of illegitimate children. Essentially, the amendment was designed to abolish discrimination against certain children because of the circumstances of their birth. That discrimination did not exist in Yugoslavia where, by a series of highly important legislative acts, the State had prescribed measures guaranteeing children born out of wedlock absolute equality with legitimate children.

The Yugoslav amendment was based on the principle of social justice. The Yugoslav delegation therefore urged the Committee to include that principle in the declaration of human rights.

MR. COROMINAS (Argentina) stated that after listening to the explanation given by the representative of the Dominican Republic, he would vote for the text presented by the delegation for paragraph 2 of article 22 and that he would accordingly withdraw his own amendment to that paragraph (A/C.3/251).

Nevertheless, the Argentine delegation maintained its amendment to the first paragraph of article 22. The draft proposed by the Commission on Human Rights proclaimed the right of the individual and his family to health and wellbeing without retaining the broader idea of social security about which the Argentine delegation had expressed its views during the discussion of article 20 of the draft declaration.

Mr. Corominas stressed the difference between the Spanish idea of *seguros* and *seguridad social*. Social insurance was a benefit which society could enjoy if it so desired. That was only one of the methods which might contribute to guaranteeing the social security which the individual had the right to demand of society.

Mr. Corominas pointed out that it was impossible to speak of the right to a standard of living: the expression was incorrect and, indeed, incapable of definition. What should be ensured was the right to existence as well as the right to health and wellbeing. The right to existence could be defined within the framework of article 22 as the sum total of all economic, social and cultural factors which enabled men to live in the most desirable conditions which it was possible for the resources of the State and the community to offer him. It was therefore the necessity for a policy of social security that the Argentine amendment wished particularly to stress.

Moreover, Mr. Corominas stated that he was in favour of the amendment proposed by the Yugoslav delegation. He hoped that the Committee would be unanimous in recognizing the importance of the principle it embodied and in inserting it in the draft declaration.

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MR. LUNDE (Norway) expressed the view that the drafting of the first paragraph of article 22, as proposed by the Commission on Human Rights, was satisfactory as a whole. The Norwegian delegation was prepared to vote for it.

Paragraph 2 also summarized in very concise form the principal ideas which it was important to retain in order to ensure protection of motherhood and childhood. It did not, however, express as clearly as might be desired the principle of the social equality of legitimate and illegitimate children, a principle which the representative of Yugoslavia would like explicitly included in the declaration. While the amendment proposed by the delegation of the Dominican Republic had the advantage of implicitly including that principle by stating "Expectant and nursing mothers and all children", it was unsatisfactory in that it excluded mothers of large families, for example, from the special protection which it was desired to grant them by law.

Mr. Lunde was not certain that the wording suggested by the representative of Yugoslavia was completely satisfactory. He pointed out particularly that the equality of legitimate and illegitimate children was not an automatic consequence of the other rights proclaimed in the declaration, but would be based upon a right which must be guaranteed in article 22. Moreover, the term "illegitimate" was inappropriate legally. Mr. Lunde suggested that it should be replaced by "children whose parents have not contracted marriage", or "children born out of wedlock". If the representative of Yugoslavia accepted the modification which Mr. Lunde suggested, the Norwegian delegation would vote for the Yugoslav amendment.

Otherwise, the Norwegian delegation would vote for the text of the Commission on Human Rights with the reservation that it be drafted as follows: "All mothers and all children have the right to special care and assistance". That text would actually take into account implicitly the principle of the absolute equality of the right of all children whether or not they were born out of wedlock, a principle which, since 1915, had been guaranteed by Norwegian law with a single reservation regarding certain inheritance rights in connexion with landed property.

As for the other amendments, the Norwegian delegation would not favour the proposals of the USSR (E/800, page 35), Argentina and New Zealand (A/C.3/267), which did not improve the original text, or the Egyptian amendment (A/C.3/264), which was covered by the provisions of paragraph 1. On the other hand, it approved the Lebanese amendment (A/C.3/260) and agreed that the provisions of paragraph 2 should form a new paragraph in article 14, especially if the Yugoslav proposal were adopted.

MR. DE ATHAYDE (Brazil) considered article 22, which guaranteed the rights of the individual to material wellbeing, as one of the most important articles in the declaration. Food, clothing, housing and medical care were vital necessities not only for the individual but for society and for the State. Neither society nor the State

could continue to exist unless the individual enjoyed the minimum standard of living which that article aimed to guarantee. Protection of the family, security in case of unemployment, sickness, disability old age, etc. were rights which were important to society as a whole.

Protection of motherhood and childhood was a matter of public interest. In places where mother and child received the care to which they were entitled, human life developed harmoniously. Brazil had made great efforts in that field. To do so, difficulties arising from extensiveness of its territory and the low density of population had had to be overcome. Much good work had been done in that field so that mother and child could enjoy complete protection, as proclaimed in article 22 of the declaration.

After consideration of the amendments which had been proposed to that article, the representative of Brazil was of the opinion that they added nothing to the draft submitted by the Commission on Human Rights. Article 22 was entirely satisfactory and should be approved in the form in which it stood.

MISS ZULOAGA (Venezuela) was also of the opinion that the original text of article 22 was better than most of the amendments which had been submitted, and that it laid down the exact scope of the right to be established. That was especially true of paragraph 2 which, by the term "mother", provided special aid and assistance to all mothers without any exception.

The Venezuelan delegation supported, however, the amendment submitted by the delegation of Egypt.

It would also vote for the inclusion of the principle of the equality of legitimate and illegitimate children in the declaration of human rights, a principle which was in conformity with its country's Constitution.

MR. CONTOUMAS (Greece) stated that his delegation would once more give its unreserved support to the text of article 22 prepared by the Commission on Human Rights.

The amendment submitted by the delegation of the Dominican Republic did not in any way modify the substance of paragraph 2, since the word "mother" comprised both expectant and nursing mothers.

The USSR amendment once again introduced the idea of the duty of the State; the Greek delegation was anxious to reaffirm that it supported the principle that it was, in the first place, the duty of the State to make the rights laid down in the declaration of human rights a reality; but it was opposed to the inclusion of a reference to that principle in every article; it would see no objection to the addition of a special article to that effect at the end of the declaration. The USSR amendment contained, moreover, a new element in that it laid the responsibility for social insurance on the State and the employer, while in certain countries at least part of that responsibility fell to the insured person; moreover, details concerning forms of insurance,

which varied from country to country, could not be included in the body of the declaration of human rights.

Mr. Contoumas could not support the proposal of the Yugoslav delegation either; it rested on a fundamental error in that it considered the legal position of the child, while the declaration was concerned with the individual, be it man or child, as a member of society; as a human being, the illegitimate child had all the rights laid down in [559] the declaration without any consideration of his legal status. There was therefore no reason to suggest that the original text of article 22 sanctioned discrimination against illegitimate children.

The Lebanese amendment was not justified either, for article 14 dealt with the rights of the family as the nucleus of society, while article 22 dealt with the rights of mother and child as individual members of society.

The Greek delegation thought highly of the Egyptian proposal on the protection to be given to old age, and would vote for it.

Nevertheless, it preferred the original text to the Argentine amendment, which was not clear, and, everything considered, to that of New Zealand.

Mr. Contoumas wished however to draw the Committee's attention to the French wording of article 22; it was not, he thought, an exact translation of the English text, which he preferred. In the French text, the notions of the standard of living and social services were not separated, as they were in the English text; moreover, the adverb *notamment* did not have quite the same meaning as the term "including" in the English text.

MRS. NEWLANDS (New Zealand) recalled that her delegation had asked that the words "social security" in article 20 be deleted (A/C.3/267). It had withdrawn its amendment to that article with the intention of returning to that point when article 22 was discussed, since the latter dealt especially with social security.

The New Zealand delegation was aware of what that principle meant for millions of human beings, and for that reason it had considered it advisable to put the emphasis on social security in article 22. That was the purpose of its amendment.

Moreover, Mrs. Newlands did not find the wording of the basic article satisfactory.

The clause: "Everyone has the right to a standard of living" seemed to her devoid of any meaning. She wondered what standard of living would have to be guaranteed, whether it was to be that of the poorest peasant or that of the richest prince. It could be argued that "standard of living" was explained by the words "adequate for the health and wellbeing of himself and his family", but the wording of that first paragraph should nevertheless be improved. Moreover, the present text wrongly implied that "social services" were not part of the standard of living.

Moreover the article stated that an individual "has the right to social services adequate for the health and wellbeing of himself and his family"; the family itself,

therefore, enjoyed that right only through the head of the family. Consequently, that last clause was restrictive.

Mrs. Newlands read out the amendment submitted by her delegation and stressed the fact that it had given a first place to social security since all other benefits derived from it.

For the sake of conciseness, the reference to mother and child, which made up a second paragraph in the original text, had been included in the single paragraph. That did not mean that the [560] rights of mother and child were of secondary importance. In any case, if the Committee supported the amendment of the Dominican Republic, the New Zealand delegation would endorse that amendment and would delete the words referring to mother and child in its own text.

In conclusion, she stressed the importance in her country and in other countries of social security, through which the community assumed responsibility for each one of its members.

MRS. ROOSEVELT (United States of America) thought that all members of the Committee were agreed that article 22 proclaimed one of the fundamental rights of the individual: the right to social security.

The Commission on Human Rights had drafted that article with the greatest possible care. Paragraph 1 was based on a proposal made by the International Labour Organization,¹ and paragraph 2 had been adopted following a recommendation of the Commission on the Status of Women.

She then referred to the following passage of the amendment submitted by the Cuban delegation to article 21: "Every person who works had a right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and his family." She regretted she had not fully understood the meaning of that amendment the previous day. She had in fact not realized that it was a question of taking the wage-earner's family responsibilities into account when considering wages. She thought the principle underlying the amendment was a very fair one and should be stated in the first paragraph of article 22. She proposed therefore that, after the words "standard of living", the words "which shall take into account the needs of his family" should be inserted (A/C.3/343). By accepting that suggestion, the Committee would be helping social welfare workers and all those interested in the question of family welfare.

Mrs. Roosevelt considered the USSR amendment contained too much detail. Moreover, by emphasizing the State's obligations, it went beyond the scope of the declaration and altered its legal form. The declaration should be a statement of principles. The State's obligations would be laid down in the covenant.

As for the Yugoslav amendment, she thought it concerned social policy and legislation, and was out of place in the declaration. In any case, paragraph 2 of

article 22 provided for the protection of all children, without any discrimination. There was therefore no need to state specifically that illegitimate children should enjoy the same protection as other children.

She could not support the Argentine amendment; she considered it merely another version of the basic text, which did nothing to improve it.

She then replied to the objections raised by the representative of New Zealand concerning the drafting of the article. She thought that the term “standard of living” was very well defined in paragraph 1. Moreover, the amendment she her-

[¹] See E/CN.4/SR.70.

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self had just proposed should give that paragraph greater clarity.

She was not opposed to the amendment presented by New Zealand, but she thought that the basic text, which had been supported by the International Labour Organization and the Commission on the Status of Women, should obtain the approval of the Committee.

MR. LUNDE (Norway) was quite prepared to support the amendment proposed by the United States, but thought it would be preferable to say: “which shall take into account not only his own needs, but also those of his family”.

He thought that that amendment would render even more necessary the deletion of the last eight words in French or the last five words in English of paragraph 1.

MR. PÉREZ CISNEROS (Cuba) thanked the United States delegation for having taken up again, in its amendment to article 22, the idea which inspired the Cuban amendment to article 21.

His delegation had considered it necessary to stress the fact that pay should not merely be based on the work done. The remuneration of the work should also take into account the workers’ responsibilities.

He explained that, if the amendment proposed by the United States were adopted, his delegation would withdraw its amendment to article 21. Otherwise, it would maintain it.

He thought that article 22 satisfied the aspirations of many of the Latin American countries and reflected the principles stated in the texts adopted at Bogotá.

He then examined the various amendments to article 22.

The text proposed by the Dominican Republic for paragraph 2 seemed to him better than the original text.

He supported the amendment proposed by Yugoslavia, and regretted that only one delegation had pronounced itself in favour of that amendment. It stressed a principle which had been recognized by the most recent Constitution of Cuba. His delegation attached much importance to it and asked that, when the amendment was put to the vote that vote should be by roll-call.

MR. GRUMBACH (France) thought article 22 was satisfactory in principle. An effort should nevertheless be made to improve its drafting. For that reason he suggested the following wording for paragraph 1:

“Everyone has the right to a standard of living that will provide for the wellbeing of himself and his family, including food, clothing, housing, medical care and the necessary social services for safeguarding his health and affording security in case of unemployment, sickness, disability, widowhood, old age or other loss of livelihood.”

Mr. Grumbach hoped that, as now worded, the amendment would meet the objections of the representative of Greece.

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He pointed out that he had drawn upon the New Zealand amendment when taking into account the disabilities caused by widowhood. He trusted that the Committee would approve of the addition of the word “widowhood”.

Mr. Grumbach thought it would be advisable to substitute for paragraph 2 the draft proposed by the Dominican Republic, which was clearer and more concise.

He recognized that the Yugoslav amendment was well founded. It was just that illegitimate children should be assured the same rights as legitimate children, but that problem should not arise in connexion with article 22. In questions of social protection, legal status should not give rise to discrimination. The child should be protected according to its needs, and it was rather its social level that should be taken into account.

The representative of France shared the view of the representative of the United States regarding the Argentine amendment; it only changed the form of article 22, and it therefore served no purpose to substitute it for the original text.

MR. PÉREZ CISNEROS (Cuba) approved the new draft proposed by the representative of France, and asked that it should be distributed in the form of a document, so that the members of the Committee could study it.

MR. PAVLOV (Union of Soviet Socialist Republics) wished to draw attention to the great importance of the problems dealt with in article 22. The various questions regarding standard of living, social security, social insurance, protection for mothers and children, were vital, especially for the working classes. It was unfortunately manifest that the years which had followed the last war had been marked by a progressive lowering of the standard of living in many capitalist countries, even in countries which had considerable resources. It was to be noted that the expenditure necessitated by the switch-over from a war to a peacetime economy and by the economic revival of those countries had a direct effect on the workers' standard of living. A few examples would suffice to illustrate that fact. In the United States of America, where production had reached 80 per cent of its pre-war level, the profits of the monopolies and private industries had increased; from

24 thousand million dollars in 1939, they had risen to 30 thousand million after the Second World War. Similarly, in France the real wages of the workers were now half what they had been before the war, although the profits of the French capitalists represented 43 per cent of the national income. Those examples would be enough to give a fair idea of the particularly difficult living conditions with which the workers were faced in those countries.

In the Soviet Union, on the contrary, the rise in the standard of living and the guarantee of social security for the workers had been the constant care of the Government. Salaries had risen to double what they were in 1940, and a general plan was being carried out for the improvement of the workers' standard of living, involving the [563] building of schools and hospitals, for instance. Moreover, the USSR Government was endeavouring to eliminate the underlying causes of hard living conditions for the workers. It combated unemployment for instance, and was striving to forestall economic crises, and it gave the workers real and effectual aid.

That sketch of the workers' living conditions in the Soviet Union explained the position of the USSR delegation in respect of the principles set forth in article 22. Those principles were in accordance with those expressed in the USSR Constitution, and for that reason Mr. Pavlov supported them warmly. The amendments proposed by his delegation to that article were meant to extend to the workers of the whole world the benefits already enjoyed by the workers of the USSR.

Mr. Pavlov emphasized the importance of the principle that workers should be covered by social insurance at the expense of the State or the employer, according to the special conditions prevailing in each country. The principle of social insurance could be interpreted in very different ways. In the United Kingdom, for instance, the workers themselves paid the contributions, and not their employers or the Government. In short, the workers did not receive the help in that field because it was they, in fact, who contributed the financial reserves on which they would draw in case of need, in the form of social insurance. The reason behind such a system was not far to seek. The capitalist bourgeoisie realized that the present degree of social evolution of the world demanded a system of social insurance, if only to cope with serious social unrest, but it did not wish to bear the expense. It had therefore thought of making the working classes alone bear the whole cost of that insurance. As might well be imagined, that was not the USSR Government's point of view. That Government wished the working classes to be the real beneficiaries of social insurance, and therefore took upon itself all expenses in connexion therewith. In the USSR the allocations for social welfare services had doubled since the war; for 1950 they would amount to about 61,600 million roubles. In that country, the workers' social insurance

benefits were guaranteed by the State, and Mr. Pavlov hoped that the workers of other countries might have the same guarantee. That was the reason for his amendment.

Similarly, with regard to free medical attention, Mr. Pavlov recalled that in the USSR, medical care was not a commercial enterprise, but was considered solely from the humanitarian point of view; that was the only admissible point of view. In that connexion, Mr. Pavlov approved highly of the first amendment submitted by the Argentine delegation, which mentioned measures to be taken in the field of medical treatment; he was prepared to accept it if that delegation, in its turn, would accept the second part of the USSR amendment.

Finally, the last clause of the USSR amendment referred to the necessity for providing de-[564]cent housing. Mr. Pavlov considered that point very important.

In conclusion, he would point out that various objections raised, alleging that the inclusion of the USSR amendment to article 22 would alter the juridical character of the declaration, were unfounded.

MR. CHANG (China) proposed the following wording for the first paragraph of article 22:

“Everyone has the right to a standard of living adequate for the needs of his family and himself, including food, clothing, housing, medical care and social services, and to security in the event of unemployment, sickness, disability, widowhood, old age or other loss of livelihood owing to circumstances beyond his control.”

The meeting rose at 6:15 p.m.

A/C.3/273/Rev.1*

18 November 1948

Original Text: French, English

**Turkey: Amendment to Article 23
of the draft Declaration (E/800)**

- (1) Delete the words “free and” in the first paragraph.
- (2) Add as a second paragraph the following sentence:

“Everyone has the right to receive, free, at least a preliminary education.”

[*] This corrigendum also applies to the Turkish amendment as it appears in corrigendum in Document A/C.3/300.

A/C.3/347/Rev.1

18 November 1948

China: Draft Amendment to Article 22

1. “Everyone has the right to a standard of living adequate for the health and wellbeing of his family and himself, including food, clothing, housing, medical care and necessary social services, and to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

2. “Motherhood and childhood are entitled to special care and assistance.”

A/C.3/348

18 November 1948

**Australia: Amendment to article 22
of the draft Declaration (E/800)**

Paragraph 2: Substitute the following text:

“All mothers, including expectant and nursing mothers, and all children, including illegitimate children, are entitled to special care and assistance.”

A/C.3/349

18 November 1948

**Ecuador: Amendment to article 22
of the draft Declaration (E/800)**

- (a) In paragraph 1: insert the word “*decent*” before “*housing*”.
- (b) For paragraph 2 substitute the following text:

“Expectant and nursing mothers and all children, illegitimate as well as legitimate, have the right to special care and assistance.”

A/C.3/350

18 November 1948

Original Text: French

(Article 22)

France: Amendment to Document A/C.3/347/Rev.1

Everyone is entitled to a standard of living which, by means of his personal resources supplemented by social services, will be adequate to guarantee his and his family's health and wellbeing, including food, clothing, housing and medical care. He is similarly entitled to security in the event of unemployment, sickness, disability, widowhood, old age or in any other case of loss of livelihood owing to circumstances beyond his control.

A/C.3/351

18 November 1948

Original Text: French

Ecuador: Amendment to the Preamble

For the present text of the Preamble substitute the following:

“Whereas the peoples of the United Nations consider that the historic moment has arrived for proclaiming, across all frontiers their faith in human freedom and dignity as the sole means of obtaining peace in the world;

“Whereas it rests with States to safeguard human freedom by recognizing and respecting in full equality and by the same methods, those individual rights which are calculated to promote the progress of the human person and of society;

“Whereas a common understanding of human rights is indispensable for ensuring that they be universally respected, and the possession of a juridical standard to serve as the foundation of a social, free and peaceful existence and eliminate the causes of domestic and international disputes is essential to mankind.”

“Whereas disregard and contempt for human rights are the main cause of wars and insurrections, since the oppressed ever seek to revolt against tyranny;

“Whereas the establishment of the reign of law can alone improve the living conditions of mankind in fullest freedom;

“The General Assembly

“Solemnly adopts this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society shall strive to promote respect for these rights and freedoms and to secure their universal recognition and observance, both among the peoples of Member States and among the peoples of territories of such other countries as may desire to subscribe to its principles.”

A/C.3/SR.144¹¹⁵

18 November 1948

***Summary Record of the Hundred and Forty-Fourth
Meeting [of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Thursday,
18 November 1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

69. Draft international declaration of human rights (E/800) (continued)

Article 22 (continued)

MR. LUNDE (Norway) moved that speeches made on points of order and in explanation of votes should be limited in duration to two minutes each.

MR. SANTA CRUZ (Chile) proposed that the limit should be fixed at five minutes.

The Chilean proposal was adopted by 23 votes to 5, with 7 abstentions.

THE CHAIRMAN reopened the general debate on article 22 and the amendments to it.

MR. LUNDE (Norway) supported the first paragraph of the Chinese amendment (A/C.3/347) with the exception of the final phrase, “in circumstances beyond his control”, which in his opinion restricted unduly the very guarantees which the article was intended to provide. He urged strongly that the phrase should be deleted.

MR. WATT (Australia) stated that, in view of progressive social security measures adopted in his country, his delegation felt a particular interest in article 22.

Most of the amendments submitted to that article reflected no basic difference in substance with the original text, which, it should be remembered, had been drafted with the assistance of representatives of the International Labour Organization and the Commission on the Status of Women. That text might, of course, bear improvements of [565] style; it was, however, satisfactory in the main and should not be amended more than absolutely necessary.

¹¹⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 564–72.

He was rather dubious about the United States amendment (A/C.3/343). In the original text, the phrase “adequate for the health and wellbeing of himself and his family” plainly referred to a standard of living and, incidentally, met the point raised by the Cuban representative which the United States amendment was intended to satisfy. The United States amendment appeared to mean that, as regards a standard of living, the needs of the family should be merely taken into account and that the more satisfactory phrase quoted above applied exclusively to health and wellbeing.

Although the New Zealand amendment (A/C.3/267) was attractively simple and clear and brought in the question of widowhood, it omitted the vital reference to a standard of living adequate for the individual and his family. Moreover, the words “social security” should not be repeated in article 22, since they were used in a different sense in article 20.

He consequently preferred paragraph 1 of the Chinese amendment, but agreed with the Norwegian representative that the phrase “in circumstances beyond his control” should be deleted: no one would argue, for example, that an alcoholic should be denied assistance, even though he himself was responsible for his plight.

Paragraph 2 of the Chinese amendment covered the intention of the Dominican amendment (A/C.3/217/Corr.2), the actual text of which failed to make any provision for mothers of children past infancy.

With respect to the Yugoslav amendment (A/C.3/233), he observed that, while no one could quarrel with the principle that the same social protection should be extended to both legitimate and illegitimate children, it would hardly be feasible to proclaim that they were equal in civil rights, in view of laws existing in most countries with respect to inheritance and succession.

In order to meet the intentions of both the Dominican amendment and the portion of the Yugoslav amendment which appeared generally acceptable, Mr. Watt suggested that paragraph 2 should be redrafted to read as follows (A/C.3/348):

“All mothers, including expectant and nursing mothers, and all children, including illegitimate children, are entitled to special care and assistance.”

MR. SANTA CRUZ (Chile) thought that article 22 was one of the most important in the declaration inasmuch as it laid special emphasis on the right of the individual to an adequate standard of living for himself and his family and guaranteed his social security.

He was opposed to the USSR amendment (E/800, page 35) dealing with social insurance, inasmuch as that concept was narrower than that [566] of social security, which could be ensured not only by State action but by other means as well.

He supported both paragraphs of the Chinese amendment, on the understanding that paragraph 2 included any children, legitimate and illegitimate, and thus met the point of the Yugoslav representative. He thought, however, that the words “and wellbeing” should be inserted after the word “needs” in paragraph 1 of the Chinese amendment.

MR. COROMINAS (Argentina) withdrew his amendment to article 22 (A/C.3/251).

MR. CARRERA ANDRADE (Ecuador) remarked that article 22 fulfilled some of the promises made in earlier articles of the declaration by attempting, in a practical way, to guarantee an adequate standard of living. It should be noted, however, that its provisions fell short of actual achievements in the field of social security attained in Ecuador and in a number of other Latin American countries and did not represent any progress in implementing the principle of freedom from want proclaimed in the Atlantic Charter. There was, furthermore, a reference to better standards of life in the preamble to the declaration itself; it was regrettable that article 22 failed to call for further improvements.

He supported the original text of paragraph 1 with the addition of the United States amendment and of the word “decent” before the word “housing”.

He suggested the following wording for paragraph 2, combining the ideas contained in the Dominican and Yugoslav amendments (A/C.3/349): “Expectant and nursing mothers and all children, illegitimate as well as legitimate, have the right to special care and assistance.”

MR. KAYALY (Syria) supported paragraph 1 of the Chinese amendment and paragraph 2 of the basic text.

He was opposed to the USSR amendment for the following reasons: paragraph 1 imposed a responsibility on States, whereas the declaration should confine itself to proclaiming the rights of individuals; the idea of paragraph 2 was included in the original text; and paragraph 3 was covered in article 20.

He was equally opposed to the Yugoslav amendment. While he fully agreed that legitimate and illegitimate children were entitled to the same social protection, to grant equal civil rights to illegitimate children might serve to discourage legal matrimony and would conflict with the principle, already stated in the declaration, that the family was the fundamental group unit of society.

The Lebanese amendment (A/C.3/260) did not appear well founded; special care for mothers and children should be mentioned in an article dealing with social rights, as did article 22.

MRS. BEGRUP (Denmark) supported paragraph 1 of the Chinese amendment, although she [567] would prefer its final phrase to be deleted. She was pleased to see that both in paragraph 2 of that amendment and in the corresponding paragraph of the original text it was considered that mothers and children had the right to special care and assistance and that a matter of social justice rather than charity was involved.

She thought the Yugoslav amendment most appropriate. It was necessary to include in the declaration a statement that illegitimate children should enjoy the same legal rights and social protection as legitimate children. She thought the best drafting of that idea was to be found in the second alternative of the Norwegian amendment (A/C.3/344) to the Yugoslav amendment.

Although the adoption of various amendments might result in a clumsy text, it should be remembered that the Committee was voting on ideas, some of them new and worthwhile, ideas submitted by representatives of the forty countries which had not collaborated in drafting the text submitted by the Commission on Human Rights, and not on the actual wording, which could be improved by a drafting sub-committee.

It had been frequently said that the declaration would not be a legally binding document. As a statement of general principles, it was expected to exercise a moral influence on the people of the world. Since the living conditions and security of illegitimate children were determined by public opinion even more than by law, it was essential to include an appeal in favour of those children in the declaration.

MR. PLEIC (Yugoslavia) stressed the fact that to proclaim the need of equal social protection for illegitimate children without at the same time proclaiming their legal equality would mean to sanction legal inequality. He was consequently unable to agree to the deletion of the first part of his amendment. He was glad to see that a number of representatives supported his amendment and that no serious objection had been raised to it. The United States representative had failed to explain the reasons for her opposition.

In reply to the French representative, he said that he had presented his amendment precisely because different social systems existed; had the Socialist system been universal, the provision would not have been needed.

He felt that article 22, which dealt with the question of social protection, was the proper place for his amendment. If the amendment were accepted in principle, however, its position in the declaration could be determined later.

He accepted the second alternative of the Norwegian amendment to his own, and pointed out that the French equivalent of "are equal in rights" should be *sont les égaux en droits*.

MRS. CORBET (United Kingdom) said that she had originally intended to support the original text because she was not in favour of altering the clear and concise statements submitted by the Commission on Human Rights. She had also thought of supporting the United States amend-[568]ment because it met the aims of the Cuban amendment to article 21 (A/C.3/232/Corr.1). The Chinese amendment, however, had now become the best draft; it was clearer, briefer and took into account the best parts of all the other amendments.

Her objection to the Norwegian amendment was that it failed to take into account cases where a deliberately idle individual might lay claim to protection unjustifiably. The Dominican amendment was – probably unintentionally – restrictive: the mother's need for protection extended beyond the period of nursing.

The Chinese amendment fully covered the substance of both the Dominican and the Yugoslav amendments. She agreed with the Yugoslav representative that no distinction should be made between legitimate and illegitimate children in the field

of social security; indeed, in her country, no such distinction was made. Other countries did permit such discrimination; but discrimination as such was prohibited by the declaration as a whole. The word “childhood” in the Chinese amendment covered both legitimate and illegitimate children. If that were not accepted, the Australian amendment would be preferable to the Yugoslav, because the proposal made in the latter that equal rights should be granted to illegitimate and legitimate children went too far and might cause legal difficulties in such cases as inheritance. She hoped that the Yugoslav representative would not insist that his proposal should be retained.

There was some logic in the Lebanese amendment, but a proper distinction should be made between the idea of protection for women and children as set out in article 22 and of the family as the fundamental group unit of society as defined in article 14.

She opposed the New Zealand amendment – interesting though it was – because it omitted to mention the right to an adequate standard of living. The Chinese amendment, in any case, covered the ground more fully. That amendment, too, covered the ground of paragraphs 2 and 3 of the USSR amendment; the differences were merely a matter of wording. She could not, however, support paragraph 1 of the USSR amendment. It would be inappropriate to introduce the idea of social insurance. In her own and other countries social insurance implied payment of premiums by the workers; if no premiums were paid, the system would be more correctly known as social security. That part of the USSR amendment, therefore, was confusing.

MRS. NEWLANDS (New Zealand) said that she still felt that her delegation’s amendment was the best; there had been no cogent argument against it. She pointed out that the original text had not been approved by the International Labour Organization, the representative of which had informed the Commission on Human Rights that [569] social security was the correct term for the subject it had in mind.¹ The Commission, however, could not agree to use those words in the present context. The representative of the United States had argued that the Commission’s text was well balanced; but her own amendment destroyed that balance. The Chinese amendment had met some of the objections on drafting points. She would not insist on the New Zealand amendment if the Chinese representative would consent to the insertion of the word “social” before the word “security”, where it would cover the other rights contained in the paragraph. She would consent, too, to a separate statement of motherhood’s right to protection in a second paragraph.

MR. CASSIN (France) said that he would have supported the English version of the present text. The French version, however, had defects. He would not insist upon the French amendment (A/C.3/346) and saw no objection to using the

Chinese amendment as a basis for the discussion. The words “health and well-being” should be substituted for the word “needs” in that amendment, restoring the very important idea of health from the Commission’s text. He disagreed with the Chinese drafting where it appeared to place social services on the same level as food, clothing, housing, etc. It was through social services that an adequate standard of living could be obtained; social services should furnish food, clothing and housing. He proposed, therefore, that the distinction should be expressed by the substitution of the words “and has also the right to” for the words “and to” before the word “security” in the Chinese amendment, thus virtually restoring the basic text.

He could not support the New Zealand amendment. All too few countries had a system of social security as broad as that of New Zealand. To insert the idea of social security in that sense might create serious differences of opinion. He also disagreed with paragraph 1 of the USSR amendment. France, like the USSR, had a system of social insurance, but many countries had not. The more general term was therefore preferable.

He accepted paragraph 2 of the Chinese amendment. It covered the substance of the Dominican and Yugoslav amendments, and the use of the generic terms “motherhood” and “childhood” were adapted to the French text of the Commission’s article. With regard to the Yugoslav amendment, equality of rights as between illegitimate and legitimate children should be included – if at all – in article 14. The declaration, however, could not state their equality before the law, because that went too far beyond a statement of general principles.

^[1] See E/CN.4/SR.70 and E/CN.4/SR.71.

[570]

MISS KLOMPÉ (Netherlands) said she agreed with the Yugoslav representative in principle that illegitimate children should not have to bear the responsibility for the defects of society, but she could not support his amendment because it went too far by claiming equal rights in general for legitimate and illegitimate children. Not only was that impossible in accordance with the law in many countries, but it would mean a denial of the importance of the marriage bond and of the principle that the family was the fundamental group unit of society. She feared that the Yugoslav amendment would harm rather than benefit children by constituting an inducement to beget and bear children out of wedlock. She requested a roll-call vote on the Yugoslav amendment.

She supported the Chinese amendment, because it was preferable to the basic text and included the substance of the Australian (A/C.3/348) and the United States amendments (A/C.3/343). Paragraph 2 of that amendment was preferable to that submitted by the Dominican representative; the latter was too restricted. The word “motherhood” included all mothers in any condition.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) pointed out that most of the rights mentioned in article 22 had long been in force in his country and their scope was being progressively extended. There were bonus and pension schemes for gainfully employed persons and special care was provided for mothers and children. The basic text of the article was inadequate to reflect and extend such progress. He would, therefore, support the USSR, Yugoslav and Dominican amendments. It was essential to include a provision for the right to social insurance, since he believed that was prohibited in some countries. It was equally important to state explicitly the right to medical care and decent housing and that the State and society should be required to ensure a real opportunity of enjoying those rights.

Arguments had been voiced that the Yugoslav amendment was inopportune. It was, on the contrary, essential to state explicitly that no discrimination should be permitted against illegitimate children, because discriminatory laws against illegitimacy existed in some countries.

MISS BERNARDINO (Dominican Republic) thanked the Argentine and Cuban representatives for withdrawing their amendments in favour of hers, and the representatives of France, Ecuador and the Ukrainian SSR, who had agreed that her amendment contained a universally accepted idea. She would, however, gladly accept the Chinese amendment in the interests of harmony. She thought that the Yugoslav amendment should find its place in national legislation rather than in the declaration. She could not, however, bring herself to vote against it after she had struggled for the rights of illegitimate children for so many years.

[571]

MR. PAVLOV (Union of Soviet Socialist Republics) stated that his delegation attached special importance to the inclusion of the right to social insurance. He could not agree that there were only differences of drafting between his amendment and the other texts. The USSR amendment went much deeper than the others: the right to social insurance must be guaranteed to anyone who was gainfully employed, and that guarantee must be implemented. Such social insurance must not be provided at the expense of the worker, as it was in certain countries. The USSR system – by which the State assumed full responsibility for the workers' provident funds – could perhaps not be extended in its entirety to all other countries, but he believed the principle should be explicitly stated; it would not be redundant to do so.

Medical assistance was not merely an item in an adequate standard of living but a specific right. The sanitary measures mentioned in the Cuban (A/C.3/232) and Argentine (A/C.3/251) amendments were quite as important as medical care. Great progress had been made in the USSR in the eradication of disease and in the provision of free medical care, in contrast to conditions elsewhere, where poverty often prevented access to proper medical assistance and thereby

undermined the health of the nation. The right to medical assistance, even if not completely free, should, therefore, be stated.

He agreed with the representatives of Norway and Australia that the Yugoslav amendment would be improved by certain drafting changes; but, with that exception, it should be accepted.

MR. PÉREZ CISNEROS (Cuba) regretted that the United States amendment did not satisfy him and hoped that it would be withdrawn. He would have supported it, but in the context of article 21, not of article 22. He would submit a compromise amendment but reserved his right to insist upon retaining the substance of his amendment in the drafting sub-committee.

MR. CHANG (China) said that he could accept certain drafting changes to his amendment. He agreed with the French and Chilean representatives that the words "health and wellbeing" should be restored; they should be substituted for the word "needs". He could not, however, wholly agree with the representative of France; social services certainly implied a support for an adequate standard of living, but they were not on the same level. It would, however, be possible to give emphasis to social services by inserting the word "necessary" before those words; it would refer to food, clothing, housing, etc. The word "and" would then be substituted for the comma after the word "housing".

He did not agree with the New Zealand proposal to insert the word "social" before the word "security". Social security had been mentioned in article 20, which had been intended to cover the subsequent articles. To repeat the words again in the present context would narrow their meaning. [572] He agreed with the representative of Uruguay that the word *seguridad* was a more accurate translation of the word "security" than the word *seguros*, which implied insurance.

He did not object to the Norwegian proposal that the phrase "in circumstances beyond his control" should be voted separately. It might be well to include the words, however, because they would tend to encourage self-reliance.

The Australian alteration of paragraph 2 might be acceptable. His own abstract terms "motherhood" and "childhood" could not be used with the words "have the right"; the words "are entitled" should therefore be substituted in the English text.

Replying to the representative of the Dominican Republic, he pointed out that the word "childhood" covered all children born in or out of wedlock. He was glad to note that the USSR representative believed that the Yugoslav amendment needed drafting changes. That amendment would be voted on by roll-call, but he suggested that a vote should first be taken on its principle and, if that were accepted, the drafting changes could then be made. He agreed with the representatives of the Dominican Republic and France that the Yugoslav amendment in its present form

was inappropriate to article 22 and belonged rather in some article dealing with the protection of social status.

MRS. ROOSEVELT (United States of America) withdrew her amendment (A/C.3/343) in favour of the Chinese amendment.

MISS BERNARDINO (Dominican Republic) disagreed with the representative of China: the words “have the right” should be retained in the English text of paragraph 2. If the Chinese text were put to the vote, she would make an amendment to substitute those words for the words “are entitled”.

The meeting rose at 1:20 p.m.

A/C.3/SR.145¹¹⁶

18 November 1948

Summary Record of the Hundred and Forty-Fifth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Thursday,
18 November 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

70. Draft international declaration of human rights (E/800) (continued)

Article 22 (continued)

THE CHAIRMAN reminded the Committee that the general discussion of article 22 was closed, and asked the Committee to vote on the various amendments which had been submitted.

MR. CHANG (China), with a view to avoiding procedural difficulties, withdrew the proposal he had made at the preceding meeting, in order to [573] enable a vote to be taken on the principle of including the idea of the absolute equality of legitimate and illegitimate children.

MR. WATT (Australia), noting that the amendment proposed by his delegation (A/C.3/348) as a compromise had not achieved its aim, withdrew the amendment. He would vote in favour of either the original text or the text submitted by the Chinese delegation (A/C.3/347/Rev.1). Those two texts implicitly guaranteed illegitimate children the same protection as was accorded to legitimate children.

¹¹⁶ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 572–7.

MR. LUNDE (Norway) reserved the right to reintroduce as his own the proposal which the Australian delegation had just withdrawn, in case the amendment presented by Yugoslavia (A/C.3/233) was not adopted.

MRS. NEWLANDS (New Zealand) indicated that her delegation withdrew the text it had proposed for article 22 (A/C.3/267).

THE CHAIRMAN first submitted to the Committee the amendments to the first paragraph of article 22.

He called for a vote on the USSR amendment (E/800, page 35) to add to paragraph 1, after the words “in circumstances beyond his control” the following text: “and also (if he is gainfully employed) to social insurance at the expense of the State or of his employers, in accordance with the legislation of each country”.

MR. PAVLOV (Union of Soviet Socialist Republics) requested a vote by roll-call.

A vote was taken by roll-call as follows:

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Afghanistan, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Dominican Republic, Ethiopia, France, Greece, Honduras, India, Luxembourg, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay.

Abstaining: Burma, Colombia, Cuba, Guatemala, Iran, Mexico, Venezuela.

The amendment was rejected by 27 votes to 6, with 7 abstentions.

THE CHAIRMAN put to the vote the amendment presented by the Norwegian delegation (A/C.3/344), to delete the words: “in circumstances beyond his control” at the end of the first paragraph.

The amendment was rejected by 20 votes to 6, with 11 abstentions.

THE CHAIRMAN put to the vote the USSR amendment (E/800, page 35) to add the following sentence to paragraph 1: “Everyone has the right to medical care and assistance in case of illness.”

The amendment was rejected by 21 votes to 7, with 10 abstentions.

THE CHAIRMAN put to the vote the USSR amendment (E/800, page 35) to add the following sentence to paragraph 1:

[574]

“Everyone has the right to decent housing.”

The amendment was rejected by 20 votes to 7, with 10 abstentions.

THE CHAIRMAN put to the vote the USSR amendment (E/800, page 35) to add the following sentence to paragraph 1: “It is the duty of the State and society to take all

necessary steps, including legislation, to ensure that everyone has a real opportunity of enjoying all these rights.”

The amendment was rejected by 27 votes to 9, with 4 abstentions.

THE CHAIRMAN put to the vote the amendment presented by the delegation of Ecuador (A/C.3/349) to insert the word: “decent” before the word “housing”.

The amendment was rejected by 21 votes to 11, with 7 abstentions.

THE CHAIRMAN submitted to the Committee the new draft of article 22, paragraph 1, proposed by the French delegation (A/C.3/350).

MR. DE FOLIN (France) pointed out that the essential object of the French amendment was to give prominence to the idea of social welfare services. The French delegation did not think that the amendment could affect the substance of the questions under discussion.

Moreover, the word “personal” should be deleted because it added no clarity to the text.

MR. PÉREZ CISNEROS (Cuba) stated that if the text submitted by the French delegation were adopted, the amendment to article 21 proposed by the Cuban delegation (A/C.3/232/Corr.1), on which no decision had yet been reached, would become unnecessary. In the contrary case, the Cuban delegation would be compelled to maintain that amendment.

MR. CONTOUMAS (Greece) expressed the preference of his delegation for the text presented by the French delegation. That text was very clear and had the advantage of drawing a distinction between the ideas of a standard of living and of social welfare services. The French text rightly emphasized that social welfare services were not one of the elements constituting the standard of living, but rather one of the means of improving the standard of living.

MR. CHANG (China) observed that the text presented by the French delegation differed in substance from the text submitted by his delegation. It contained three new ideas: individual resources, the need to supplement those resources by social services, and the guarantee to the individual of wellbeing and health for himself and his family.

MRS. ROOSEVELT (United States of America), MRS. CORBET (United Kingdom) and MR. WATT (Australia) agreed with what had been said by the representative of China and drew attention to certain defects in the English translation of the French amendment.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) and MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the word “resources” was inappropriate within the framework of article 22, which referred only to wage-earners.

MR. DE FOLIN (France) explained that the word “resources” was taken in its broadest sense and obviously meant resources obtained through work, supplemented where necessary by social services. Nevertheless he acknowledged that the English translation left much to be desired. The French delegation would not press its proposal.

THE CHAIRMAN put to the vote the text proposed by the Chinese delegation for article 22, paragraph 1 (A/C.3/347/Rev.1).

MR. LUNDE (Norway) requested that the text he voted upon in parts and that the words “in circumstances beyond his control” be voted upon separately from the remainder of the paragraph.

The first part of the text, up to and including the word “livelihood”, was adopted by 40 votes to none, with 3 abstentions.

The last part of the text, containing the words “in circumstances beyond his control”, was adopted by 29 votes to 3, with 6 abstentions.

The text proposed by the Chinese delegation was adopted as paragraph 1 of article 22, by 41 votes to none, with 3 abstentions.

THE CHAIRMAN requested the Committee to decide on the Yugoslav proposal regarding the principle of the equality of illegitimate children before considering the amendments to paragraph 2. That procedure seemed necessary in order to enable the representative of Norway – as he had reserved the right to do at the beginning of the meeting – to reintroduce the Australian proposal on behalf of his own delegation, in case the Yugoslav amendment was rejected.

As objections had been raised, the Chairman requested the Committee to take a vote on the point.

The Committee decided, by 22 votes to 14, with 10 abstentions, to consider the amendments to paragraph 2 first.

MR. CARRERA ANDRADE (Ecuador) withdrew the amendment to paragraph 2 presented by his delegation (A/C.3/349) in favour of the Norwegian amendment, which was based on the same principles.

THE CHAIRMAN put to the vote the amendment presented by the Norwegian delegation – formerly the Australian amendment (A/C.3/348) – to replace paragraph 2 by the following text: “All mothers, including expectant and nursing mothers, and all children, including illegitimate children, are entitled to special care and assistance.”

The amendment was rejected by 16 votes to 13, with 15 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the Egyptian delegation (A/C.3/264) to replace the words “mother and child” by the words “mothers, children and old persons”.

The amendment was rejected by 20 votes to 7, with 13 abstentions.

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THE CHAIRMAN put to the vote the text proposed by the Chinese delegation for paragraph 2 (A/C.3/347/Rev.1).

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the text was poorly worded; abstract ideas such as “motherhood and childhood” could not be legal entities.

MR. BAROODY (Saudi Arabia) supported that view; he could not vote in favour of the text because of its drafting.

The text was adopted by 25 votes to 7, with 12 abstentions.

THE CHAIRMAN then submitted to the Committee the proposal of the Yugoslav delegation to add to article 22 a third paragraph explicitly expressing the principle of the absolute equality of illegitimate and legitimate children.

MR. PLEIC (Yugoslavia) withdrew his proposed draft in favour of the second alternative proposed by the Norwegian delegation (A/C.3/344), with the reservation that the French text should read as follows: “*Les enfants nés hors du mariage sont les égaux en droit des enfants nés dans le mariage . . .*”

MR. LUNDE (Norway) requested that the second alternative for which the Yugoslav representative had just expressed support should be put to the vote.

MRS. CORBET (United Kingdom) requested that the text should be voted in parts so that the Committee could decide separately on the principle of equality before the law and the principle of equal social protection.

MRS. VERWEY-JONKER (Netherlands) requested a vote by roll-call.

THE CHAIRMAN put to the vote the first part of the Norwegian amendment, as follows: “Children born out of wedlock are equal in rights to children born in marriage.”

A vote was taken by roll-call, as follows:

In favour: Argentina, Byelorussian Soviet Socialist Republic, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Honduras, India, Mexico, Norway, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Afghanistan, Australia, Belgium, Bolivia, Brazil, Canada, China, France, Greece, Luxembourg, Netherlands, New Zealand, Paraguay, Syria, Turkey, United Kingdom, United States of America, Uruguay.

Abstaining: Burma, Chile, Ethiopia, Pakistan, Panama, Peru, Philippines, Saudi Arabia, Yemen.

That part was rejected by 18 votes to 18, with 9 abstentions.

THE CHAIRMAN put to the vote the second part of the Norwegian amendment, which after rejection of the first part would read as follows:

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“Children born out of wedlock shall enjoy the same social protection as children born in marriage.”

A vote was taken by roll-call, as follows:

In favour: Argentina, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Honduras, India, Mexico, New Zealand, Norway, Pakistan, Panama, Poland, Saudi Arabia, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: China, United Kingdom, United States of America.

Abstaining: Afghanistan, Australia, Canada, Ethiopia, Greece, Luxembourg, Netherlands, Paraguay, Peru, Philippines.

That part was adopted by 32 votes to 3, with 10 abstentions.

THE CHAIRMAN put to the vote, as paragraph 3 of article 22, the text which had just been adopted.

MR. WATT (Australia) asked for a roll-call vote.

A vote was taken by roll-call, as follows:

In favour: Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Honduras, India, Mexico, Norway, Pakistan, Panama, Poland, Saudi Arabia, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: China, United States of America.

Abstaining: Canada, Ethiopia, France, Greece, Luxembourg, Netherlands, Paraguay, Peru, Philippines, United Kingdom.

That text was adopted as paragraph 3 by 31 votes to 2, with 10 abstentions.

THE CHAIRMAN put before the Committee the whole of article 22, as amended.

MR. PAVLOV (Union of Soviet Socialist Republics) expressed reservation as regards the Russian text of paragraph 2, which should be translated as follows: “Motherhood and childhood are entitled to special care and assistance.”

MR. PÉREZ CISNEROS (Cuba) and MR. CASSIN (France) remarked that the same observations applied to the Spanish and French texts.

As there were numerous objections to the wording of the various paragraphs, MR. WATT (Australia) suggested that the Committee should adopt article 22 as a whole, subject to subsequent drafting changes by the sub-committee to be appointed.

THE CHAIRMAN put to the vote article 22 as a whole, as amended.

Article 22, as amended, was adopted by 40 votes to none, with 2 abstentions.

The meeting rose at 6:05 p.m.

A/C.3/352

19 November 1948

**Australia, United States: Amendment to Article 23
of the draft Declaration (E/800)**

Substitute for paragraph 1 of Article 23 the following:

“1. Everyone has the right to education, including free elementary and fundamental education. Elementary education shall be compulsory and there shall be equal access on the basis of merit to higher education.”

A/C.3/353

19 November 1948

**Revised version of the Union of Soviet Socialist Republics
Amendment to Article 23 of the draft Declaration (E/800)**

Modify the 1st paragraph of Article 23 to read as follows:

“Everyone has the right to education, *and access to such education must be open to all without any distinction as to race, sex, language, material status or political affiliation.* Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.”

A/C.3/354

19 November 1948

**United Kingdom: Amendment to Article 23
of the draft Declaration (E/800)**

Re-draft for paragraph 2:

“2. Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms, and to the promotion of understanding, tolerance and friendship amongst all peoples.”

A/C.3/355

19 November 1948

Original Text: French

France: Amendment to Article 23 of the draft Declaration (E/800)

Amend article 23 to read as follows:

- “(1) Everyone has the right to education, *which shall be free at least in so far as elementary and fundamental education are concerned*. Elementary education shall be compulsory. *Technical and professional education shall be made generally available*. There shall be general access to higher education on the basis of merit.
- (2) Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms, *for understanding and friendship between peoples, including to prevent the spirit of intolerance and hatred against other religious and against racial and religious groups everywhere.*”

A/C.3/356

19 November 1948

Mexico, United States: Joint Amendment to Article 23 of the draft Declaration (E/800)

Paragraph 2:

“2. Education shall be directed to the full development of the human personality, to strengthen respect for human rights and fundamental freedoms *and to the promotion of understanding, tolerance and friendship among all peoples, as well as the activities of the United Nations for the maintenance of peace.*”

A/C.3/307/Rev.1/Add.2

19 November 1948

Denmark: Addendum

“All persons belonging to a racial, national, religious or linguistic minority have the right to establish their own schools and receive teaching in the language of their own choice.”

A/C.3/SC.3/1

19 November 1948

Original Text: Russian

**Union of Soviet Socialist Republics: Compromise
Proposal on Article 21, Paragraph 2**

Everyone has the right to equal pay for equal work without any discrimination as to race, nationality, sex, age, religion, etc.

A/C.3/SR.146¹¹⁷

19 November 1948

***Summary Record of the Hundred and Forty-Sixth
meeting [of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
19 November 1948, at 10:30 a.m.

71. Draft international declaration of human rights (E/800) (continued)

Article 22 (continued)

Chairman: MR. CHARLES MALIK (Lebanon).

THE CHAIRMAN called on speakers who wished to explain their votes with respect to article 22.

MR. AQUINO (Philippines) said that, while he had not previously felt the need to explain any of his votes, he wished to make clear that in the present case he had voted against several amendments because the good intentions which had prompted them had become obscured in the course of procedural discussion, and against certain others because the Committee had not been able to couch them in a form appropriate to the declaration. He had voted in favour of the whole article because he subscribed unreservedly to the principle involved; he hoped, nevertheless, that the article would be improved from the point of view of style.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) had not voted in favour of the first part of the Norwegian amendment (A/C.3/344) because he held that article 2, which prohibited any distinction on grounds of birth, covered the subject more fully since it was applicable to all persons born out of wedlock, regardless of their age.

¹¹⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 578–85.

Moreover, the first part of the Norwegian amendment might be construed as conflicting with the principle of the protection of the family established in article 14.

He had voted in favour of the second part of the Norwegian amendment not because he thought it contained the best provision that could be made for the social protection of illegitimate children – the Constitution of his country provided greater protection – but because it was progressive in nature when seen in relation to conditions existing in most parts of the world.

MISS BERNARDINO (Dominican Republic) remarked that, although at the previous meeting she had accepted paragraph 2 of the Chinese amendment (A/C.3/347/Rev.1) in lieu of her own (A/C.3/217/Corr.2), she had since discovered a drafting imperfection in the English text of the former. She consequently hoped that the paragraph in question might be reconsidered by the Committee and either redrafted in the spirit of her amendment or replaced by it.

She agreed with the Chairman that the question of reconsideration might be postponed until the whole declaration had been dealt with.

MR. HABIB (India) stated that he had welcomed the Norwegian amendment and had voted in favour of both parts, in the firm conviction that the sins of the parents should not be visited upon the children. The problem of illegitimacy [579] was of minor importance in his own country and liberal legislation had been proposed. The amendment was essential: human emotions were bound to conflict, on some occasions at least, with the laws of States, however liberal.

MR. CASSIN (France) remarked that he had voted in favour of the Chinese amendment although that text did not entirely meet the views of his delegation; he hoped that the proper interpretation would be put on the words “and necessary social services”.

While he had voted in favour of according social protection to illegitimate children, he had not been able to vote for granting them equal civil rights. Since different legal systems existed in various countries, the article could do no more than indicate what the general attitude with respect to illegitimate children should be. In the form in which it had been adopted by the Committee, the article did precisely that.

MR. LUNDE (Norway) regretted that his amendment (A/C.3/344) to delete the final words of paragraph 1 had been defeated, as those words put an undue limitation on what would otherwise have been an excellent text. The part of that paragraph dealing with security, in the form in which it had been adopted, lagged far behind progressive social legislation of the present day.

MR. CHANG (China) said, in reply to the representative of the Dominican Republic, that he had not insisted and did not insist on the use, in the English text of paragraph 2, of the words “have the right”.

He pointed out that paragraph 3 – the former Norwegian amendment – was different in style from most articles in the declaration in that it began with a

reference to a minority rather than to a broad general group. Moreover, it represented an enlargement of the statement in paragraph 2. He hoped that the Norwegian representative would agree to combine paragraphs 2 and 3 and to begin the latter with some such words as: "All children, including those born out of wedlock."

That suggestion might be dealt with at the same time as the suggestion of the representative of the Dominican Republic.

MR. CONTOUMAS (Greece) explained that he had voted against the portion of the Norwegian amendment dealing with social protection of illegitimate children not because he in any way objected to the idea, but because he thought the matter was sufficiently covered in articles 2 and 22.

Article 23¹

MRS. NEWLANDS (New Zealand) withdrew the amendment submitted by her delegation (A/C.3/267).

MR. PÉREZ CISNEROS (Cuba) observed that while the amendment presented by his delegation (A/C.3/261) might appear long it was essentially simple and reproduced much of the original text.

^[1] Article 27 of the draft universal declaration of human rights (A/777).

[580]

The first sentence of that text, which stated that everyone had the right to education, was of sufficient importance to stand as a separate paragraph. It appeared logical that the bare statement should be followed immediately by the definition of the aims of education contained in paragraph 2 of the original text. It had consequently become paragraph 2 of the Cuban amendment.

Paragraph 3 of that amendment contained a new and worthwhile idea, which was that the right to education should be granted in accordance with natural talents, merit, and the desire to utilize the resources that the State or the community could provide, as well as the talents of individuals. That idea was necessary in an article dealing with education.

Paragraph 4 of the Cuban amendment differed from the original text in two respects. Since some countries provided free secondary and higher education, the statement in the original text that only elementary and fundamental education should be free appeared inadequate; the Cuban amendment indicated that primary education, at least, should be free. Mr. Pérez Cisneros was glad to see that on that point his amendment coincided with the Turkish amendment (A/C.3/273/Rev.1). He had also omitted the word "compulsory", not because he was opposed to the idea of compulsory education, but because the word appeared out of place in a declaration of the rights of the individual. If the Committee wished to retain it, however, he would have no serious objection.

MR. KURAL (Turkey) recalled the statement which he had made on a previous occasion that his delegation found the declaration as drafted by the Commission on Human Rights satisfactory in the main and requiring amendment only in a few exceptional instances.

Article 23 was such an exception. Two conditions were necessary for the implementation of the statement that everyone had the right to education. The first was that primary education must be compulsory and that secondary and higher education must be open to all who were able to profit by it. The second was that primary education must be free – otherwise it could not be made compulsory – and also that secondary and higher education must be free or it could not be said, as stated in article 23, that there should be equal access to it on the basis of merit.

It was at that point that article 23 became inadequate.

Mr. Kural would have liked to suggest that all education should be free, as in fact it was in a number of countries, including his own, but since he realized that such a state of affairs could not be brought about everywhere immediately, he had contented himself with proposing that at least primary education should be free (A/C.3/273/Rev.1). He hoped that his amendment, thus redrafted, would be acceptable to the Committee.

While his amendment greatly resembled paragraph 4 of the Cuban amendment, he could not associate himself with the latter as a whole because it omitted the word “compulsory” and [581] because he was not sure of the meaning of the second half of paragraph 3.

He wished to comment briefly on amendments presented by other delegations.

Although he agreed with the idea expressed in the USSR amendment (E/800, page 35) he considered the amendment unnecessary because the subject of discrimination was thoroughly covered in article 2 and because the clause introduced by the amendment might be interpreted as restrictive.

He could not support the Argentine amendment (A/C.3/251) because it omitted the concept of compulsory education.

The Mexican amendment (A/C.3/266/Corr.1) appeared acceptable; however, it contained ideas proclaimed a number of times by the United Nations and might perhaps be more appropriately included in the preamble.

The Lebanese (A/C.3/260) and Netherlands (A/C.3/263) amendments seemed equally acceptable; he wished, however, to hear the statements by the two representatives who had introduced those amendments before determining his position.

MR. COROMINAS (Argentina) stated, in explanation of his amendment (A/C.3/251), that in the view of his delegation everyone had the right to an education. While that right should be guaranteed by the State, it was a broad general right of every individual, and should be inspired, as indicated in the Argentine amendment, by liberty, ethics and human solidarity.

The Argentine amendment further indicated the purposes of that education and stated that everyone should have equal access to it in accordance with his talents, merit and the desire to utilize the resources that the State and the community were in a position to provide. Moreover, primary education should be free. The Argentine amendment did not say that it should be compulsory because, as the Cuban representative had aptly remarked, the word “compulsory” should not be used in the declaration.

He called attention to the fact that his amendment was intended as a substitution for the whole of article 23. The text of that article was deficient in certain respects. No mention was made of modern educational trends such as vocational training and the development of technical aptitudes; it should not be forgotten that industrial workers had ceased to be artisans and were becoming technicians. The free development of natural talents would form better members of society and raise the general level of culture.

Furthermore, paragraph 2 of the basic text, with its mention of combating the spirit of intolerance, itself had an intolerant and aggressive ring, even though the idea it expressed was a noble one. It would be a mistake to retain that passage in the declaration. Intolerance and hatred should be done away with by means of peaceful persuasion and education.

Finally, article 23 contained a number of phrases which appeared elsewhere in the declaration and constituted an unnecessary repetition. [582] For all those reasons, Mr. Corominas preferred his amendment to the original text.

MR. BEAUFORT (Netherlands) pointed out that it was logical that the family should be given primary responsibility for education because it was in the family that the child first learned the methods of living within the community. The family could not be replaced by any public or private institution which contributed to education. That idea might have seemed a truism had it not been for recent experience, to which reference was made in the second paragraph of the preamble to the declaration.

The rights of children were sacred because the child itself could not demand their implementation; parents were the most natural persons to do so. That was the sense of the first sentence of the Netherlands amendment (A/C.3/263). The second sentence followed logically from the first. Parents would be unable to bear that primary responsibility unless they were able to choose the kind of education their children should have. Nazi Germany, where the Hitler Youth deprived parents of control over their children, had provided an experience which should never be permitted to recur. It might be objected that such a provision restricted the child's right to education in that it deprived it of protection against negligent or unwise parents. Such cases would be exceptions, and, in any case, the influence of teachers and educational organizations would most probably prevent any real damage. The declaration could not be based on the consideration of exceptional cases. His delegation was prepared to accept suggested improvements to the phrase “the

kind of education”; it would itself suggest the words: “to determine the religious and spiritual atmosphere in which their children should be educated”. He had no wish to interfere with the State’s responsibility for the system of teaching; but parents must retain the right to select the atmosphere they considered best for the child. He had no objection to compulsory education since that system had been in force in his country for more than fifty years.

MR. CAMPOS ORTIZ (Mexico) supported the present text, with the exceptions set out in the Mexican amendment (A/C.3/266/Corr.1). No one could object to paragraph 1. In paragraph 2, however, the idea of combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere was too negative, too pessimistic and, despite the present condition of the world, not in accordance with the deeper realities. The Mexican amendment introduced a positive idea which restored the balance – that of promoting understanding and friendship among all peoples.

Article 23 should also include positive and effective support of the activities of the United Nations for the maintenance of peace. The support of an educated public opinion was essential for the success of the United Nations. The League of Nations’ most serious defect had been [583] its lack of contact with the peoples; when it had made mistakes, there had been little informed and sympathetic public opinion to correct them. The Preamble to the Charter clearly expressed the desire of the United Nations to represent the people and not merely diplomats. It was essential to teach the people that the United Nations was the only method by which peace might be maintained. The General Assembly had adopted its resolution 137(III) recommending that the purposes and principles of the United Nations should be taught in the schools of Member States; but it did not seem to have been widely implemented. If such a provision were included in the declaration, it would obtain a far wider hearing. It might be argued that it was inappropriate to mention the United Nations in the declaration. There was, however, a precedent in its preamble. It might also be said that it was in the preamble that such a provision belonged. The preamble, however, had been designed to introduce and cover the subsequent articles so that there would be no redundancy.

The representative of Mexico explained that his amendment was not intended to modify paragraph 2 of the basic text, but, to form an additional third paragraph.

MR. WATT (Australia) said that his delegation would have preferred to accept the basic text of article 23, as it had accepted all others hitherto with some drafting suggestions, but there were serious objections to the mandatory form in which it laid down that education should be free and compulsory. He was not against the principle; in Australia elementary and secondary schooling was free and universities had a liberal system of scholarships and remission of fees. The mandatory form implied, however, that no other kind of school would be permitted. A wording

should be found which would safeguard the right to choose education at a private school. He believed that certain representatives objected to compulsory education, particularly compulsory fundamental education. It would be impossible to apply compulsion to adults who had failed to obtain elementary schooling in their youth; they might not have the time or facilities to attend school. He hoped that an amendment would be submitted to remedy that defect, if the Australian amendment (A/C.3/257) were not accepted.

MRS. BEGTRUP (Denmark) pointed out that it had always been agreed that provisions to secure the general rights of minorities should be included in the declaration. The Commission on Human Rights during its first session¹ and the Drafting Committee set up during the second session had proposed texts to that effect,² and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had presented a

[¹] See E/CN.4/21, annex F, article 36.

[²] See E/CN.4/95, annex ?, article 31.

[584]

similar proposal.¹ At the third session of the Commission, however, some delegations – which had not been opposed to the substance of such an article – had objected to its inclusion on the grounds that it referred to groups rather than individuals.²

That objection would not apply to the Danish amendment (A/C.3/250) since it explicitly referred to persons belonging to minorities. Articles 2, 6, 16, 17, 18 and 19 secured to minorities a large number of rights, but such protection should be stated because the right to education was essential for the cultural life of a minority. Insertion of such an article would not, however, imply that all expenses incurred by minority schools would have to be paid out of the public funds. It was additionally important that such a paragraph should be added to article 23 because the Sixth Committee had deleted from the Convention on Genocide the article dealing with cultural genocide, apparently because delegations believed that an article dealing with that subject would be more appropriate in the declaration.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that his delegation had submitted an amendment (E/800, page 35) proposing the addition of a separate article to the declaration, the substance of which covered and went beyond the Danish amendment. He pointed out that if the Danish amendment were discussed in connexion with article 23, the USSR amendment would have to be debated in conjunction with it. He would be grateful to the representative of Denmark, however, if both amendments could be discussed at a later stage.

THE CHAIRMAN having concurred with the USSR representative's observation, MRS. BEGTRUP (Denmark) said that she would reserve her right to bring her amendment forward again at a later stage.

MR. GARCÍA BAUER (Guatemala) pointed out a defect in the Spanish translation of the text of article 23. The word *instrucción* meant education in a limited intellectual sense; he thought that the word *educación* was more correct.

MR. AZKOUL (Lebanon) objected to the word “compulsory” because it appeared to give the State unrestricted authority over education. The Lebanese amendment (A/C.3/260) would restore the balance by giving parents a prior right to choose the kind of education which they wished their children to receive. Undoubtedly, the State must compel negligent parents to see that their children obtained education, but parents should have the right to limit the State’s authority if it became excessive or arbitrary.

MRS. IKRAMULLAH (Pakistan) said she would have supported the Danish amendment had it not been held over. She would support the Netherlands amendment which should be taken in conjunction with the substance of the Danish. It was essential to guarantee freedom to choose education, a principle flagrantly violated by the Nazis.

^[1] See E/CN.4/52, section I, article 36.

^[2] See E/CN.4/SR.73 and E/CN.4/SR.74.

[585]

Article 23, paragraph 3 should be completed by a declaration that parents must have freedom to choose their children’s education. The argument that parents might refuse to give their children education was not pertinent because the article gave them only the right to choose the kind of education they wished, but not the right to withhold education from their children.

MRS. CORBET (United Kingdom) said that she would vote for the basic text if such were the consensus of opinion in the Committee; but certain improvements were desirable. The USSR amendment was superfluous, since its substance had already been covered by article 2. She could not support the Argentine and Cuban amendments, which were not so clear as the present text and unjustifiably altered the order. While she agreed with the Argentine representative’s argument about the need for development of technical aptitudes, it did not, in her view, add anything of substance, since that kind of training was included in the concept of higher education. She opposed the Lebanese and Netherlands amendments; the basic text did not exclude parents from the right to choose their children’s education. Moreover, a specific mention of the rights and duties of the family was inappropriate in a declaration of universal rights. The Argentine, Cuban, Turkish and Australian amendments overlapped to a certain extent, but the Australian was to be preferred because it solved the difficulty which had been raised – and with which she agreed – that it was impossible to make fundamental education compulsory. She suggested, however, that the words “everyone is entitled to” were somewhat weak; she believed

that the words “everyone shall be provided with” would strengthen the Australian amendment, which she would support. Although she was in favour of the principle of the revised Mexican amendment (A/C.3/266/Corr.I), it was too lengthy and threw the article out of balance.

MRS. KALINOWSKA (Poland) said that she would accept the basic text with the addition of the USSR amendment. Despite the argument that non-discrimination had been covered in article 2, it was essential to reiterate that principle in article 23, because access to schools in some countries was barred to certain categories of persons. With regard to the Danish amendment, she pointed out that her country, which had long suffered from discriminatory measures by occupying Powers, had extended full facilities to all minorities. The word “fundamental” should be retained in paragraph 1. In her country special free schools for workers existed; the workers were given leave from work and full pay during school time. Paragraph 2 was sufficiently broad to command general acceptance. She would not object to the Mexican amendment.

The meeting rose at 1 p.m.

A/C.3/SR.147¹¹⁸

19 November 1948

***Summary Record of the Hundred and Forty-Seventh
Meeting [of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
19 November 1948, at 3.20 p.m.

Chairman: MRS. BODIL BEGRUP (Denmark); *later,* MR. CHARLES MALIK (Lebanon).

72. Draft international declaration of human rights (E/800) (continued)

Article 23 (continued)

MR. CASSIN (France) supported the basic text of article 23 as a whole, and had no amendments to offer.

He would try to sift out from the amendments submitted by other delegations the principles which might lead to agreement. The right to education had been in no way contested; three points, however, had attracted the attention of the Commission on

¹¹⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 586–600.

Human Rights, namely, the fact that education should be free, that it should be compulsory, and the question of the influence of parents.

As regards the point that education should be free, he considered the Turkish (A/C.3/273) and Australian (A/C.3/257) amendments of interest and was prepared to support a statement that at least elementary education and fundamental education of adults who had not received education in their youth should be free. It could only be hoped that the other levels of education might be made free, though they could not be made compulsory.

He thought it would be advisable for elementary education to be compulsory and for its compulsory nature to be explicitly stated, so that parents would not be able to neglect their duty to their children. The same compulsion could not be established as regards higher education, but between elementary and higher education there was room for technical and vocational training, as the representatives of the United Kingdom and Argentina had pointed out (146th meeting). In that connexion, he suggested the following intermediate wording:

“Elementary education shall be compulsory; technical and professional education shall be made generally available.”

As regards the delicate problem raised in the amendments submitted by the Netherlands (A/C.3/263) and Lebanese (A/C.3/260) delegations, French legislation coincided with the point of view of those delegations and the French delegation would vote for the amendments, were it not that it feared, as did the United Kingdom representative, to impose a one-sided viewpoint upon nations which thought differently. Mr. Cassin pointed out that there was nothing in paragraph 1 that threatened the freedom and rights of parents. Moreover, the United Nations was at present engaged in a study of educational matters as a whole, and of the rights of parents and of the State in such matters. There was therefore no necessity to mention that aspect of the problem in article 23.

[587]

He considered paragraph 2 satisfactory in the main. It would be sufficient to insert a part of the Mexican amendment (A/C.3/266/Corr.1) in an abridged form. The following words, for instance, might be added: “and shall develop and strengthen understanding and friendship between peoples” after the words “fundamental freedoms”.

Furthermore, the words “combating the spirit of intolerance and hatred . . .” should be retained; that spirit unfortunately did exist and would not be eradicated by being passed over in silence.

Turning to the Danish (A/C.3/250) and USSR (E/800, page 35) amendments, the French representative said that in the Commission on Human Rights the French delegation had suggested the inclusion of a general text on the rights of

minorities, which had not been accepted. The French delegation had not pressed the point, as it understood that the problem of minorities could no longer be expressed in the same terms as in 1919 and 1939, but should today be considered from a practical angle. The Charter had shifted the centre of gravity by putting the emphasis on the universal aspect of human rights, and that had to be taken into consideration.

The French delegation had supported the USSR amendment on the use of national languages in courts of law. It was now ready to support the Danish amendment (A/C.3/250) to the effect that teaching should be allowed in minority languages, but it considered article 2 of the declaration a secure basis for ensuring the rights of minorities. If there was any doubt concerning the rights of minorities to education and justice, it would be preferable to include the necessary additions and definitions in article 2, rather than to introduce reservations and exceptions into other articles, where they would be out of place.

MR. SANTA CRUZ (Chile) supported the views expressed by the French representative. His delegation attached great importance to the basic principle stated in article 23 that elementary education should be free and compulsory.

For that reason, he supported all the amendments which laid special emphasis on that point of view. He would similarly support amendments recommending that higher and even university education should be free; in his own country such education was already free.

Commenting on the various draft amendments submitted to article 23, he said that the Mexican amendment formed a most satisfactory complement to the second paragraph of article 23. It gave positive expression to the principles embodied in article 23 besides mentioning the objectives of the United Nations. The General Assembly had adopted resolutions on the same lines; Mr. Santa Cruz therefore thought that the Mexican amendment improved the text of article 23 of the draft declaration, and his delegation would therefore support it.

The USSR amendment might prove acceptable; in any case Mr. Santa Cruz strongly supported its [588] basic principles. Nevertheless, that amendment appeared to him to repeat the provisions of article 2, which stated clearly that everyone without distinction was entitled to the rights and freedoms set forth in the declaration. He considered, therefore, that it was somewhat superfluous.

He felt that it might not be altogether wise to adopt the Danish amendment. Many countries, and particularly Chile, had a mixed population. The Government of Chile had always tried to unify its heterogeneous population. By giving minorities the right to establish their own schools, such work of unification, which had been carried out so successfully by some Governments, notably in the Americas, might be imperilled. For those reasons, he could not support the Danish amendment.

The Cuban amendment (A/C.3/261) contained the basic ideas of article 23, but worded them differently. Mr. Santa Cruz did not object to that wording, but pointed out that some members of the Committee had made reservations regarding the amendment with a view to ensuring a logical and harmonious structure for the declaration. However, he would vote for either the Cuban text or the original text of article 23, since the two were fundamentally very much the same.

MR. PAVLOV (Union of Soviet Socialist Republics) said that his delegation had always followed the same general principle throughout the debates on the various articles of the declaration. It had constantly opposed discrimination in any form whatsoever. He wished to emphasize that principle yet again, because the right to education was, in point of fact, limited in a great many countries. The coloured population of the United States and the indigenous population of Eastern countries were mainly illiterate. He believed that that situation arose from a policy of discrimination based upon race or personal wealth. It was clear that in a country where the cost of education was very high, only a small minority could really enjoy the right to education.

In the USSR education was open to all, as both elementary and secondary education was free. Moreover, Mr. Pavlov indicated that his Government intended to carry that policy still further and quoted figures showing the importance which his Government attached to education and the progress achieved since the Revolution of 1917. In the USSR, there were at present 47,402,000 schoolchildren and more than a million students – a figure greater than the total number for all European countries together. Furthermore the great majority of those schoolchildren and students were of very humble origin, statistics for the year 1933 showing that 51 per cent of the students were from workers' families and 16 per cent from peasant stock. The real importance of these figures stood out when they were compared with like statistics for Germany where, in 1933, only about 3 per cent of university students came from working class families and 2 per cent from peasant families. He pointed out that those [589] figures were clear proof that the objection often made that children from peasant and workers' families would not have the necessary capacity for higher education was unfounded.

Before the 1917 Revolution, Russia had 230,000 teachers and professors, whereas the USSR now had 1,200,000; during the same period the number of higher educational establishments had increased from 91 to 800. Similarly, various minorities, which, prior to the revolution, had not even a written language of their own, now had schools where instruction was given in their own language, and had been able to create their own national literature.

The USSR might therefore justifiably be proud of what it had accomplished in the educational field. Its efforts in that field and the success it had attained gave it every right to express a firm opinion; moreover, its experience might usefully serve other

countries. Clearly, his delegation could not but approve the principles underlying article 23; but it considered those principles incomplete and had therefore submitted an amendment.

He noted that some delegations had opposed the inclusion of the word “compulsory” in the text of article 23; he could see no reason to omit that word. A child had an absolute right to education, and independently of the wishes of its parents. Education should be compulsory because a child could not itself claim the right, as it had no strength to defend it. The word “compulsory” was therefore necessary in the body of article 23.

MR. CARRERA ANDRADE (Ecuador), in an analysis of article 23, said that it contained the essential principles on which the right to education should be based. Commenting on the various amendments, he said that his delegation would support the Mexican amendment, which offered the prospect of a new age in human evolution. When the youth of the whole world proclaimed its faith in the guiding principles of the United Nations, the future could be contemplated with greater hope by all nations.

The amendment submitted by the Netherlands delegation, however, appeared to him to be ill advised; its principle was applicable not to the present age but to the time when the father was really the head of the family. Such was no longer the case, and he asked the Netherlands delegation to withdraw its amendment and support the amendment submitted by Lebanon.

The amendments suggested by the USSR and Denmark against discrimination contained, in his opinion, a most valuable idea which should be embodied in a separate paragraph of article 23.

[590]

MRS. ROOSEVELT (United States of America) feared that if attempts were made to incorporate in article 23 all the amendments proposed to it, the final text would not be satisfactory. In point of fact the basic text would gain by greater conciseness.

The amendment of the Australian delegation contained an extremely important idea and did not involve any vital change in the text of article 23. The wording of the amendment was not very fortunate, however, and for that reason, Mrs. Roosevelt suggested the following version to the Australian delegation (A/C.3/352):

“Everyone has the right to education, including free elementary and fundamental education. Elementary education shall be compulsory and there shall be equal access on the basis of merit to higher education.”

That text in no way opposed the existence of independent or private schools; moreover it brought in the word “compulsory”, which it was essential to include in article 23.

The Mexican amendment gave positive expression to the negative provisions of paragraph 2 of article 23. The United States delegation would therefore vote for it on the understanding that it would be substituted for the last part of paragraph 2.

A number of delegations were anxious that the right of parents to govern the education of their children should be explicitly mentioned. That was, undoubtedly, a well-founded principle which was taken into account by most educational systems. It would, however, be difficult to find a satisfactory statement of that principle, since it was also necessary to take the interests of the children and of the State into account. The amendments suggested were designed to avert a situation such as prevailed in the Nazi countries, where education, which was entirely under State control, tended to atrophy children's intellectual faculties. No object could be of more legitimate concern, but the provisions of article 23 were drafted with a precision which left no opening for misunderstanding. Moreover, if article 23 made specific reference to the right of parents to control the education of their children, it might be interpreted as giving them the right to supervise school curricula which clearly might have undesirable consequences.

On that ground, the United States delegation would vote against the amendments submitted by Lebanon and the Netherlands.

If the USSR amendment were adopted, it would have the effect of restricting the scope of article 23. The basic text of article 23 should be interpreted in terms of article 2 of the declaration. That article clearly stated that all human beings without distinction of any kind were entitled to all the rights set forth in the declaration. The USSR amendment was only a repetition, and an incomplete repetition, of the provisions of article 2.

MR. CONTOUMAS (Greece) stated that his delegation was in favour of the original text of article 23. The Argentine (A/C.3/251) and Cuban (A/C.3/261) amendments were redraftings of that text, but did not noticeably improve it. The [591] basic text was the result of the most meticulous work and represented a compromise. For that reason, Mr. Contoumas thought it preferable to retain it, although he admitted that some of the amendments submitted contained important ideas.

As the representative of Turkey had pointed out, it would be desirable to find a version which would not embarrass those countries in which higher education was already free should article 23 restrict the principle of free education to elementary education only.

The Mexican amendment also put forward an excellent idea, particularly as regards the promotion of international understanding. However, as the representative of France had pointed out, it would be better for the idea to be incorporated in the text of paragraph 2 and not to be embodied in a separate paragraph.

On the other hand, the Lebanese and Netherlands amendments were not so felicitous. In fact the evolution of modern society had reached a stage, which made it impossible for parents to be granted the exclusive right to choose the kind of education to be given to their children. It was preferable not to raise the question.

Finally, the USSR amendment repeated an idea which had already been expressed in article 2 of the declaration. Mr. Contoumas thought no useful purpose was served by the repetition in each article of a general idea clearly stated in an earlier article.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) stressed the special importance of the principles stated in article 23. The culture and intellectual development of all peoples were in fact based on education. The right to education should not therefore be subject to any restrictions.

In the Byelorussian SSR that right existed for all. The State and society guaranteed it to all citizens, and it had not become the object of commerce as in certain countries where it was only accessible to those able to meet the cost of study. The situation in the Byelorussian SSR was due to the Revolution of 1917, which had opened the doors of schools and universities to the young people of the working classes. Byelorussia, which before the revolution had been a mere colony of Tsarist Russia and did not possess a single university, now had several. Fifty-seven per cent of the entire population had been illiterate, and 80 per cent of the peasant population. From the early days of the revolution, new principles of education had been proclaimed, based on equality without distinction on grounds of sex or income, and energetic and concrete measures had been taken to combat adult illiteracy and to evolve an extensive plan of popular education. The number of elementary schools had doubled and that of secondary schools and of institutions of higher education had shown a very large increase. The Government of the Byelorussian SSR attached particular importance to education, and the new five-year plan provided for the expenditure of 243,000,000 roubles or 13 per cent of the national revenue, for that purpose. In the United States expenditure on education represented only 1½ per cent of the national revenue and only 3 per cent in the case of the United Kingdom. In Byelorussia, elementary and secondary education was free and access to universities and to institutions of higher education was facilitated by a large number of scholarships.

Those facts made it obvious that the delegation of the Byelorussian SSR could not fail to approve the principle underlying article 23. It considered, however, that the article was incomplete and should be supplemented by the USSR amendment. That text was of great importance, since it would permit everyone without distinction really to enjoy the right to education.

MISS ZULOAGA (Venezuela) said that article 23 had engaged the special attention of her delegation, since education was the fundamental element in progress, which was the pledge of a just and lasting peace.

In that connexion, the definition of education adopted by UNESCO at its conference in Mexico in 1947, should be retained. The Venezuelan delegation had adopted that definition, since it was wholly in keeping with the spirit of the United

Nations Charter. For that reason it hoped that the Third Committee would decide unanimously in favour of free and compulsory education, that being the sole means of ending the illiteracy which was still widespread in the world.

Miss Zuloaga pointed out that a number of the amendments proposed to article 23 did not retain the compulsory character which must be given to elementary education. That idea of compulsion was contained in the Constitution of Venezuela, which proclaimed the principle that primary education should be free and compulsory for all without any restrictions.

The Venezuelan delegation would the more willingly support the second paragraph of the text proposed by the Commission on Human Rights, because its provisions were similar to those of the Venezuelan Constitution. It would also vote for the Mexican amendment to that paragraph.

As regards the first paragraph, the Venezuelan delegation would accept the substitute text proposed by the United States delegation, if the Committee agreed that it was better than the original text.

MR. AQUINO (Philippines) recalled that it was his delegation, together with that of Panama, which had had the honour of submitting the original text of the article on the right to education. In proposing that article, the Philippine delegation had drawn upon the experience acquired by the Philippine people in the matter of popular education during the past forty years. The Republic of the Philippines attached considerable importance to the education of the masses. In its view, the events of recent years had shown that an enlightened and well-informed public constituted the best defence of democracy and progress.

In article 23 the United Nations should state its position unequivocally not only on certain immediate objectives on the subject of which there could be no disagreement, but also on questions of principle which went beyond the question of education pure and simple and touched upon the ideological, where there was conflict between the [593] concepts of totalitarianism and of democracy and between the principles of authority and of liberty.

In that respect, the original text of article 23, and particularly its second paragraph, was entirely compatible not only with the spirit of the Charter, but also with the Constitution of UNESCO. Article 23, as drafted, thus provided the indispensable basis for the development of popular education and, for that reason, deserved to be retained in its entirety.

The Philippine delegation would support the amendment proposed by the Mexican delegation on condition that it was inserted in the second paragraph.

It would also support the new drafting proposed by the United States delegation for the Australian amendment.

Finally, it would vote for the Lebanese amendment which, without giving excessive authority to parents, gave them the right to decide the type of education

which they wished their children to receive. That provision would provide protection against the risk of undue intervention by the State in the sphere of education.

MR. WATT (Australia) recalled that the essential aims of his amendment were, on the one hand, to permit the maintenance of private schools which the original text seemed implicitly to set aside in favour of public schools and, on the other hand, not to give a compulsory character to fundamental education in so far as that education was intended for adults.

In view of the fact that the new wording proposed by the delegation of the United States was entirely in accordance with its point of view, while preserving the strength of expression of the original text, the Australian delegation was quite willing to accept it in place of its own amendment.

The Australian delegation understood the Turkish proposal and it would support any felicitous wording which would continue to make it possible for some countries to extend free education beyond the primary grades, if they were able to.

On the other hand, it could not accept the USSR amendment, which only repeated the provisions of article 2 in narrower terms. Mr. Watt regretted having to oppose the USSR amendment all the more because in the course of a year's stay in that country, he had been able to note the remarkable efforts which had been made there to abolish illiteracy and the results which had been obtained in the field of education.

The Australian delegation could likewise not accept the Cuban delegation's amendment, which expressed an excellent idea in a form which did not fit within the framework of the draft declaration as a whole. The same observation applied to the Argentine amendment. Moreover, those two proposals omitted the idea of compulsory education, although that idea was indispensable at least with regard to children.

The Netherlands and Lebanese amendments touched on a delicate question. Mr. Watt feared that it would be extremely difficult to express the idea contained in those amendments in a way which would be acceptable to everyone. It should not be forgotten that fundamentally the person [594] affected by the right which the Committee wished to establish was the child and that it was above all the child who should be protected.

In conclusion, the Australian delegation supported the Mexican delegation's amendment. It would however prefer a direct reference to the "purposes and principles of the United Nations", according to the accepted formula, because the "maintenance of peace" mentioned in the Mexican amendment (A/C.3/266/Corr.1) was not the only aspect of the activities of the United Nations.

Mr. Malik (Lebanon) took the Chair.

COUNT CARTON DE WIART (Belgium) pointed out that the basic text of article 23 was not faultless.

With regard to paragraph 1, the Australian amendment in the new wording proposed by the delegation of the United States was entirely satisfactory to the Belgian delegation. It was true that with that text the Committee departed from the principle that the declaration of human rights should not set forth the obligations of the State, which were to be the subject of a future convention. It must be recognized, however, that it would be extremely difficult not to write an idea of compulsion into that article; and if the idea of compulsory education was retained, the idea of free education, which was its corollary, also had to be retained.

Count Carton de Wiart therefore agreed to the new text proposed for paragraph 1, with the following reservation as regards the wording: instead of the term “elementary” which in French at least connoted a limitation, he would prefer the word “primary”, which had a broader meaning and was in conformity with the terminology in use in French-speaking countries.

The Belgian representative emphasized that the concept of higher education and the need to make it accessible to all on individual merit need not be understood to refer to universities. In that respect, the remarks made by the Argentine representative at the previous meeting on technical careers and professional training met with his entire approval.

In the opinion of the Belgian delegation, the amendments of the Lebanese and Netherlands delegations as well as the Danish amendment, which dealt with the same point, contained a very interesting idea. In effect, the family had prior rights over the State, which it would be useful to recognize in one way or another in a statement of principle such as article 23. The Netherlands representative had expressed the horror which the Nazi-occupied countries still felt at the thought that the State could compel children to be informed morally and intellectually by the doctrine of the party in power. In Belgium, the idea of freedom of education was considered fundamental: that concept was not based solely on tradition, but was prescribed by the Constitution. For that reason, the Belgian delegation considered that the Lebanese amendment, perhaps in another form, could very usefully be introduced into paragraph 2 of article 23. It would in fact be an error not to retain the rights of the family in an [595] article of such importance, especially as it could not be assumed that the rights and duties of the State in the field of education had been disregarded by so doing.

Count Carton de Wiart supported the Mexican and Argentine amendments inasmuch as they altered the negative character of the last part of paragraph 2.

MR. COROMINAS (Argentina) stated that teaching and learning were two terms which appeared with equal stress in the Constitution of his country. The Argentine delegation's amendment was inspired by the same thought. The right to education should not only be proclaimed, but it should be made certain that that education would be of such a nature as to contribute to raising the cultural level of the whole population.

In that regard Mr. Corominas emphasized that certain representatives seemed not to have remembered his remarks on the distinction, a fundamental one in the view of the Argentine delegation, which should be drawn between higher education and professional training. In Argentina, secondary education and university training as well as primary education were open to all free of charge. In addition to those levels of education, Argentina paid very particular attention to the professional training of the average man. For that reason the Argentine delegation would like professional training to be included among the other types of education considered in article 23. If that principle, which constituted the central idea of the Argentine amendment, was adopted in a compromise text, the Argentine delegation would be prepared to vote for such a text.

MR. PAVLOV (Union of Soviet Socialist Republics), analysing the new text proposed by the delegation of the United States in place of the Australian amendment, stated that he only agreed with one point: the need to institute free and compulsory primary education. For the rest, the USSR delegation did not think it could accept the text, which did not eliminate the possibility of discrimination of the type which was frequently practised in certain countries. Taking the example of the United States of America, Mr. Pavlov based his remarks on certain statements by officials of that country and on articles from its newspapers showing that the level of education left much to be desired. It was obvious that an uneducated population was more credulous and, consequently, more tractable.

The text proposed by the United States representative was not designed to rectify that state of affairs. Mr. Pavlov did not believe that Mrs. Roosevelt had worded it in that way purposely, and he asked her to be kind enough to enlighten him on that point.

MR. KURAL (Turkey), taking into account the remarks which had been made by various representatives with regard to his delegation's amendment (A/C.3/273), proposed a compromise which would consist of rewording the first phrase of the [596] Australian-United States amendment (A/C.3/352) as follows:

“Everyone has the right at least to free primary and fundamental education.”

That wording had the advantage of not limiting free education in the countries which wished to extend it beyond primary education, while ensuring that elementary and fundamental education in general would be both free and compulsory.

MRS. CORBET (United Kingdom) expressed her approval of the new wording of the Australian amendment suggested by the United States delegation.

With regard to paragraph 2, the United Kingdom delegation also was submitting a new draft to the Committee (A/C.3/354) which took the Mexican delegation's amendment into account. It was expressed in a positive form for it included the word

“tolerance”, and while it did not mention the United Nations, at least it implicitly referred to the purposes and principles of the Organization.

MR. KAYALY (Syria) explained that in Syria elementary education was free and compulsory in all the State schools, which were open to all without distinction. Furthermore, the State provided the necessary school supplies and books gratuitously to the poor. Institutions for secondary education were also open to all at small cost. The schools maintained by the various communities, were moreover free to teach in the language of the community and the only obligation imposed on them was to comply with the regulations concerning public education.

That was the level which had been reached by Syria in the field of education. It was undeniable, however, that in such a broad field, methods and systems varied in each country and there were numerous systems. The Committee should therefore strive to express the right to education in a concise and complete formula which would be acceptable to all.

The text drawn up by the Commission on Human Rights had the virtue of stating the right in a general way, although it also stated certain directives intended to indicate the path to be followed. Its objective was achieved by the two paragraphs of the original text, the first of which ensured the compulsory and free nature of elementary and fundamental education and the second of which provided for “the full development of the human personality”.

The Syrian delegation feared that any modification in a text so compact and carefully worked out might limit its scope and obscure its meaning.

In reply to the remark of the United States representative on the subject of the Mexican amendment (A/C.3/266/Corr.1), MR. CAMPOS ORTIZ (Mexico) explained that the aim of his delegation was to substitute that amendment for the second part of paragraph 2 of the article; it had been incorporated in the joint Mexican and United States amendment (A/C.3/356).

Replying to the Australian representative who had asked why the amendment did not mention the “purposes and principles” of the United Na-[597]tions, Mr. Campos Ortiz emphasized that his delegation had thought it better to speak of “the activities of the United Nations for the maintenance of peace” since that was the chief goal of the United Nations. Further, his delegation had thought that the use of the word “tolerance” made it unnecessary to mention racial and religious groups separately.

MR. DE ATHAYDE (Brazil) thought that questions concerning education were the most serious questions of the era. All those who worked in that sphere knew that in solving those problems, they were faced with difficulties arising from the moral and economic disorder of the world today. It would be dangerous to take account only of material conditions in solving them. The right of all to education was indisputable. The right to share in the heritage of mankind formed the basis of our civilization, and could not be denied to anyone. Without education, the

individual could not develop his personality, which was the aim of human life and the most solid foundation of society. Education was the first prerequisite for progress. That was the reason for article 23 which proclaimed that education must be free and compulsory, and that there must be equal access to higher education with no restriction other than individual merit.

But article 23, in defining the character of education, which should be directed to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred, took on special significance.

Article 23 as a whole appeared satisfactory. But Mr. de Athayde thought certain of the amendments submitted contained ideas worthy of consideration. For instance, there was the principle proclaimed in the Lebanese and Netherlands amendments concerning the right of parents to determine the kind of education and instruction their children should have. The Mexican amendment gave paragraph 2 a positive character by speaking of understanding and friendship among all peoples; for that reason, the Brazilian representative would prefer the text of that amendment to be substituted for paragraph 2 of the original text.

MR. PÉREZ CISNEROS (Cuba) desired to correct an erroneous interpretation given by the Australian representative regarding the amendment moved by the Cuban delegation. That delegation was not opposed to the principle of compulsory education, elementary education being in fact compulsory in Cuba. The Cuban amendment did not mention the compulsory character of education because the Cuban delegation felt obliged to adhere to the generally accepted rule, which was that the declaration should deal only with human rights, and not with duties or obligations.

As a gesture of co-operation, the Cuban representative stated that he would withdraw his amendment, since the Turkish amendment expressed the same idea as paragraph 4 of the Cuban amendment.

He hoped that the drafting sub-committee would take note of the Cuban suggestion to di-[598]vide article 23 into a number of paragraphs, each containing a separate idea.

In conclusion, the Cuban representative stated that his delegation would support the Mexican amendment, as amended (A/C.3/356).

MR. AZKOUL (Lebanon) wished to reply to certain objections which had been raised against the amendment moved by his delegation. It had been said that it was unnecessary to mention the rights of parents in article 23. Mr. Azkoul thought, on the contrary, that it was important to proclaim that right. By stating that education was compulsory, the State would be authorized to force parents to send their children to school. Were the parents not entitled, on the other hand, to select the school to which they would send their children, and the type of education they

intended to give them? The Lebanese amendment was intended simply to assert that right.

The Lebanese representative hoped account would be taken of the ideas expressed by the Cuban and Turkish delegations in their amendments. By stating that “at least elementary education” should be free, certain States would be left free to provide free higher education if they desired and were able to do so.

Mr. Azkoul hoped also that the phrase “against racial and national groups” would be inserted in the second paragraph of article 23 which proclaimed that education should combat “the spirit of intolerance and hatred against other nations and against racial and religious groups . . .”

He supported the joint Mexican and United States amendment (A/C.3/356), but wanted to retain the idea expressed in the earlier Mexican amendment (A/C.3/266/Corr.1), i.e. “an effective support of the activities of the United Nations for the maintenance of peace”. That idea was to have appeared in an additional third paragraph of article 23.

As regards the other amendments which had been moved, Mr. Azkoul declared that his delegation would either vote against them or abstain from voting.

MR. BEAUFORT (Netherlands) could not accept the suggestion made to him to amalgamate the Danish amendment on minorities and his own delegation’s amendment (A/C.3/300) into a single amendment. The latter was much more general in character.

He was somewhat surprised at the objection to the Netherlands text raised by the United Kingdom representative (146th meeting). He could not see why that text should be criticized for defending the rights of families instead of the rights of individuals. It stated specifically: “Parents have the right to determine the kind of education their children should have.” Surely, parents were individuals. The United Kingdom representative had emphasized the fact that nothing in the original text precluded the right of parents. To say that that right was not precluded, however, did not mean that it was implicitly included. The right of parents should have a place [599] in the declaration. During the last war it had been violated, with dreadful consequences.

The Netherlands delegation’s amendment was not in any way aimed at enabling parents to intervene in drawing up school syllabi. The Netherlands delegation maintained the principle of compulsory education and did not wish to diminish the State’s responsibility in any way. It wished merely to stress the inalienable rights of parents who should be in a position to choose what type of education, religious, vocational or otherwise, should be given their children. Children had a right to education; the use of that right belonged to their parents, who were their natural guardians.

Mr. Beaufort hoped that he had dispelled all misunderstandings, and stated that, since several delegations had shown a preference for the amendment

submitted by the Lebanese delegation, he would withdraw his own amendment in its favour.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) stressed the fundamental importance of the right to education. In his own country, that right was guaranteed by the Constitution. He wished to point out the progress his country had accomplished in that domain despite the onerous legacy left by the Government of Tsarist Russia: over half the population had been completely illiterate before the Revolution of 1917. The Government of the Ukrainian SSR could therefore be proud of the immense work it had accomplished. It would be gratifying if all countries had such vast achievements to their credit. That was unfortunately not the case. He thought that the unsatisfactory situation prevailing in the field of education in certain countries, particularly in the United States with regard to the coloured population and in the colonies belonging to the United Kingdom, was the result of the systematic policy of the Governments concerned.

The United Kingdom and United States delegations, in particular, had criticized the USSR amendment for being restrictive because it did not contain a complete list of the causes of discrimination. Those delegations had, however, made no attempt to complete the list.

The USSR amendment, if adopted, would give those peoples who did not yet fully enjoy the right to education the hope that the ignorance in which they were being kept would soon be dispelled. The delegation of the Ukrainian SSR would therefore vote for the basic text as amended by the USSR. It also approved the Mexican amendment as an addition to article 23.

MRS. ROOSEVELT (United States of America) asked the Chairman for an opportunity to reply in the course of the next meeting to certain questions put to her by the representative of the USSR.

MR. CASSIN (France) proposed a new wording for the text of article 23 (A/C.3/355). Without introducing any new ideas, he had retained the essential points of the various amendments and established a distinction between elementary, fundamental, professional and higher [600] education. Moreover, he had incorporated the Mexican amendment in paragraph 2 in order to give a positive aspect to the text while specifically condemning intolerance and hatred.

The only principle which he had not taken into account was that upon which the Netherlands and Lebanese amendments were based. That did not mean that he attributed no importance to it. He had, however, been struck by the fact that countries such as France, the United States and the United Kingdom, which recognized that parents had the right freely to choose the kind of education they wished their children to have, had not proposed that that principle should be inserted in article 23. The matter was indeed a very delicate one which could not be decided hastily. It would be preferable not to raise it in the declaration, thus leaving every

country free to maintain its traditions. When the United Nations came to consider the question of the rights of the child, a resolution could be drawn up taking into account all aspects of the matter.

The meeting rose at 6:15 p.m.

A/C.3/SR.148¹¹⁹

19 November 1948

***Summary Record of the Hundred and Forty-Eighth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
19 November 1948, at 8.30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

73. Draft international declaration of human rights (E/800) (continued)

Article 23 (continued)

THE CHAIRMAN opened the discussion on article 23, paragraph 1, and the amendments to that paragraph submitted by the delegations of Argentina (A/C.3/251), Australia and the United States of America jointly (A/C.3/352), the USSR (A/C.3/353), France (A/C.3/355) and Turkey (A/C.3/273/Rev. 1).

MRS. ROOSEVELT (United States of America), in reply to a question raised by the USSR representative at the previous meeting, explained that the text of the joint Australian and United States amendment merely reproduced the text adopted by the Commission on Human Rights with the terms slightly rearranged. Its object was to limit the compulsory education clause to elementary education. Fundamental education for adults required the consent of the latter.

The representative of the USSR had suggested that the amendment proposed by the United States delegation would deny coloured people equal rights to education and restrict their right to fundamental education. In the opinion of the Australian delegation and the United States delegation, it was clear that the word “everyone” included coloured people. In any case, the age-limit for which education was free in the United States varied from state to state.

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¹¹⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 600–7.

The United States delegation considered, moreover, that an incomplete list of the categories against whom there was to be no discrimination in article 23 would only weaken the effect of article 2 of the declaration.

MR. COROMINAS (Argentina) said that his delegation was withdrawing its amendment (A/C.3/251) in favour of the amendment to the first paragraph proposed by France, which contained the same idea, namely, that technical and professional education should be made generally available.

THE CHAIRMAN put to the vote first the amendment submitted by the USSR delegation (A/C.3/353), as being furthest removed from the original text. The effect of the amendment would be to add to the end of the first sentence of article 23 the following: "and access to such education must be open to all without any distinction as to race, sex, language, material status or political affiliation".

MR. PAVLOV (Union of Soviet Socialist Republics), in reply to Mrs. Roosevelt's statement, said he was willing to add the word "etc." to the end of the list, to show that it was not limitative.

A vote was taken by roll-call, as follows:

Poland, having been drawn by lot by the Chairman, voted first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia.

Against: Sweden, Turkey, United Kingdom, United States of America, Uruguay, Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, France, Honduras, India, Lebanon, Luxembourg, Netherlands, New Zealand, Paraguay, Peru.

Abstaining: Venezuela, Dominican Republic, Ecuador, Mexico.

The amendment was rejected by 22 votes to 7, with 4 abstentions.

THE CHAIRMAN asked for comments on the French amendment (A/C.3/355). That amendment called for the replacement of the words "Elementary and fundamental education shall be free and compulsory" by the following: "... which shall be free at least in so far as elementary and fundamental education are concerned. Elementary education shall be compulsory. Technical and professional education shall be made generally available".

MR. WATT (Australia) pointed out that the text proposed by the French representative would considerably change the meaning of the first paragraph, since fundamental education would no longer be made compulsory, and that it would in fact substitute an entirely new text for the whole paragraph.

He suggested that the Committee should vote on the whole of paragraph 1 proposed by the French delegation.

MR. PAVLOV (Union of Soviet Socialist Republics) requested that each sentence of the French amendment should be put to the vote separately.

[602]

Following comments by MISS KLOMPÉ (Netherlands), MR. JIMÉNEZ DE ARÉCHAGA (Uruguay), MR. CARRERA ANDRADE (Ecuador) and MR. AZKOUL (Lebanon) on the divergences between the English and French versions of the first two sentences of the French amendment, MR. CASSIN (France) said that some delegations had expressed the fear that his amendment might be interpreted as barring private education. In order to remove that objection, and to bring the French and English texts into agreement, he made a formal proposal for the adoption, as the French text for the beginning of article 23, of the wording suggested by the Turkish delegation in its amendment (A/C.3/273/Rev.1), namely: “*Toute personne a droit a l’éducation gratuite, au moins en ce qui concerne l’instruction primaire.*”

THE CHAIRMAN put to the vote the first sentence of the French amendment, as modified; the English text was to remain as in document A/C.3/355.

The text was adopted by 17 votes to 11, with 5 abstentions.

THE CHAIRMAN put the second sentence of the first paragraph of the French amendment to the vote, as follows: “Elementary education shall be compulsory.”

That text was adopted by 28 votes to none, with one abstention.

THE CHAIRMAN put the third sentence to the vote as follows: “Technical and professional education shall be made generally available.”

That text was adopted by 25 votes to 2, with 6 abstentions.

THE CHAIRMAN put to the vote all of paragraph 1 as proposed by the French delegation, including the amendments to the French version.

Paragraph 1 was adopted by 30 votes to none, with 4 abstentions.

MR. KURAL (Turkey) thanked the French representative for his compromise proposal, as it had made possible the inclusion of the Turkish delegation’s amendment, to which he attached great importance.

THE CHAIRMAN then turned to the amendments to article 23, paragraph 2. Three had been proposed, by the delegations of France (A/C.3/355), the United Kingdom (A/C.3/354) and Mexico and the United States (A/C.3/356). The joint Mexican and United States amendment was put to the vote first, as it was furthest removed from the original text.

MRS. ROOSEVELT (United States of America) made certain minor drafting corrections in the English text of that amendment.

MR. CASSIN (France) pointed out that the word “promotion” in the third line should be translated by *progrès* and not by the word *développement*. The line should therefore read: “. . . *au progrès de la compréhension, de la tolérance et de la amitié entre tous les peuples, etc.*”

[603]

THE CHAIRMAN said that those corrections would be noted.

MR. ENCINAS (Peru) asked whether the Mexican representative would accept the Australian representative’s proposal to include a reference to the purposes and principles of the United Nations.

MR. CAMPOS ORTIZ (Mexico) said that the expression “the activities of the United Nations for the maintenance of peace” covered that idea, since the principles of the United Nations were designed primarily to maintain peace.

MRS. ROOSEVELT (United States of America) accepted the explanation given by the Mexican representative.

MR. AZKOUL (Lebanon) suggested that the words “all peoples” in the fourth line should be replaced by words used in the original draft, namely: “all nations, and racial and religious groups”.

MR. CASSIN (France) said that he would withdraw his amendment in favour of the joint Mexican and United States text, if the latter were accepted by the Committee.

MR. CARRERA ANDRADE (Ecuador) requested a roll-call vote on the additional amendment proposed by Lebanon.

A vote was taken by roll-call as follows:

New Zealand, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Peru, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Canada, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Honduras, India, Lebanon, Luxembourg, Mexico.

Against: New Zealand, Pakistan, Sweden, United Kingdom, United States of America, Uruguay, Afghanistan.

Abstaining: Paraguay, Turkey, Venezuela, Argentina, Australia, Burma, Chile, China, Netherlands.

The additional amendment was adopted by 22 votes to 7, with 9 abstentions.

MRS. CORBET (United Kingdom) requested a separate vote on the last phrase of the joint United States and Mexican amendment (A/C.3/356).

THE CHAIRMAN said that the joint Mexican-United States amendment, with the Lebanese additional amendment, would replace the last part of paragraph 2 of the original text of article 23 after the words “fundamental freedoms”, and would read as follows: “. . . and to the promotion of understanding, tolerance and friendship

among all nations and racial and religious groups, as well as the activities of the United Nations for the maintenance of peace”.

The United Kingdom amendment (A/C.3/354) differed from the foregoing only in omit-[604]ting the last phrase beginning with the words: “as well as the activities . . .”

THE CHAIRMAN put to the vote the first phrase of the sentence, namely: “. . . and to the promotion of understanding, tolerance and friendship among all nations and racial and religious groups . . .”

That phrase was adopted by 35 votes to none, with one abstention.

THE CHAIRMAN put to the vote the last phrase of the sentence, namely: “. . . as well as the activities of the United Nations for the maintenance of peace”.

That phrase was adopted by 34 votes to 2, with one abstention.

THE CHAIRMAN put to the vote the joint Mexican and United States amendment as a whole.

The amendment was adopted by 35 votes to none, with one abstention.

THE CHAIRMAN put to the vote the second paragraph as a whole as amended.

Paragraph 2, as amended, was adopted by 36 votes to none, with 2 abstentions.

THE CHAIRMAN pointed out that as the joint Mexican and United States amendment (A/C.3/356) had been adopted, there was no longer any need to vote on the United Kingdom amendment (A/C.3/354). Furthermore, as the Lebanese additional amendment had been adopted, the French amendment (A/C.3/355) had been withdrawn.

THE CHAIRMAN then drew attention to the Lebanese amendment (A/C.3/260), adding a third paragraph to article 23, as follows: “Parents have a priority right to choose the kind of education that shall be given to their children.”

COUNT CARTON DE WIART (Belgium) requested a roll-call vote on the amendment.

THE CHAIRMAN asked for a vote by roll-call on the Lebanese amendment (A/C.3/260).

MR. PAVLOV (Union of Soviet Socialist Republics) observed that it should be specified that the children referred to were young children; otherwise the Lebanese amendment would mean that parents could choose the education to be given to their children even when they were of age.

MR. LITAUER (Poland) asked whether the Lebanese representative was prepared to accept the USSR amendment.

MR. AZKOUL (Lebanon) said he could not give an immediate reply, because he had not had time to study the effect of the amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) having asked for his amendment to be put to the vote, the Chairman replied that the rules of procedure did not allow a proposal to be put to the vote once the voting had begun.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the USSR representative, and MR. LITAUER (Poland) said he thought it [605] was necessary to understand the meaning of a text before voting upon it.

MRS. CORBET (United Kingdom) said that she did not understand what was meant by the words "priority right" in the English text.

THE CHAIRMAN, citing rule 117 of the rules of procedure, decided that the amendment submitted by the USSR could not be put to the vote.

MR. LITAUER (Poland) requested that the debate should be adjourned.

The motion for adjournment was rejected by 30 votes to 5, with 1 abstention.

THE CHAIRMAN asked the Committee to proceed to the vote on the Lebanese amendment (A/C.3/260).

A vote was taken by roll-call as follows:

In favour: Argentina, Australia, Belgium, Brazil, Chile, Colombia, Cuba, Denmark, India, Lebanon, Luxembourg, Netherlands, Pakistan, New Zealand, Paraguay, Philippines, Sweden.

Against: Afghanistan, Byelorussian Soviet Socialist Republic, Ecuador, France, Mexico, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, United States of America, Uruguay, Venezuela, Yugoslavia.

Abstaining: Canada, China, Czechoslovakia, Dominican Republic, Honduras, Peru, Turkey.

The amendment was adopted by 17 votes to 13, with 7 abstentions.

MR. PAVLOV (Union of Soviet Socialist Republics), speaking on a point of order, challenged the Chairman's decision not to put the USSR amendment to the vote. He proposed that the Committee should vote on it forthwith.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic), and MR. LITAUER (Poland) supported the proposal.

THE CHAIRMAN stated that his decision had been made without any ulterior motive, and recalled the terms of rule 117 of the rules of procedure. The proposal that a vote should be taken immediately on the USSR amendment could be considered only if, under rule 112 of the rules of procedure, the Committee, by a two-thirds majority of the members present and voting, decided to reopen the debate on article 23 of the declaration.

MR. LITAUER (Poland) having formally proposed that that procedure should be adopted, MR. PAVLOV (Union of Soviet Socialist Republics) asked that a vote on the reopening of the debate should be taken at the following meeting.

THE CHAIRMAN having agreed, MR. LITAUER (Poland) suggested that the vote should not be taken on article 23 as a whole until it had been decided whether the debate should be reopened.

MR. WATT (Australia) saw no objection to deferring the vote on article 23 as a whole until the following meeting.

MR. AQUINO (Philippines) asked that the vote should be taken on the article as a whole. That [606] would not prevent the Committee from voting later on the question whether the debate should be reopened.

THE CHAIRMAN put to the vote article 23 as a whole as amended.

Article 23, as amended, was adopted by 34 votes to none, with 2 abstentions.

MR. CARRERA ANDRADE (Ecuador) said he had abstained from voting on article 23 as a whole because he considered that the provisions of paragraph 3, proposed by the Lebanese delegation, were contrary to the system established in certain countries, especially Ecuador, where the State enjoyed certain prerogatives in the field of education. His delegation intended to request that article 23 should be amended.

MR. WATT (Australia) felt that the full text of the French amendment met the objectives upon which the Argentine and Australian amendments had been based. At the same time it corrected the error in the original text regarding the compulsory nature of fundamental education.

He had voted against the first paragraph of the French amendment because that text did not wholly remove ambiguity; however as Mr. Cassin had explained that his amendment was not intended to abolish private schools, and as no one had raised any objection, Mr. Watt had been able to vote for article 23 as a whole thus amended.

He was sorry that the French delegation had withdrawn the second part of its amendment, as he would have liked to suggest an amendment to that text. The Australian delegation had voted for paragraph 3, but was opposed to consideration of the belated USSR amendment; a hasty decision should not be taken on a matter which called for thorough study.

MRS. CORBET (United Kingdom) had voted against the French amendment because she felt that it was unnecessary to make special mention of technical and professional education. The United Kingdom delegation had also voted against the Lebanese amendment to the joint amendment of Mexico and the United States of America, as it felt that the word "peoples" had a wider meaning. She had voted

against the addition of paragraph 3 not because she had any objection in principle, but because the English text did not seem sufficiently clear. She would have preferred the expression “prior right” to that of “priority right”, which appeared in the present English text.

The United Kingdom delegation had voted for article 23 as a whole because it fully endorsed the principles set forth therein. She felt, nevertheless, that certain questions of detail should not have been included in the text. A great many other questions of at least equal importance were not mentioned. The United Kingdom delegation had, however, deliberately refrained from discussing them because they should properly be included in the covenant on human rights.

MR. CAMPOS ORTIZ (Mexico) stated on behalf of his delegation that he had voted for article [607] 23 of the draft international declaration of human rights on the understanding that paragraph 3, as drafted in accordance with the Lebanese amendment, would be subject to “such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society”, as provided in article 27 of the draft declaration.

MR. KURAL (Turkey), referring to the observations of the Australian representative, stated that he had voted for paragraph 1 because he considered that it did not prohibit private education.

COUNT CARTON DE WIART (Belgium) was glad that paragraph 3 had been adopted. Recognition of the rights of the family was not a question of secondary importance. The child belonged to the family before belonging to the State.

The addition which the USSR representative had proposed called for prior discussion. During the debate the words used by Mr. Pavlov had been translated in two different ways, i.e. “children of tender years” and “minors”. If the question concerned minors, it might be advantageous to reopen the debate.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he had voted for article 23 as a whole as it was based on principles conducive to human progress. The article was not wholly satisfactory, however. According to Mr. Pavlov, the final paragraph tended to thwart the aspirations of young people. Naturally, parents should decide upon the type of education to be given to a child of twelve years of age, but the position was not the same when a child was fourteen years old or more. In many cases that was the time when a child’s vocational aptitudes became apparent and in that connexion parents were too often lacking in understanding. He hoped that the Committee would return to that matter in order to remove any tendency towards retrogression.

It was unfortunate, too, that the Committee should have rejected the USSR amendment providing for the right to education without any distinction as to material status. It had taken a decision prejudicial to the poorer classes of society.

The meeting rose at 10.50 p.m.

A/C.3/280/Corr.1
20 November 1948

**Panama: Amendment to Article 24 of the draft
 Declaration (E/800)**

Amend Article 24 to read as follows:

“Everyone who works has the right to rest and leisure in such measure as may be required for the maintenance and development of his physical and mental health and wellbeing.”

A/C.3/304/Rev.2*
20 November 1948

**Recapitulation of amendments to article 27 of the
 draft Declaration (E/800)**
 (In the chronological order of their submission to the Committee)

Article 27

(Text adopted by the Commission on Human Rights)

1. Everyone has duties to the community which enables him freely to develop his personality.
2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

*Amendments:**Union of Soviet Socialist Republics (E/800)*

Add (after the words “democratic society”):

“and also the corresponding requirements of the democratic state”.

United States of America (A/C.3/223)

Amend the second paragraph of this article to read as follows:

“2. In the exercise of his rights *and freedoms*, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.”

Cuba (A/C.3/261)

Add the following text:

“Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political, rights and duties are indissolubly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom.

“Duties of a legal nature presuppose other duties of a moral nature which facilitate their understanding and serve as their foundation.”

[*] This document incorporates documents A/C.3/304/Rev.1, A/C.3/304/Rev.1/Add.1 and A/C.3/345.

[2]

“It is man’s duty to practise, uphold and promote culture by all means at his disposal, for culture is the highest social and historical expression of the human spirit.

“Morality being the noblest product of culture, it is the duty of all to respect it at all times.”

Egypt (A/C.3/264)

Amend paragraph 2 as follows:

“In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of loyalty, *good faith*, morality, public order and general welfare in a democratic society.”

Add a new paragraph with the following text:

“Those rights cannot be exercised contrary to the principles and purpose of the United Nations.”

New Zealand (A/C.3/267)

(a) Delete paragraph 1.

(b) Delete the words “morality, public order and the” from the present text of paragraph 2.

Uruguay (A/C.3/268)

In paragraph 2, substitute the words “prescribed by law solely for the purpose of securing” for the words “necessary to secure”.

Chile (A/C.3/304/Rev.1/Add.1)

Amend Article 27, paragraph 2, as follows:

1. Delete the word “necessary” and substitute “essential”.
2. After the words “the requirements of morality” add the words “of national sovereignty and solidarity”.

Amend the United States amendment to Article 27 (A/C.3/223) as follows:

1. Delete the word “necessary” and substitute “essential”.
2. After the words “the requirements of morality” add the words “of national, sovereignty and solidarity”.

France (A/C.3/345)

Amend paragraph 1 as follows: “Everyone who has the right freely to develop a personality has duties to the community”.

Amend paragraph 2 as follows: “In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others, *to satisfy the legitimate* requirements of morality, public order and the general welfare in a democratic system, *and to serve the purposes and principles of the United Nations.*”

A/C.3/305/Rev.1*

20 November 1948

**Recapitulation of amendments to article 28 of the draft
Declaration (E/800)**

(In the chronological order of their submission
to the Committee)

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

Amendment:

Uruguay (A/C.3/268)

Substitute the words “performs any acts” for the words “engage in any activity”.

France (A/C.3/345)

After the word “State” insert the word “group”. Article 28 would then read:

“Nothing in this Declaration shall imply the recognition of the right of any State, *group* or person to engage in any activity aimed at the destruction of any of the right and freedoms prescribed herein.”

[*] This document replaces documents A/C.3/305 and A/C.3/345.

A/C.3/307/Rev.2*

20 November 1948

Additional articles proposed for the draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Union of Soviet Socialist Republics (E/800)

Add to the text adopted a separate new paragraph in place of the corresponding article 51 of the Geneva text rejected by the Commission:

“All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the courts and in other official premises.”

Cuba (A/C.3/261)

Insert the following article:

“Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby justice will protect him from acts of authority that, to his prejudice, violate any fundamental human rights.”

Insert the following article:

“Every person has the right to resist acts of oppression or tyranny.”

Lebanon (A/C.3/262)

Add the following as article 29:

“All laws in any state shall be in conformity with the purposes and principles of the United Nations, as embodied in the Charter, in so far as they deal with human rights.”

Egypt (A/C.3/264)

After article 28, add the following article:

“The nature and the extent of the measures to be taken to give

[*] This document replaces documents A/C.3/307/Rev.1, A/C.3/307/Rev.1/Add.1 and A/C.3/307/Rev.1/Add.2.

[2] effect to the rights laid down in this Declaration shall, if necessary, be defined in a subsequent instrument.”

Yugoslavia: (A/C.3/307/Rev.1/Add.1)

Insert the following three articles:

A

“Any person has the right to the recognition and protection of his nationality and to the free development of the nation to which he belongs.

“National communities which are in a state community with other nations are equal in national, political and social rights.

B

“Any national minority, has an ethnical community, has the right to the full development of its ethnical culture and to the free use of its language. It is entitled to have these rights protected by the State.

C

“The rights proclaimed in this Declaration also apply to any person belonging to the population of Trust and Non-Self-Governing Territories.”

Denmark: (A/C.3/307/Rev.1/Add.2)

Add the following:

“All persons belonging to a racial, national, religious or linguistic minority have the right to establish their own schools and receive teaching in the language of their own choice.”

A/C.3/314/Rev.1*

20 November 1948

Recapitulation of Amendments to the Preamble of the Draft Declaration (E/800)

(In the chronological order of their submission
to the Committee)

Preamble:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights resulted, before and during the Second World War, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly

[*] This document replaces documents A/C.3/314, A/C.3/339, A/C.3/351

[2]

in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member states themselves and among the peoples of territories under their jurisdiction.

*Amendments:**Netherlands (A/C.3/219)*

Insert after the words “human family” the following text:
“based, on man’s divine origin and immortal destiny”.

Dominican Republic (A/C.3/217 and A/C.3/217/Corr.1)

In paragraph 4, line 2, delete the word “and” and substitute a comma; line 3, after the words “human person”, insert the words: “and in equality of rights as between men and women”.

Union of Soviet Socialist Republics (E/800)

(Draft Preamble)

“In accordance with the principles proclaimed in the Charter of the United Nations of respect for human rights and basic freedoms for all without distinction as to race, sex, language and religion and for the dignity and value of the individual;

“In order to ensure observance of all these rights and freedoms and with a view to promoting social progress and improving the living conditions of the peoples;

“With a view also to promoting the development of friendly relations between nations;

“The General Assembly recommends the following ‘Declaration of Human Rights’ to all States Members of the United Nations to be used at their discretion both in adopting appropriate legislative and other measures, and in their systems of upbringing and education and in extending the provisions of this Declaration to the peoples of States Members themselves and to the populations of all the territories in respect of which the States concerned discharge the function of the guiding and administering authorities (populations of Trust and other Non-Self-Governing Territories).”

Union of South Africa (A/C.3/226)

In paragraph 3, delete the words “protected by a regime of law” and substitute the words “respected and observed”.

In paragraph 4, delete the words “and to promote social progress and better standards of life in larger freedom”.

United Kingdom (A/C.3/253)

“By a regime of law” should be replaced by “by the rule of law”.

This appears to apply only to the English text.

[3]

Egypt (A/C.3/264)

After the third paragraph of the Preamble add the following text:

“Whereas the fundamental rights of man are not derived from his status as a national of a particular State, but constitute inherent attributes of his person”.

Australia (A/C.3/257)

Amend second paragraph to read:

“Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind and have made apparent the supreme importance of the recognition and guarantee of fundamental freedoms”.

Amend fifth paragraph to read:

“Whereas Member States have pledged themselves to promote, in co-operation with the Organization, universal respect for the observance of human rights and fundamental freedoms.”

New Zealand (A/C.3/267)

Substitute the following for the present text:

“Whereas faith in fundamental human rights has been reaffirmed in the Charter of the United Nations,

“And whereas the Charter further provides that the United Nations shall promote universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

“And whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization by progressive measures, national and international, of their universal and effective recognition and observance, both among the peoples of the Member States themselves and among the peoples of the territories under their jurisdiction;

“Now, therefore, the General Assembly proclaims this Declaration of Human Rights as a common, standard for achievement by all peoples and nations.”

*France (A/C.3/339)**I. Amendment to the title:*

Substitute the word “universal” for the word “international”.

II. Introductory clause of the preamble:

Adopt the phraseology of the United Nations Charter

We, the peoples of the United Nations

No. 1 (unchanged)

No. 2 Whereas *ignorance of* and contempt for human rights are *one of the essential causes of human suffering*; whereas, particularly before and during the Second World War, *Nazism and Racism engendered countless acts of barbarism* which outraged the conscience of mankind;

[4]

No. 3 (unchanged)

No. 4 . . . Whereas, in the Charter, *we have once more re-affirmed*

III. *Final operative clause of the preamble:*

Proclaim

through our representatives in the General Assembly, this Declaration etc. . .

Ecuador (A/C.3/351)

For the present text of the preamble substitute the following:

“Whereas the peoples of the United Nations consider that the historic moment has arrived for proclaiming, across all frontiers, their faith in human freedom and dignity as the sole means of obtaining peace in the world,

“Whereas it rests with States to safeguard human freedom by recognizing and respecting, in full equality and by the same methods, those individual rights which are calculated to promote the progress of the human person and of society.

“Whereas a common understanding of human rights is indispensable for ensuring that they be universally respected, and the possession of a juridical standard to serve as the foundation of a social, free and peaceful existence and eliminate the causes of domestic and international disputes is essential to mankind,

“Whereas disregard and contempt for human rights are the main cause of wars and insurrections, since the oppressed ever seek to revolt against tyranny,

“Whereas the establishment of the reign of law can alone improve the living conditions of mankind in fullest freedom,

“The General Assembly

“Solemnly adopts this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society shall strive to promote respect for these rights and freedoms and to secure their universal recognition and observance, both among the peoples of Member States and among the peoples of territories of such other countries as may desire to subscribe to its principles.”

A/C.3/357

20 November 1948

Original Text: English, French

France: Amendment to Article 24 of the draft Declaration (E/800)

Amend Article 24 to read as follows:

“Everyone has the right to an equitable share of rest and leisure.”

A/C.3/358**20 November 1948**

**Philippine-Argentine Joint Amendment: Revised
version of the amendments to article 24 of the
draft Declaration (E/800)**

“Everyone is entitled to due rest and leisure for his spiritual, cultural, and physical wellbeing.”

A/C.3/359**20 November 1948**

**New Zealand: Amendment to Article 24 of the
draft Declaration (E/800)**

Amend Article 24 to read as follows:

“Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay.”

A/C.3/360**20 November 1948****Original Text: French**

**Cuba, France, Mexico: Joint
amendment to article 25
of the draft Declaration (E/800)**

“Everyone has, likewise, the right to the protection of his moral and material interests in any inventions or literary, scientific or artistic works of which he is the author.”

A/C.3/SR.149¹²⁰
20 November 1948

***Summary Record of the Hundred and Forty-Ninth
meeting [of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Saturday,
20 November 1948, at 11 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

74. Draft international declaration of human rights (E/800) (continued)

Article 24¹

MR. COROMINAS (Argentina) said his amendment to article 24 (A/C.3/251) was more or less

^[1] Article 25 of the draft universal declaration of human rights (A/777).

[608]

similar to several others that had been put forward. It was based on a provision of the Bogotá declaration and, in his opinion, might well be substituted for the concise basic text. Many countries, among them Argentina, guaranteed periodic holidays with pay for workers and the whole question of the right to rest and leisure was undoubtedly of great interest to them.

In a spirit of compromise, he was prepared to accept sub-amendments to his amendment, but hoped that it would be used as a basis for discussion.

MR. HAMDI (Egypt) said his amendment (A/C.3/264) was not substantially different from the one put forward by the Argentine delegation, but he thought it more clearly drafted than the latter.

MR. AQUINO (Philippines) said that the Philippine delegation had been closely connected with the incorporation of article 24 in the draft declaration. The suggestion that it could be interpreted as a right to laziness, however, had stimulated his delegation to put forward its amendment (A/C.3/239). The concept of the right to health implied an obligation on the part of each Government to take all the necessary measures for protecting the health of its citizens. Even the infirm would benefit from such a provision, because it would mean no further deterioration in their state of health.

There was a difference in meaning between rest and leisure; rest meant the actual cessation of activity, while leisure was simply a period of unengaged time. A period of rest gave the individual an opportunity to recover his lost strength; during his leisure time he was able to look after his cultural development.

¹²⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 607–13.

He felt it was appropriate to include a provision ensuring to all the benefits of physical wellbeing, and reserved his right to modify the wording of his amendment.

MR. PÉREZ CISNEROS (Cuba) said his amendment (A/C.3/261) would simply add certain social concepts to the right to rest in order to avoid any possibility of its being interpreted as the right to laziness. The Argentine and the Egyptian amendments were very similar, while the Philippine amendment was covered by the words “physical benefit”, at the end of the Cuban proposal.

The reference to the duties of the State in respect of the right to rest, as set forth in the USSR amendments (E/800, page 35), was acceptable to him. It was the only possible way in which the right could be guaranteed and such obligations were incorporated in the legislation of many countries. A precedent concerning the mention of the State’s obligations had already been established in regard to compulsory schooling and the provisions of article 22.

He proposed, therefore, that the USSR amendment should be added as a second paragraph to the Cuban amendment.

MRS. CORBET (United Kingdom) did not think that any of the proposed amendments would improve the original text. The USSR amendment was concerned with the implementation of the [609] right to rest and leisure, and while the substance of it was acceptable, it was not appropriate for inclusion in a declaration of individual rights. In regard to the Philippine amendment, she pointed out that good health was a privilege and not a right and that the concept was already covered in article 22. The Argentine, Cuban, Egyptian and Panamanian amendments all repeated the provisions of article 25. The last (A/C.3/280), by coupling the idea of wellbeing with that of leisure, could even be regarded as restrictive.

MR. KAYALY (Syria) pointed out that the right to rest and leisure, as defined in the USSR amendment, had been introduced into Syrian law two years previously. It was a right that was of fundamental importance; however, the manner in which the individual utilized his rest and leisure time should not be laid down in the declaration.

He agreed with the United Kingdom representative that the Philippine amendment was covered by the provisions of article 22. Of the four other similar amendments, he preferred that of the Argentine delegation and suggested that any changes of wording deemed necessary should be made in that particular text.

MRS. ROOSEVELT (United States of America) considered that the great merit of article 24 was its concise simplicity which would appeal to all ordinary individuals. As had been pointed out before, the declaration was not intended for philosophers and jurists but for the ordinary people. None of the amendments added anything new to the text; they merely stated the same right in unnecessary detail. She opposed the USSR amendment for the often repeated reason that the declaration was a statement of individual rights and not of States’ obligations.

United States legislation regulated hours of work, guaranteed holidays with pay and provided for contractual agreements between unions and employers. The standards set by the various trade unions were increasingly applicable to all workers, whether members or not.

The Philippine amendment was covered by the provisions of article 22. She did not object to the language that had been proposed from the text of the Bogotá declaration, but preferred the simplicity of the original text. The Egyptian amendment was too detailed. The words “working man or woman”, contained in the Panamanian amendment, had a specific meaning which would exclude certain categories of people who worked from the right to rest and leisure.

The rather complicated additions that had been suggested did nothing to clarify the right; therefore she hoped that the concise original text would be maintained.

MR. CONTOUMAS (Greece) felt that the text should make clear that it was all workers, or all who worked, who had the right to rest and leisure.

MR. DE LA OSSA (Panama) said his amendment was designed to make clear who should receive the benefits of the right to rest and leisure. It was not necessary to state that doctors and other pro-[610]fessional workers had the right to rest and leisure, because such categories of persons were able to earn that right. It was the workers, therefore, to whom article 24 was particularly directed.

MR. NOSEK (Czechoslovakia) said that one of the most important aspects of article 22 was that it defined the meaning of the right to a standard of living. It was unfortunate that the Committee had not accepted the USSR amendment to that article concerning social insurance. With that addition, the article would have been more comprehensive and progressive and would have more clearly reflected the spirit of Article 55 of the United Nations Charter.

It had to be recognized that article 24 was complementary to article 22. In that connexion, he drew attention to certain documents of the International Labour Organization which defined a standard of living as being made up of the consumption level, social services, education, recreation and health facilities and, finally, rest and leisure.

As was set forth in the Czechoslovak Constitution, the right to rest and leisure would have to be guaranteed through holidays with pay and regulated working hours. For that reason he supported the USSR amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) said that it was not enough merely to declare rights; it was essential to guarantee them to those who should enjoy them. The USSR amendment mentioned such guarantees in a way which showed that they were specifically designed for workers. That would meet objections that the article might be interpreted as protecting the idle. Rest could be guaranteed only by the reasonable limitation of working hours. Neither rest nor leisure was possible to the man compelled – as he might be in colonial countries – to

work fifteen hours a day. The limitation must, of course, not be enforced in such a way as to reduce earning power, for the starving man could obviously not enjoy leisure. He had heard of workers in Bombay under United Kingdom rule, for example, who had received less food than the prisoners in jail; such workers could not enjoy leisure. Without a provision to limit working hours, article 24 would be hollow.

In his country, rest had been guaranteed by weekly and yearly paid holidays. Unless pay continued during such holidays, there was no possibility of rest and leisure. It was essential to write such a guarantee into the declaration. He deplored the argument repeatedly advanced by the representatives of the United Kingdom and the United States that such guarantees were inappropriate in the declaration. It almost seemed as if those representatives failed to take sufficient interest in the rights of working people. Inclusion of such guarantees would not overload the article.

He wondered why the Philippine amendment had been introduced – with apparent irrelevance – at the present stage. It should have been moved in connexion with the USSR amendment to article 22 (E/800, page 35) which dealt with health. The Philippine amendment was perhaps some-[611]what ironical; it would be hard to tell a sufferer from tuberculosis that he had the right to good health.

MR. CASSIN (France) said that the basic text was admirably concise, but it was too broad in meaning. He therefore submitted an amendment (A/C.3/357) restricting its scope to an equitable share of rest and leisure. He believed that the greatest care must be used to draft a good article; otherwise it might be open to ridicule. Amendments intended only in the interests of the industrial workers were restrictive and should be rejected. The USSR amendment was superfluous because article 20 had already introduced the idea of State responsibility. The declaration could not define the uses to which leisure must be put. All the amendments which attempted to do so should be rejected.

COUNT CARTON DE WIART (Belgium) said that he could not support the Cuban, Argentine and Egyptian amendments because it was impossible to enumerate satisfactorily the possible uses of leisure; it might also be used for sport, travel or other purposes. He was equally opposed to the USSR amendment because there, too, the enumeration of guarantees was restrictive; there might be many more ways of guaranteeing the right to rest and leisure. He was not, however, opposed to the principle. His own country had enjoyed legal limitation of working hours and paid holidays for fifty years. The succinct language of the basic text was excellent.

The French amendment, however, was an improvement: it said precisely what was meant. He would therefore support it.

MR. HAMDY (Egypt) said that he had never intended his amendment to be interpreted as an attempt to dictate the use to which leisure should be put. He had

merely tried to complete the present text. He did not think that the case of doctors, housewives and similar persons could come under the guarantee by contractual agreements inasmuch as such persons were self-employed.

MR. PÉREZ CISNEROS (Cuba) pointed out that it was essential to distinguish a modern declaration of rights from those of the previous centuries. The latter had spoken of man as the citizen; today, such a declaration should stress man as a worker. That was the basic thought underlying the Cuban amendment. No one disputed man's right to rest and leisure; but leisure might be abused. To stipulate the right might be insufficient unless it were also stated that it should be used for mental, cultural and physical development – the development of the human personality. The community must be obliged to create the opportunity for such development.

Although the Cuban and Egyptian amendments were very similar, the Egyptian was rather too detailed. However, he supported the Egyptian and Argentine amendments no less than his own.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) explained that his main object was to [612] indicate the prerequisites for implementation of the right to rest and leisure. The Byelorussian Constitution guaranteed the eight-hour day, annual holidays with pay, and medical assistance. That resulted from the fact that the workers owned the means of production. Socialism was the basis upon which the right to enjoy rest and leisure rested. Before the Revolution of 1917, when the economy of Byelorussia was based on private property, there had been no opportunity for such enjoyment. His country had now been largely industrialized; and on that basis the right to leisure and rest had been extended. That was the prerequisite for enjoyment of that right.

He supported the USSR amendment because the article would be inadequate without the addition of the guarantees contained therein. Such an addition would render the article more generally intelligible. The right might be guaranteed by law, as it was in his country, or by contractual agreements.

MR. AQUINO (Philippines), replying to the representative of the USSR, said that he had not supported the USSR amendment to article 22 precisely because he had believed that the appropriate place for a provision dealing with health was article 24. The French proposal raised difficulties of interpretation: who would decide what was an equitable share of rest? The words "due rest" would be preferable because "due" clearly implied that rest had been merited. It was also essential to state for what purposes leisure should be used.

He had reached a compromise text after discussion with the Cuban, Argentine, Egyptian and Panamanian delegations, using the Argentine amendment as a basis. Accordingly he submitted a joint Philippine-Argentine amendment (A/C.3/358) incorporating both those points.

MRS. NEWLANDS (New Zealand) said that she had been interested by the USSR amendment because her country's law contained the guarantees mentioned in it. She

agreed, however, that it was inappropriate to include them in the declaration in that form. She therefore submitted a new amendment (A/C.3/359) incorporating the substance of the USSR amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) asked the representative of Cuba to explain why the right to rest had been eliminated in the English version of his amendment. He feared, too, that that amendment tended to interfere with freedom of choice of occupation during free time. There seemed no clear difference between spiritual and cultural development. If those points were clarified, however, he might support the Cuban amendment. He might also support the Egyptian and Argentine amendments, which were similar to the Cuban. He did not understand the word "maintenance" in the Panamanian amendment, but that might be due to the Russian translation. The need for the Philippine amendment had disappeared since article 22 had been adopted. He did not understand the Philippine representative's argument, however: the USSR delegation had introduced no amendment to article 24 which [613] mentioned health, so that it was not clear how the Philippine representative could support it.

MRS. CORBET (United Kingdom) regretted that the representative of the USSR had appeared to insinuate that her delegation opposed limitation of working hours and paid holidays. The United Kingdom Government had always made a special effort to secure such conditions. She had opposed the USSR amendment simply because she, like the representative of the United States, wished the text of the declaration to be concise; details should be left for the covenant. The covenant would undoubtedly use certain of the ideas suggested by the USSR and other delegations; it was inopportune to attempt to anticipate that document. She agreed that the right would be hollow unless paid holidays and similar facilities for enjoying rest and leisure were guaranteed; but that guarantee had no place in the declaration.

Replying to the USSR representative with regard to the example he had mentioned, Mrs. Corbet pointed out that the United Kingdom Government had controlled the Bombay prisons, and prisoners had been relatively well fed. It had not, however, exercised control over the conditions of Bombay workers. She asked the USSR representative whether workers in compulsory labour camps in his country enjoyed paid holidays. She regretted that propaganda element had been introduced into the debate.

The Philippine proposal was restrictive. The individual should have a free choice in the matter of using his leisure. With regard to the Panamanian amendment, she pointed out that her Government had been attempting to abolish the distinction between manual labourers and other types of workers. She therefore preferred a phrase such as "all who work" to anything suggesting "the working man". She assured the Egyptian representative that the distinction between rest and idleness was quite clear; rest meant relaxation from work. She welcomed the New Zealand amendment, particularly for its clear drafting.

MR. CHANG (China) said he supported the basic text in preference to any of the amendments.

MR. PÉREZ CISNEROS (Cuba) withdrew his amendment (A/C.3/261) in favour of the New Zealand amendment (A/C.3/359). He would abstain from voting on the other amendments.

MR. DE LA OSSA (Panama), submitting a revised text of his amendment (A/C.3/280/Corr.1), said that he had taken all other amendments into account. In reply to the representative of the USSR, he explained that the word “maintenance” had been designed to cover those in poor health who could not, for that reason, be said to need rest since they had not been working. That provision filled a gap in the basic text.

The meeting rose at 1 p.m.

A/C.3/SR.150¹²¹
20 November 1948

Summary Record of the Hundred and Fiftieth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Saturday,
 20 November 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

75. Draft international declaration of human rights (E/800) (continued)

Article 24 (continued)

THE CHAIRMAN put to the vote the USSR amendment to article 24 (E/800, page 35), which consisted of an addition to the original text.

The amendment was rejected by 20 votes to 5, with 12 abstentions.

THE CHAIRMAN asked the members of the Committee to consider the alternative text of article 24 proposed by the New Zealand delegation (A/C.3/359).

MR. CHANG (China) proposed a new version of the amendment, as follows:

“Everyone has the right to rest and leisure, *including such provisions as* reasonable limitation of working hours and periodical holidays with pay.”

¹²¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 614–26.

AS MRS. NEWLANDS (New Zealand) did not accept the revision submitted by the Chinese representative, the Chairman asked the Committee to vote on the New Zealand amendment as it appeared in document A/C.3/359.

MR. PÉREZ CISNEROS (Cuba) asked for a vote by roll-call.

A vote was taken by roll-call.

In favour: Afghanistan, Argentina, Australia, Burma, Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, India, Mexico, New Zealand, Norway, Paraguay, Peru, Poland, Sweden, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, China, Netherlands, United Kingdom.

Abstaining: Brazil, Canada, Egypt, France, Greece, Lebanon, Panama, Philippines, United States of America, Yemen.

The amendment was adopted by 25 votes to 4, with 10 abstentions.

MR. WATT (Australia) stated that his delegation had voted in favour of the amendment, although the wording was not entirely satisfactory, because it considered that the principle on which the amendment was based should be stated in the declaration. He expressed some doubt, however, as to where it should be inserted. In his opinion, the expression of that principle should immediately follow the article dealing with the standard of living and precede that concerning education. He hoped that the drafting sub-committee would take his remarks into account.

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MR. CHANG (China) had voted against the amendment on account of its wording, although his delegation had no objection to the principle on which it was based. The right to leisure was an abstract idea, the limitation of working hours was an abstract idea relating to a concrete reality and holidays with pay were a concrete matter. For that reason, he considered that the wording of the New Zealand amendment, in giving equal importance to ideas of a very different nature and in expressing them without establishing any logical relation between them, was somewhat inadequate.

He appealed to the New Zealand delegation to consent to change the wording of its amendment.

COUNT CARTON DE WIART (Belgium) had voted against the amendment because he considered that the text might give rise to misunderstanding. In particular, it did not explicitly specify the categories of persons entitled to holidays with pay. It might be interpreted as meaning that even persons with substantial private incomes or, for instance, housewives not engaged in any work outside their homes were also entitled to holidays with pay. The question would then arise who would have to bear the expense in such cases.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that the USSR delegation had voted for the New Zealand text although it had some doubts about

the wording. It had done so because it considered that the principle of the amendment was a basic one which should be mentioned in the declaration. The New Zealand text was certainly not perfect; the USSR text was better. The text as adopted, however, could not give rise to any misunderstanding. It was proposed to grant holidays with pay to workers and to no one else. The idea of leisure was bound up with the idea of work; moreover, the fact that the New Zealand amendment mentioned the limitation of working hours clearly showed that its provisions concerned workers only.

MRS. CORBET (United Kingdom) stated that her delegation had voted against the amendment, but not because it opposed its underlying principles. It was not only desirable, but essential to put those principles into practice. But, as the representatives of Belgium and China had pointed out, the wording of the text was far from satisfactory.

MR. HAMDY (Egypt) had abstained, not because he did not fully support the principle of the New Zealand amendment, but because he considered it no improvement upon the precise terms of article 24. That article spoke of the right to rest and to leisure. The idea of the limitation of working hours was only a repetition of that right, and the right to holidays with pay was a detail which it would be more appropriate to mention in the covenant.

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MRS. VERWEY-JONKER (Netherlands) had felt bound to vote against the amendment for the reasons given by the Chinese representative, whose text she would have been able to accept.

Her delegation had voted against the USSR amendment because it considered that the words "by law or by contractual agreements" were not adequate to ensure that the right to leisure would be enjoyed by all.

MRS. NEWLANDS (New Zealand) said that her delegation was fully aware of the imperfections of the text it had submitted. She was therefore ready to accept any change which would improve it or any new text likely to satisfy the majority of the Committee. She had carefully considered the amendments and suggestions made, but either they were not satisfactory or they would not have obtained the votes of the majority of the Committee.

...

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Article 25¹

MR. CAMPOS ORTIZ (Mexico) pointed out that article 25 was the last of the articles in the draft declaration which dealt with individual human rights. The Committee had already recognized the rights of the wage earner, the family, the mother and the

child; if it did not wish there to be a serious omission in the text it was drawing up it must now proclaim the rights of the individual as an intellectual worker, scientist, or writer; in other words, the rights of all those who contributed to the progress and wellbeing of humanity. The Mexican delegation thought the time had come to recognize that without the contribution of that form of human activity no social progress would be possible.

No article in the draft declaration dealt specifically with the rights of the intellectual worker. The same omission had existed in the original version of the draft American declaration of the rights and duties of man. The Mexican delegation had had the honour, at Bogotá, of proposing the article on the protection of intellectual and artistic work which had been unanimously adopted, and was submitting to the Third Committee an amendment (A/C.3/266) based on the text adopted at Bogotá. World opinion had unanimously recognized that the Bogotá declaration owed its progressive and advanced nature in part to the introduction of the idea of the protection of intellectual work; similarly, the Third Committee ought unanimously to recognize the necessity of introducing that new idea in a declaration which would have a still wider scope than the Bogotá declaration, since it was to be a universal declaration of human rights.

He recognized that certain objections might be raised, but considered they would not seriously affect the merit of his proposal. It might be argued, for instance, that the Mexican amendment dealt with the rights of one particular category of persons only; but was that not also true of property rights or the rights of the wage-earner? It might be said, further, that the general provisions concerning labour adequately protected intellectual workers; that, however, would only be true of a small number of salaried intellectual workers, and was certainly not true of all men of learning, writers, or artists, pursuing independent research. It might be said that national legislation, or international legislation itself by a system of conventions of which everyone was aware, safeguarded the rights of authors and inventors' patents: but the effectiveness of such protection, particularly in the international field, was at best relative and often non-existent.

If the United Nations decided to include such a provision in the Declaration of Human Rights, it would be proclaiming to the world, with all the

^[1] Article 28 of the draft universal declaration of human rights (A/777).

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weight of its moral authority, its consciousness of the necessity of protecting all forms of work, manual as well as intellectual, and of safeguarding intellectual production on an equal basis with material property.

Mr. Campos Ortiz was glad that his delegation held the same views on the question as the delegations of France and Cuba, both of which were playing such a distinguished part in the drafting of the declaration of human rights.

For technical reasons the meeting was suspended from 4.20 to 4.30 p.m.

MR. PÉREZ CISNEROS (Cuba) pointed out that the amendment to article 25 proposed by his delegation (A/C.3/261) was in two parts. The first was a mere drafting amendment to the text adopted by the Commission on Human Rights; the Cuban delegation did not consider that everyone was sufficiently gifted to play a part in scientific advancement, and thought that the idea of the authors of the article would be better expressed by the following:

“Every person has the right . . . to participate in the benefits that result from scientific advancement.”

He considered the second part of the Cuban amendment to be the more important. It was in the same spirit as the amendments submitted by the Mexican and French delegations. Moreover, the Cuban delegation was proposing a text of which the Mexican delegation could justly claim to be the originators, as the Mexican Government had been the first at Bogotá to raise the question of the protection of the rights of the intellectual worker, artist and scientist. The Cuban delegation therefore had no pride of authorship and was prepared to withdraw its text in favour of that proposed by the French representative (A/C.3/244/Rev.1) – which was exactly similar in substance to that of the Mexican delegation, but phrased with admirable perfection of style.

Supporting the remarks just made by Mr. Campos Ortiz, he expressed his conviction that the idea of intellectual protection was a new and important one which should rightly be included at the point the Committee had reached in the draft declaration.

MR. CARRERA ANDRADE (Ecuador) thought that article 25, as worded in the draft declaration, was one of the most confused and contradictory that the Committee had so far had to examine.

The text in question established rights which had always existed. The point which it was important to establish was the State's obligation to render works of art and intellectual creations accessible to the people by granting admission without charge to all museums and libraries and, above all, by extending public education. That was actually the right the Committee had recognized in proclaiming the right to education and freedom of thought.

In his analysis of the proposed amendments to article 25, Mr. Carrera Andrade stated that the Mexican, Cuban and French amendments introduced a new element concerning literary property [619] and the rights of the inventor. The delegation of Ecuador did not think it right, in a general declaration of human rights, to make special mention of the rights of writers and inventors, who formed only a small proportion of society. The question of literary or scientific property belonged under the general chapter on property rights. Speaking as an independent writer from a free American country, he expressed his conviction that artistic and literary work was

part of mankind's heritage; it should serve the cause of humanity and be accessible to all without restriction.

The delegation of Ecuador thought it preferable, in the interest of a good draft declaration, to delete article 25 entirely.

MR. ENCINAS (Peru) said that his delegation fully concurred in the spirit of the amendments submitted by the delegations of Mexico, Cuba and France designed to safeguard the rights of authors and inventors' patents. His delegation doubted whether the wording of the texts was entirely satisfactory but was convinced that the idea should be retained in article 25.

The Peruvian delegation was prepared to accept the text proposed by the Commission on Human Rights, with one reservation. In its opinion, not only must the right of every person to take part in the cultural, artistic and scientific life of the community be recognized, but also the right to do so in that complete freedom without which there could be no creation worthy of man. An earlier article of the declaration had dealt with freedom of thought; it seemed pertinent now to recognize the freedom of creative thought, in order to protect it from harmful pressures which were only too frequent in recent history.

The Peruvian delegation therefore formally proposed an amendment to the text of article 25, as follows:

“Every person has the right freely to take part in the cultural life. . .”

MR. CASSIN (France) stated that he was quite satisfied with the wording proposed by the Cuban delegation for the single paragraph of article 25 adopted by the Commission on Human Rights. He recalled that the question had been debated at length by the Commission on Human Rights, where several delegations had maintained that even if all persons could not play an equal part in scientific progress, they should indisputably be able to participate in the benefits derived from it. The French delegation fully supported that view.

The French delegation was also happy to agree with the delegations of Mexico and Cuba concerning a principle proclaimed in the Bogotá Declaration which it would like to see included in the international declaration of human rights.

The latter mentioned more than one productive human activity. It spoke of the right to own property and the right to work. It would have seemed [620] somewhat strange if no similar mention had been made of the rights of those who contributed eminently to the progress of science and civilization.

It would doubtless be argued that the number of learned men and artists was small. Such an assertion would not be entirely justified. Many inventions, for instance, owed their origin to men who followed some other profession in everyday life and who therefore made a considerable contribution to the life of the community over and above their daily activities. It could also be argued that

royalties and patents were sufficient to protect such persons. He did not think so. His proposal not only took into account the material aspect of the question, but was also designed to protect the moral interests of artists and inventors. Very many scientists attached greater importance to the spiritual side of their work than to the profits that they could gain from it; they only asked that their work should be recognized by future generations. That recognition, which they claimed, should be granted to them, lest injustice should be done in the future. Similarly, it often happened that a literary or artistic work was reproduced in a distorted and travestied form although it suffered no financial loss. In those cases too the artist or the author should be afforded the right to protect his work, for it was in the interest of humanity as a whole to prevent works which ennobled the human race from becoming a mockery.

It would redound to the honour of the United Nations General Assembly if for the first time on an international plane, and without prejudice to existing conventions, it proclaimed among the fundamental rights of man the moral and material rights of every person who contributed to the intellectual, artistic and scientific progress of man.

In conclusion, Mr. Cassin declared that the world, which had so many reasons for not forgetting the names of those who were bent on destroying it, must also honour the names of those who laboured for the common good.

MRS. ROOSEVELT (United States of America) stated that once again her delegation would vote for the text prepared by the Commission on Human Rights, which she thought was well worded, and which, together with the verbal amendment of the delegation of Peru, gave an excellent definition of the right to culture which it was intended to affirm.

The United States delegation opposed the adoption of the USSR amendment (E/800, page 35) for reasons both of form and of substance. She emphasized *inter alia* that the words "progress" and "democracy" applied to abstract ideas for which no uniform interpretation existed. It seemed dangerous to adopt a text which could be interpreted as a pretext for the enslavement of science. The United States delegation would under no circumstances agree that science should be placed at the service or politics. Yet that might be the practical effect of the USSR amendment.

[621]

With regard to the amendments submitted by the French, Cuban and Mexican delegations, she held that they reproduced almost word for word the article in the Bogotá Declaration dealing with patents and copyright. While it accepted the principle which they expressed, the United States delegation thought that they would be out of place in the declaration, more especially since they dealt with a specific aspect of the rights of property already covered by article 15.

The United States delegation appealed to the Committee to adopt the text of article 25 without alteration.

MR. DE ATHAYDE (Brazil) thought that article 25 established a principle of non-discrimination and the right of everyone to participate in the life of the spirit. An earlier article had recognized the right of the individual to education; he could not be denied the right to participate in the cultural life of the community.

The Brazilian delegation was in favour of article 25 as adopted by the Commission on Human Rights, and it supported the French amendment, to add a second paragraph dealing with the protection of the moral and material interests of men of science, inventors and persons engaged in artistic pursuits. This latter idea was also to be found in the amendments of Cuba and Mexico, which showed the great interest it had aroused.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) regretted he could not accept the amendment proposed by the USSR delegation. In his opinion, the development of science should not depend on political considerations. Science could not serve an ideology; it obeyed a process of independent evolution, and very often politics, on the contrary, were influenced by science.

The delegation of Uruguay supported the first paragraph of the Cuban amendment, which was to replace the existing text of article 25. His delegation preferred that it should read: "Everyone has the right. . . to participate in the benefits that result from scientific advancement", rather than ". . . share in scientific advancement", for it was only when a scientific discovery was put into practice that people could enjoy its benefits.

He noted with satisfaction that the amendments submitted by France, Cuba and Mexico were based on a principle adopted by the Government of Uruguay after the Bogotá conference. In refutation of the objections to those amendments, he said that the right to artistic property should not be regarded as coming under the general right of property. Artistic property was covered by special laws in most countries. It was, therefore, difficult to admit that article 15, which dealt with the right to own property, was sufficient to protect the authors of literary, scientific and artistic creations. The three amendments differed only in their wording. He feared, however, that in the text submitted by the French delegation the expression: "that he may acquire" would have a restrictive affect; he, therefore, preferred either of the other two amendments.

To sum up, the delegation of Uruguay would vote for the first paragraph of the Cuban amend-[622]ment as amended by Peru, and would support either the Cuban or the Mexican proposal for paragraph 2 depending on the decision that would be taken, for the authors of those last two proposals might agree on a single proposal.

COUNT CARTON DE WIART (Belgium) thought that the basic text of article 25 was satisfactory. It proclaimed a principle which could not but be approved, namely: the right of everyone to participate in the cultural, artistic and scientific life of the community.

In the USSR amendment he saw an attempt to assign to science a political mission. While he wanted science to serve the cause of peace and co-operation among nations, he thought it was not for the declaration of human rights to define its role. In any case, if it had to be done, it would have been better to say that the aim of science was to search for truth. He did not therefore feel he could vote for the USSR amendment.

With regard to the three amendments submitted by France, Cuba and Mexico dealing with the right to artistic or scientific property, he thought that the arguments supporting them put forward by several representatives, and particularly by the representative of France, deserved to be noted. Just as at Bogotá, it was natural to set forth in the present declaration of human rights that new conception of authors' rights, which were not only material but moral and which everyone could demand in connexion with the products of his invention or creation. The representative of Uruguay had already correctly refuted the objection raised by the United States representative. The article under discussion dealt with an intellectual right, not the right to own property covered in article 15. Lawyers generally agreed that an author's right was a special conception.

He announced his support of the French amendment but suggested a slight improvement in style and asked that the words *en raison* should be substituted for *à raison*.

MR. CASSIN (France) agreed to the change.

MR. PÉREZ CISNEROS (Cuba) withdrew the second paragraph of his amendment in favour of the text submitted by France.

MR. CASSIN (France) stated that he would withdraw his amendment in favour of the second paragraph of the amendment submitted by the Cuban delegation.

MR. CAMPOS ORTIZ (Mexico) also withdrew his amendment in order to support the second paragraph of the Cuban text.

MR. PÉREZ CISNEROS (Cuba) thought that the French text of paragraph 2 of article 25 was better from the literary point of view than the text submitted by his delegation. He therefore thought that it would be preferable to retain the French amendment with the slight change suggested by the Belgian representative and accepted by Mr. Cassin.

[623]

MR. PAVLOV (Union of Soviet Socialist Republics) warmly supported the principle on which the original article 25 was based, namely, that everyone had the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement. The reason why his delegation had presented an amendment to that article was that it considered that the original text was incomplete.

The USSR amendment had met with opposition from certain delegations. That was not surprising. Indeed, where science was subservient to militarism and where

intellectual forces were concentrated on producing a terrible weapon of aggression for the destruction of millions of peaceful human beings, the USSR thesis that science must be placed at the service of peace became unacceptable.

The Belgian representative had criticized the text presented by the Soviet Union which he felt restricted the scope of article 25. To say that science must be placed at the service of progress and democracy or, in short, at the service of humanity would, according to the Belgian representative, be limiting the scope of the original text. But the original text of article 25 also contained that restriction, if it was one, for it envisaged science, culture and art in relation to human beings. Therefore, the wording of the USSR amendment was imperfect in that respect, because it merely repeated the imperfections of the basic text.

The delegation of the Soviet Union thought it had the right to state that science should be placed at the service of mankind, for in the USSR that principle had been effectively put into practice.

He quoted figures showing the progress of the Academy of Sciences in the Soviet Union. As regards the literary aspect of intellectual life in the USSR, a considerable effort had also been made to bring culture and literary masterpieces within reach of the masses. The number of libraries had risen to six times what it had been under the Tsarist regime, and the number of readers to ten times what it had been. In the Soviet Union there was a library for every 2,097 inhabitants; the significance of that figure could be appreciated when it was compared with the corresponding figures for the United States and the United Kingdom, where there was one library for 20,333 and 4,300 inhabitants respectively. Apart from that, the USSR Government did not confine itself to the distribution of books by Russian authors. The great foreign classics, French, English, German and Spanish, were printed in millions of copies and distributed in the thirty different languages of the national groups in the Soviet Union. These figures showed that the USSR Government regarded the raising of the intellectual level of the masses as a vital objective. The same did not apply to many countries where privileged minorities tried to arrogate to themselves the enjoyment of the treasures of culture and science.

Mr. Pavlov emphasized that his delegation was especially attached to the principle that science should serve the interests of progress, democracy and peace since it could not but be aware of the atmosphere of terror which prevailed throughout [624] the world owing to the application of scientific discoveries for destructive purposes. According to the Press of certain countries, scientists were at present engaged in perfecting a bacteriological weapon which would destroy 180 million human beings at one blow.

For those reasons it was necessary to state emphatically that culture and science should above all be used to ensure the wellbeing and the intellectual development of the masses of the people and to promote conditions of general peace.

MR. CARRERA ANDRADE (Ecuador) recalled that of late years various South American Republics had taken successful measures to protect artistic and literary ownership. The rights of authors were defined in a very flexible manner which did not restrict cultural development.

He was in favour of the French amendment but thought that it was necessary to protect not only the authors of a discovery or a work of art but also their beneficiaries. Therefore, he proposed to add after the words "of which he is the author" in the French delegation's text the words "or heirs".

MRS. CORBET (United Kingdom) accepted the Peruvian representative's suggestion to add the word "freely" after the words "to take part" in the first paragraph of the amendment submitted by the Cuban delegation. She thought it useful to emphasize that participation in the cultural life of a community must be free.

She was in favour of the first paragraph of the Cuban amendment with the above addition and suggested that it should read "share in the benefits that result from scientific advancement" instead of "participate in the benefits. . ." Such a change was dictated by logic.

She would have preferred not to add a second paragraph to article 25. The French amendment dealing with the rights of authors proclaimed a new principle which the United Kingdom delegation could not accept. The representative of France had spoken on the one hand of the recognition due to the author of an invention – a very legitimate claim – and on the other, of protecting the right of ownership attaching to an invention. Those were very different conceptions. In her view, the proprietary rights attaching to an invention constituted but one aspect of the right of ownership. She did not think it wise to state that principle in an article dealing with the right of an individual to participate in the intellectual life of the community. Copyright was dealt with by special legislation and in international conventions; it was not a basic human right. The declaration of human rights should be universal in nature and only recognize general principles that were valid for all men. The United Kingdom delegation would therefore not support the French amendment.

The United Kingdom representative had listened with the greatest interest and pleasure to [625] Mr. Pavlov's statement. In the cultural field the Soviet Union had achieved tremendous progress on which it was to be congratulated. It had made great efforts to draw the greatest possible number of individuals into participation in the intellectual life. Nevertheless, and for reasons already stated by the United States representative, the United Kingdom delegation could not accept the USSR amendment. She would not wish the USSR delegation to think that she was opposed to the principles underlying the amendment. The United Kingdom delegation also considered that everyone should participate in the cultural and scientific life of the community and that the development of science must serve

the interests of progress and democracy and the cause of peace and international co-operation. Unfortunately, the conception of democracy and of progress did not seem to be the same everywhere. The word “democracy” could be interpreted in many ways.

She thought that science should not be placed at the service of an ideology. It must not be forgotten that Dr. Rosenberg¹²² had been the propagandist of a doctrine which bestowed racial superiority upon Germany. That was why it was necessary to take care in the declaration of human rights not to state a principle which might be misinterpreted and might be used for purposes prejudicial to the rights of the individual.

MR. COROMINAS (Argentina) noted with pleasure that the principle set forth in article 25 did not give rise to controversy. He was also glad that by a happy coincidence three delegations, namely, those of France, Cuba and Mexico, had joined in proposing an amendment calculated to protect the moral and material interests of authors of inventions or works of literature. The rights of authors would thus be mentioned in a second paragraph which was particularly welcome. Thus completed, article 25 would be entirely satisfactory.

With regard to the amendment introduced by the USSR representative, he would be prepared to support it in a spirit of understanding. He would, however, like the amendment to make no mention of democracy and to be worded as follows:

“The development of science must serve the interests of progress, the cause of peace and co-operation between the peoples.”

That would avoid the misunderstandings that might arise from the different interpretations to which the word “democracy” lent itself. At the same time it would satisfy the unanimous wish of the Committee by declaring that science must serve the interests of progress and the cause of peace. As stated in the United Nations Charter, that cause concerned humanity as a whole. The scientists whose discoveries had proved of benefit to everyone had not wished to serve only the interests of their own countries; their work had been designed to strengthen brotherhood and solidarity.

Those were the considerations underlying the USSR amendment, and with the above modification it would be perfectly acceptable.

The meeting rose at 5:45 p.m.

¹²² Alfred Rosenberg (1893–1946) was one of the leaders of the Nazi Party. He was executed following conviction for crimes against humanity by the International Military Tribunal.

A/C.3/361

22 November 1948

**China: Compromise text for Article 25 of the draft
Declaration (E/800)**

“Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

A/C.3/363

22 November 1948

Original Text: French

**Report of Sub-Committee 3 of the Third Committee submitted
by Dr. Guy Pérez Cisneros (Cuba), Rapporteur**

I. Preamble

1. Recapitulation of events

In the course of its study of the text of article 21 of the Draft International Declaration of Human Rights prepared by this Commission on Human Rights of the United Nations, the Third Committee of the General Assembly adopted two amendments to the paragraphs of the basic text and a third amendment proposing the introduction of an additional paragraph.

The text of article 21 proposed by the Commission on Human Rights reads as follows:

“1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.

“2. Everyone has the right to equal pay for equal work.

“3. Everyone is free to form and to join trade unions for the protection of his interests.”

The amendments to this text adopted by the Third Committee were the following:

(a) Soviet amendment worded as follows:

“Everyone, without distinction as to race, nationality or sex has the right to equal pay for equal work.”

which was adopted by 21 votes to 14, with 7 abstentions; 16 members were absent.

The following delegations voted in favour:

Argentina, Burma, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Guatemala, Haiti, Honduras, India, Mexico, Norway, Pakistan, Poland, [2] Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

The following delegations voted against:

Australia, Belgium, France, Greece, Lebanon, Netherlands, New Zealand, Paraguay, Philippines, Sweden, Syria, United Kingdom, United States of America, Uruguay.

The following delegations abstained:

Afghanistan, Bolivia, Brazil, Canada, China, Panama, Peru.

(b) Cuban amendment worded as follows:

“Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and his family.”

which was adopted by 18 votes to 17, with 7 abstentions; 16 members were absent.

The following delegations voted in favour:

Argentina, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ethiopia, Haiti, Mexico, Panama, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

The following delegations voted against:

Australia, Belgium, Bolivia, China, Denmark, France, Greece, India, Netherlands, New Zealand, Norway, Pakistan, Philippines, Sweden, Syria, United Kingdom, United States of America.

The following delegations abstained:

Afghanistan, Burma, Canada, Guatemala, Honduras, Lebanon, Paraguay.

Observation: Amendments (a) and (b), which had been adopted constituted a new text for Article 21 paragraph 2. At its 141st meeting, the Third Committee *by a vote on the paragraph as a whole* adopted it by 17 votes to 16, with 5 abstentions.

(c) Second Cuban amendment worded as follows:

“4. Every person has the right to follow his vocation freely in so far as existing conditions of employment permit.”

which was adopted by 22 votes to 16, with 3 abstentions.

The following delegations voted in favour:

Afghanistan, Argentina, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ethiopia, Haiti, Honduras, Mexico, Panama, Paraguay, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

[3]

The following delegations voted against:

Australia, Belgium, Canada, China, Denmark, France, Guatemala, India, Lebanon, New Zealand, Norway, Pakistan, Sweden, Syria, United Kingdom, United States of America.

The following delegations abstained:

Burma, Greece, Netherlands.

The Human Rights Commission's text of Article 21, as amended by the proposals of Cuba and the Soviet Union which had been adopted, constituted a new text (A/C.3/342), which was voted upon as a whole by the Third Committee at its 141st meeting.

This text, although adopted in all its parts, was nevertheless rejected as a whole by 17 votes to 17, with 6 abstentions.

The following delegations voted in favour:

Argentina, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, Haiti, Honduras, Mexico, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

The following delegations voted against:

Australia, Belgium, Brazil, China, France, Greece, India, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Sweden, Turkey, United Kingdom, United States of America.

The following delegations abstained:

Afghanistan, Burma, Canada, Guatemala, Peru, Saudi Arabia.

The Third Committee then found itself in a very difficult situation for after the rejection of the amended text of Article 21 as a whole, the Declaration on Human Rights which it was now in process of drawing up would necessarily have a grave deficiency owing to the absence of an article on the rights of man as a worker.

2. *Establishment and terms of reference of Sub-Committee 3*

In order to find a solution for this serious problem, the representative of *Peru* proposed that the Committee should re-examine this article on the basis of Rule 112 of the rules of procedure. This proposal was discussed at the 142nd meeting, and the Committee decided¹²³ by 39 votes to 0 and 1 abstention, to re-examine Article 21 on the basis of Rule 112 mentioned above.

At the next meeting held on 17 November 1948, the Committee decided to set up a Drafting Sub-Committee to study the question and, if possible, prepare a text likely to meet with general approval. On the Chairman's proposal, the Committee decided that the Sub-Committee should consist of the representatives of the following 12 States Members:

[4]

Argentina, Belgium, Cuba, Ecuador, France, Greece, Lebanon, New Zealand, Poland, Union of Soviet Socialist Republics, United Kingdom, United States of America.

This Sub-Committee's terms of reference were laid down by the Committee as follows:

“The Drafting Committee shall prepare a fresh text for Article 21, taking into account all the proposals on and amendments to this Article which have been submitted to the Committee.”

3. *Membership of the Sub-Committee*

The following is a list of the representatives of Members of the United Nations who took part in the proceedings of the Sub-Committee:

Argentina, Mr. Corominas; Belgium, Mr. van Bladel; Cuba, Dr. Guy Pérez Cisneros; Ecuador, Mr. Carrera Andrade; France, Professor Cassin; Greece, Mr. Contoumas; Lebanon, Mr. Azkoul; New Zealand, Mr. Aikman; Poland, Mr. Altman; Union of Soviet Socialist Republics, Mr. Pavlov; United Kingdom, Mrs. Corbet and Mr. G. C. Veysey; United States of America, Mr. Sandifer.

Officers of the Sub-Committee

In its first meeting, held on 18 November 1948 with Mr. Humphrey, the Director of the Human Rights Division of the United Nations Secretariat, Chair, the Sub-Committee elected the following officers:

Chairman: Professor Cassin (France)
 Rapporteur: Dr. Guy Pérez Cisneros (Cuba)
 Mr. Hessel acted as Secretary of the Sub-Committee.

[5]

¹²³ The words “on the proposal of the Belgian delegation” were added by A/CN.3/363/Corr.1 of 25 November 1948.

5. Documents considered

The Sub-Committee considered the following documents:

(i) *Human Rights Commission Document*

E/800 - Draft International Declaration of Human Rights.

(ii) *General Assembly Document*

A/632 - Report of the Economic and Social Council.

(iii) *Third Committee Documents*

A/C.3/232/Corr.1 - Cuban Amendment

A/C.3/267/Corr.1 - New Zealand Amendment

A/C.3/298/Rev.1 - Recapitulation of amendments to Article 21 of the Draft Declaration (E/800)

This document contains:

the text of the article, as adopted by the Commission on Human Rights

the USSR amendment (E/800)

the United States amendment (A/C.3/223)

the Cuban amendment (A/C.3/232)

the Argentine amendment (A/C.3/251)

the Swedish amendment (A/C.3/252)

the Lebanese amendment (A/C.3/260)

the New Zealand amendment (A/C.3/267)

the Uruguayan amendment (A/C.3/268)

A/C.3/342 - Article 21, all paragraphs of which have been adopted separately by the Third Committee and which has been rejected as a whole.

(iv) *Sub-Committee Documents*

A/C.3/SC.3/1 – Soviet amendment

A/C.3/SC.3/W.1. Present state of discussion on Article 21 of the draft declaration (E/800)

A/C.3/SC.3/W.2. Present state of discussion on Article 21 of the draft declaration (E/800)

A/C.3/SC.3/W.3. Present state of discussion on Article 21 of the draft declaration (E/800)

II. General Discussion

At the Sub-Committee's first meeting, the Chairman, Professor René Cassin (France), reminded the delegations present of the terms of reference given them by the Third Committee. He took the view that the Sub-Committee should be concerned with three main points:

(a) the right of everyone to follow his vocation freely (question raised by one of the Cuban amendments)¹²⁴;

[6]

(b) non-discrimination (question raised by the Soviet amendment);

(c) resources which the worker ought to receive (question raised by the second Cuban amendment);

The majority of the Sub-Committee agreed with the Chairman, and after some representatives, including those of Poland and Cuba, had pointed out that the discussion on these three points would be facilitated if the text to be discussed was that appearing in document A/C.3/342 (see Annex I) which contained them all, it decided to treat that document as the basic text on the clear understanding that this would not preclude the study of all the other documents referred to it by the Third Committee.

At this point in the discussion the United States delegate submitted a draft compromise text for Article 21 which read as follows:

“1. Everyone has the right to work, *to free choice of employment*, to just and favourable conditions of work and pay and to protection against unemployment.

2. Everyone, *without discrimination*, has the right to equal pay for equal work.

3. Everyone is free to form and to join trade unions for the protection of his interests.”

*a. Discussion on the question of the right of everyone
to follow his vocation freely*

The *Cuban* delegate said that whilst the wording of paragraph 1 as submitted by the United States delegation was an amendment to paragraph 1 of Document A/C.3/342 involving the addition of the words “*to free choice of employment*”,¹²⁵ it expressed clearly enough the idea that everyone was entitled to follow his vocation freely. If this amendment were adopted by the Sub-Committee he would be prepared to refrain from pressing for the adoption of paragraph 4 of Document A/C.3/342, particularly as he felt that the second part of the said paragraph 4 (“*in so far as existing conditions of employment permit*”) expressed an idea which might be regarded as covered by *Article 27* of the Declaration.

¹²⁴ Here the words “adopted by the Third Committee, and by a Lebanese amendment rejected by that Committee” were added by A/CN.3/363/Corr.1 of 25 November 1948.

¹²⁵ Here the words “(*taken from an amendment submitted to the Third Committee by the Lebanese delegation*)” were added by A/CN.3/363/Corr.1 of 25 November 1948.

After hearing this statement the Sub-Committee decided to adopt the first paragraph of the text proposed by the United States delegation as an amendment to the first paragraph as contained in Document A/C.3/342. As a corollary of the same decision paragraph 4 of that document was deleted.

b. Discussion on the question of non-discrimination

The delegate of the *Union of Soviet Socialist Republics* explained why he thought that the Soviet amendment to Article 21, paragraph 2 should stand. He knew of only three kinds of discrimination as regards work:

[7]

discrimination on the grounds of race, nationality and sex. In a spirit of conciliation, however, he said he would agree to broaden the reference to discrimination by changing the text of his amendment as follows:

“Without distinction as to race, nationality, sex or *religion*”.

He trusted that this addition would satisfy those who feared lest there might be discrimination on religious or other grounds in connection with work and wages.

The *Ecuadorian* representative proposed that the fresh Soviet proposal should be further emended by the addition of the word “age”.

The *United States* representative said that he could not regard the new Soviet amendment as a compromise. He considered the new wording as open to the same dangers as the original text of the amendment as it still contained a restrictive enumeration: it did not, for example, mention political discrimination. Wishing to compromise he proposed to add the words “*without discrimination*” in paragraph 2 although he thought that the paragraph was clearer without them.

The *Belgian* representative proposed the addition of the words, “without *any discrimination*”. The United States delegation accepted this amendment and withdrew its own.

Although not submitting it as a formal proposal, the *Greek* delegate suggested that “distinction” should be substituted for “discrimination”. He thought, however, that Article 21, paragraph 2, did not require amendment as the articles of the Declaration had to be regarded as interdependent, and that being so, Article 2 of the Declaration adequately expressed the idea that there could be no discrimination in work.

The *Lebanese* representative proposed any reference to discrimination should be omitted from Article 21. Article 2 of the Declaration expressed a condemnation of all discrimination which held good for all the articles. Hence, if that idea were expressly referred to in any one article, the impression might be conveyed that the other articles permitted certain discriminations.

Vote:

The Chairman proposed that the various amendments submitted should be put to the vote in the order of their remoteness from the basic text (paragraph 2 of Document A/C.3/342) i.e.: the Lebanese amendment first, then the Belgian, United States and USSR amendments.

The Lebanese amendment, i.e. to delete the words “*without distinction as to race, nationality or sex*”, was rejected by 5 votes to 3 with 3 abstentions.

[8]

The Belgian amendment, seconded by the United States, under which the words “*without any discrimination*” were to be included, was adopted by 6 votes to 4 with 1 abstention.

The following was therefore the text finally adopted by the Sub-Committee:

“Everyone, *without any discrimination*, has the right to equal pay for equal work”.

The USSR and Ecuadorian representatives stated that they reserved their delegations’ right to re-submit the following amendment to paragraph 2 in the Third Committee:

“Everyone, without distinction as to race, nationality, sex, age religion, etc. . . has the right to equal pay for equal work.”

c. Debate on the question of the resources to be received by a worker

The second part of Article 21, paragraph 2, which had been adopted in sections by the Third Committee but rejected as a whole, was long debated in the Sub-Committee. Some delegations, including those of the *United Kingdom* and the *United States*, were against including the text approved by the Third Committee; they said a compromise text was not absolutely necessary as Article 21, paragraph 1, and the text of Article 22 of the Declaration covered, between them, all the ideas contained in the debated clause.

Other delegations, such as the *Belgian* and *Cuban* delegations, were in favour of a text containing the idea that every worker should, as such, be guaranteed not only a just remuneration for his work, but also, where necessary for the needs of his family, other resources to assure him a decent standard of living in all circumstances, The USSR delegate maintained that the idea of a minimum salary should be expressed in the text. After a long and complex debate, during which many draft texts were submitted, the Committee adopted the following text:

“Everyone who works has the right to just and favourable remuneration supplemented if necessary by such other means of social protection as may be required to meet the needs of his family.”

The expression “*of social protection*” was an additional amendment proposed by Ecuador, which was adopted by 5 votes to 2 with 4 abstentions.

The above text was adopted by 6 votes to 2 with 3 abstentions. The voting was as follows: *in favour*: Belgium, Cuba, Ecuador, France, Poland and the Soviet Union; *against*: the United Kingdom and the United States of America; *abstentions*: Argentina, Greece and New Zealand.

Considering that the idea of just and favourable remuneration which figured in the last text adopted was a repetition of the same idea as was [9] already contained in Article 21, paragraph 1, and considering also that it was better to devote one paragraph to everything concerning pay, the Sub-Committee decided¹²⁶ to delete from paragraph 1 the words “and pay”, which were redundant, This deletion was agreed by 7 votes to 0 with 4 abstentions.

d. Discussion on Paragraph 3

The Sub-Committee also examined the New Zealand delegation’s observations on the wording of Article 21, paragraph 3. It was agreed, by 10 votes and 1 abstention that paragraph 3 should be worded as follows:

“Everyone has the right to form and to join trade unions for the protection of his interests.”

Document A/C.3/342 and the text adopted by the Sub-Committee are annexed to the present report (Annexes I and II).

[10]

Annex I

Draft International Declaration of Human Rights

Article 21

All paragraphs of which have been adopted separately by the Third Committee and which has been rejected as a whole

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.

2. Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work.

Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a decent standard of living for himself and his family.

3. Everyone is free to form and to join trade unions for the protection of his interests.

¹²⁶ The words “on the proposal of the Greek delegate” were added by A/CN.3/363/Corr.1 of 25 November 1948.

4. Every person has the right to follow his vocation freely, in so far as existing conditions of employment permit.

[10]

Annex II
Draft Text for Article 21 Submitted by the Sub-Committee 3
to the Third Committee

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration supplemented, if necessary, by such other means of social protection as may be required to meet the needs of his family.

3. Everyone has the right to form and to join trade unions for the protection of his interests.

A/C.3/SR.151¹²⁷

22 November 1948

Summary Record of the Hundred and Fifty-First Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Monday,
22 November 1948, at 10:50 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

...

[627]

...

79. Draft international declaration of human rights (E/800) (continued)

Article 25 (continued)

MISS ZULOAGA (Venezuela) said she had thoroughly examined the principles stated in article 25. The Government of Venezuela regarded as one of its most important

¹²⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 626–32.

duties the development of the cultural level of the masses in order to enable every citizen to enjoy scientific, literary and artistic works. Consequently the Venezuela delegation could not fail to approve the principle of the joint amendment of Cuba, France and Mexico (A/C.3/360). It would vote in favour of the amendment, and would have all the more pleasure in doing so because the terms were identical with those of the corresponding article in the American Declaration of the Rights and Duties of Man.

MR. CHANG (China) drew the attention of the members of the Committee to the last part of article 25, particularly the words “and to share in scientific advancement”. As various delegations, in particular that of France, had already pointed out, not only must the right to share in the benefits of scientific advancement be guaranteed to everyone but also the right to participate in the work of scientific creation. In the arts, letters and sciences alike, aesthetic enjoyment had a dual aspect: a purely passive aspect when man appreciates beauty and an active aspect when he creates it. In this connexion Mr. Chang indicated that the expression “participate in” or “share in” did not express this dual aspect as precisely as it might. The text referred more clearly to creation than to passive enjoyment. He therefore proposed the addition, at the end of the first paragraph, of the words “and its benefits” (A/C.3/361).

After stating that his delegation accepted the Peruvian amendment (150th meeting) proposing insertion of the word “freely” before the word “participate” in the first paragraph, he suggested a few drafting changes in the second paragraph [628] of the joint amendment of Cuba, France and Mexico. The second paragraph would then read:

“Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

MR. PÉREZ CISNEROS (Cuba) thanked the Chinese delegation for having clarified and improved the original text of the joint amendment. His delegation was glad to accept those changes, together with the amendment suggested by the Peruvian representative.

He pointed out that, as the Belgian representative had already observed, intellectual works could not be placed in the same category as other forms of property. Men of learning and artists live in special conditions in which material considerations had only a limited importance. It was necessary to recognize that fact and to guarantee equitable protection for those persons.

Further, the purpose of the joint amendment was not merely to protect creative artists but to safeguard the interests of everyone, as the Chinese representative had proposed. As Paul Valéry had said, a distinction could be made in literature, art and science between producers and “consumers”. The interests of both must be

considered. Therefore, literary, artistic and scientific works should be made accessible to the people directly and in their original form: this could only be done if the moral rights of the creative artist were protected.

The Cuban delegation did not consider the USSR amendment (E/800, page 35) acceptable. It expressed an idea so vague and general that it could be interpreted in very different ways. It could be interpreted as meaning that science should be made to serve objectives determined by States or Governments. But the Cuban delegation was convinced that science should remain entirely free and that the State should not interfere at any stage in scientific or literary creation. On the contrary, it was democracy which should be placed at the service of science, the latter itself the servant of truth. Those who had faith in man could not fear truth. That was the spirit underlying the declaration of human rights.

MR. BAROODY (Saudi Arabia) approved the principle underlying article 25 and was prepared to accept the wording of the original text of the draft declaration. But as certain delegations had pointed out, that text was not sufficiently clear, because the expression "participate" could lead to misunderstanding and did not clearly specify that it applied both to the enjoyment of the benefits resulting from science and the enjoyment of artistic, scientific or literary creation. The majority of human beings did not possess within themselves the power to create, but everyone had within him an aesthetic sense which he should have the opportunity of satisfying.

For those reasons Mr. Baroody proposed that the text of article 25 should be altered either by adding, after the words "in scientific advance-[629]ment" the words "and in the resulting benefits", or by adding after the word "share" the words "in the results of scientific advancement". If those suggestions were not accepted by the Committee, the delegation of Saudi Arabia would vote in favour of the Cuban delegation's text and if the latter were not approved it would support that of the Chinese delegation.

MR. PAVLOV (Union of Soviet Socialist Republics) was astonished that truly democratic countries such as Argentina could experience any difficulty in accepting the principle that science should be placed at the service of democracy. To overcome this difficulty he suggested that his delegation's amendment should be put to the vote in two parts. The Committee would vote first on that principle and then on the rest of the amendment.

He thought it insufficient to state that science should serve the interests of human beings. The real problem consisted in defining the direction to be given to scientific research. Should scientific advancement be placed at the service of peaceful world progress or should it, on the contrary, be placed at the service of the forces of destruction and war? Unfortunately, the latter tendency seemed to prevail in the present state of world affairs. If science were thus placed at the service of the forces of destruction, it was to be feared that it might completely destroy all forms of human culture.

Citing extracts from the United States Press, he pointed out that in that country scientific research was controlled by the military authorities and developed for military purposes. In 1938 the Army and Navy budget for scientific research was 40 million dollars of which 23 million were allocated directly to the various universities. In 1944 that budget amounted to 90 million dollars and in 1947 to over 96 millions. In the circumstances, Mr. Pavlov thought that there was a danger of disinterested scientific research ceasing to exist. The universities were transformed into veritable laboratories of research for military purposes. Men of learning found their personal freedom restricted. For instance, according to the *New York Times*, Dr. Mundt of Chicago University, who was engaged in atomic energy research, had asked the Atomic Energy Commission whether it would be possible for him to fulfil other duties without running the risk of imprisonment or of being considered a traitor to his country.

The USSR delegation protested against such methods and appealed to all delegations to support its amendment, the sole objective of which was to place science at the service of the forces of peace.

MR. BEAUFORT (Netherlands) favoured the adoption of the joint amendment submitted by the delegations of Cuba, France and Mexico. The Netherlands delegation considered that the principle stated therein was of sufficient importance to justify the addition of a paragraph to the original [630] text of article 25. The problem of safeguarding intellectual product had frequently been discussed. In that connexion he mentioned the example of Mrs. Marie Curie who had devoted her whole life to the progress of science for the good of humanity.

It was incorrect to consider the protection of the moral and material interests of the creative artist or the scientist on the same level as the general right of property; the former was more abstract and, more than any other, lent itself to infringement.

MR. WATT (Australia), on behalf of his delegation, accepted the amendment by the delegation of Peru (150th meeting). He pointed out, however, that the suggested addition of the word "freely" was not wholly indispensable in view of the fact that once the right of the individual to take part in the cultural life of the community was assured, the opportunities freely to exercise that right were implicitly guaranteed.

The Australian delegation would be unable to accept the USSR amendment which subordinated scientific research to a political principle; the sole aim of science could only be the quest for truth, as the Belgian representative had pointed out (150th meeting).

It could not accept the amendment submitted jointly by the delegations of Cuba, France and Mexico. The rights of artists and scientists must certainly be protected, but the problem was to discover how and by whom. That would seem to be primarily the concern of national legislation complemented by international conventions. In a declaration such as that which the Committee was called upon to draft, the

indisputable rights of the intellectual worker could not appear beside fundamental rights of a more general nature, such as freedom of thought, religious freedom or the right to work.

MR. CASSIN (France) approved the proposal of the representative of China to add the words "and its benefits" at the end of the first paragraph. Those words were preferable to the Cuban amendment since they avoided all ambiguity concerning the right to participate not only in scientific research but also in the benefits resulting from it.

With regard to paragraph 2, he reminded the representative of Australia that the provisions of article 20 dealt with the means of ensuring the protection of the rights of the intellectual worker for which the representative of the Netherlands had expressed concern. The French delegation did not think that there was need to fear that difficulties might arise on that point. In its opinion the protection of the moral and material interests of the artist and the scientist should not be dealt with in concrete terms in the declaration; however, the fact that there were so few creative geniuses did not obviate the need for a specific reference in the declaration.

The French delegation regretted that it would have to vote against the USSR amendment. It would have approved the principle embodied in it were it not for the apprehension that that principle might be invoked to justify the harnessing of science to political ends. He agreed with Mr. [631] Pavlov that science must be put at the service of progress and of peace, but believed that the problem raised by the USSR delegation fell outside the framework of the declaration of human rights.

The French delegation would vote in favour of the amendment suggested by the delegation of Peru (150th meeting).

MR. LITAUER (Poland) stated that his delegation unreservedly supported the amendment submitted by the USSR.

It was surprising that the United States delegation should consider that amendment out of place when it proclaimed that science was to serve the interests of progress and democracy, the cause of international peace and co-operation. The United States delegation seemed to think that the word "democracy" in particular lent itself to varying interpretations: there had been no divergence of views on that subject at the time when Poland had fought against Hitler in defence of democracy, when the whole world had applauded the victories of the Red Army, when President Roosevelt had proclaimed the four fundamental freedoms. Poland interpreted the word "democracy" in the same sense as it attributed to it five years earlier, in the same sense as Abraham Lincoln had in his famous definition of government as being of the people, for the people, by the people. That was why it considered that science if placed at the service of democracy, could not but promote the interests of humanity.

The example given by the representative of the Netherlands of Mrs. Curie-Sklodowska, the great Polish woman who devoted her life to the cause of science and whose research benefited the whole of humanity, was yet another argument in favour of the adoption of the USSR amendment.

In view of the doubts expressed by certain representatives on the subject of the word "democracy", he would suggest that the vote on the USSR amendment be taken phrase by phrase, the Committee voting in turn on each of the four main concepts it contained: progress, democracy, the cause of international peace and co-operation.

MR. SANTA CRUZ (Chile) recalled that his delegation had been the first to propose that the declaration should mention the right of every person to participate in the benefits of scientific advancement. That was the core of the amendment submitted by the Cuban delegation; actually it did no more than restate in broader terms the principles adopted by the Inter-American Juridical Committee. That text, with the changes suggested by the representative of China which removed all ambiguity, was perfectly in accordance with the point of view of the Chilean delegation. It would therefore vote for it.

Chile would also support the amendment suggested at the preceding meeting by the Peruvian delegation.

As for the USSR amendment, although fully in agreement with the principles that it stated, the Chilean delegation felt that in the form in which it was drafted it might in practice lead to the control of scientific research for political ends. The [632] Chilean delegation would consequently be unable to vote for it.

For the same reasons as those given by the representative of Australia, it would also be unable to accept the joint amendment of Cuba, France and Mexico. To what extent would it be possible in a country where there existed no law protecting authors' copyright and patents, to speak of the infringement of fundamental human rights in the case of a man of letters whose works were reproduced without his consent? The concept of the protection of intellectual work conflicted to a certain extent with that of freedom of access to all literary, artistic or scientific output. Since the joint amendment referred not to one of the fundamental human rights, but to rights affecting a special category of persons, the Chilean delegation considered that it should not be included in the declaration.

MR. CARTER (Canada) expressed his approval of the principle of the joint amendment submitted by Cuba, France and Mexico. Since it concerned authors' copyright and patents, he considered, however, that it should be dealt with in the covenant rather than in the declaration. To ensure the support of world public opinion for the declaration of human rights, it must be drafted in such a manner as to be simple, direct and generally applicable.

The Canadian delegation would therefore vote for the original text of article 25 as modified by the amendments of the representatives of China and Peru.

The meeting rose at 1:15 p.m.

A/C.3/SR.152¹²⁸

22 November 1948

Summary Record of the Hundred and Fifty-Second Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Monday,
22 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

80. Draft international declaration of human rights (E/800) (continued)

Article 25 (continued)

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) stated that the rights stated in article 25 might be achieved if culture, science and education were made available to the masses, as in his country; when the means of production were owned by the people, the application of science to the needs of the people became possible.

In many countries, science and education were made to serve the cause of propaganda and to spread racial theories; articles published in the United States showed that science in that country had been placed under military control, whereas it should serve the interests of peace and progress. That was the aim of the USSR amendment (E/800, page 35), though some representatives had claimed that it constituted a limitation and placed science under political control. Some representatives apparently did not consider that science should serve the aims of peace; they believed in [633] it for military purposes and did not want to change the present state of affairs. Mr. Demchenko quoted United States publications to show that in the United States there was increasing military control in science, education and industry. The war propaganda which was being carried on in a number of countries had the support of certain representatives.

It would be a great mistake for the Committee to reject the USSR amendment; the adoption of such provisions was what humanity expected of the Committee.

¹²⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 632–42.

MR. CHANG (China) said that the text which appeared in document A/C.3/361 had been attributed to the Chinese delegation. It was really a combined text: the insertion of the word “freely” was a Peruvian suggestion, the addition of the words “and its benefits” had been suggested by the Chinese delegation, and the second paragraph was really a joint Cuban, French and Mexican proposal. He asked that the second paragraph should be voted upon separately.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the vote on his amendment should be taken in the following manner: first, on the sentence: “The development of science must serve the interests of progress”; secondly, on the phrase: “and the cause of international peace and co-operation”; and thirdly, on the words “and democracy”. He requested a vote by roll-call, in view of the great significance the article had for the cause of peace.

A vote on the first part of the USSR amendment was taken by roll-call as follows:

The USSR, having been drawn by lot by the Chairman, was called upon to vote first. In favour: Union of Soviet Socialist Republics, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, Ecuador, India, Iran, Poland, Ukrainian Soviet Socialist Republic.

Against: United Kingdom, United States of America, Uruguay, Afghanistan, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, France, Greece, Honduras, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Sweden, Syria.

Abstaining: Venezuela, Yemen, Cuba, Dominican Republic, Mexico, Pakistan, Saudi Arabia.

The first part was rejected by 24 votes to 11, with 7 abstentions.

A vote on the part of the USSR amendment reading: “(The development of science must serve the interests of) democracy” was taken by roll-call as follows:

Norway, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, Ecuador, India.

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Against: Norway, Panama, Peru, Philippines, Sweden, Syria, United Kingdom, United States of America, Uruguay, Afghanistan, Australia, Belgium, Brazil, Canada, Chile, China, Cuba, Denmark, Dominican Republic, France, Greece, Honduras, Lebanon, Luxembourg, Netherlands, New Zealand.

Abstaining: Pakistan, Saudi Arabia, Venezuela, Yemen, Argentina, Iran, Mexico.

That part of the amendment was rejected by 26 votes to 9, with 7 abstentions.

A vote on the part of the USSR amendment reading: “(The development of science must serve) the cause of international peace and co-operation” was taken by roll-call as follows:

India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: India, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, Ecuador.

Against: Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Sweden, Syria, United Kingdom, United States of America, Uruguay, Afghanistan, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Dominican Republic, France, Greece, Honduras.

Abstaining: Iran, Mexico, Pakistan, Saudi Arabia, Venezuela, Yemen, Cuba.

That part of the amendment was rejected by 25 votes to 10, with 7 abstentions.

MR. PÉREZ CISNEROS (Cuba), referring to document A/C.3/361, remarked that the French text would be clearer if the words *au progrès scientifique* were followed by the phrase *et aux bienfaits qui en résultent*.

That suggestion was accepted.

The insertion of the word "freely" in the compromise text was adopted by 38 votes to none, with 2 abstentions.

The insertion of the words "and its benefits" was adopted unanimously.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that, as the words just voted upon had no meaning in the Russian text, his delegation had been unable to participate in the vote.

The first paragraph of article 25, as amended, was adopted unanimously.

A vote on the second paragraph of article 25 was taken by roll-call as follows:

Panama, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Panama, Peru, Poland, Uruguay, Venezuela, Argentina, Belgium, Brazil, China, Colombia, Cuba, Dominican Republic, France, Greece, Honduras, Luxembourg, Mexico, Netherlands.

Against: Sweden, Syria, United Kingdom, United States of America, Yemen, Australia, Canada, Chile, Denmark, Ecuador, India, Norway, Pakistan.

Abstaining: Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Afghanistan, Byelorussian [635] Soviet Socialist Republic, Czechoslovakia, Lebanon, New Zealand, Philippines.

The second paragraph of article 25 was adopted by 18 votes to 13, with 10 abstentions.

The verbal amendment made by the representative of Ecuador to add the words "or the heir" to the second paragraph was rejected by 21 votes to 7, with 12 abstentions.

The whole of article 25 (A/C.3/361), as amended, was adopted by 36 votes to none, with 4 abstentions.

MR. LUNDE (Norway) stated that he had voted in favour of the first paragraph as amended because that text, thanks to the skilful drafting of the Chinese representative, was very well phrased.

He had voted against the second paragraph because he felt that the subject should be dealt with in the covenant or in special treaties rather than in the declaration.

He had voted against the USSR amendment, although his delegation was sincerely and strongly in favour of progress, democracy and the cause of international peace and co-operation; however, it also believed unconditionally in the freedom of science and was opposed to limiting that freedom on any pretext. It had been unable to accept an amendment which it considered reactionary and out of place in the declaration.

MR. SANTA CRUZ (Chile) had opposed the second paragraph of article 25; he had, nevertheless, voted in favour of the article as a whole as the principle involved in the second paragraph was not sufficiently important to warrant rejection of the entire article.

MR. CARRERA ANDRADE (Ecuador) had voted in favour of the USSR amendment in the firm conviction that science should serve the interests of life rather than death, of peace rather than war. In so doing, he had considered only the ideas, and not, as other delegations appeared to have done, political matters.

He regretted that his amendment to the second paragraph had been rejected because that paragraph now was less comprehensive than legislation existing in most countries. It would have been preferable, in general, not to include in the declaration a right to which only a small minority of mankind was entitled.

MR. PLAZA (Venezuela) had abstained from voting on the USSR amendment although he agreed with the ideas expressed in it, because words like "progress" and "democracy" unless defined in legal terms, might be misinterpreted and used to defend persecution of scientists for political reasons.

MR. KAYALY (Syria) had voted in favour of the first paragraph because he fully agreed with the ideas it contained.

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He had not supported the second paragraph because he felt that its subject matter should be dealt with either in the covenant or in separate treaties.

He had opposed the USSR amendment because he considered that the ideas it expressed would be out of place in the declaration; they might well, however, form the subject matter of a resolution to be adopted either by the First Committee or by the Security Council. Should such a resolution be adopted and observed, the need for an armaments race would be obviated and true international peace and co-operation would result.

MR. GRAZIADIO (Argentina) had voted in favour of the USSR amendment in the conviction that science should indeed serve the interests of progress and international peace. His delegation was, nevertheless, satisfied with the article as adopted and particularly happy that the substance of the Cuban and Mexican amendments had been approved by the Committee. In its final form, the article

should serve as a source of inspiration for States wishing to improve their legislation on the subject.

MR. PAVLOV (Union of Soviet Socialist Republics) remarked that he had defended his amendment because he was firmly convinced that it outlined the ends which modern science should serve. It was illogical to include in article 23 a definition of the purposes of education and to refuse in article 25 to lay down a similar definition of the purposes of science. It should not be forgotten that science in the modern world could and often did serve the interests of aggression and reaction and was elaborating means for massacring peaceful populations.

The foremost representatives of culture and science were, in fact, beginning to realize that the concept of the neutrality of science had become obsolete and that they were forced to choose between working for peace and working for war. It was in that spirit that thirty-two American scientists had recently protested against their work being used to further not progress but destruction.

It was the duty of the United Nations under the Charter to promote the development of science and to prevent it from becoming the handmaiden of militarism. He consequently regretted that, on various pretexts, the USSR amendment had been rejected.

MISS BERNARDINO (Dominican Republic), referring to the comment of the representative of Ecuador, said that her delegation had on a number of previous occasions, when it had been in agreement with the principles involved, voted in favour of amendments submitted by the USSR representative. At the current meeting it had voted against the USSR amendment because it did not wish to impose any restrictions on the free development of science which should serve all the interests of humanity.

MRS. ROOSEVELT (United States of America) had voted in favour of the first paragraph as amended, but against the second paragraph, holding it unwise to introduce that particular subject [637] in the declaration. She had, nevertheless, supported the whole article. She had voted against the USSR amendment because she and her delegation felt strongly that science, art and literature should be free from government control.

In reply to a remark by the Ukrainian representative, she observed that although during the war science in the United States had been placed at the service of the Government, and it might be recalled that all the Allies, including the USSR, had profited therefrom, science was no longer under any control.

She quoted a statement from a recent article in a USSR publication to the effect that all the efforts of the Academy of Sciences should be directed towards the building of Communism. The United States delegation did not agree that cultural activities such as literature, music or science should be directed.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated that he had voted against the USSR amendment. While, on the face of it, an amendment which said that science should serve the interests of progress, democracy and peace was eminently acceptable, it might be interpreted as a restriction on the freedom of thought and research. The vote cast by the Uruguayan delegation had consequently applied exclusively to the principle involved.

MR. BARODY (Saudi Arabia) had abstained from voting on the USSR amendment for three reasons. In many cases, it might take generations to determine whether a certain action had or had not been conducive to progress; since there existed two strongly divergent views as regards the meaning of the word "democracy" it would be better not to use it until the views had been reconciled; and finally, while science plainly should serve the interests of international peace and co-operation, that statement by itself would not have been sufficiently comprehensive and was superfluous.

MRS. CORBET (United Kingdom) had voted against the USSR amendment not because she disagreed with the ideas it contained, but because she did not think it fitted in with the rest of the article. Her delegation considered all amendments not as separate statements of principle, but in relation to the articles in which they were to appear and to the declaration as a whole. Her negative vote should consequently not be misconstrued as applying to the principle involved.

She had voted against the second paragraph on the same grounds. As it had been adopted by the Committee, however, she had voted in favour of the article as a whole.

MR. AZKOUL (Lebanon) had voted against the USSR amendment because he felt it confused the true aims of science with its accidental results. It was true that those results should be put to the service of peace and progress; to say that, however, without at the same time stating that the purpose of science was to enquire into the mysteries of nature in the search for truth was to distort the meaning of science.

He had voted in favour of the first paragraph as amended, but had abstained on the second paragraph because he did not think that a right to which only a minority could be entitled should appear in a declaration of the general rights of individuals.

MRS. NEWLANDS (New Zealand) had abstained from voting on the second paragraph because she considered that its subject matter was fully covered in article 15, which referred to the right to own property, and because she thought that in an article dealing with the cultural life of the community the emphasis should be placed on the community as a whole rather than on isolated members of it. She had nevertheless voted in favour of the article as a whole.

*Article 26*¹

THE CHAIRMAN, in opening the general debate on article 26, remarked that the Egyptian amendment (A/C.3/264) which called for the deletion of the article would not be put to the vote as such; those who wished to support it could vote against the article as a whole.

MR. PAVLOV (Union of Soviet Socialist Republics) stated, in introducing his amendment to article 26 (E/800, page 35), that he thought the word “good” should be deleted because, even should all the rights and freedoms set out in the declaration be fully realized, there was still no ground to conclude that the resulting social and international order would necessarily be good.

Indeed, the formal proclamation and even the formal realization of a right did not necessarily mean much in practice. The principle of equality had once been of the greatest importance; it had led to the abolition of serfdom and slavery. There existed at present a formalized concept of equality which was generally accepted. It was a far cry, however, from that equality – the equality of the rich and the poor, of capital and labour – to real social justice and a really good social order. The same might be said of a number of other rights contained in the declaration, such as the right to freedom of association; it, too, would be devoid of meaning unless proper facilities were available for its realization.

In the view of the USSR delegation, as long as society was divided into exploiters and the exploited, as long as there was private ownership of the means of production, the social order could not possibly be a good one. The USSR was not asking the Committee to approve its social order. What it did ask was that, since two conflicting views were involved, there should be no moral evaluation in the declaration of either order and that the final verdict should be left to history.

It would be preferable to avoid an ideological discussion and to delete the word “good”, because

^[1] Article 29 of the draft universal declaration of human rights (A/777).

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it represented an evaluation which the new democracies, in the name of millions of workers and indigenous inhabitants of colonies, in the name of posterity itself, felt bound to reject.

MR. CARRERA ANDRADE (Ecuador) supported the Egyptian amendment. It was quite impossible for any individual to lay claim in an effective manner to the right granted in article 26. It was therefore preferable to delete the article.

MR. LUNDE (Norway) supported the USSR amendment, not because he agreed with the arguments advanced by the representative of that country but in the interests of better drafting.

He would, however, prefer the deletion of article 26, as it was rather tenuous in meaning and failed to confer any specific right.

MRS. CORBET (United Kingdom) said that while she could not agree with all the arguments advanced by the USSR representative, she thought his amendment would improve the text, and was consequently prepared to vote for it. It was not necessary both to define the phrase “social and international order” and to give it a qualifying adjective.

MR. ENCINAS (Peru) agreed with the United Kingdom representative. A social and international order under which all the rights set out in the declaration were fully realizable was good by implication.

He thought that the words “and freedoms” should be deleted, since they might lead to confusion. Throughout the declaration only rights had been mentioned; to introduce the word “freedoms” at that point would merely create unnecessary ambiguity.

MR. AZKOUL (Lebanon) drew the Committee’s attention to the fact that the first twenty-five articles of the declaration dealt with individual rights, while article 26 was concerned with general principles. It set forth the ultimate conditions necessary for the realization of those rights. For that reason he supported the original text of article 26.

During wartime, certain rights had to be curtailed for reasons of national security. It was necessary, however, to ensure that the basic rights laid down in the declaration would be guaranteed in any circumstances. That was the purpose of article 26.

He understood the expression “good social and international order” not to apply to any particular system, whether capitalist or socialist. It was possible that no good order had as yet been found, but it was appropriate to state that human beings had faith and hope in the possibility of such an order being established.

MR. CASSIN (France) agreed with the Lebanese representative’s remarks to the effect that article 26 stated a general and not an individual right. In that regard, it closely resembled the provisions of article 19, paragraph 3 of the basic text. He was not satisfied with the form of the article, but could not accept the Egyptian representative’s suggestion for its deletion.

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Certain preliminary conditions had to be laid down to ensure the implementation of the rights contained in the declaration. As the Mexican representative had pointed out in regard to the earlier article, the individual had to be granted the possibility of legal action in respect of the violation of one of his fundamental rights. For that reason, he supported the point of view of the Norwegian, Peruvian and United Kingdom representatives and would vote for the USSR amendment.

MR. WATT (Australia) was not convinced of the necessity to retain article 26. In his opinion, it did not say more than that the rights set forth in the declaration should be achieved. Furthermore, the principle was already covered by the provisions of the final two paragraphs of the preamble. Unlike the representative of the Soviet Union,

he had never considered article 26 as endorsing the capitalist system, but for drafting reasons he would accept the USSR amendment.

MR. MAYBANK (Canada) supported the remarks of the Norwegian, Peruvian and United Kingdom representatives concerning the Soviet Union amendment. If the vote were to be taken on the basis of the USSR representative's arguments, however, he would not be able to vote for it. Should the rights set forth in the declaration be achieved the social and international order would be good, whether it came within the framework of capitalism, communism, feudalism or any other system. On that understanding, he would vote for the USSR amendment.

Although he could not accept the USSR representative's arguments, MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) would vote for his amendment because it improved the form of the article. The article itself was necessary because it allowed the individual a voice in international affairs.

MRS. ROOSEVELT (United States of America) could accept article 26 as it now read because she considered that a good social and international order was necessary for the achievement of the rights set forth in the declaration. She had no objections to the USSR amendment, although she considered it unnecessary. Any order which permitted individuals to achieve the rights and freedoms set out in the declaration would obviously be a good one and the adoption of the USSR amendment would not mean the endorsement of any particular political or social system. If the wording of the article would be improved thereby, she was prepared to accept the Soviet Union amendment.

MR. AQUINO (Philippines) felt that the USSR amendment provided an object lesson in democracy; it implied the right to agree to disagree, and to disagree to agree. He could not accept the USSR representative's arguments for his amendment, but because such a social and international order would necessarily be a good one, he would support it.

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It was true that the provisions of article 26 were already covered in the preamble, but it was necessary to state them in the body of the declaration in order to give them substantive force.

MR. BARODY (Saudi Arabia) did not consider it necessary to include article 26, because it did not state an individual right and was already covered by the provisions of the preamble. Should the Committee decide to retain it, however, he would support it as amended by the USSR representative.

MRS. NEWLANDS (New Zealand) said she understood that article 26 had been drafted as an "umbrella" article and as a compromise measure to avoid specific reference to the duties of the State. She would not raise any objections to the article, therefore, and although she did not share the reasons put forward by the USSR representative, she would support his amendment.

MR. PAVLOV (Union of Soviet Socialist Republics) understood article 26 to mean that the individual had the right to the implementation of all the articles of the declaration. However, it was clumsily drafted and perhaps should be deleted. If it were to be maintained, it would have to be in the form suggested by the USSR delegation.

The Lebanese representative had rightly referred to the aspirations of the masses for better conditions of life. Those aspirations were usually associated with the socialist order with its lack of class distinction, exploitation or slavery. The capitalist order was one of the most dangerous for the masses and the efforts of its protagonists would not be able to save it. The desire for socialism and its realization in certain countries could not be ignored and, therefore, it should be referred to in connexion with “a good social and international order”. Any such suggestion, however, would give rise to an ideological discussion and he had, therefore, contented himself with suggesting the deletion of the word “good”.

MR. KAYALY (Syria) did not agree that article 26 should be deleted because it was covered by the provisions of the preamble. It was an introduction to article 27 and also contained a new concept of human rights. He agreed, however, that there was no need to retain the qualifying adjective, because any such social and international order would be a good one.

MR. CHANG (China) was not at all sure that the word “social” did not include the idea of “international”. Nor was he convinced that article 26 could be claimed to be a statement of a right. In his opinion, it would be wiser to postpone a decision on article 26 until the Committee had considered articles 27 and 28.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) agreed that article 26 did give rise to certain misgivings. The Lebanese representative had suggested leaving it as it stood in the hope that a good social and international order would eventually be established. The basic text was [642] inaccurate, particularly from the point of view of certain delegations, and it actually raised an ideological issue.

There was general support for an order in which all men were equal and in which the workers had the wealth in their own hands. That could be seen from the provisions of article 21. His delegation, among others, was anxious that the declaration should not justify a mere formal equality. It did not press for a reference to its own social order; on the other hand, it did not want to be asked to express approval of any other system. Accordingly, the article could only be adopted in the form proposed by the USSR delegation. Otherwise it should be deleted.

THE CHAIRMAN put the USSR amendment to the vote.

The amendment was adopted by 34 votes to 2, with 2 abstentions.

THE CHAIRMAN then put to the vote the Peruvian proposal for the deletion of the words “and freedoms”.

The proposal was rejected by 23 votes to 3, with 10 abstentions.

On the request of the representative of Saudi Arabia, the Chairman put to the vote article 26 reading as follows:

“Everyone is entitled to a social order in which the rights and freedoms set out in this Declaration can be fully realized.”

That part was adopted by 32 votes to 2, with 4 abstentions.

THE CHAIRMAN then called for a vote on the insertion of the words “and international” after the word “social”.

That suggestion was adopted by 26 votes to 2, with 9 abstentions.

Article 26 as a whole as amended was adopted by 25 votes to 3, with 8 abstentions.

The meeting rose at 6:05 p.m.

A/C.3/364

22 November 1948

Texts of Articles 22 to 26 of the draft Declaration as adopted by the Committee

Article 22

1. Everyone has the right to a standard of living adequate for the health and wellbeing of his family and himself, including food, clothing, housing and medical care and necessary social services, and to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood have the right to special care and assistance.
3. Children born out of wedlock shall enjoy the same social protection as those born in marriage.

Article 23

1. Everyone has the right to education, which shall be free, at least in so far as elementary and fundamental education are concerned. Elementary education shall be compulsory. Technical and professional education shall be made generally available. There shall be equal access to higher education on the basis of merit.

2. Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of understanding, tolerance, and friendship among all nations, racial or religious groups, as well as of the activities of the United Nations for the maintenance of peace.

3. Parents have a priority right to choose the kind of education that shall be given to their children.

Article 24

Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay.

[2]

Article 25

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic products of which he is the author.

Article 26

Everyone is entitled to a social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

A/C.3/SR.153¹²⁹

23 November 1948

Summary Record of the Hundred and Fifty-Third Meeting **[of the Third Committee]**

Held at the Palais de Chaillot, Paris, on Tuesday,
23 November 1948, at 3:20 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

¹²⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 642–52.

81. Draft international declaration of human rights (E/800) (continued)*Article 27¹*

MR. PÉREZ CISNEROS (Cuba) said that the purpose of his amendment (A/C.3/261) was to emphasize the relationship between rights and duties. As it read, article 27 tended to give too much importance to the individualistic side of man's character.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said his amendment (A/C.3/268) attempted to intro-

[¹] Article 30 of the draft universal declaration of human rights (A/777).

[643]

duce two clear ideas into the text of article 27. The first was that fundamental human rights could only be curtailed by law; and the second that such laws could only be passed when required on the grounds of morality, public order and general welfare in a democratic society.

The amendment would protect personal liberty, in so far as the support of public opinion would be needed to limit human rights. It would always be easier for a Government to close down one newspaper than to have a general law censoring the Press. The latter measure, which the Uruguayan amendment would make necessary, would arouse a much greater reaction among the people of the country concerned.

The basic text was not sufficiently strong. It should make clear that human rights could only be restricted for certain specific reasons, and that while it was necessary to have a police force to maintain public order, police powers could only be exercised in conformity with the laws of the country.

MR. CASSIN (France) had felt that the concise original text of paragraph 1 might give rise to certain misunderstandings and therefore had proposed a re-wording of it (A/C.3/345). There was no intention to deny the close relationship between rights and duties in either the original or the new French text.

It had also seemed to him that the provisions of paragraph 2 could, as the Uruguayan representative had already pointed out, give rise to certain arbitrary acts. The law did not always ensure the protection of human rights, however, and he, therefore, proposed the insertion of the word "legitimate" before "requirements".

The proposed addition to paragraph 2 was intended to make clear that the individual belonged to the international community as well as to his own national society and that the interests of that organized international community were the same as his own. Furthermore, in a general article dealing with the limitations on human rights and freedoms, it had seemed appropriate to include a reference to the purposes and principles of the United Nations.

MRS. ROOSEVELT (United States of America) pointed out that article 2 referred to both rights and freedoms and that therefore it was necessary to insert the words

“and freedoms” in paragraph 2 of article 27. It was generally acknowledged that individual liberty had to be balanced with the liberty of other individuals and with the reasonable demands of the community. If there were no article 27, it would have been necessary to lay down specific limitations in the earlier articles of the declaration.

She could accept the New Zealand amendment (A/C.3/267), because the idea of morality and public order were included in the concept of general welfare. The USSR amendment (E/800, page 35) was unnecessary, because the requirements of the democratic State were covered by the reference to the requirements of democratic society. She did not object to the Cuban amendment which had been taken from the preamble of [644] the Bogotá Declaration, but felt that it went into too much irrelevant detail.

While possessing the merit of introducing a reference to the purposes and principles of the United Nations, the Egyptian amendment (A/C.3/264) would, in her opinion, simply create confusion. She also preferred the language that had been used by the French representative in referring to the United Nations. She could not accept the French proposal to insert the word “legitimate” because it could mean “legal” as well as “reasonable”. The language of the Uruguayan amendment was too restrictive when it was remembered that there was often a difference of opinion regarding what was strictly legal and what was just. She was sure that the Uruguayan representative had not intended to exclude the concept of moral force from article 27, but that actually would be the effect of his amendment.

Most United States laws concerning human rights had stemmed from executive or legislative action, with the addition of legal interpretations from the courts.

She could not accept the Chilean amendment (A/C.3/304/Rev.1/Add.1), as it also might unduly restrict the provisions of article 27. Furthermore, the word “solidarity” was not generally used in that sense except in the Western hemisphere. The concept of national sovereignty and solidarity also might be used to justify arbitrary acts.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that article 27 referred to all the previous articles and that for the declaration as a whole to be properly balanced, it was necessary to draft article 27 correctly. The rights of the individual having been set forth, it was time to refer to his duties. It was impossible for the individual to be free of society, for man was a social being. The most important task therefore in promoting human progress was to find the proper balance between the interests of the individual and the interests of society.

The proper co-ordination of the interests of the individual and society was only possible under a socialist regime. All the rights laid down in the declaration would be implemented in democratic societies by the democratic States. The law was nothing without the machinery to implement it and, at the present time, that

machinery was the State. It was impossible, therefore, to ignore the requirements of the democratic State.

There was, of course, the old type of democratic State, as well as the new, and also fascist States like Franco Spain. Representatives of countries such as his own, however, did not consider that the State was hostile to the individual. It represented the interests of the people, it had put an end to exploitation and it had established harmony between the workers and the peasants. In the Soviet Union, all authority rested in the hands of the masses of the workers.

It was all the more necessary to establish a proper balance between individual and collective rights in view of the sad experience of certain countries which had so easily become the victims [645] of Nazism. The requirements of the democratic State, therefore, could not be forgotten. The Supreme Council of the USSR was largely made up of workers and peasants; scientists also were represented. In the circumstances, the USSR delegation felt it was essential to protect the interests of the State.

MR. SANTA CRUZ (Chile) felt that only strictly necessary limitations should be laid down in article 27. The basic text was open to rather broad interpretations. He agreed with the Uruguayan representative as to the need to refer to the law and therefore accepted his amendment as an addition to his own. He was also able to accept the amendment put forward by the United States representative.

The reference to democracy in the text was acceptable to all delegations but was interpreted by them in many different ways. It was therefore necessary to introduce the precise concept of "national sovereignty and solidarity". The falsification of votes was the very antithesis of democracy, as were also the activities of subversive groups under the control of a foreign Power, whether fascist or communist. France and Italy were at that moment being undermined by just such subversive groups, and to avoid such a situation arising elsewhere in the world, States had to be permitted to take the necessary precautions.

MRS. NEWLANDS (New Zealand) pointed out that individuals normally lived in communities and consequently had to exercise their rights and freedoms with regard for the rights and freedoms of others. It was becoming recognized that the rights of individuals must be related to the rights of the community as a whole. In New Zealand, the Government accepted ever-increasing responsibility for the general welfare.

The Committee was concerned less with State responsibility than with the specific reasons for placing limitations on the rights and freedoms of the individual. An escape clause – for such was the nature of the article under discussion – should be as narrow as possible if the statement of rights and freedoms was to have any real meaning. The declaration did not present the same problems as the covenant and therefore required only one general limitation clause.

The draft drawn up by the Commission on Human Rights provided that limitations could only be applied for the requirements of general welfare. At the last moment, an amendment had been introduced calling for the insertion of the words “morality, public order and general welfare”.¹ The delegation of New Zealand wondered whether it had been wise to introduce that amendment, for it was far from clear what those three expressions were intended to mean. Did they not, in a sense, overlap; and, in the past, had not an excess of public order often led to the infringement of human rights and freedoms? It would be unfortunate if, in one of the last articles of

^[1] See document E/CN.4/SR.74.

[646]

the declaration, the general limitations clause was unnecessarily widened, thus depriving the document of some of its meaning.

She therefore suggested the deletion of the words “morality, public order and” in paragraph 2, and the deletion of the whole of paragraph 1. In her opinion, it would be preferable to leave the reference to duties to the community in paragraph 2. The insertion of the words “and freedoms”, as suggested by the United States delegation, would be a drafting improvement.

MR. KAYALY (Syria) pointed out that article 27 contained two different conceptions; paragraph 1 stated that the individual had duties to the community which enabled him to develop his personality, while paragraph 2 stated that, in the exercise of his rights, the individual should be subjected to certain limitations. The Syrian delegation would support the article as it stood, with the insertion of the words “and freedoms” in paragraph 2.

In the opinion of the Syrian delegation, “society” was a broader and more inclusive term than “State”. The Cuban amendment, although acceptable, had already been embodied in the preamble. Emphasis had been laid on the relationship between the individual and society. This could not be interpreted, however, as had been implied in the USSR representative’s statement, to mean that the State had the right to control the individual. The future would prove that the individual was the basis of society and that the State was able to exist because of that fact.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) could support the French representative’s proposal for the insertion of the word “legitimate” before “requirements”, but did not believe that it could be regarded as a substitute for his own amendment. Article 27, in addition to stating that limitations should be established by law, should also refer to the legitimate requirements of morality, public order and general welfare. The principle of legality, deeply rooted in the traditions of French and United States law and incorporated in all the constitutions of the Latin American countries could, he believed, be accepted by the Committee.

The United States representative seemed to consider that the Uruguayan amendment would exclude moral force as a guarantee of fundamental rights. He wished to say that the delegation of Uruguay attributed great importance to moral force. He believed that any limitations introduced by the State in defence of morality, public order and the general welfare must be justifiable on moral grounds; they must also have a legal form and be generally applicable.

MR. DE ATHAYDE (Brazil) stated that it was impossible to draw up a declaration of rights without proclaiming the duties implicit in the concept of freedom which made it possible to set up a peaceful and democratic society. Article 27 was of great importance, because without such a provision, all freedom might lead to anarchy and tyranny. Article 27 should not only provide for [647] limitations, but should also state the nature of those limitations: respect for the rights of others, and the requirements of morality, public order and the general welfare. Only through the protection of human rights could the democratic society itself be protected.

The text before the Committee would be satisfactory to the Brazilian delegation with the addition of the words “and freedoms”, proposed by the United States delegation.

Careful study of the other amendments had convinced him that they would not improve the original draft, with the exception of the French amendment regarding the United Nations, which reflected the interests of all mankind.

MRS. CORBET (United Kingdom) remarked that the purpose of article 27 was to enable some limitation to be placed on the rights and freedoms granted in the preceding articles.

She strongly supported the United States amendment (A/C.3/223), which was a real contribution to that article.

She could not accept the USSR amendment because to introduce a mention of the democratic State would restrict the article unduly. The concept of a democratic society contained in the original text was far broader, inasmuch as it encompassed the community, the State and the international order.

The Cuban amendment was not acceptable both because it was too long for the purposes of the declaration and because it introduced controversial ideas.

She hoped that the Egyptian representative would explain the first part of his amendment; the word “loyalty” was not easy to define and it was not unusual for people to have conflicting loyalties. As regards the second part of that amendment, she pointed out that the purposes and principles of the United Nations as stated in the Charter applied largely to the conduct of States and not of individuals.

While the New Zealand proposal to delete the words “public order” might be acceptable, the word “morality” should certainly remain in the text; it introduced an ethical concept which was not covered by any other part of the article.

Mrs. Corbet agreed with the United States representative that the Uruguayan amendment was too restrictive, even though it had undoubtedly been advanced with the most liberal intentions. It was dangerous to say that rights could be limited only by law; tyrannical laws had been known to exist. Moreover, perfectly justifiable limitations might be imposed on the individual by society through other means. The criterion for such limitations should be justice, which was higher than any law.

The English text of the French amendment to paragraph 1 made matters worse instead of better; it could easily be interpreted to mean that anyone who felt that he had not been allowed freely to develop his personality had no duties towards the community. As regards the second [648] French amendment, she saw no great need to qualify the word "requirements". Should the Committee wish to do so, however, she agreed with the United States representative that the adjective "reasonable" would be preferable to "legitimate".

She could not support the Chilean amendment, in particular the second part. The word "solidarity" had no meaning for a number of delegations; the concept, as explained by the Chilean representative, was covered by the basic text. Furthermore, it did not seem appropriate to make a reference to subversive action in the declaration.

MR. AQUINO (Philippines) supported the original text of article 27 with the addition of the United States amendment, which lent continuity to the text of the declaration.

While he thought that the Cuban amendments would be most useful as part of the political vocabulary of the United Nations and of democratic society, they did not fit into the general structure of the declaration.

The Egyptian amendments introduced highly controversial elements and could in no way be said to improve the drafting of the article.

The Uruguayan amendment, while its intention was laudable, would unduly restrict the rights and freedoms proclaimed in the declaration by permitting the passage of laws violating them. It took a narrow view of constitutional law; certain established limitations of fundamental freedoms, like the right of eminent domain, did not require a law to be binding on the individual, the State and society.

He could not support the French amendment to paragraph 1; he agreed with the interpretation of its meaning given by the United Kingdom representative. Neither was he prepared to accept the insertion of the word "legitimate" in the second paragraph, since it was open to conflicting, and indeed irreconcilable, interpretations. He was, however, in favour of the mention of the purposes and principles of the United Nations as suggested by the French representative.

When article 27 was taken in conjunction with the other provisions of the declaration it became plain that it contemplated a universal democratic society. The USSR amendment, by raising the State above that society, would destroy the intent and meaning of the article. Since the definition of the “corresponding requirements” of a State would lie with that State, it could under the terms of the USSR amendment annul all individual rights and freedoms contained in the declaration. Mr. Aquino was therefore strongly opposed to the amendment.

MR. CONTOUMAS (Greece) supported the French amendment to paragraph 1 because the French text of that amendment made it impossible for a man to deny that he had duties to his [649] community on the ground that the latter had not enabled him freely to develop his personality.

He also supported the French amendment to paragraph 2, but could not agree with most of the other amendments to that paragraph. The danger of the USSR amendment was that, by speaking of “the corresponding requirements of the democratic State”, it opened the door to abuses by the State. It should be noted that the original text spoke not of the requirements of a democratic society but of the “requirements of morality, public order and general welfare in a democratic society”. While the Cuban amendment contained a number of ideas dear to the hearts of all present, some of those ideas were controversial and the text was far too long. He wished to hear an explanation of the Egyptian amendment by its mover before he could form an opinion on it.

He could not agree with the New Zealand representative that paragraph 1 of the article should be deleted. It was essential to recognize somewhere in the declaration that the individual had duties towards the community. The second deletion proposed by the New Zealand delegation would be even more disastrous, and Mr. Contoumas was at a loss to see why the United States representative had appeared to favour it. He recalled that in a corresponding article suggested for the draft covenant the United States delegation had thought it necessary to mention not only general welfare, but public order and national security as well. The phrase “general welfare” did not fully cover the concept of public order; rather than to delete that concept, it might be wiser to add the words “national security”.

Mr. Contoumas supported the United States amendment, but suggested that, in order to avoid any possibility of contradiction, the words “and freedoms” should also be inserted between “rights” and “of others” in paragraph 2.

MR. CAMPOS ORTIZ (Mexico) thought that article 27 as drafted by the Commission on Human Rights was one of the best phrased and most complete in the declaration. Some of the amendments proposed would, however, improve it further. He therefore supported the United States amendment and the amendment to it suggested by the Greek representative; the last French amendment; and the

amendments submitted by Chile. He was fully in agreement with the spirit of the Cuban amendment.

The New Zealand amendments, on the other hand, were quite unacceptable. To delete the mention of morality and public order in paragraph 2 would be to base all limitations of the rights granted in the declaration on the requirements of general welfare in a democratic society and consequently to make them subject to the interpretation of the concept of democracy, on which there was the widest possible divergence of views. The New Zealand delegation thus took the same position as the USSR delegation in that the effect of its amendment would be to permit the State to impose such limitations as it pleased upon the rights [650] and freedoms of the individual. Indeed, if any part of the original text should be deleted, it was the words "in a democratic society". The requirements of morality, public order and general welfare were recognized by the laws of all nations; it was the concept of democracy that was still inadequately defined and unknown to jurisprudence.

MR. DEHOUSSE (Belgium) was in favour of paragraph 1 as it appeared in the basic text. In the present circumstances, when a great many reforms were still needed to improve man's condition, it was appropriate to continue to stress man's rights rather than his duties. Paragraph 1 quite properly established a sort of contract between the individual and the community, involving a fair exchange of benefits.

As regards paragraph 2, the amendments proposed by the USSR, United States and Egyptian delegations were not necessary as those ideas were implied in the original text. While the Cuban amendment was eloquently and brilliantly drafted, its great weakness was that it explained the reasons for limiting rights; an article in the declaration should grant rights or impose restrictions, but should not give the reasons for them.

Mr. Dehousse was prepared to accept the Uruguayan amendment and the new paragraph suggested by the Egyptian representative. While the last French amendment contained the same idea, it would be preferable to devote a separate paragraph to the mention of "the purposes and principles of the United Nations", which incidentally was how the final phrase of the Egyptian amendment should read. Attempts had been made at various times to insert that mention in earlier articles; article 27 appeared to be the best place for it.

MR. PLAZA (Venezuela) considered it indispensable to include in paragraph 2 a statement that limitations must be prescribed by law, as suggested in the Uruguayan amendment. Representatives who had wished to introduce legal safeguards in earlier articles had frequently been told that the subject would be covered in article 27. That article had now been reached.

The objection had been raised that laws might not be just; Mr. Plaza therefore supported the French proposal to insert the word “just” – which was a better translation of the French original than “legitimate” – before the word “requirements”. There was, moreover, a further safeguard: States which voted for the declaration assumed a moral responsibility to amend any of their laws that might be unjust. Since the legislation of his own country was more advanced than many of the provisions of the declaration, Venezuela did not fear that responsibility. Unless article 27 contained a mention of the law, the declaration could not be said to be universally applicable.

MR. CHANG (China) sympathized with the purpose of the French amendment to paragraph 1, but did not think that it had been achieved. It might perhaps be preferable, in the English text, to speak of the “free development of personality” rather than use the phrase “freely to develop his [651] personality”. It was not simple to improve the drafting of paragraph 1; unless an improvement could be effected the paragraph should be permitted to stand.

It was equally difficult to re-draft paragraph 2 in such a manner as to introduce the Uruguayan amendment in its proper place. As used by the Uruguayan representative, the words “prescribed by law” applied not only to public order and general welfare, which they might properly qualify, but also to such concepts as morality and recognition and respect for the rights of others, which surely could not and should not be prescribed by law.

Mr. Chang remarked that he found the original text of article 27 satisfactory in the main, but that he might at a later meeting present amendments of a drafting nature.

MR. AZKOUL (Lebanon) said that his delegation considered article 27 satisfactory, but was prepared to accept certain amendments to it. Thus, the United States amendment, which repeated the words used in articles 2 and 26, was a definite improvement.

The basic objection to the USSR amendment was that if the phrase “and also the corresponding requirements of the democratic State” were adopted, the impression would be created that the State was higher than morality, public order and general welfare and had absolute rights which were not conditioned by the requirements of the latter.

The Cuban amendment contained noble ideas; the proper place for them, however, was the preamble. The intention of the first Egyptian amendment was far from clear. The deletion proposed by New Zealand in paragraph 2 was only partially acceptable; the words “public order” were not essential, inasmuch as the idea might be considered as implied by the rest of the sentence, but the word “morality” should be retained since it referred to the spiritual side of life which could not be included in the materialistic concept of general welfare.

He had serious doubts as regards the Uruguayan amendment. While there was some justification for wishing to prevent suppression of individual rights by arbitrary decrees, the United Kingdom representative had been correct in saying that certain justifiable limitations might not rest on written law.

He supported the first Chilean amendment which restricted possible limitations more than did the original text; he thought, however, that the word "necessary" should be replaced by "indispensable" in the English text as it was in the French. The second Chilean amendment was not necessary. National sovereignty was not a goal in itself; it existed for the general welfare, and was therefore implicit in the basic text.

The French amendment to paragraph 1 was not acceptable, since it appeared to state that not all men had the right freely to develop their personality. The original text of that paragraph might be improved by being put in the plural. If it read: "All men have duties. . .", it would imply that a majority which had been oppressed by the [652] community had the right to revolt against it, but not that every single individual had the right to do so on his own.

With respect to the second French amendment, Mr. Azkoul pointed out that the word "legitimate" should not be used to qualify the requirements of morality which by their very nature could not be anything else; it should apply only to the requirements of public order and general welfare.

In conclusion he remarked that the Lebanese delegation had submitted an amendment to article 28 which dealt with the purposes and principles of the United Nations and consequently covered the same ground as the second Egyptian and the third French amendments.

MR. SANTA CRUZ (Chile) observed that the second amendment submitted by his delegation had apparently taken the Committee by surprise. It introduced a new concept made necessary by modern conditions. The past decade had seen the development of internal aggression by the citizens of one country acting in their own country under the orders of another. The introduction in article 27 of the principle of solidarity would permit States to combat subversive groups which attacked them from within. Similarly, the mention of national sovereignty would help them to resist external aggression in times of war.

International co-operation and the concomitant surrender of some measure of national sovereignty were acceptable when they resulted from the free will of a people and were directed towards the general good. No State, however, should be obliged to surrender its national sovereignty as a result of subversive action by groups which embraced totalitarian principles.

It had been said that the concepts of national sovereignty and solidarity were included in the words "general welfare". If the Committee rejected the Chilean amendment, it should be on that understanding.

The meeting rose at 6 p.m.

A/C.3/365**24 November 1948****Original Text: French**

**Lebanon: Amendment to Article 20 of the
draft Declaration (E/800)**

Add a second paragraph worded as follows:

“No law in any country may, so far as it relates to such rights and freedoms, be repugnant to the purposes and principles of the United Nations.”

A/C.3/SR.154¹³⁰**24 November 1948**

***Summary Record of the Hundred and Fifty-Fourth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Wednesday,
24 November 1948, at 11 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

82. Draft international declaration of human rights (E/800) (continued)

Article 27 (continued)

MR. CASSIN (France) emphasized that the general discussion of article 27 had made plain how difficult it was to alter the text prepared by the Commission on Human Rights.

He observed particularly that it would be a great mistake to follow the New Zealand delegation's suggestion (A/C.3/267) and omit the first paragraph, which established the duties of an individual towards the community.

[653]

Like the representative of Lebanon, he recognized that the French text of the paragraph might be ambiguous; to remove any ambiguity Mr. Azkoul had proposed, the previous day (153rd meeting), to draft the text of the first paragraph in the plural. The French delegation supported that suggestion; it was submitting a formal proposal to that effect, and was withdrawing the first part of its amendment to article 27 (A/C.3/345).

¹³⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 652–62.

As regards paragraph 2, the French delegation was inclined to vote in favour of the amendment submitted by the United States delegation (A/C.3/223), which had the advantage of referring to freedoms side by side with rights.

The principal difficulty was that the paragraph listed limitations on the rights. Some delegations, such as that of New Zealand, wanted to reduce that list; others, on the contrary, such as the delegations of Egypt, Chile and the USSR, proposed to add to it. The French delegation, for its part, thought the Committee should adhere to the list proposed by the Commission on Human Rights. It was also relevant to mention that while the English expression “general welfare” was very wide, the corresponding expression in the French text, *bien-être général*, had a much more restricted meaning, traditionally confined to economic and social questions. The expression *ordre public*, on the contrary, covered anything essential to the life of a country, including, primarily, its security. It was, therefore, necessary to keep both expressions which, furthermore, were mutually complementary in both languages.

In the French delegation’s view the wording of the text of the Commission on Human Rights met the wishes of the delegations of Egypt and Chile who wanted to extend the list of limitations to cover good faith and loyalty as well as the demands of national sovereignty and national solidarity. It seemed that with the words “morality”, “public order” and “general welfare”, all the demands of the democratic State were taken into account. That was why the French delegation could not vote for the USSR amendment either.

Nor could it accept the amendment submitted by the Uruguayan delegation (A/C.3/268) notwithstanding its undeniable interest, because, as the representative of the United Kingdom had rightly said (153rd meeting), certain limitations on rights were imposed, not only by legislation but also by convention and by judgments relating to individual cases. Thus, it would be destructive of the role of convention and judges if written texts were strictly adhered to in a desire to avoid arbitrary action. The French amendment, which limited arbitrary action in introducing the element of “legitimate” requirements – in other words, the requirements based on justice which agreed with the rules of morality, were in keeping with the needs of public order, and took the general welfare into account – seemed to meet the need expressed in the Uruguayan amendment without having the same disadvantages.

As regards the reference to the purpose and principles of the United Nations, which his delegation wished to see included, he was prepared to accept the excellent wording proposed by the [654] Egyptian delegation, which had only to be completed in the sense indicated by the Belgian representative.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) did not think that his delegation’s amendment had a restrictive effect on the provisions of paragraph 2. It was incorrect to say that that amendment did not take into account the fact that man, in the exercise of his essential rights, was subject to other limitations than those of law. The free

will of man was undeniably limited, if only by the demands of his conscience, the rules of positive morality, or standards set by social conventions. The Uruguayan amendment took those factors into account because it left all the last part of paragraph 2 as it was. The aim of article 27 was definite: it was intended to permit a State, under certain conditions, to limit the exercise of the essential rights of man. The Uruguayan amendment, in turn, was intended to establish up to what point the State could limit the free exercise of those rights.

If it was desired to guarantee faithful application of the declaration of human rights, the principle should be adopted that limitations to be set by public authorities could only be to set in accordance with pre-established standards, i.e., in accordance with provisions legally enacted. Thus, human beings would have the guarantee that they would be governed according to rules, and not according to the whim of their rulers.

MR. AIKMAN (New Zealand) said that his delegation proposed the amendment of paragraph 2 by deletion of the words "morality" and "public order". The mention of "general welfare" would thus remain. The idea of "public order" extended the limitation of human rights much further than that of "general welfare".

As regards paragraph 1, he would accept the joint amendment of Lebanon and France; his proposal had only been made in the interest of better drafting. He asked that the vote should be taken in parts as he would vote for the first part while he would vote against the French amendment to paragraph 2.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) recalled that at different stages preceding the present one in the work on the declaration of human rights, the USSR delegation had spared no effort to obtain recognition for the following principles: enjoyment of the rights set forth must be guaranteed by the State and by its laws; exercise of those rights must have as its supreme objective the improvement of man's condition and the development of friendly relations between peoples; democracy must be protected against attempts upon it on the part of fascism and war-mongers; finally, States must be protected against all interference with their national sovereignty in accordance with the terms of the United Nations Charter.

True to its attitude, the USSR delegation had presented an amendment intended mainly to defend democratic interests and, in the first instance, the interests of the workers of the whole world.

It was self-evident that the draft declaration, as adopted up to the present, had serious gaps. One [655] of the most serious was due to the fact that it did not take the development of the human personality into account, and said nothing about the responsibilities and obligations of the State in that respect. In order to complete article 27 it would be necessary on the one hand to set forth the duties of the democratic State, thus ensuring the interests of the workers, and, on the other, to emphasize that the individual whose rights the declaration proclaimed was

essentially a member of the democratic society. Such were the two interdependent ideas which article 27 had to make clear.

In a well-organized democratic society the interests of the community were protected in an efficient manner because the individual was not in a position to defend his rights himself. It was for that reason that the Constitution of the Byelorussian SSR, inspired by that principle and basing itself on all the elements that ensured the defence of the peoples of Soviet countries, prohibited the exploitation of man by man, condemned all discriminatory measures, and aimed at the development of human personality.

But at the same time the democratic State must be able to have certain indispensable rights, in order to ensure the defence of its citizens, and that was exactly where article 27 came in. The USSR amendment, far from restricting the article's scope, did exactly the opposite by giving the State the necessary means for guaranteeing the enjoyment of individual rights.

The true implication of the USSR amendment seemed to have been misunderstood by the other delegations: it tended above all to emphasize the indisputable ties that existed between an individual on the one part, and the State and society on the other. He refuted the objections raised by various representatives, especially those of the Philippines and Greece (153rd meeting). He disagreed that the concepts of morality and of public order were wider than the democratic State required. The concept of morality, in particular, was subject to various interpretations; the morality of a socialist regime was certainly of a higher order than that of a capitalist regime where man was exploited by man. It was obvious that the USSR amendment could not be accepted by countries where morality and public order were not regarded as within the framework of a democratic society. For its part, the delegation of the Byelorussian SSR would unreservedly vote for it.

MR. BEAUFORT (Netherlands) noted that the debate on article 27 had shown that the rights of the individual were not absolute. It was necessary to define the restrictions demanded by respect for the rights of other individuals and of different social groups. That was the purpose of paragraph 2 of the article.

Furthermore, paragraph 1 made plain the interdependence of the rights and duties which linked an individual with the community. In choosing the word "community", it was quite rightly desired to point out that the State was not the only social group concerned.

The wording of paragraph 1 was not entirely satisfactory, however. Did "the community which enables him. . ." mean a community which effectively permitted an individual to develop his per-[656]sonality? Was it to be understood that a relation between cause and effect was established there?

He could not accept such an interpretation. It was readily admitted that an individual had natural and inalienable rights transcending any specific legislation.

But it must also be admitted that an individual had duties towards the community independent of the character of that or the other community. The fact that a State did not grant political rights to a certain category of citizens, though deplorable, was not a sufficient reason for the citizens in question refusing, for instance, to pay their taxes. For those reasons, the Netherlands representative would have preferred to omit the second part of the first paragraph.

Passing on to an analysis of the amendments to paragraph 2, he approved the Uruguayan amendment. By requiring that limitations should be prescribed by law, the amendment was intended to protect the individual against arbitrary measures which public authorities might be tempted to introduce through administrative channels. It was obvious that such a guarantee would be applicable only in democratic States. It would not be effective in an authoritarian State, where legislative power was not independent of the executive power. He was also sure that the word "law" in the Uruguayan amendment also referred to measures of a legislative nature which regional or municipal authorities might introduce. He would therefore vote for the Uruguayan amendment as well as for that of the United States, which seemed to him to be an improvement on the original text.

He would not support the USSR amendment, however, which seemed to him superfluous, nor that of Cuba (A/C.3/261), which was rather a statement of principles than the assertion of a right. The Egyptian amendment did not appear to be any more acceptable, since it introduced terms liable to be interpreted in many different ways.

Finally, if the Committee so desired, the Netherlands representative would accept the addition of a third paragraph dealing with the purposes and principles of the United Nations.

MR. PÉREZ CISNEROS (Cuba) recalled that it was especially important to defend the individual against the State. Nevertheless, the individual should also be reminded that he was a member of society, and that he must affirm his right to be deemed a human being by clearly recognizing the duties which were corollaries of his rights.

The Cuban delegation considered that the declaration ought to proclaim that idea, and that was why it had proposed that the text of its amendment should be included either in the preamble, or in article 1, article 2, or article 27. It was more surprised to see certain countries oppose the adoption of the amendment because they had accepted an almost identical text in the Bogotá declaration. That solemn declaration of social solidarity would be a safeguard against the exaggerated individualism which had done so much ill.

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The Cuban representative would vote for the Uruguayan amendment and that of Chile.

MR. PAVLOV (Union of Soviet Socialist Republics) said that most of the objections raised to his proposal did not take its real import into account. It had, for instance, been maintained that the USSR amendment tended to ensure the supremacy of the State (153rd meeting): That was certainly not the case, since the text in question placed the democratic State on exactly the same plane as democratic society.

The USSR delegation wanted to guarantee the community against any abuse of his rights by the individual. The existence of the democratic State had not yet been mentioned in the declaration. That might lead to the belief that it was not a question of defending the rights of citizens, in the sense that the French Revolution had given to that word, but the rights of stateless persons without ties with any society organized in the form of a State.

It was imperative to safeguard the just demands of the democratic State precisely because it alone was capable of defending the individual against the encroachment of forces such as high finance or trusts. Those who refused to recognize that fact showed that they preferred oligarchy to democracy.

Moreover, it was necessary to affirm the sovereignty of the democratic State if only in order to conform to the spirit and letter of the Charter.

The USSR amendment was quite appropriate because it had always been said that it was article 27 of the declaration which would deal with the relations between the individual and the community.

The representative of the Soviet Union said that he would vote for the Uruguayan amendment relating to limitations prescribed by law.

MR. WATT (Australia) noted the general agreement on the necessity of subordinating human rights to certain restrictions and asked whether, on the one hand, the proposed limitations were justified, and, on the other hand, whether they were sufficient.

At any rate, the first paragraph of article 27 should stand. For his part, he supported the joint version of France and Lebanon, but he proposed to add the adverb "fully" to the word "freely".

With regard to paragraph 2, he observed that the conception of public order could be understood in a restrictive sense or, on the contrary, in a wider sense. That made it clear that it was necessary to set limits to the restrictions. The expression "democratic society" was intended to do precisely that. For want of a better term, it should be accepted, notwithstanding the diversity of the interpretations given to the word "democratic".

The USSR amendment used the formula "requirements of the State" while the text of the Commission on Human Rights read "the requirements of morality. . . in a society". It would be interesting to know whether that difference was [658] intended or whether it was merely caused by the translation.

The Australian representative also supported the idea that, as the delegations of the United States (A/C.3/223) and of Greece had already proposed (153rd meeting), freedoms should be mentioned whenever rights were referred to.

The Cuban amendment seemed to be a philosophical argument, the cogency of which could not be contested, but which was a little out of place in the body of an article in the declaration.

Having heard the French representative, Mr. Watt did not think that the words “morality, public order and the” should be deleted, as the New Zealand delegation had proposed; although the New Zealand delegation no doubt interpreted the phrase “general welfare” in the widest sense, other delegations had expressed the view that it was open to a somewhat narrower and materialistic interpretation.

With regard to the French amendment to paragraph 2, the Australian representative was not convinced of the necessity of the word “legitimate”, since it was inconceivable that the claims of morality should be illegitimate. On the other hand, he considered that the addition of a paragraph, mentioning the purposes and principles of the United Nations, would be most appropriate.

In the case of the Uruguayan amendment to paragraph 2, it should be made clear whether “law” comprised other regulations which had not a strictly legislative character. He also wanted to know whether the word “solely” implied that the law in question must have for its sole purpose the restrictions mentioned in the paragraph. Use of the word “solely” in this sense might be unjustified, as a law might have various collateral purposes, all of which might be justified.

While he recognized the importance of the reasons which prompted the Chilean proposal, he feared that that amendment might open the way to the most divergent interpretations of the word “sovereignty” and that it might be used in the future to evade certain provisions of the declaration.

In conclusion, the Australian delegation supported the text of the first paragraph with the improvements of detail indicated; it found paragraph 2 satisfactory; and it supported the proposal to add a third paragraph on the purposes and principles of the United Nations.

MR. SANTA CRUZ (Chile) asked that the word “essential” in the English translation of his amendment should be replaced by the word “indispensable”. He asked also that the ideas of “sovereignty” and “national solidarity” should be voted upon separately.

MR. WATT (Australia) suggested inserting the phrase “in which alone the free and full development of his personality is possible”, in paragraph 1 after the word “community”, instead of the words “which enables him freely to develop his personality”.

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MR. DEHOUSSE (Belgium) considered that the text proposed by the representative of Australia contained an inaccurate statement, for while there was no doubt that society contributed to the development of the individual's personality, it was no less true that that development was conditioned by other factors.

MR. CONTOUMAS (Greece) fully agreed with the Belgian representative.

MRS. ROOSEVELT (United States of America) proposed deletion of the word "alone".

In a spirit of compromise, MR. CHANG (China) proposed that the end of the first paragraph of the Australian amendment should read as follows: "which makes possible the full development of his personality".

MR. AZKOUL (Lebanon) preferred the text proposed by the Chinese representative. He suggested, however, that the words "his personality" should be replaced by the term "human personality". That new wording would avoid the danger, already pointed out by some delegations, that the text might be interpreted as implying that the individual had duties to society only in so far as the latter secured the full development of his own personality.

MR. CHANG (China) considered that the word "everyone" in the first sentence of article 27 already contained the meaning of the word "human", therefore need not be repeated.

MR. DEHOUSSE (Belgium) was of the opinion that the wording of article 27 might give rise to error. It might, first, be asserted that the individual could only develop his personality within the framework of society; it was, however, only necessary to recall the famous book by Daniel Defoe, *Robinson Crusoe*, to find proof of the contrary. A second error might be made by so wording article 27 as to give the impression that it was the duty of society to develop the human being's personality; that principle might, perhaps, be in harmony with the philosophy of certain countries, but it might equally well run counter to that of other peoples. On that subject, he recalled that the members of the Committee had always taken care that the text they adopted should not impose the particular views of one country or group of countries on any other country. It was for that reason that the text just proposed by the Chinese representative was preferable to that proposed by Australia.

In view of the difficulties its amendment seemed to have caused, and also of the fact that the Lebanese amendment, which had been endorsed by the French delegation, was acceptable, MR. WATT (Australia) said that his delegation would not insist on its proposal.

MR. PAVLOV (Union of Soviet Socialist Republics) thought, on the contrary, that the text proposed by the Australian representative was important in that it stressed the harmonious relations which should exist between the individual and the society in which he lived. The word "alone", which had been criticized by some delegations, seemed to him excellent. It rightly stressed the fact that the individual could

not fully develop his personality outside society. The example of *Rob-[660]inson Crusoe*, far from being convincing, had, on the contrary, shown that man could not live and develop his personality without the aid of society. Robinson had, in fact, had at his disposal the products of human industry and culture, namely, the tools and books he had found on the wreck of his ship. The Australian amendment was perfectly justified. In view of the fact that the Australian delegation had withdrawn it, he would take it up in the name of his own delegation.

With regard to the Lebanese amendment, he thought it was liable to a dangerous interpretation, as some delegations had already pointed out. It might be interpreted as meaning that the individual had no duty towards a State which did not provide him with the possibility of developing his personality fully.

MRS. CORBET (United Kingdom) shared the opinion of the USSR representative; that amendment in no way modified the substance of article 27, but eliminated the ambiguity pointed out by the USSR representative and by other delegations. Moreover the word “alone” in that text stressed the essential fact that the individual could attain the full development of his personality only within the framework of society.

MR. CASSIN (France) recognized that the new text eliminated any ambiguities; the French delegation would not insist on the French text of article 27 being drafted in the plural.

MR. AZKOUL (Lebanon) withdrew the amendment submitted by his delegation to that effect. Nevertheless, he reserved the right to amend the French text of article 27 in the drafting subcommittee, if necessary.

THE CHAIRMAN put to the vote the amendment formerly submitted by Australia, which had been taken up by the USSR delegation.

MR. CHANG (China) asked that the amendment should be voted upon in parts so that the word “alone” might be voted on separately.

THE CHAIRMAN put to the vote the proposal to include the word “alone” in the text of the USSR amendment.

That proposal was adopted by 23 votes to 5, with 14 abstentions.

THE CHAIRMAN put to the vote the USSR amendment as a whole.

The amendment was adopted by 35 votes to none, with 6 abstentions.

In view of the difficulties of translation pointed out by the French delegation, MR. AIKMAN (New Zealand) withdrew his amendment (A/C.3/267) to delete the words “morality, public order and the” from the text of paragraph 2.

MR. HAMDI (Egypt) said that he would accept the French delegation’s interpretation of the idea of “morality” as including that of loyalty and good faith. His delegation would therefore not insist on the part of its amendment (A/C.3/264) to insert the words “of loyalty, good faith” in the text of article 27. Nevertheless, it

would maintain [661] the part of the amendment on the purposes and principles of the United Nations.

THE CHAIRMAN put to the vote the amendment submitted by the United States delegation (A/C.3/223) proposing the insertion of the words “and freedoms” after the words “in the exercise of his rights” in the text of paragraph 2 of article 27.

The amendment was adopted unanimously.

THE CHAIRMAN put to the vote the Greek amendment proposing the insertion of the words “and freedoms” after the words “to secure due recognition and respect for the rights” in the text of article 27.

The amendment was adopted by 35 votes to none, with 5 abstentions.

MR. SANTA CRUZ (Chile) stated that his delegation withdrew its amendment (A/C.3/304/Rev.1/Add.1) to replace the word “necessary” by the word “essential” in favour of the Uruguayan amendment, suggesting that the same word should be replaced by the phrase “prescribed by law solely for the purpose of securing”.

THE CHAIRMAN put the Uruguayan amendment (A/C.3/268) to the vote.

MR. PÉREZ CISNEROS (Cuba) asked that the vote should be taken by roll-call.

A vote was taken by roll-call as follows:

In favour: Argentina, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Honduras, Mexico, Netherlands, Panama, Paraguay, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Against: Australia, Canada, China, Denmark, Egypt, Ethiopia, Greece, New Zealand, Norway, Pakistan, Philippines, Sweden, Syria, United Kingdom, United States of America.

Abstaining: Afghanistan, France, India, Lebanon, Liberia, Saudi Arabia, Yemen.

The amendment was adopted by 21 votes to 15, with 7 abstentions.

THE CHAIRMAN put to the vote the French amendment (A/C.3/345) to insert the words “to satisfy the legitimate” before the word “requirements” in paragraph 2.

The amendment was adopted by 22 votes to 8, with 11 abstentions.

THE CHAIRMAN asked the Committee to decide on the Chilean amendment (A/C.3/304/Rev.1/Add.1) suggesting the addition of the words “of national sovereignty and solidarity” after the words “requirements of morality”.

MR. PAVLOV (Union of Soviet Socialist Republics) proposed that the idea of “the solidarity of peoples” should be added in the amendment. The solidarity of peoples was the essential principle on which the Charter of the United Nations was based. It was, therefore, important to mention it in that article; if that were not done, the

Chilean amendment would have a restrictive meaning in that it would limit solidarity to the national plane.

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MR. SANTA CRUZ (Chile) considered that the USSR amendment could not constitute an addition to the text he had himself proposed. He therefore asked that the Committee should decide on that amendment by a separate vote.

Mr. Santa Cruz also asked that his delegation's amendment should be voted on in parts.

THE CHAIRMAN put to the vote the first part of the Chilean amendment, proposing that the words "of national sovereignty" should be added after the words "requirements of morality", in paragraph 2 of article 27.

The first part of the amendment was not adopted, 17 votes being cast in favour and 17 against, with 7 abstentions.

THE CHAIRMAN put to the vote the USSR amendment proposing that the words "solidarity of peoples" should be substituted for the last part of the Chilean amendment regarding national solidarity.

MR. PAVLOV (Union of Soviet Socialist Republics) asked that the vote should be taken by roll-call.

A vote was taken by roll-call as follows:

In favour: Argentina, Belgium, Byelorussian Soviet Socialist Republic, Czechoslovakia, India, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Afghanistan, Australia, Brazil, Canada, Chile, China, Cuba, Denmark, Dominican Republic, Egypt, Ethiopia, France, Greece, Honduras, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Philippines, Sweden, Syria, United Kingdom, United States of America, Uruguay.

Abstaining: Ecuador, Lebanon, Liberia, Mexico, Panama, Peru, Saudi Arabia, Venezuela, Yemen.

The amendment was rejected by 25 votes to 9, with 9 abstentions.

THE CHAIRMAN put to the vote the last part of the Chilean amendment, suggesting the addition of the words "and solidarity".

MR. SANTA CRUZ (Chile) asked that the vote should be taken by roll-call.

A vote was taken by roll-call as follows:

In favour: Argentina, Brazil, Chile, Cuba, Dominican Republic, Ecuador, Uruguay.

Against: Afghanistan, Australia, Belgium, Canada, Denmark, Ethiopia, India, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Sweden, Syria, United Kingdom, United States of America.

Abstaining: Byelorussian Soviet Socialist Republic, China, Czechoslovakia, Egypt, France, Greece, Honduras, Lebanon, Liberia, Mexico, Panama, Paraguay, Peru, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yemen, Yugoslavia.

The last part of the amendment was rejected by 17 votes to 7, with 19 abstentions.

The meeting rose at 1:20 p.m.

A/C.3/SR.155¹³¹

24 November 1948

***Summary Record of the Hundred and Fifty-Fifth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Wednesday,
24 November 1948, at 3:30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

83. Draft international declaration of human rights (E/800) (continued)

Article 27 (continued)

THE CHAIRMAN proceeded to put to the vote the remaining amendments to article 27. He asked for a vote first on the USSR amendment (E/800, page 35).

A vote was taken by roll-call, as follows:

*Having been drawn by lot by the Chairman, Denmark was called upon to vote first.
In favour:* Mexico, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia.

Against: Denmark, Egypt, Greece, Honduras, Lebanon, Luxembourg, Netherlands, New Zealand, Paraguay, Peru, Philippines, Sweden, United Kingdom, United States of America, Uruguay, Yemen, Australia, Belgium, Brazil, Canada, Chile, China, Costa Rica.

Abstaining: Dominican Republic, Ecuador, France, India, Panama, Venezuela, Argentina, Bolivia, Cuba.

The amendment was rejected by 23 votes to 8, with 9 abstentions.

THE CHAIRMAN put to the vote paragraph 2 as a whole as amended.

Paragraph 2, as amended, was adopted by 34 votes to 1, with 3 abstentions.

¹³¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 663–70.

THE CHAIRMAN then put to the vote the first sentence of the Cuban amendment (A/C.3/261) reading: “Respect for the rights of all requires that each should do his duty.”

A vote was taken by roll-call, as follows:

In favour: Afghanistan, Argentina, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Mexico, Venezuela.

Against: Australia, Belgium, Canada, China, Denmark, France, Greece, India, Lebanon, Luxembourg, Netherlands, New Zealand, Philippines, Sweden, United Kingdom, United States of America.

Abstaining: Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia, Egypt, Honduras, Iran, Pakistan, Panama, Paraguay, Peru, Poland, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia.

The first sentence of the amendment was rejected by 16 votes to 9, with 20 abstentions.

THE CHAIRMAN then put to the vote the second sentence of the Cuban amendment (A/C.3/261) reading: [664] “In all human activity, both social and political, rights and duties are indissolubly linked one with another.”

A vote was taken by roll-call, as follows:

In favour: Argentina, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Mexico, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: Afghanistan, Australia, Belgium, Brazil, Canada, China, Denmark, France, Greece, India, Lebanon, Luxembourg, Netherlands, New Zealand, Philippines, Sweden, United Kingdom, United States of America.

Abstaining: Bolivia, Burma, Chile, Egypt, Honduras, Iran, Pakistan, Panama, Paraguay, Peru, Uruguay, Venezuela, Yemen, Yugoslavia.

The second sentence of the amendment was rejected by 18 votes to 12, with 14 abstentions.

In view of the result of the first two votes, MR. PÉREZ CISNEROS (Cuba) withdrew the remainder of the Cuban amendment.

THE CHAIRMAN put to the vote a French-Egyptian amendment, forming paragraph 3 of article 27 and reading: “Those rights and freedoms can in no case be exercised contrary to the purposes and principles of the United Nations.”

The amendment was adopted by 34 votes to 2, with 6 abstentions.

Article 27 as a whole, as amended, was adopted by 41 votes to none, with one abstention.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) remarked that he had been one of the two representatives who had voted against the last paragraph of article 27. His country adhered loyally to the purposes and principles of the United Nations and tried

sincerely to fulfil the obligations it had assumed under the Charter. It held that both its own Constitution and the Charter of the United Nations should be freely discussed and criticized. It felt, however, that article 27 imposed limitations on the rights contained in the declaration, including the right of free speech, in so far as the adoption of the last paragraph made it possible to forbid any criticism of the purposes and principles of the United Nations.

MR. WATT (Australia) had voted against the Uruguayan amendment (A/C.3/268) because the text appeared imperfect. Perhaps a drafting committee might still alter the position of the word "solely" and place it immediately after the word "prescribed".

He had abstained from voting on the last paragraph because it was not clear whether the words with which it began, "Those rights and freedoms", referred to the rights and freedoms of the individual or the rights and freedoms of others which had been mentioned in paragraph 2.

He had nevertheless voted for the article as a whole.

MR. GRUMBACH (France) stated that he, too, had voted for the article as a whole. He had voted [665] against the first sentence of the Cuban amendment because it might be misconstrued to mean that a man who failed in his duties forfeited all his rights; yet even criminals were entitled to the right of defence. He was glad that the Cuban representative had withdrawn the major part of his amendments; although he appreciated the reasons for them, he would have felt compelled to vote against them.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that he had defended his amendment referring to the requirements of the democratic State, because in practice all the rights and freedoms contained in the declaration would have to be exercised within the framework of each separate State and their realization would depend on the nature of that State.

Two major types of State existed in the modern world: what might be termed the new and the old democracies. The former were a recent phenomenon; their Governments were largely composed of workers and peasants; the equivalent of such institutions as the House of Lords did not exist. They served the interests of the broad masses of their people, whereas the old democracies while retaining a parliamentary form of government, were still devoted to the interests of minorities. Nevertheless there was a kinship between the two types of democracy which had led them to fight side by side against fascist States.

He consequently regretted that the Committee had rejected his amendment, which mentioned the democratic State as distinct from a fascist State and stressed the principle of national sovereignty. He had voted in favour of that portion of the Chilean amendment (A/C.3/304/Rev.1/Add.1) which dealt with the same principle. He had also voted for the Uruguayan amendment and for the article as a whole because, since that article in its present form included a reference to law as well as to a democratic society, it also contained the concept of a democratic State.

MR. PÉREZ CISNEROS (Cuba) said that he had voted in favour of article 27, which he considered an admirable one. He had voted for his own amendments, which embodied ideas unanimously accepted at the conference of Bogotá. He still thought it was essential to indicate in the declaration that the possession of each right implied a corresponding duty; as it was, that document placed undue emphasis on individualism.

MRS. CORBET (United Kingdom) stated that she had voted against paragraph 2 of article 27 and had abstained on the whole article both because there was a danger that the new text of paragraph 2 might provide a loophole permitting passage of laws limiting basic human rights and freedoms and because there were limitations not imposed by law which were perfectly justifiable. The word “solely” in the Uruguayan amendment did not afford sufficient protection against laws limiting rights or freedoms in the interests of public order or the general welfare.

[666]

Article 28¹

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated, in introducing his amendment (A/C.3/268), that his intention had been merely to make the language of article 28 more precise to “engage in any activity” implied repeated acts; in order to ensure that even a single act aimed at the destruction of any of the rights and freedoms in the declaration should be forbidden, he wished to replace that phrase by the words “perform any acts”.

MR. GRUMBACH (France) said that his delegation considered it essential to introduce the word “group” (A/C.3/345) in article 28. Experience had shown that it was rarely States or individuals that engaged in activities aimed at the destruction of human rights; such activities in recent times had been pursued by groups, sometimes acting on the instructions or with the connivance of States.

MR. AZKOUL (Lebanon) stated, in introducing his amendment (A/C.3/365), that his delegation attached the greatest importance to its appearing as the second paragraph of article 28.

The first reason which had led his delegation to submit that amendment was that, as then worded, the article would merely prevent States from passing new laws aimed at the destruction of human rights and freedoms; it would not force them to repeal any such laws that were already in existence.

The second reason was that the word “arbitrary” had been used repeatedly in earlier articles without being precisely defined. It had been said that laws might be arbitrary, but no criterion had been laid down for judging them. The Lebanese amendment proposed the Charter, already subscribed to by all Members of the United Nations, as such a criterion.

The third reason was of paramount importance. Article 27 laid down limitations to which all human rights and freedoms were subject. Thus, even slavery could be reintroduced on the pretext that the general welfare required it. Those limitations must be offset by the statement that no law could be contrary to the purposes and principles of the United Nations; the latter could not be subject to the limitations contained in article 27.

Unless the Lebanese amendment were accepted, all human rights and freedoms would be exposed to the very danger which the whole declaration was designed to avoid, the danger of arbitrary suppression. The reference to the purposes and principles of the United Nations would supply a much needed and generally accepted yardstick.

Mr. Azkoul pointed out that his amendment did not require States to assume any obligations to which they were not already subject. He urged the Committee to accept his amendment because it represented a basic safeguard of the rights and freedoms contained in the declaration.

MR. DEHOUSSE (Belgium) remarked that the fact that there were so few amendments to it

^[1] Article 31 of the draft universal declaration of human rights (A/777).

[667]

proved that article 28, as drafted by the Commission on Human Rights, had great merits. It was essential to include that article in the declaration, first, because the rights granted in the declaration might be nullified unless there was a provision stating that no activity should be aimed at their destruction; secondly, because it should be made clear that the declaration did not grant anyone the freedom to endanger the freedom of others.

He was firmly convinced of the necessity to stop the activities of subversive groups and thus to prevent a repetition of the experience of a number of countries in the years immediately preceding the war. He would consequently vote for article 28 and the French amendment to it.

The Uruguayan amendment might be interpreted as drawing a distinction between the performance of an act and the mere intention to perform it, thus making it impossible to punish unsuccessful attempts to destroy rights and freedoms. He hoped that the Uruguayan representative would shed some light on that point.

MR. CARRERA ANDRADE (Ecuador) said the latter part of article 28 was ambiguous. It forbade activity "aimed at the destruction" of rights and freedoms; yet surely activity not so aimed but having the same result was equally undesirable. It might be preferable to replace those words by the phrase "which might destroy".

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that he thought the word "acts" did not include opinions, but did include conspiracy and attempts, whether successful or not, to destroy any of the rights and freedoms prescribed in the declaration.

MR. GRUMBACH (France) said the Lebanese amendment raised a problem of fundamental importance. It was perhaps not the appropriate time in which to introduce it, however, and it could also be regarded as covered by the French-Egyptian addition to article 27.

The amendment attempted to oblige States to ensure that their laws concerning human rights and freedoms were not repugnant to the purposes and principles of the United Nations. It was an elementary principle, but sometimes the obvious had to be stated. The question of national security had to be taken into consideration, however, as well as the question whether national legislation should be considered in the light of the purposes and principles of the United Nations. That matter would surely be more appropriately considered in connexion with the Covenant of Human Rights.

There was great danger that the peoples of the world would be disillusioned if the declaration was not speedily adopted and, while sympathizing with the intention of the Lebanese representative, Mr. [668] Grumbach felt that article 6 would ensure the adequate protection of the rights set forth in the declaration.

MR. WATT (Australia) was unable to accept the Lebanese amendment. The declaration was concerned with the rights of the individual, and article 27 laid down the conditions under which those rights could be limited. The Lebanese amendment, on the other hand, referred to the duties of the State and in very comprehensive terms. For that reason, it would need to be very carefully considered.

The final paragraph of the preamble made clear the purpose of the declaration. In his opinion, the Lebanese amendment was simply a short-cut to the adoption of the covenant. Furthermore, by stating that all national laws had to conform to the purposes and principles of the United Nations, there would be a danger that the declaration might prove unacceptable to many Member States. The whole question of the implementation of the rights set forth in the declaration could only be considered in connexion with the drafting of the covenant.

MR. DEHOUSSE (Belgium) agreed with the French representative that paragraph 3 of article 27 was comprehensive and should satisfy the point of view of the Lebanese representative. There was also a danger in constantly referring to the provisions of the United Nations Charter. Article 1 of that document, for example, implied the existence of later documents on the question of what constituted human rights. It was, therefore, a vicious circle to refer to Article 1, paragraph 3 of the Charter.

The Lebanese representative felt that his amendment would prevent arbitrary action and legislation. The Charter, however, was not sufficiently explicit as regards human rights to serve as an adequate protection and it had to be borne in mind that laws could be repugnant to purposes and principles of the United Nations which did not concern human rights.

MR. CAMPOS ORTIZ (Mexico) agreed with the arguments that had been put forward against the Lebanese amendment. The question it had raised was a delicate one and could not be considered by the Assembly without a careful preliminary study by the Commission on Human Rights. In his opinion, the text was confused, vague and unnecessary. Surely when Member States signed the declaration they would be agreeing to try to adapt their legislation so as to secure the implementation of human rights and freedoms.

His Government considered that a moral obligation was just as strong as a legally binding one. Moreover, who was to judge whether a law was or was not repugnant to the purposes and principles of the United Nations? It was impossible, therefore, to improvise a text on such a delicate problem.

MRS. ROOSEVELT (United States of America) recognized, as had all previous speakers, the good intentions of the Lebanese representative, but she feared some of the results of the amendment if it [669] were adopted. As had been pointed out, in so far as there was need to refer to the purposes and principles of the United Nations, that had been done by adopting the French-Egyptian amendment to article 27.

The purpose of the Lebanese amendment appeared to be the implementation of the declaration. However, it had already been agreed that the declaration should contain no implementation clauses. By its reference to national laws the Lebanese amendment had the effect of changing the declaration into a covenant. Should it be adopted, her Government would have to reconsider its position as regards the declaration as a whole, but that fact would not be as important as the disillusionment of the peoples of the world when national laws were not immediately changed.

MR. CONTOUMAS (Greece) felt that the most important reason for the amendment submitted by the Lebanese representative had been the need to restrict the power of the State to limit rights and freedoms on the grounds of morality, public order and general welfare. Just as the constitution of a country was a safeguard against its legislation, so the Charter, which was the international constitution, served a similar purpose.

As the Belgian representative had observed, however, the purpose contemplated by the Lebanese representative would not be better attained if the Charter were mentioned; Articles 1 and 2 of the Charter dealt almost exclusively with the question of relations between nations. Moreover, the Lebanese amendment, limited as it was to the laws relating to human rights, might, if adopted, create the impression that there was nothing to prevent Governments from enacting in other fields laws contrary to the purposes and principles of the United Nations. In a more general way Mr. Contoumas considered that by repeating, in connexion with human rights, that laws could not be contrary to the Charter, the Lebanese amendment would weaken the well-established principle that international conventions took priority

over national laws, so that a Government violating its international obligations incurred liability therefor.

MR. PÉREZ CISNEROS (Cuba) could not accept the Lebanese amendment for the reasons that had already been put forward by previous speakers. The preamble of the declaration recognized that the international protection of human rights should be the main guidepost in the evolution of man. It also spoke of the necessity for the State to guarantee those rights. The Lebanese amendment introduced the concept of the duties of the State. The majority of the Committee objected to the inclusion of that concept in the declaration and it would therefore be wiser to discuss it in connexion with the covenant.

MR. AZKOUL (Lebanon) felt that many of the arguments that had been put forward against his amendment were not convincing. He disagreed with the Belgian representative that a reference to the Charter could only be regarded as a vicious circle. The principles concerning human rights set forth in the Charter were not subject to a pro-[670]vision like article 27; in other words, the State could not detract from the dignity of the human person for any reason whatsoever.

In reply to the United States representative, he expressed the view that the addition of his amendment would not change the character of the declaration; it would remain morally, but not legally, binding upon Member States.

He had been persuaded, however, by the argument of the Greek representative that there was a danger that his amendment could be interpreted as applying only to laws concerning human rights, and also by the argument that the amendment had perhaps already been covered by the provisions of article 27, paragraph 3. For those reasons, he would withdraw it. In his opinion, the discussion of his amendment had not been useless, if only because it had emphasized the need for a covenant of human rights.

The meeting rose at 6:5 p.m.

A/C.3/SR.156¹³²

25 November 1948

Summary Record of the Hundred and Fifty-Sixth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Thursday,
25 November 1948, at 11 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

¹³² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 670–9.

84. Draft international declaration of human rights (E/800) (continued)***Article 28 (continued)***

MR. PAVLOV (Union of Soviet Socialist Republics) stated that his delegation would vote for the French amendment (A/C.3/345). However, he was anxious to make his interpretation of it clear.

Experience had shown how dangerous were the Nazi groups which, in certain countries of Central Europe, by constant infiltration and propaganda, had paved the way for the fascist regimes of Hitler and Mussolini. Some seemed to think that those facts belonged to a distant past; that was unfortunately not the case. Indeed not only were some countries still under the yoke of a fascist Government, but certain men prominent in the Hitler and Mussolini regimes had escaped the punishment they deserved, were still alive and, what was more, were still active. In the western occupation zones of Germany, fascist groups, the existence of which was known to the authorities, were recruiting, above all, former German army officers. No steps had, however, been taken to prohibit their activities. It might be feared that such an attitude could be interpreted as a tacit encouragement and might lead the fascists to hope that their enemies of yesterday would, tomorrow, provide them with arms for a new war. In the same way, certain organizations contained deserters and traitors who had fought on the side of the Nazis and who, fearing the just punishment which awaited them, had remained in Germany, where [671] the majority of them had found refuge in camps for displaced persons. That obviously represented a serious threat to the existence of the United Nations and to peace.

There was another and an equally serious threat. It was known that, after the First World War, high finance had supported the restoration of Germany's war potential. Today, an attempt in the same direction was being made. There was nothing surprising in the attitude of certain occupying Powers, since it was known that in their own countries there were organizations of a fascist character that differed in no respect from those which Nazi Germany had known. The Ku Klux Klan, whose activities were well known in the United States, was one example. Naturally, attempts were made to belittle the importance of those organizations on the ground that their membership was very small and their activity of little consequence. He recalled that the same attitude had formerly prevailed concerning the fascist organizations of Hitler and Mussolini. The disastrous consequences of such indifference were unfortunately all too well known. As the same causes had again arisen, there was every reason to fear the same results.

The French amendment created a barrier against those serious threats. The USSR delegation, which was aware of the existing danger, would therefore vote in favour of it.

MR. SANTA CRUZ (Chile) noted that the first twenty-six articles of the declaration which defined the fundamental rights of the individual had clearly indicated what a truly democratic society should be; such a society could exist only when its members did in actual fact enjoy the essential rights of man. It was therefore perfectly logical to end the declaration by provisions proclaiming in no uncertain terms that it would be illegal to attack those rights and thereby weaken the foundations of the democratic society. Consequently, article 28 was indispensable. That article stated expressly that neither the State nor the individual should infringe human rights. That clause was perfectly justified, since Member States had, in subscribing to Article 55 of the Charter, formally undertaken to respect those rights. That was a legal obligation for them; those who did not fulfil it were liable to the sanctions provided for in the Charter or, at any rate, to the moral censure of the world.

Although the Charter did not enumerate human rights – that was unnecessary since they had existed before the Charter and were inherent in man – it did expressly mention them. In signing the Charter, the States had agreed to limit their national sovereignty voluntarily. The Charter did not contain an enumeration of human rights; it imposed upon Member States the obligation to respect them. The object of the declaration was to lay down those rights in such a manner as to make them intelligible to the masses of the people.

Article 28 explicitly established the rights which derived from the Charter. The delegation of Chile [672] would therefore vote for that article. It would also vote for the French amendment, which was in perfect agreement with the view which the Chilean delegation had defended when it had submitted an amendment (A/C.3/304/Rev.1/Add.1) to insert in article 27 the principle of national solidarity.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) stressed the fact that article 28 was designed to provide for the protection of the rights laid down in the declaration. The French amendment was a very important corollary thereto, especially in the light of the present world situation.

The delegation of the Ukrainian SSR had always denounced fascism, the race theories of which threatened human rights. The majority of fascist Governments had been destroyed by the allied victory, but some still existed and, moreover, in certain countries which were regarded as democratic, fascist forces were at work. Fascist elements were doing their utmost to disseminate their doctrine, in the hope of seizing power; if their efforts were crowned with success human rights would no longer exist in the countries in which those elements held sway.

It was striking that certain States, though they had taken part in the struggle against fascism, were thinking of reinstating its representatives. That tendency was most pronounced in the western occupation zones of Germany. There, magnates of high finance and industry, who were largely responsible for the advent of fascism

and consequently for the war, had not only been liberated but reinstated by the occupying Powers. He mentioned in particular the cases of Krupp, Schacht and the directors of *I. G. Farben*.¹³³ In the same way, paramilitary organizations, under the leadership of ex-officers, were actively at work under the guise of athletic clubs. Those facts reminded one forcibly of what had happened in Germany after the allied victory in 1918. Similarly, the occupation authorities had set free certain concentration camp torturers, in particular Ilse Koch, who had acquired such an infamous reputation.¹³⁴ Finally, those same authorities received deserters and traitors who had fought with the Germans against their own countries.

All those facts adequately showed that fascism was far from being entirely extirpated. So long as any traces of fascism remained, human rights would be threatened. The French amendment was therefore necessary, and the delegation of the Ukrainian SSR would vote for it.

THE CHAIRMAN declared the general discussion closed and put to the vote the French amendment suggesting the addition of the word “group” after the word “State” in article 28.

The amendment was adopted by 42 votes, with 1 abstention.

MR. CHANG (China) pointed out that he had agreed with the representative of Uruguay to replace the words “perform any acts” in the English text of the amendment submitted by the latter (A/C.3/268) by the words “engage in any acts”.

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MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said he was prepared to accept the amendment proposed by the Chinese representative, and pointed out that the amendment would not affect the French text, which should retain its present wording.

¹³³ Gustav von Krupp was indicted by the International Military Tribunal but proceedings were stayed when he was found unfit to stand trial. An attempt to amend the indictment so as to include his son, Friedrich von Krupp, was dismissed by the judges. After the major Nuremberg trial, the Krupps were prosecuted before an American military tribunal sitting in Nuremberg. Most of them were convicted of crimes against humanity and sentenced to substantial prison terms. See: *United States v. Krupp et al.*, (1950) 9 TWC 1327. In 1951, the High Commissioner of the American zone, John J. McCloy, pardoned the defendants and restored much of the property to the Krupp family. See: Kevin Jon Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law*, Oxford: Oxford University Press, 2011, at pp. 354–5. Hjalmar Horace Greeley Schacht was Minister of Economics under the Third Reich, although he was later removed from power. He was one of three defendants to be acquitted by the International Military Tribunal. I. G. Farbenindustrie AG was Nazi Germany’s major chemical producer. It notoriously supplied Zyklon B gas to Nazi extermination camps. The directors of I. G. Farben were prosecuted by an American military tribunal: *United States v. Krauch et al.* (“The I. G. Farben Case”), (1952) 8 TWC 1081. The trial concluded in July 1948 with the conviction of thirteen of the twenty-four defendants. The convicted men benefited from early release and most resumed their careers in German industry.

¹³⁴ Ilse Koch, known as the “Bitch of Buchenwald”, was convicted by an American military court sitting in Dachau in 1947 for violations of the laws and customs of war. Sentenced to life imprisonment, her term was reduced to four years in June 1948 by General Lucius D. Clay, the interim military governor of the American zone. See: Joshua M. Greene, *Justice at Dachau*, New York: Broadway Books, 2003. Upon release, she was tried by West German courts and sentenced to life imprisonment. She committed suicide in detention in 1967.

THE CHAIRMAN recalled that, before the end of its work, the Committee would ask the representatives of the five official languages to appoint experts in order to ensure absolute agreement between the five texts established in the official languages, which would all be equally authentic.

Referring to the Uruguayan amendment amended by the Chinese amendment he stressed the difference between the word “activity” in the basic text of article 28 and the word “acts” proposed by Uruguay. He recalled that the Commission on Human Rights had preferred the word “activity”, as having a wider meaning than the word “acts”.

MR. GRUMBACH (France) agreed to the explanation given by the Chairman. He thought that it would be dangerous to replace the word “activity” by the word “acts”. In employing the former, the Human Rights Commission had wished to give a preventive sense to article 28, considering that it was preferable to prevent the final act which, in general, was the outcome of a long activity. In the case of Nazism and fascism, for example, the activity had been evident for many years. If the rights and the freedoms laid down in the declaration of human rights were really to be protected, provision should be made to prevent, at the very beginning, any activity aimed at their destruction.

The French representative asked the representative of Uruguay whether he would be prepared to accept the addition of the phrase “perform any acts” after the words “engage in any activity”.

MR. AQUINO (Philippines) pointed out that the modification proposed by the Chinese representative was not simply a drafting change. In his opinion, the expression “engage in any acts” was incorrect; he suggested the wording “perform any acts” or “engage in any activity”. In the wording of texts such as that of the declaration of human rights, expressions with a clear legal meaning should be used.

MRS. CORBET (United Kingdom) supported the Philippine representative’s observation.

She stated that she supported the proposal made by the French representative to employ the two expressions side by side, and formally asked that that proposal should be put to the vote.

MR. CHANG (China) said that, in view of the objections which his proposal had raised, he would not insist on it.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) said that he had hoped that the Chinese proposal would elucidate the English text of his amendment. In any case, the French text was the original; that text should therefore be strictly referred to when the English text was established.

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The representative of Uruguay pointed out that, apart from the final act itself, the penal code dealt with a whole series of acts – preparatory acts, complicity etc. – which

were clearly defined and punished by criminal law. Article 28 would therefore provide more effective protection if the term “acts” was used instead of the term “activity”. Such was the aim of the Uruguayan amendment.

THE CHAIRMAN put to the vote the amendment proposed by the delegations of France and the United Kingdom suggesting to add the phrase: “or perform any acts” after the words “engage in any activity”.

The amendment was adopted by 28 votes to 4, with 11 abstentions.

THE CHAIRMAN stated that, since the text thus modified incorporated the Uruguayan amendment, it was no longer necessary to vote on the latter.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) asked that it be recorded that he had voted against that proposal.

THE CHAIRMAN put to the vote the amendment proposed by the representative of Ecuador to replace the words “aimed at the destruction of” by the words “which might destroy”.

The amendment was rejected by 22 votes to 6, with 16 abstentions.

THE CHAIRMAN put to the vote article 28 as a whole in its amended form..

Article 28, as amended, was adopted unanimously.

Article 21: Report of Sub-Committee 3 (A/C.3/363)

MR. PÉREZ CISNEROS (Cuba), Rapporteur of Sub-Committee 3, declared that he had not had time to submit his report to the Sub-Committee for its official approval. Certain points might therefore not be entirely clear, and he said that he was prepared to give consideration to any observations which representatives might have to make.

The first part of the report was a survey of the conditions in which it had been decided (143rd meeting) to entrust a sub-committee with the elaboration of a compromise text for article 21, the text of which (A/C.3/342) had been drafted by the Commission on Human Rights and later modified by the Cuban and USSR amendments, adopted in the Third Committee section by section but nevertheless rejected as a whole (141st meeting).

The second part of the report indicated that the debate had been divided into three phases. The discussion had first dealt with the question of the right of everyone to follow his vocation freely. With regard to that question, the Cuban representative stated that his delegation had been all the more ready to renounce its defence of paragraph 4 of document A/C.3/342, since article 27, adopted at a previous meeting, corresponded to the idea contained in that paragraph.

The second phase of the debate dealt with the question of non-discrimination. The USSR delegation had insisted that that idea should be retained in article 21; it had accepted the addition of discrimination as regards “religion”, as [675] well as “age”, as requested by the delegation of Ecuador. Since the compromise text adopted by the Sub-Committee had not entirely satisfied them, the representatives of the USSR and of Ecuador had reserved the right to raise the question again in the Third Committee and to submit an amendment the text of which would be found at the end of paragraph (b) of the second part of the report.

Finally, the third phase of the debate related to the question of the resources to be received by a worker.

Examining the last part of the report, he pointed out that it contained as annexes the text of the article which had been rejected as a whole by the Third Committee and the new text to which the Sub-Committee had agreed. Those texts spoke for themselves and would give the Committee an idea of how the discussion had evolved.

MR. AZKOUL (Lebanon), after congratulating the Rapporteur, Mr. Pérez Cisneros, on his excellent work, requested that the following two modifications might be made to the text of the report:

At the end of the first sub-paragraph *a* of the second part, the addition of the words “and by the Lebanese amendment” after the words “raised by one of the Cuban amendments”;

Under the heading “Discussion of the question of the right of everyone to follow his vocation freely” in the second part, the addition, between commas, after the words “to free choice of employment”, of the words “taken from the text previously submitted by the Lebanese delegation”.

MR. CHANG (China) thanked Sub-Committee 3 and its Rapporteur for having drawn up a decidedly better text than the previous one. He hoped that the Third Committee would work in the spirit of conciliation and impartiality, which had animated the members of the Sub-Committee.

Analysing the new text proposed for article 21, he expressed satisfaction at the skilful introduction of the idea of the free choice of employment in paragraph 1. The deletion of the words “and pay” in that paragraph, with a view to grouping everything connected with payment of the worker in paragraph 2, was a debatable point, but the Chinese delegation would not oppose it. With regard to the non-discrimination clause, although he found the compromise formula adopted to be useless, he nevertheless approved the idea of not enumerating the possible causes of discrimination.

The representative of China said that his delegation would prefer not to keep the second subparagraph of paragraph 2 in its present form for, if the idea of payment came within the scope of article 21, that of the social protection required to meet the

needs of the worker's family belonged, on the contrary, to article 22, and it did not seem necessary to repeat it in article 21.

The Chinese delegation, whilst accepting paragraphs 1 and 3 without alteration, would have preferred paragraph 2 to be worded so as to retain merely the two following principles: the first sub-paragraph should include the principle that every working person had the right to just [676] remuneration; the second sub-paragraph should include the principle of equal pay for equal work.

MR. PAVLOV (Union of Soviet Socialist Republics) stressed that he had reserved the right, in the Sub-Committee, to refer again to the Third Committee on the amendment on non-discrimination submitted by his delegation (E/800, page 34). When the original text of article 21 had been examined, that amendment had been adopted by 21 votes to 14 (140th meeting). The new formula proposed by the Sub-Committee had only been adopted by 6 votes to 4, with one abstention; it could not be said therefore that it expressed the opinion of the majority of the members. The USSR delegation consequently considered that it was justified in insisting on the maintenance of a text approved by an indisputable majority of the members of the Third Committee, and hoped that it would be approved a second time, in view of the importance that that decision was bound to have for world public opinion.

It was true to say that article 2 of the draft declaration contained a general condemnation of discrimination; it also had to be admitted that, where work was concerned, discrimination assumed constant forms, particularly based on race, religion, nationality and sex. The delegation of Ecuador had pointed out that, in certain countries, age was also an element in discrimination. The USSR delegation, anxious to extend the scope of its amendment, had agreed to take that point of view into account. He did not believe it necessary to repeat the arguments he had already set forth in favour of the adoption of that amendment, without which article 21 would lose its truly progressive character.

MR. WATT (Australia) thanked the members of the Sub-Committee and their distinguished Rapporteur for the clear and objective character of their report.

He supported the Chinese representative's remarks regarding the second sub-paragraph of paragraph 2 of the text proposed by the Sub-Committee, as he considered that protection, not only for the individual but also for his family, was covered by article 22, which had already been adopted.

The formula employed in article 22 was broader than that proposed by the Sub-Committee for article 21. Indeed, the first part of the second sub-paragraph of paragraph 2 might be interpreted as giving everyone the right to receive just remuneration for work done, independently of the needs of his family. That interpretation would not be in accordance with the labour regulations in force in Australia, where, by means of a system of minimum wages supplemented by a

scale of allowances, the personal needs of the worker and those of his family were both taken into account. The second part of the sub-paragraph provided that, if necessary, the remuneration would be supplemented by other means of social protection: in Australia, for example, family allowances were paid direct to all mothers, regardless of the situation of the fathers.

The Australian delegation, realizing the very satisfactory character of the system in force in [677] its country, could obviously not accept a provision to give the worker wages which would be just only in relation to his personal needs.

Mr. Watt emphasized that he had wished to draw the Committee's attention to the possibility of the second sub-paragraph of paragraph 2 being interpreted in that manner. He did not think that that was what the authors of the text had really intended, and would be glad to have an explanation on the subject.

MR. DEHOUSSE (Belgium) also expressed his appreciation of the excellence of the report submitted by Mr. Pérez Cisneros. However, in the same spirit of fairness as that which had inspired the Lebanese representative's intervention he desired that mention be made in paragraph 2 of the first part of the report that the proposal to set up a drafting sub-committee had come from the Belgian delegation.

The Belgian delegation was especially glad that it had made that suggestion since, in its opinion, the Sub-Committee's text was a considerable improvement on that first text submitted to the full Committee.

The Belgian delegation would only make one remark on a point of substance concerning the new text; it related to paragraph 2 and, more precisely to the first sub-paragraph of that paragraph, which had given rise to discussion in the Sub-Committee on account of the clause relating to non-discrimination. He regretted that fact, and especially deplored the misunderstanding which seemed to exist on that subject. Some delegations appeared to consider that it would be more satisfactory to enumerate a number of aspects of discrimination rather than to give a general formula similar to that submitted to the Sub-Committee by the Belgian delegation. Nevertheless, the formula "without any discrimination", which was short and complete, was the only one which corresponded entirely to the principle set forth in article 2 of the draft declaration, as it covered all possible cases of discrimination. Any enumeration ran the risk of excluding what it did not include. For instance, the causes of discrimination which might prevent a worker from obtaining employment were legion; it was impossible to enumerate them; for example, the draft submitted by the USSR delegation did not cover discrimination based on colour – as distinct from the idea of race, as clearly established by the Commission on Human Rights – nor did it cover political opinions. He was surprised to find that an enumeration could be preferred to a declaration of principle. In his view, the only progressive conception was that which excluded nothing and embraced all the possible causes of

discrimination. He hoped that the delegations would recognize the facts and unanimously support a text such as that of the first sub-paragraph of paragraph 2.

MR. CASSIN (France) declared that, as former Chairman of the Sub-Committee, he was particularly well placed to commend the excellent understanding which had prevailed in that group, the members of which had manifested in the highest degree a spirit of conciliation and compromise. The text submitted was therefore a compromise text and must be considered as such.

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In the same spirit, the French delegation would vote for the new paragraph 1 of article 21, which realized in regard to the idea of a free choice of employment, a much more satisfactory compromise than the text adopted previously.

It would also vote for the first sub-paragraph of paragraph 2, although it feared that the allusion to non-discrimination contained therein might give the impression that discrimination was permissible in the case of the other rights in regard to which the general principle of article 2 had not been repeated.

As to the second sub-paragraph of paragraph 2, the French delegation had at first shared the reservations expressed by certain delegations. It had also considered it preferable that the question of family allowances should appear in article 22 rather than in article 21. However, as the Committee had not seen fit to retain its amendment to article 22 on that subject, and as it was better to enunciate an important principle in a less suitable place than not to enunciate it at all, the French delegations would agree to the compromise suggested by the Sub-Committee in sub-paragraph 2 of paragraph 2.

Nevertheless, the French delegation wished to state explicitly that nothing in that text could authorize a lowering of the standard of living of the wage earners. The wage level must remain satisfactory in order to ensure the maintenance not only of the worker, but also of his family. The French delegation would never agree to consider sub-paragraph 2 of paragraph 2 of article 21 as a means of lowering the standard of living of the wage earners.

Again, the French delegation would accept paragraph 3, although it considered that the right to join a trade union was rather connected with the idea of freedom of association, a much broader principle, which had been embodied in article 18.

Finally, he stated that, as drafted by the Sub-Committee, article 21 while worthy of respect was not excellent and did not reach the high level of other articles dealing with labour. France would have been glad if, over and above wages and trade unions, the worker could have been brought to realize the dignity of his labour by indicating the possibility of his taking part in the management of the undertaking to which he belonged. However, the French delegation would not insist on those cherished opinions and would vote for article 21 in its entirety, desiring thereby to give an example of good discipline.

MR. BAROODY (Saudi Arabia) pointed out that the original text stated that everyone had the right to “just and favourable conditions of work and pay”. The presence of the term “just” was accounted for by that of the term “pay”. As the latter had been deleted, it would seem sufficient to speak of “favourable” conditions of work.

MRS. ROOSEVELT (United States of America) expressed her delegation’s deep gratitude for the remarkable work done by the Sub-Committee. The United States delegation fully appreciated the spirit of conciliation shown by the members of the Sub-Committee and she found their compromise text acceptable, except as regards the second subparagraph of paragraph 2. Certain countries, [679] including the United States, had learned from experience that the scale of wages should be fixed by assessing the work done, and not on the basis of considerations foreign to the idea of labour proper. The minimum wage was, moreover, calculated not only for the worker but also for his family. Social protection for the family was covered by article 22 and it was therefore unnecessary to repeat it in article 21.

The United States delegation would ask, when the time came for voting, that the second subparagraph of paragraph 2 should be put to the vote in parts; she would vote for only the first part of that sub-paragraph.

Furthermore she considered the wording of paragraph 1 excellent and would vote for it.

However, with regret, she would vote for only the first sub-paragraph of paragraph 2 owing to the presence of the non-discrimination clause which could only weaken article 2. In any case, she hoped that the Committee would choose the compromise formula accepted by the Sub-Committee in that connexion.

In conclusion, she congratulated the New Zealand delegation on the conciliatory spirit it had shown in accepting the expression “is free to form” instead of “has the right to form” in paragraph 3 of the Sub-Committee’s text.

MR. CARRERA ANDRADE (Ecuador) pointed out that, where labour was not organized, the free worker who was not a member of a trade union suffered from discriminatory action for reason of age; that discrimination affected elderly men in particular.

The problem might not exist in highly industrialized countries like the United States, the United Kingdom and the USSR but it was a very real problem in under-developed countries where trade unionism had not yet taken root, where social protection was not organized and where elderly workers who did not enjoy the benefits of social insurance were obliged to accept wages below the general level.

Hence, if the Committee favoured the enumeration of the principal causes of discrimination which might adversely affect the wage-earners’ rights, age should appear among those causes.

The delegation of Ecuador considered that the principle of non-discrimination should be stated again in article 21. In order to strengthen that principle, it should be

proclaimed as precisely as possible. In that connexion, he pointed out that such a procedure had been accepted in the case of other articles of the draft declaration.

Further, the delegation of Ecuador would prefer to have the second subparagraph of paragraph 2 deleted, as it appeared to be contrary to the conception of a minimum basic wage; if, however, that part were retained, he considered that it was indispensable also to retain the idea of social protection, which had been introduced as the result of an amendment proposed in the Sub-Committee by the delegation of Ecuador.

The meeting rose at 1:10 p.m.

A/C.3/366

25 November 1948

**Byelorussian Soviet Socialist Republic: Amendment to
Article 21 as Submitted by Sub-Committee 3 to the
Third Committee (A/C.3/363)**

Page 11

Substitute the following text for the words after “remuneration”:

“ensuring for his family and himself a decent existence, and supplemented, if necessary, if by means of social protection.”

A/C.3/368

25 November 1948

**Text of articles 27 and 28 of the draft Declaration
as adopted by the Committee**

Article 27

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms can in no case be exercised contrary to the purposes and principles of the United Nations.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State, group or person to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.

A/C.3/SR.157¹³⁵

25 November 1948

***Summary Record of the Hundred and Fifty-Seventh meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Thursday,
25 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

85. Draft international declaration of human rights (E/800) (continued)

Article 21: Report of Sub-Committee 3 (A/C.3/363) (continued)

MR. HAMDI (Egypt) stated that the declaration was such an important document that considerable thought should be given to the final form. It had been decided that it should contain statements of a general character; to introduce unnecessary detail into any one article would impair the balance of the whole.

It should also be remembered that the declaration was intended for the future as well as for the present and should be general enough to be adapted to changing conditions. It already contained a whole article dealing with the principle of non-discrimination, which there was no need to reiterate.

The version of the second sub-paragraph of paragraph 2 submitted by the Sub-Committee in its report also introduced unnecessary detail by referring to means of social protection. Mr. Hamdi preferred the original text of that subparagraph.

MRS. CORBET (United Kingdom) paid a warm tribute to the Rapporteur and the Chairman of the Sub-Committee. While it had not been possible to achieve unanimity, agreement had been reached on a number of points. The United Kingdom delegation was prepared to support the new text with the exception of the part of the second sub-paragraph of paragraph 2, following the word “remuneration”. The proper place for the statement of that idea was article 22; if it were retained in article 21, it might prejudice the free discussion of wages between trade unions and

¹³⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 680–9.

employers. While she agreed that the needs of the family must be provided for, she thought that article 22 already did that.

She consequently requested that the clause in question should be put to the vote separately.

MR. AZKOUL (Lebanon) remarked that the Sub-Committee had submitted a brilliant report which could not be praised too highly.

He could not, however, accept either the new text of the first sub-paragraph of paragraph 2 or the USSR-Ecuadorian amendment to it (A/C.3/363), part II, paragraph (b). The objection which applied to both was that a mention of non-discrimination in that one passage might be interpreted to mean that discrimination was not forbidden as regards other articles in the declaration and even the remaining parts of the same article.

Article 2 listed examples of certain forms of discrimination in the manner of examples; it applied equally to all the articles in the declaration. In order not to weaken that article it was necessary either to omit all further references to discrimination or to repeat the language of article [681] 2 in every one of the succeeding articles, lest the impression should arise that where discrimination was not expressly forbidden, it was permitted.

The phrase used by the Sub-Committee, "without any discrimination", was further objectionable in that the word "discrimination" was not in itself derogatory: perfectly justifiable and indeed laudable forms of discrimination existed. In the field of employment, for example, employees with greater length of service were frequently paid higher wages for the same work.

MR. PÉREZ CISNEROS (Cuba) said that he had no difficulty in accepting paragraph 1 of the text prepared by the Sub-Committee.

With respect to the first sub-paragraph of paragraph 2, he recalled that, during the vote taken by the Third Committee when it had first dealt with article 21, he had supported the USSR amendment which enumerated various forms of discrimination.¹ He had since come to the conclusion that the list was not complete and had consequently proposed the addition, at the end of the USSR-Ecuadorian amendment, of the words "political opinion or of any other nature" to replace "etc." He would prefer a complete enumeration of that kind to the phrase "without any discrimination", although it was also acceptable. The paragraph dealing with equal pay for equal work seemed the most appropriate place for a mention of non-discrimination, as there was frequently discrimination between men and women in that respect.

The second sub-paragraph of paragraph 2 was very similar to the Cuban amendment (A/C.3/232/Corr.1) which had once been accepted by the Third Committee.¹ He could not agree that the ground was already covered by article 22. That article dealt with social security for those who for various reasons were unable to work;

article 21 spoke of remuneration adequate to the needs of those who did work and of their families. Thus, it protected the dignity of the working man, who should not be dependent on philanthropy. It was not correct to say that the passage might prejudice the question of wages; minimum wages were clearly covered in the article with respect to families of a normal size. Some provision had to be made, however, for those who had to support people too old to work, invalids, or numerous children. It was the duty of society to make sure that such families, too, could lead a life compatible with human dignity; insufficient calories made poor citizens.

The question of birth control would not arise in a society which enabled a man to raise and educate a large family.

He hoped that the Committee would find no difficulty in accepting paragraph 3 and thanked the New Zealand representative for the spirit of compromise shown when it had been drafted.

[¹] See 140th meeting.

[681]

Because of the fundamental importance of the second sub-paragraph of paragraph 2, he requested that it be voted upon by roll-call.

MRS. MENON (India) wished to join other delegations in congratulating the Rapporteur of the Sub-Committee on his splendid work. Although she generally refrained from arguing on controversial issues, she felt constrained on that occasion to point out to the Committee that it was not entirely consistent. It had rejected certain amendments in the interests of brevity, yet on other occasions it had adopted lengthy articles; it had accepted repetitions at certain times and rejected them at others without a rational basis. Especially in so far as the USSR-Ecuadorian amendment was concerned, it had invoked arguments which clouded the issue and concealed its true motives.

What was the real reason for refusing to repeat a clause dealing with non-discrimination in article 21? The argument had been given that such a repetition would weaken the declaration. Yet the Charter itself repeated its non-discrimination clause four distinct times: in Articles 1, 13, 55 and 76. By that criterion, no document could be weaker than the Charter. Since the declaration, however, was intended to be merely a development of principles contained in the Charter, it could not in any case be stronger than the latter. A new argument would have to be found to defeat the USSR-Ecuadorian amendment.

It was no doubt difficult for Powers accustomed to regarding some races as inferior to understand and share the feelings of those who for centuries had suffered from discrimination. The Indian delegation would warmly support the amendment, as it had done on a previous occasion.

Mrs. Menon would vote against the second subparagraph of paragraph 2. She could not agree with the United States representative's remark that the word

“everyone” meant every human being; in many countries it would still be understood as applying only to men; in others, as only to white men and women.

She would vote in favour of paragraph 3.

MR. PAVLOV (Union of Soviet Socialist Republics) observed, in reply to the Lebanese representative, that it was not logical to say that the clause on non-discrimination should be inserted in all articles or in none: it was needed in some articles, but not in others. The repetition of that clause in the first sub-paragraph of paragraph 2 would, far from weakening other articles, strengthen that particular provision, which most required it. Indeed, there was no field in which there was more discrimination as to race and sex than that of employment; no right had greater need of being safeguarded against discrimination than that of equal pay for equal work. Abuses in that field were so great that it was necessary to call attention to them and thus to give a concrete application to the principle of non-discrimination.

In conclusion, he pointed out that while the USSR-Ecuadorian amendment listed the forms of discrimination most relevant to the subject at hand, the list was not exhaustive, since it ended with the word “etc.”, and he was quite willing to add to it the word “colour”.

MISS BERNARDINO (Dominican Republic) said that her delegation was prepared to vote once more in favour of the USSR-Ecuadorian amendment in the firm conviction that the right of equal pay for equal work should apply to all without any distinction. It was a principle for which she had fought for many years.

She was not entirely satisfied with the word “everyone” as used in article 21. While it should, of course, embrace all human beings, the fact was that such a meaning was given to it only in advanced States where legislation did not discriminate against women. In many countries, however, women still did not have the right of citizenship and many other vital rights. It was for the benefit of those women that the articles of the declaration should state as explicitly as possible that no distinction as to sex was permissible with respect to the rights granted in them.

MR. DEHOUSSE (Belgium) expressed the hope that the Committee would accept the phrase “without any discrimination” in the first sub-paragraph of paragraph 2; it was preferable to the USSR-Ecuadorian amendment which enumerating as it did certain forms of discrimination might be construed as permitting forms not expressly mentioned.

The phrase “supplemented, if necessary, by such other means of social protection as may be required to meet the needs of his family” should be retained in article 21, which dealt with the rights of the worker and with the question of wages. It should not, as had been suggested, be considered in connexion with article 22, which dealt with the rights of the unemployed and with social security. Wages should be based not only on a person’s productive capacity but also on his own and his family’s

needs. Twenty-five years' experience in his country had shown that family allowances amounted to only 6 per cent of the total sum paid out in wages. It could not be claimed, therefore, that the burden was too great to assume; moreover, the declaration should proclaim the principle but refrain from going into technical detail. He warmly supported the second subparagraph of paragraph 2.

MR. CONTOUMAS (Greece) said that he would vote in favour of paragraph 1. For reasons stated earlier, he was unable to vote in favour of either the first subparagraph of paragraph 2 or the [684] USSR-Ecuadorian amendment to it; having endeavoured in the Sub-Committee to find a suitable compromise and failed to do so, he would abstain from voting on that text. He was opposed, not to the principle of equal pay for equal work, but to the mention of non-discrimination in connexion with that principle.

He agreed with the Australian representative that the idea contained in the latter portion of the second sub-paragraph of paragraph 2 was already fully covered in article 22. If that sub-paragraph were put to the vote in two parts, he would vote in favour of the first and abstain from voting on the second.

He supported paragraph 3 of the article.

MR. CARRERA ANDRADE (Ecuador) expressed dissatisfaction with the word "discrimination" in paragraph 2 of article 21. The proper meaning of that word was "discernment"; he suggested that it might be replaced by the word "distinction".

MR. CHANG (China) indicated that article 21 might more accurately reflect the real feelings of the Committee if it stated that everyone, without discrimination, was entitled to work. Of what use was it to forbid discrimination with respect to equal pay if people were not hired for discriminatory reasons?

He thought that the phrase beginning "supplemented by" in the second subparagraph of paragraph 2 should be in article 22 rather than article 21.

MRS. NEWLANDS (New Zealand) congratulated the Rapporteur of the Sub-Committee on his excellent work and stated that her delegation would support the present text of paragraph 1. With regard to the first sub-paragraph of paragraph 2, she felt that specific reference to non-discrimination in particular articles weakened article 2; nevertheless, she would be prepared to accept the Sub-Committee's text because it avoided the difficulties raised by the USSR amendment. Cogent objections had been raised to the latter part of the second sub-paragraph of paragraph 2; it would be more appropriate in article 22. Consequently, the New Zealand delegation would abstain from voting upon that part, feeling that it should support to that extent the Sub-Committee's efforts at compromise.

She noted that the Sub-Committee had changed the words "Everyone is free to form" to "Everyone has the right to form" in paragraph 3, in order to make the language conform to the rest of the declaration. She would support that paragraph with a reservation which she would explain at a later stage.

MR. KURAL (Turkey) congratulated the Sub-Committee and its Rapporteur on the work done, and stated that he considered the text of article 21 to be an improvement on the previous draft, [685] although not yet perfect. He would support the deletion of the words "without any discrimination" in the first sub-paragraph of paragraph 2.

Regarding the second sub-paragraph he agreed with the Lebanese representative that higher wages might depend on length of service. Further, this clause would be in contradiction with the provisions which grant salaries proportional to the size of the workers' family. He would support its deletion in view of the fact that its provisions were already adequately covered by article 22.

The rest of the article met with his approval and he would vote for it.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) wished to introduce an amendment (A/C.3/366) to the second sub-paragraph of paragraph 2 of the Sub-Committee's draft of article 21. The text after the word "remuneration" would read as follows: "ensuring for his family and himself a decent existence, and supplemented, if necessary, by means of social protection".

He submitted the amendment in a spirit of compromise to meet the views of the Australian representative and others.

MR. PAVLOV (Union of Soviet Socialist Republics) agreed that the reference to the principle of non-discrimination repeated the idea contained in article 2, but felt that, far from being superfluous, that repetition would strengthen article 21. Several representatives were now suggesting that their inclusion of those words would necessitate their being inserted in all the articles of the declaration. That attitude was hypocritical and designed to conceal the fact that they did not want a provision which would protect workers from discrimination; had they been sincere in their suggestion, they would have raised it earlier in connexion with the other articles of the declaration. By raising the question at this particular stage in the discussion, they were simply attempting to confuse the issue.

The Byelorussian representative's proposal deserved the attention of the Committee, as it went partway to meet the views of the Australian and other representatives.

MR. COROMINAS (Argentina) congratulated the Rapporteur on the Sub-Committee's excellent report and said he would vote for the text it had put forward without reservation.

In a free and democratic manner, the Argentine Government was engaged in modernizing its labour legislation. The selfish role of capital had been minimized and the country had gained its economic independence. The Argentine Constitution reflected the wishes of the people as it had never done before in the history of the country.

After the struggle for and the achievement of the independence of countries like his own, they had concentrated on increasing their wealth and productivity.

Argentina was now straining its [686] efforts to establish a new political era in which social legislation played a principal role. For many years, economic and political concepts had been governed by the theory of liberalism. In an attempt to preserve the rights of the individual, the rights of society had been relegated to a subordinate position. However, the weakness of the belief that the central power should only exist to preserve law and order had long been recognized. The policy of liberalism had resulted in capitalistic monopolies and the conversion of labour into merchandise without value. The Argentine Government had dedicated itself to the protection of labour and the President was regarded as the first among the workers. Given the choice between the individualism and collectivism, Argentina preferred the concept of the individual in his proper relation to society.

The decision as to whether the workers would be a democratic force in the development of civilization would be decided by the result of the vote on article 21.

MR. CAMPOS ORTIZ (Mexico) recognized the fact that some representatives regarded the inclusion of a reference to the principle of non-discrimination as unnecessary and even dangerous. The majority of the Committee, however, appeared to be of the opinion that the repetition of that principle was one of the most important elements of article 21. The formal and technical arguments to the effect that such a repetition was undesirable were not relevant to a document such as the Declaration of Human Rights. Where discrimination existed, it existed particularly in regard to labour; repetition of the principle of non-discrimination would only strengthen the article on the right to work.

THE CHAIRMAN called for a vote on paragraph 1 of the text of article 21, submitted by the Sub-Committee.

Paragraph 1 was adopted by 44 votes to none, with one abstention.

THE CHAIRMAN then drew the Committee's attention to the USSR-Ecuadorian amendment to the first sub-paragraph of paragraph 2 altering the phrase "without discrimination" to read "without distinction as to race, nationality, sex, age or religion, etc."

On the request of the representative of Ecuador, the word "age" was voted on separately.

It was rejected by 26 votes to 18, with 4 abstentions.

On request of the representative of the Dominican Republic, the word "sex" was voted on separately.

It was rejected by 22 votes to 22, with 5 abstentions.

As a result of the outcome of the two preceding votes, MR. PÉREZ CISNEROS (Cuba) withdrew his sub-amendment for the insertion in the USSR-Ecuadorean amendment of the words “political opinion or of any other nature”.

[687]

THE CHAIRMAN put to the vote the USSR-Ecuadorian amendment as a whole.

A vote was taken by roll-call, as follows:

Poland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Argentina, Burma, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Czechoslovakia, Ecuador, Haiti, India, Mexico, Pakistan.

Against: Siam, Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, Yemen, Australia, Belgium, Bolivia, Brazil, Canada, China, France, Greece, Guatemala, Honduras, Lebanon, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines.

Abstaining: Venezuela, Chile, Cuba, Denmark, Dominican Republic, Egypt, Iran, Iraq, Liberia, Peru.

The amendment was rejected by 25 votes to 15, with 10 abstentions.

Upon the proposal of the representative of Ecuador, the Chairman called for a vote on the substitution of the word “distinction” for “discrimination” in paragraph 2.

The proposal was rejected by 25 votes to 7, with 13 abstentions.

At the request of the representative of Guatemala, the Chairman asked for a roll-call vote on the phrase “without any discrimination”.

A vote was taken by roll-call, as follows:

Haiti, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Haiti, Honduras, India, Iran, Liberia, Mexico, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Siam, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, United States, Uruguay, Venezuela, Yugoslavia, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Canada, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, France, Guatemala.

Against: Lebanon, Yemen, China.

Abstaining: Iraq, Philippines, Turkey, Greece, Ecuador.

The phrase was retained by 41 votes to 3, with 5 abstentions.

The first sub-paragraph of paragraph 2 was adopted by 47 votes to none, with 1 abstention.

THE CHAIRMAN drew attention to the Egyptian and Byelorussian amendments to the second subparagraph of paragraph 2. The former called for the insertion of the

words “in order to satisfy the needs of his family and himself”, after the word “remuneration”.

MR. WATT (Australia) asked the Byelorussian representative whether his amendment (A/C.688]3/666) intended that the worker’s remuneration should meet the needs of his family, regardless of its size. He had pointed out that in Australia the worker’s basic wage was designed to meet the needs of man, wife, and two children, but had stated that he only wanted to ensure that the Australian point of view would not be excluded under the terms of article 21. As the Byelorussian amendment now appeared to him to read, it might raise difficulties for some delegations.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) explained that the purpose of his amendment was to improve the text of paragraph 2 which had emerged from the Sub-Committee. As the text now read, the needs of the family were left almost exclusively to “other means of social protection”. His amendment would have the effect of ensuring a decent existence for the worker.

MR. PÉREZ CISNEROS (Cuba) moved the closure of the debate on the Egyptian and Byelorussian amendments.

The motion was adopted by 26 votes to 5, with 10 abstentions.

THE CHAIRMAN put to the vote the Egyptian proposal.

The amendment was rejected by 24 votes to none, with 15 abstentions.

The representative of the Byelorussian Soviet Socialist Republic having accepted a proposal by the representative of Belgium for the insertion, in his amendment, of the word “other” before “means of social protection”, the Chairman put the proposal to the vote.

A vote was taken by roll-call, as follows:

Yugoslavia, having been drawn by lot by the Chairman, was called upon to vote first. In favour: Yugoslavia, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Haiti, Honduras, India, Iraq, Liberia, Netherlands, Panama, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay.

Against: Canada, China, New Zealand, Syria, United Kingdom, United States.

Abstaining: Argentina, Australia, Greece, Norway, Paraguay, Philippines, Sweden, Turkey, Venezuela, Yemen.

The amendment was adopted by 27 votes to 6, with 10 abstentions.

THE CHAIRMAN announced that the Chinese and United Kingdom proposal for the deletion of the second part of the second sub-paragraph of paragraph 2 was thereby automatically rejected.

On the request of the representative of the United States of America, the Chairman put the first part of the second sub-paragraph of paragraph 2, i.e., the words “Everyone who works has [689] the right to just and favourable remuneration”, to the vote.

That part was adopted by 42 votes to none, with 1 abstention.

THE CHAIRMAN put the second sub-paragraph of paragraph 2, as amended, to the vote by a show of hands. The representative of Cuba, having reminded the Chairman that he had previously requested a roll-call vote on that sub-paragraph, the Chairman complied with his request.

A vote was taken by roll-call, as follows:

France, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: France, Guatemala, Haiti, Honduras, India, Iraq, Liberia, Netherlands, New Zealand, Panama, Peru, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Argentina, Australia, Belgium, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador.

Against: Norway, Sweden, Syria, United Kingdom, United States of America, Canada.

Abstaining: Greece, Paraguay, Philippines, Turkey, Venezuela, Yemen, China.

That sub-paragraph was adopted by 29 votes to 6, with 7 abstentions.

MR. DEHOUSSE (Belgium) reserved his position concerning the voting procedure. The fact that a roll-call vote had been taken after a vote by show of hands on the same subject could not be regarded as a precedent.

THE CHAIRMAN assured the Belgian representative that it would not be regarded as a precedent. As the Cuban representative had reminded him of his request for a roll-call vote after the vote by show of hands had been taken, he had felt compelled to comply with that request.

He put paragraph 3 to the vote.

Paragraph 3 was adopted by 41 votes to none.

THE CHAIRMAN put to the vote article 21 as a whole.

A vote was taken by roll-call, as follows:

Belgium, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Belgium, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Chile, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Greece, Guatemala, Haiti, Honduras, India, Iraq, Liberia, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, Uruguay, Venezuela, Yemen, Yugoslavia, Argentina, Australia.

Against: United States of America.

Abstaining: Canada, China.

Article 21 was adopted by 39 votes to 1, with 2 abstentions.

The meeting rose at 6:30 p.m.

A/C.3/SR.158¹³⁶

25 November 1948

***Summary Record of the Hundred and Fifty-Eighth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Thursday,
25 November 1948, at 8.30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

86. Draft international declaration of human rights (E/800) (continued)

Article 21: Report of the Sub-Committee 3 (A/C.3/363) (continued)

THE CHAIRMAN invited any members who wished to explain their vote on article 21 to speak.

MRS. ROOSEVELT (United States of America) stated that her delegation had voted against article 21 as a whole. Although it was in agreement with paragraphs 1 and 3, it could not accept the second sentence of paragraph 2. In the first place, it would be a matter for long and difficult discussion to decide exactly what was meant by “a decent existence”. Secondly, the principle of the supplementation of wages would prove extremely difficult of implementation. Different countries had different methods of giving social protection to the worker who needed more than he was able to earn. To assess a worker’s wages by his needs rather than by the work he performed was, in her opinion, a false principle. She had therefore voted against article 21, although she fully understood the feelings of the Committee and regretted that she had been unable to support the majority.

MR. DAVIES (United Kingdom) had voted in favour of the article, although his delegation shared many of the United States representative’s views on the subject. As a statement of ideals, which, although somewhat vaguely expressed, contained many valuable concepts which were endorsed by the United Kingdom, the article could not but claim the support of his delegation. The United Kingdom delegation

¹³⁶ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 690–700.

was, however, opposed to that part of the article which contained the principle of the supplementation of wages, since the subject of social protection had already been adequately covered in article 22. Moreover, in accepting the principle of equal pay for equal work, the United Kingdom Government was not accepting any obligation to promote that principle outside its official services.

It was subject to those two explanations that the United Kingdom had accepted article 21.

MR. LUNDE (Norway) had found it possible to vote in favour of the article as a whole, although he did not altogether approve of the drafting.

He had voted in favour of paragraph 1, and the first sentence of paragraph 2, which he considered a better and clearer text than the USSR text. With regard to the second sentence of paragraph 2, he was in strong agreement with the United Kingdom representative; the question of social protection was well covered by article 22. He had therefore voted against that part of the article.

[691]

MR. WATT (Australia) had voted for the inclusion of the phrase “without any discrimination”, although he had opposed it in earlier discussions. He had supported it in the present context as a recognition of the co-operative spirit of those members of the Committee who had agreed to reopen the whole discussion of the article.

With regard to the Byelorussian amendment (A/C.3/366), he had abstained in the first vote on it, as closure of the debate had been moved soon after the text had been introduced (157th meeting). That procedure had, he considered, been incorrect, since members had been given no opportunity to discuss the amendment. In the final vote, however, he had been able to support the sentence, since the Byelorussian representative had explained that it was not intended to interfere with the particular system which might be in use in any country. It would not bind any State to supplement a person's needs in the form of wages, since part could be in the form of social protection.

While agreeing that the subject of social protection was adequately covered in article 22, he had voted for the article as a whole out of respect for the co-operative spirit of the other members of the Committee.

THE CHAIRMAN explained that when the Byelorussian amendment had been submitted he had informed the Committee that he would allow it to be discussed before it was put to the vote. The discussion had, indeed, continued until a member had moved the closure of the debate, which had been supported by an overwhelming majority, the Chinese representative having been the only member to speak against the closure. He wished to point out to the Australian representative, therefore, that the procedure with regard to the Byelorussian amendment had been perfectly in order.

MRS. NEWLANDS (New Zealand) stated that her delegation had urged throughout the discussion that the declaration of human rights should be a statement of general principles which would not impose legal obligations. The New Zealand delegation had therefore endeavoured to support articles as concise as possible, suggesting that more detailed terms should be left to the covenant. The work the Commission on Human Rights had already done had shown the necessity of taking into account the national legislation of Member States; just as their historical backgrounds and economic and social structures differed, so would there be differences in the way in which particular rights and freedoms could be realized in their territories. The declaration should therefore confine itself to general principles, leaving to the covenant the adjustment of those principles to the requirements of individual Members.

The New Zealand amendment to paragraph 3 (A/C.3/267), which had been proposed as a compromise text to cover the different forms of trade union organizations in the different States, had been rejected, but the Committee had agreed, in a spirit of conciliation much appreciated by the New Zealand delegation, to change the wording of the original draft from “everyone is free to form...” [692] to “everyone has the right to form...”. The New Zealand delegation could accept that text, since it might be interpreted as consistent with the industrial conciliation and arbitration system which functioned in New Zealand and which was best calculated to ensure the protection of both worker and employer in the special conditions of that country.

During the discussion of article 18, when the Uruguayan amendment (A/C.3/268) to the effect that no one should be compelled to belong to an association had been considered and accepted by the Committee (131st meeting), reference had been made to the position of trade unions. The New Zealand delegation, however, did not interpret article 18 as affecting the right to form and join trade unions; with all due respect to the contrary view expressed by the French representative, it took the view that that right was governed by the particular provisions of paragraph 3 of article 21 and not by the general provisions of article 18.

It was in the light of the above interpretations that the New Zealand delegation had voted for the final text of article 21 (157th meeting). It had voted against the Byelorussian amendment, on the ground that the question of social security was more appropriately dealt with in article 22, but had supported paragraph 2 as a whole.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) had voted for the article as a whole, as he considered it perfectly logical. The Byelorussian amendment had pointed out that the level of remuneration should be sufficiently high to allow workers a decent standard of living, and he failed to see what members could find to object to in that.

MR. CHANG (China) stated that he had objected to the closure of the debate when the Byelorussian amendment had been under discussion as he had wanted more time

in which to examine it. The introduction of that amendment had made article 21 more of a duplication of article 22 than before, and the Chinese delegation had abstained from voting on the second sentence of paragraph 2. Paragraph 3 of the new text was a definite improvement.

In the final vote on the article as a whole, the Chinese delegation had abstained, although it felt that the new text was certainly an improvement on the earlier text against which it had voted originally (141st meeting).

MRS. KALINOWSKA (Poland) had voted in favour of article 21 as a whole. With regard to the first sentence of paragraph 2, she considered the question of non-discrimination in the question of salaries of great importance, and in that connexion she wished to pay a tribute to the representative of India, who had touched upon the crux of the problem at the preceding meeting. The best proof of the importance of that matter lay in the vote itself. While she regretted that the USSR text had not been accepted (157th meeting), she had voted for the final text submitted by the Sub-Committee.

With regard to the Byelorussian amendment, she stated that in Poland not only men but women [693] received family allowances if they were responsible for a family. Article 21 merely safeguarded that equality.

MR. KURAL (Turkey) had already explained that he could not vote for paragraph 2 of the article, as its provisions were a repetition of articles 2 and 22 and some of them could lend themselves to misinterpretation. He had therefore abstained in the vote on that paragraph.

He had, however, voted in favour of the article as a whole, as it contained provisions which were already applied in Turkey and because, despite its inadequacy, it included ideas which would be to the advantage of all people.

MR. PÉREZ CISNEROS (Cuba) had voted in favour of the article, which he regarded as the cornerstone of the whole system which was being established for the defence of human rights and human dignity, which were all too often endangered by material conditions.

The question of remuneration, which was of fundamental importance, had two different aspects: the relative aspect, of equal pay for equal work, and the absolute aspect, according to which a worker should receive complete protection through his salary. That concept must be broadened to include protection of the worker's family when the support of his family could not be ensured by the worker's earning powers. Such a provision would eliminate many social dangers, and was essential in the declaration.

MR. DEHOUSSE (Belgium) pointed out that every article of the declaration must perforce be a compromise, and reminded those members who wished their own ideology, whether religious or political, to prevail that such a desire was incompatible with international collaboration. It was only by compromise that any

understanding could be reached in the present-day world. It was with those facts in mind that the article in question should be considered.

The Belgian delegation was not completely satisfied with the final text. Remembering, however, the long discussion that had taken place before that text could be established, and in a desire to show a spirit of conciliation, it had voted in favour of each separate paragraph and finally for the article as a whole.

MR. PAVLOV (Union of Soviet Socialist Republics) said that his delegation had voted for the article as a whole. The right to work was very important. He wished to point out that the USSR delegation had made great efforts to contribute to the drafting of a satisfactory article. His delegation had always worked for inclusion of the principles contained in the article as re-drafted by the Sub-Committee, with the inclusion of the Byelorussian amendment, and he was glad that the Committee had adopted them. He was not, however, completely satisfied because he had wished for the inclusion of a provision which would have forbidden discrimination of all kinds. He reminded the Committee that he had found some support in the Sub-Committee for the proposal that no discrimination with regard to work should be made [694] as between men and women. The elimination of that provision had undoubtedly weakened the article. It was important to recall that the vote had been close; he regretted that the supporters of the provision prohibiting discrimination as to sex had not been more consistent in their effort to persuade the Committee. Despite the article's shortcomings, however, his delegation had been able to vote for it. Those who had opposed the provision against discrimination might find it hard to allay suspicions that they had done so because they did not wish to see such a right applied in colonial countries.

MR. CASSIN (France) said that those who had voted against the inclusion of a specific prohibition against discrimination had not done so because they favoured the practice. He did not think that it was wise to mention "age" because it might interfere, for example, with the ability of a State to support the right of seniority in certain wage agreements.

The greatest caution should be exercised about making excessively detailed statements in what was intended to be a general declaration of rights. The declaration, however, should not be regarded as a substitute for international conventions regulating such matters as labour.

He had been very glad to vote for the Byelorussian amendment, which was a great improvement on the compromise text. There might be some danger that it might appear to go too far; but French legislation, like the Belgian, had long had a system of family allowances which were paid without regard to the rate of wages, so that there could be no fear that the provision would infringe upon national sovereignty. He had voted for the whole article as amended.

Proposed Article on Measures of Implementation (E/800, page 12)

THE CHAIRMAN said that the article on measures of implementation would not have been placed before the Committee had not the French and Cuban delegations submitted amendments (A/C.3/306, A/C.3/306/Corr.1). Those amendments indicated that the delegations concerned sought agreement on a new text. He therefore called for general debate on those amendments.

MR. CASSIN (France) recalled that the article on the right of petition had been accepted at the second session of the Commission on Human Rights.¹ The French delegation had, however, found that the text was too lengthy and had accepted the view that it should not be inserted in the draft international declaration of human rights.

At the third session his delegation had come to believe that that right could not be accepted before the measures of implementation had been studied; but it had never held the view that the right of petition was in itself to be considered as a measure of implementation.

The Commission had not

^[1] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement No. 1, annex A, article 20.

[695]

thought it possible to present a full statement of rights without including the right to petition.

It was even questionable whether the declaration could be considered complete without the statement of such a right. That right had been recognized throughout history because it permitted an appeal to the justice meted out by the authorities. The right had been mentioned in all historical declarations of the rights of man; it had always been the equivalent of the right to justice itself. It would, therefore, be impossible to refuse to recognize the right to petition the public authorities of the State of which a person was a national or in which he resided. Admittedly, the right to petition on the international level was a much more delicate matter. It was, however, consonant with the spirit of the Charter where several Articles referred to the protection of human rights.

The United Nations, moreover, had frequently received petitions, not only from its subsidiary organs but from individual Member States. Many of those petitions had not yielded any results, but that was no valid reason for rejecting the principle. He did not fail to see the difficulties which recognition of this right on an international level might cause. The United Nations should follow the precedent of the League of Nations, which had received petitions from mandated territories; but it was open to question whether such right of petition should be confined to Trust Territories.

Certainly there might be many practical difficulties; there was the danger of infringing on sovereignty and the risk of being flooded by petitions. In the present

state of the world, however, it was essential that men should know that their petitions would receive a hearing. An article to safeguard that right was needed in the declaration.

MR. PÉREZ CISNEROS (Cuba) said that the arguments of the representative of France applied to a large degree to the substance of the Cuban amendment. He agreed that the right to petition was a right in itself, not merely a measure of implementation. That right had already been recognized in the positive and constitutional law of many countries. It should, therefore, appear in the declaration. The Cuban amendment did not go so far as the French; it did not include the right to appeal to the United Nations. To declare such a right at the present time would undoubtedly raise difficulties in the international field. That part of the French amendment was unfortunately premature. The more general formulation in the Cuban amendment was more appropriate to the critical times through which the world was passing. The competent authority to which the Cuban amendment referred could be defined as any authority now recognized and all those authorities which might be recognized in the future by conventions between the United Nations and international bodies. The Cuban amendment was thus more restricted than the French, but it was more practical.

Objections might be raised to the declaration of a right to obtain prompt action on petitions. He [696] would be prepared to withdraw that phrase, but he felt bound to point out that if action were not prompt, there might be a danger that the whole purpose of the article might be frustrated. He would, however, accept any compromise which might be suggested.

MR. CAMPOS ORTIZ (Mexico) appealed for the greatest caution in considering the proposed article. The limitation on the time for debate might lead the Committee to take a hasty decision on an article which had not been considered by the Commission on Human Rights. No objection could be raised to the argument of the representative of France in so far as he had referred to national authorities. Nearly all constitutions contained the right of petition.

The right to petition the United Nations, however, was a very different matter. In the present stage of the international community its inclusion in the declaration might not yet be opportune, particularly because it might appear to set a form of international jurisdiction above the sovereign jurisdiction of States. The United Nations, moreover, had no machinery to deal with petitions from States which were not Members. The Secretariat would have to create such machinery because it would be unthinkable that petitions should remain completely unheeded, and this would imply implementation. The creation of a supranational body would become necessary; but that was contrary to Article 2 of the Charter. The whole conception, indeed, was not in accordance with the Charter, which referred only to the promotion of respect for human rights but nowhere made their protection obligatory. In present circumstances, that protection could only be a matter for national legislation.

If, as the representative of France had argued, the right of petition was not a measure of implementation but a right, the United Nations would have to take action on that right; and that in itself would call for measures of implementation. The greatest caution should therefore be exercised about entrusting the United Nations with the international protection of such a right.

THE CHAIRMAN reminded the representative of Mexico that Article 56 of the Charter referred explicitly to the pledge by all Members to take joint and separate action in co-operation with the United Nations and Article 55, paragraph *c* referred to the promotion by the United Nations of universal respect for, and observance of human rights. Those phrases were repeated in the preamble to the declaration.

MR. CAMPOS ORTIZ (Mexico) pointed out that the Article quoted mentioned “respect for human rights”; it did not mention “protection” of human rights. The two ideas were entirely different.

MR. DAVIES (United Kingdom), while appreciating the eloquent arguments advanced by the representatives of France and Cuba, asked [697] whether it was not premature to consider the article. The whole question of the right of petition was intimately bound up with that of implementation and he would remind the Committee that at the third session of the Commission on Human Rights the consideration of that article had been deferred until the Commission came to deal with the measures of implementation. The Committee should abide by that decision, the more so as the question of the right of petition involved a number of difficulties.

If the fundamental and general right were referred to in the amendments submitted, then that right was covered by article 17 of the declaration, but the article as drafted by the French and Cuban representatives went further than a general statement, and touched directly upon the question of implementation. The latter had, as the representative of Mexico had pointed out, two aspects: the right to petition a national public authority and the right to petition the United Nations. The later presupposed the existence of machinery to deal with petitions and raised the cognate problem of the petitioner’s immunity from penalties and liabilities. The right of petition was fully established and freely used in the United Kingdom. It was subject to no restriction. The French amendment, however, restricted the right of an individual to petition the competent organs of the United Nations to matters relating to human rights.

However, as the subject had been discussed by the Commission on Human Rights and would be considered again in connexion with the draft covenant, it would not perhaps be opportune for the Committee to prejudge the Commission’s findings by adopting one or other of the amendments. If the French amendment were adopted, then the competent organs to which it referred would have to be set up.

The Cuban amendment was broader in concept than the French, since it referred to “a competent authority” and allowed the individual to address a petition on any

subject whatsoever. In the opinion of the United Kingdom delegation, that amendment was unnecessary, since the substance of the matter was fully covered by article 17.

The further question of prompt action raised by the Cuban amendment was also fraught with difficulty. It was not always possible or desirable to take prompt action on petitions presented by individuals or groups lacking a sense of responsibility. Many examples of such petitions could be gleaned from the experience of the United Nations; if the subject were pursued further in the Committee, he feared that it would lead to considerable controversy and he believed that it would be preferable for the Commission on Human Rights to consider the question of appropriate machinery in connexion with the draft covenant and the measures for its implementation.

MR. PAVLOV (Union of Soviet Socialist Republics) expressed the opinion that the arguments put [698] forward by the representatives of Mexico and the United Kingdom were convincing and that it was untimely for the Committee to interrupt its consideration of the declaration in order to deal with a specific question which referred to measures of implementation and did not concern the text of the declaration. He agreed that it would be preferable for the Commission on Human Rights to consider the matter further before it was submitted to the General Assembly. The right of petition could hardly be considered as a fundamental right; it was closely bound up with the aspect of implementation, and should not figure in the declaration itself.

The amendment touched upon two different questions: the right to petition a national authority and the right to petition the United Nations. It would seem that the first provision constituted an infringement of national competence and touched upon the question of national sovereignty. The right of petition was fully established in the USSR, where machinery to deal with petitioners and complaints existed on a national scale, but that was a question of national law, and there was no place for such a provision in the declaration.

As for the right to petition the United Nations, the French amendment envisaged the possibility of a State being accused by one of its own citizens and being obliged to answer an indictment as though before a court of law. There was nothing in the Charter to warrant such a procedure, which encroached upon the dignity of States and gave rise to very serious considerations.

He agreed that the first part of the French amendment was fully covered by article 17 and was therefore unnecessary; the second part was also wholly unnecessary, and should be referred to the Commission on Human Rights for consideration. As the representative of the United Kingdom had said, the Commission should be able to examine the matter without being bound by any decisions taken or opinions expressed by the Committee.

MRS. ROOSEVELT (United States of America) pointed out that, at its third session, the Commission on Human Rights had not examined the text dealing with the right of petition. It had submitted the question to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, whose report had not been wholly satisfactory and had led the Committee to postpone its own examination of the matter. Although she did not consider that the right of petition constituted implementation, it certainly required implementation. It was for that reason that the Commission had decided to consider the question when it considered measures of implementation. The Commission constantly received petitions and acknowledged them, but was unable to do more until a decision had been taken on implementation.

She supported the proposal made by the representatives of Mexico, the United Kingdom, and the USSR to refer the question back to the Commission, although she fully understood the feelings of the French and Cuban representatives.
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MR. CARRERA ANDRADE (Ecuador) believed that it was essential for the advancement of the cause of the United Nations to give recognition to a right which was an essential corollary of human rights. If the right of petition were not respected and no competent organs were set up, the declaration would merely become an ideological manifesto. It was essential to raise to an international plane a right which was an integral part of democratic faith. It certainly had a place in the declaration. He was surprised that apprehensions should have been expressed on the subject and that arguments, tinged by feelings of narrow nationalism, should have been advanced. All States Members of the United Nations had entered into an association and had accepted a common flag for the sake of peace. For the Committee to reject that article was tantamount to rendering the declaration ineffective; it must be a tool in the hands of the man in the street and not a mere ornament of international law.

He failed to understand the attitude taken by the representative of the United Kingdom, particularly in view of the fact that the right of petition was so firmly established in that country. Why should that concept not be acceptable in the new charter for which mankind had paid the price of two wars?

He must remind the representatives of the United States and the USSR that their countries had abandoned the concept of narrow local sovereignties in order to build up vast federations. Considerations of sovereignty were out of place, and he would urge the Committee to vote for the article.

MR. DEHOUSSE (Belgium) agreed that the amendments submitted by the representatives of France and Cuba were of the greatest importance for the future of human rights. He fully endorsed the reasons given for their amendments by those two representatives and would stress the point that the United Nations did receive petitions even if they were not called by that name. Those communications were

dealt with in a restrictive sense, but, none the less, showed the need that men felt to address themselves to an international organization.

The representative of France had clearly stated the paradox by which the inhabitants of Territories included in the Trusteeship System had the right to petition the Trusteeship Council, whereas the citizens of the administering countries did not possess that right.

The Committee would shortly have to examine a Yugoslav proposal that the declaration should be extended to Trust Territories and Non-Self-Governing Territories. His delegation would take a positive attitude in the matter; it approved of the right of petition as established under the Trusteeship System and considered as necessary and desirable its extension to all persons.

The objections relating to the competence of the United Nations in the matter were unfounded, [700] and he could not but agree with the reference made by the Chairman to Article 56 of the Charter.

Moreover paragraph (c) of Article 55 explicitly referred to “universal respect for, and observance of, human rights and fundamental freedoms. . .” The point raised in regard to national sovereignty was always raised in international law by those who took a reactionary attitude. He would hazard the prophecy that if that objection were raised at every stage of its work, the United Nations would in due course be destroyed.

He agreed, however, with those representatives who had proposed that the question should be referred back to the Commission on Human Rights. He believed that the right of petition should be dealt with in the covenant, since the declaration was not legally binding. The United Nations was not yet equipped to deal with petitions. The best way of settling the matter was, as the Belgian delegation had always maintained, by means of an international convention.

The meeting rose at 11 p.m.

A/C.3/367

25 November 1948

Original Text: English, French

Text of article 21 of the draft Declaration as adopted by the Committee

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for his family and himself an existence worthy of human dignity, and supplemented, if necessary by other means of social protection.

3. Everyone has the right to form and to join trade unions for the protection of his interests.

A/C.3/370

26 November 1948

**United Kingdom: Draft Resolution: Additional article
on measures of implementation (E/800)**

The General Assembly,

Having considered the draft article on petitions in A/C.3/306 and the amendments offered thereto by Cuba and France;

Decides not to take any action on this matter at this session;

Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the draft covenant on Human Rights and the implementation thereof.

A/C.3/371

26 November 1948

Original Text: French

**France: Amendment to United Kingdom:
Draft Resolution A/C.3/370**

Paragraph 3 to be worded as follows:

“Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the Draft Covenant on human rights *and their implementation in order to enable the General Assembly to complete the Declaration on the subject at its next regular Session.*”

A/C.3/SR.159¹³⁷

26 November 1948

***Summary Record of the Hundred and Fifty-Ninth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Friday,
26 November 1948, at 10:30 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

87. Draft international declaration of human rights (E/800) (continued)

Proposed Article on Measures of Implementation (E/800, page 12) (continued)

MR. INSFRAN (Paraguay) agreed with the views expressed at the previous meeting by the Mexican representative. His delegation fully supported the principle of the right of petition at the national level, for that right was a provision of the Constitution of Paraguay. To establish the right of petition at an international level, however, by affirming the right of individuals to petition the United Nations would constitute an interference in the sovereignty of States, and his delegation could not accept that. Even if, as the representative of Ecuador had stated, the abolition of national frontiers was a legitimate and noble aspiration, it was not one that could be realized as things were at present, and any measures that did not respect the national sovereignty of States would be out of place.

MR. COROMINAS (Argentina) stated that at the Bogotá Conference his delegation had approved the drafting of an article on the right of petition, worded as follows:

“Everyone has the right, either individually or in association with others, to submit petitions or communications to any competent authority, for [701] reasons of either general or private interest, and the right to obtain prompt action thereon.”

That right was also inscribed in the Constitution of Argentina. His delegation therefore supported the Cuban amendment (A/C.3/261), which was based on the Declaration of Bogotá, because he thought the right of petition should be exercised within the limits of national frontiers.

The world situation was not sufficiently advanced to permit of the abolition of the principle of national sovereignty, as recognized by the Charter. The Argentine delegation, in accordance with the principles of the legal sovereignty of States and of non-intervention, thought that each country should remain free to govern its own destinies.

¹³⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 700–9.

Mr. Corominas drew the Committee's attention to the provisions of Article 2, paragraph 7 of the Charter, concerning matters which were essentially within the domestic jurisdiction of a State. In his opinion petitions were essentially within that jurisdiction; the Committee should therefore attempt to find a formula which would take those provisions into account by specifying that the presentation of petitions to the United Nations should be subject to the approval of Governments.

The French amendment (A/C.3/244/Rev.1/Corr.1) was actuated by a lofty ideal. An international system for the protection of human rights should certainly be established. The delegation of Argentina was not opposed to the question being studied thoroughly, but it did not think it advisable at that stage of the discussion for the Committee to undertake such a study. It proposed that the question should be referred back to the Commission on Human Rights for study. If the Cuban amendment (A/C.3/261) were adopted, the bill of human rights could later be completed by specifying which should be the competent international organs.

MR. WATT (Australia) observed that the objections raised to the article under discussion were of two kinds.

There were practical objections: certain delegations pointed out that there were no organs competent to deal with petitions and, moreover, thought it preferable to insert the article, not in the declaration, but in the covenant. He supported to a certain extent those practical objections.

The other objections were of a theoretical character. On that point the Australian delegation wholeheartedly supported the observations of the Belgian representative (158th meeting), but thought it might be advisable to answer certain arguments which had been put forward after Mr. Dehousse's statement. He emphasized that article 56 of the Charter, which stated that "All Members pledge themselves to take joint and separate action. . . for the achievement of the purposes set forth in Article 55", provided for international action. Article 55 of the Charter also stated that "The United Nations shall promote. . .". There was therefore not the least doubt concerning the competence and even the obligation of the United [702] Nations to undertake international action in some form or other. The only debatable question was that of the methods and the time.

It had been stated that on the subject of human rights, the principle of national sovereignty was inviolable. That theory would lead to an anomalous situation in which the inhabitants of Trust Territories would be able to submit petitions to the Trusteeship Council and hence to the United Nations while the inhabitants of metropolitan countries would be precluded from doing so.

The Australian delegation was far from ignoring the importance of the provisions of Article 2, paragraph 7 of the Charter, which Australia had helped to draft, but it considered that the sphere of international jurisdiction was not irrevocably established. Certain matters of domestic jurisdiction could be transferred to international

jurisdiction. That would not constitute a violation, but rather an exercise, of sovereignty. A country would always be free to demand guarantees against irresponsible petitions.

If the Committee considered that for practical reasons the article should be referred back to the Commission on Human Rights, the Australian delegation would insist, when measures of implementation were considered, on the necessity of efficacious measures and, in particular, on the establishment of an international court of human rights.

MR. SANTA CRUZ (Chile) stated that, at the national level, the rights of petition of a citizen could not be denied. In that respect the text of the article and of the two amendments presented by France and Cuba seemed to him equally acceptable. He urged that the formula "and to obtain prompt action thereon" which was in the Cuban amendment should be retained.

Mr. Santa Cruz also favoured recognizing the right of individuals to present petitions to the United Nations, for the same reasons that his delegation had advanced in support of article 28 of the declaration. By subscribing to the Charter, States had accepted the incorporation of human rights into international law and had voluntarily abandoned part of their sovereignty. He thought therefore that there should be an international authority to consider petitions relating to human rights. The matter had, moreover, already been considered by the Commission on Human Rights. The Chilean delegation would support the text proposed by France.

MR. AQUINO (Philippines) stated that his delegation would very much like to see the establishment by the United Nations of a competent organ which would examine petitions sent to the United Nations by individuals. None of the proposed texts, however, provided for the establishment of such an organ. The article contained in the original text of the draft declaration had not even been considered by the Committee. The amendment proposed by France did not specify either the manner in which petitions should be presented or what organs of the United Nations would be qualified to deal with them. There was not even agreement concerning the establishment of an international court of human rights. So long as there was no such body in existence, the inclusion of the right of petition in the declaration would be simply misleading, since its implementation could not be guaranteed. The amendment proposed by Cuba was even more vague.

In view of the fact that the question concerned measures of implementation which were out of place in the declaration and which required thorough study, the Philippine delegation proposed that the question should be referred back to the Commission on Human Rights.

MR. PÉREZ CISNEROS (Cuba) pointed out that the amendment submitted by his delegation merely recognized an existing fact. The right of petition was sanctioned by the Constitutions of many countries. His delegation would favour the setting up

of an international system for the protection of human rights when the appropriate time arrived, but he thought that such a system could not be contemplated at the present stage of the Committee's work. The Cuban amendment, by its intentionally vague wording, allowed for the possibility of a subsequent revision of the definition of "competent authority" when an international system of protection was established.

Mr. Pérez Cisneros asked to have his delegation's amendment voted on in parts, and for a roll-call vote to be taken on the first part of the sentence, which was the essential part, namely:

"Every person has the right, either individually or in association with others, to petition or to communicate with any competent authority".

The end of the sentence, which was less important, could then be voted on. His delegation was even prepared by way of compromise to accept the deletion of the second part of his amendment.

MR. CASSIN (France), while recognizing that the right of petition had lost some of its importance since the recognition of the freedom of the Press and freedom of association, nevertheless maintained that those two freedoms could not replace the right of petition, which permitted the presentation of demands, to a national or international authority. If the right of petition were not incorporated in the Declaration of Human Rights, it would constitute a step backwards in the sphere of positive international law, since the right of petition had been recognized at many international conferences, including the 1932 Conference for the Reduction and Limitation of Armaments,¹³⁸ and at various sessions of the International Labour Organization.

To omit that right would also be to fall short of the objective that the democratic States had set themselves at the beginning of the last war. The United Nations could not tolerate that, as in 1933, one could remain passive before open violations of the spirit of the Charter. Positive measures must therefore be taken to ensure the right of petition at the national and international level.

Mr. Cassin feared, however, that the advocates of the right of petition might be at variance owing to their divergent views on the guarantee which would have to operate in that sphere. He therefore proposed to withdraw for the time being the draft amendment submitted by his delegation on [704] the formal condition that the Third Committee should instruct the Commission on Human Rights through the Economic and Social Council to undertake a new examination of the problem and

¹³⁸ The Conference for the Reduction and Limitation of Armaments, generally known as the World Disarmament Conference, was held in Geneva from 1932 to 1934. The Women's International League for Peace and Freedom collected six million signatures on a petition that was presented to the Conference.

to submit a positive report to the following session of the General Assembly, it being well understood that the latter would discuss the question.

He emphasized that the above condition was irrespective of whether the amendment submitted by the delegation of Cuba, which was based on the Declaration of Bogotá, was adopted or rejected. That text was acceptable if, as its author had suggested, the words following the words “competent authority” were deleted.

MRS. NEWLANDS (New Zealand) stated that she had followed the general discussion with interest, and particularly the arguments presented by those who maintained that the Declaration of Human Rights should not contain any article mentioning the right of petition. Those who argued in favour of such an omission could be divided into two categories: those who simply did not wish to see that right included in the declaration, and those who considered that it should be included only after the methods of implementation had been decided upon.

The New Zealand Government had made its view on the question known to the Commission on Human Rights in June 1948. It had proposed that everyone, either individually or in association with others, should have the right to petition or communicate with the Government of the State of which he was a national or in which he resided, and should have the same right in respect of the United Nations.¹ That position was in complete conformity with the text contained in document E/800.

The New Zealand Government recognized the importance of the exercise of the right of petition. It maintained its original position and was prepared to support the inclusion of the right of petition in the declaration of human rights.

Mrs. Newlands recognized, as did Mr. Cassin, that it was a fundamental right and that it should find a place among the general principles outlined in the declaration. It had been pointed out during the discussion that the declaration constituted a general statement of principles and did not entail any legal obligations. The lack of an organ which would have the authority to deal with petitions addressed to the United Nations was therefore not a valid argument for the exclusion from the declaration of that general principle.

Moreover, the Economic and Social Council at its fifth session had adopted resolution 75(V) relating to communications concerning human rights, before each session of the Commission; with a brief indication of the substance of each. It was true that the resolution did not provide for measures to be taken in that connexion but the Commission on Human Rights was asked to appoint at each session an *ad hoc* committee to meet shortly before its following session for the purpose of reviewing the confidential list of communications prepared by the Secretary-General. That *Ad Hoc* Committee, composed of the representatives of Chile, France, Lebanon, the USSR

[¹] See E/CN.4/82/Add.12.

and the United States, had duly met shortly before the beginning of the third session of the Commission on Human Rights. Mrs. Newlands thought, therefore, that to mention the right of petition in the declaration of human rights would only be recognizing the existing situation.

The criticisms made by certain representatives to the effect that nationals of metropolitan territories would not enjoy the right of petition which was granted to inhabitants of Trust Territories proved once more the necessity of affirming the right of petition.

As regards the wording of the article, the New Zealand delegation would have supported the French amendment had it not been withdrawn. It would be advisable to confine the right of petition, as that amendment had done, to matters relating to human rights.

Until a definite procedure was established concerning the exercise of the right of petition, Mrs. Newlands emphasized that it was fully understood that the Commission on Human Rights was entitled to exercise the limited action authorized by resolution 75(V) of the Economic and Social Council.

MR. KAYALY (Syria) fully agreed that in the national field the right of petition was a fundamental right which all democratic States had recognized in their constitutions. On the other hand, to allow individuals to submit petitions or communications to the United Nations would be a violation of the very principles of the United Nations, for the Charter based international relations upon respect for the rights of Member States. That principle would be violated if the sovereignty of States was repudiated by the recognition of the right of individuals to submit petitions to the United Nations.

Mr. Kayaly also pointed out that the right of petition should not appear in the declaration, but rather in the covenant or in the measures of implementation.

He concluded by recommending that the questions should be referred to the Commission on Human Rights for fuller study.

MR. CAMPOS ORTIZ (Mexico) said that the extension of the right of petition to the international field represented an ideal which could not be attained at present.

Apart from the fact that it was not the time to start a discussion on that question, which had not been adequately studied; it would be dangerous to set up an international jurisdiction which would be higher than that of Member States.

Taking the concrete example of a foreigner who might complain of the disregard of human rights in the country in which he happened to be, Mr. Campos Ortiz asked what should be the attitude of the United Nations in such a case? That might well lead to conflict between the United Nations and a Member State.

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The question of the implementation of the right of petition at the national level should be thoroughly studied by the appropriate organs.

In conclusion, he announced his delegation's intention of voting in favour of the Cuban amendment, which was based on the Bogotá Declaration.

MR. DEHOUSSE (Belgium) first apologized to the Latin American countries for having omitted on the previous day to quote the Bogotá Declaration, which provided for the right of petition. That was yet another proof that Pan-Americanism was ahead of other countries in international development.

He wished to answer the Mexican representative, who had stated that in any given country the extension of the right of petition to foreigners would upset the current conceptions of the law. If the Mexican argument were pursued to its conclusion, its fallacy would be revealed, for foreigners did in fact already enjoy diplomatic protection which gave them an advantage over nationals, just as the inhabitants of Trust Territories possessed an advantage over the inhabitants of metropolitan territories.

Taking up the question of procedure, he asked the Cuban representative if the latter still wished his amendment to be put to the vote immediately, or if he supported the United Kingdom draft resolution (A/C.3/370), suggesting that no action should be taken on the matter during the current session.

Mr. Dehousse fully supported the latter point of view: the question should be reconsidered and thought out by the Commission on Human Rights and should be studied again at the following session of the General Assembly.

Finally, he recalled that though the question of implementation had not been examined at the third session of the Commission on Human Rights, the Commission had considered the problem very carefully at its second session in Geneva in December 1947, and had made appreciable progress.¹

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that the Committee needed time to study the proposals before pronouncing an opinion upon them.

It was immediately apparent, however, that the proposals did not respect the principle of the sovereignty of States. In recommending international co-operation, the Charter took respect for the sovereignty of the State as its very basis. The United Nations was not a world Government; each Member participated of its own free will in the work of the organization which made international co-operation possible. It had sometimes been maintained that since decisions were taken by a majority vote, each State was bound to conform to the decision of the majority. But the delegation of the Byelorussian SSR did not consider that fact to be in any way prejudicial to national sovereignty, for it was fully understood that decisions were only valid in the fields in which

^[1] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement No. 1.

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United Nations jurisdiction was recognized. They could not be binding upon States if they concerned questions exclusively within their domestic jurisdiction. The Cuban proposal concerned a matter which was, precisely, one of domestic jurisdiction of States. Hence, neither the Assembly nor the Third Committee could approve it.

It had been stated by certain representatives that respect for national sovereignty hampered the work of international co-operation. His delegation maintained, on the contrary, that, far from being a retrograde idea, respect for national sovereignty was, as the Charter indicated, a necessary condition of all progress. Thus at the present time half the peoples of the world – those of the colonies – were striving to obtain self-government or independence, in other words, to affirm their sovereign rights.

In view of those considerations the delegation of the Byelorussian SSR was opposed to the inclusion of an article on the right of petition in the declaration of human rights at that stage in the debate. The United Kingdom proposal, which allowed for a study of the question, was the only acceptable one in present circumstances.

MR. PAVLOV (Union of Soviet Socialist Republics) regretted that the Third Committee had interrupted its consideration of the draft declaration of human rights. To maintain that petitions from citizens of various States would have anything to gain from examination by an international organ was tantamount to questioning the desire of each State to impose respect for human rights. It could also be interpreted as an admission of national incompetence.

To say that inhabitants of metropolitan territories should have at least the same rights as inhabitants of the colonies, who enjoyed the right to present petitions to the United Nations, was certainly not a valid argument. The United Nations examined petitions from Trust Territories precisely because those Territories were not governed in conformity with the sovereign will of the inhabitants. In examining those petitions the United Nations was compensating for the lack of representative institutions.

It had to be recognized that if the proposed article were included in the declaration, it would not give it any practical significance. Thus, for instance, no unemployed person could obtain work by presenting a petition to the United Nations.

Referring next to international co-operation, Mr. Pavlov pointed out that the real evil from which such co-operation suffered did not arise from the affirmation of the sovereign rights of States, but, on the contrary, from the attempts made to superimpose upon the authority of States an oligarchy serving the interests of the capitalist Powers. Furthermore it was absolutely incorrect to say that Article 56 of the Charter authorized the United Nations to examine questions within the domestic jurisdiction of a State.

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Mr. Pavlov thought that the Commission should resume its examination of the draft declaration of human rights as drafted by the Commission on Human Rights.

MR. DAVIES (United Kingdom) thought that, apart from all considerations of national sovereignty, members of the Committee in general thought it preferable that a thorough study of the article on the right of petition should be made.

He did not object to the Declaration of Human Rights including the right of petition both at the national and the international level, but he thought it difficult to settle the question without raising considerations on the measures of implementation. For practical reasons, he advocated referring the article back to the Commission on Human Rights for its opinion and for subsequent re-submission to the Third Committee at the following session of the General Assembly. He pointed out that the text of the draft resolution submitted by the United Kingdom did not specify that the article on petitions should be included in the human rights declaration or in the covenant; it left the decision to the Commission on Human Rights; indeed, that was the first point which the Commission would have to decide.

He did not think it possible to include the Cuban proposal, as it stood, in the Declaration of Human Rights. However, nothing would be lost by postponing the adoption of an article on the right of petition, first, because article 17 already made provision for it without explicitly mentioning it, and, secondly, because the Cuban draft resolution would benefit by being revised after a full discussion on the matter.

He therefore requested that the United Kingdom draft resolution should be put to the vote.

THE CHAIRMAN announced the close of the general discussion.

MR. PÉREZ CISNEROS (Cuba) urged that the Cuban proposal be put to the vote, adding that it would only be necessary to examine the United Kingdom draft resolution if the Cuban proposal were rejected.

He pointed out that the Committee had been instructed to study the draft declaration of human rights; proposals concerning the declaration must therefore be put to the vote first.

THE CHAIRMAN announced that he would be obliged to put the United Kingdom draft resolution to the vote first because it was the furthest removed from the original proposal. It was true that the Third Committee's task was to examine the declaration of human rights, but any member had and would continue to have the right to request that any article should be referred to another organ of the United Nations for examination.

MR. CASSIN (France) stated that he wished to submit an amendment to the United Kingdom draft resolution.

MR. PAVLOV (Union of Soviet Socialist Republics), pointed out that the United Kingdom draft resolution had been distributed and that the [709] French amendment

had not. In the circumstances, it would be better to allow representatives time to study the two texts. He therefore proposed that the Committee should wait until the French amendment had been distributed and that the vote should be postponed until the beginning of the afternoon session.

MR. SANTA CRUZ (Chile) asked the United Kingdom representative if he would not be prepared to withdraw his draft resolution in order to enable the Committee to decide first whether it wished to adopt one of the two texts relating to the substance of the question. If neither of those two texts was adopted, the United Kingdom representative could resubmit his draft resolution.

MR. DAVIES (United Kingdom) was not prepared to withdraw his draft resolution, which he believed expressed the wishes of the majority of the Committee members.

Having taken cognizance of the French amendment (A/C.3/371) which had just been circulated, the United Kingdom representative said that he could not accept it in its present form, as it stated that the article on the right of petition should be incorporated in the Declaration of Human Rights, whereas one of the advantages of the United Kingdom draft resolution was precisely that the Commission on Human Rights would be left to decide whether the article should be incorporated in the declaration or in the covenant.

MR. PÉREZ CISNEROS (Cuba) stated that he wished to present an amendment to the United Kingdom draft resolution (A/C.3/370).

He proposed that the meeting be adjourned.

The proposal was adopted by 21 votes to 8, with 4 abstentions.

The meeting rose at 12:55 p.m.

A/C.3/SR.160

26 November 1948

Summary Record of the Hundred and Sixtieth Meeting [of the Third Committee]

Held at the Palais de Chaillot, Paris, on Friday,
26 November 1948, at 3.30. p.m.

Chairman: MR. C. MALIK (Lebanon). *Rapporteur:* Mr. EMILE SAINT-LOT (Haiti).

Draft International Declaration of Human Rights: Item Proposed by the Economic and Social Council

United Kingdom draft resolution on the additional article on measures of implementation and French and Cuban amendments thereto (E/632, E/800, A/C.3/370, A/C.3/371, A/C.3/372, A/C.3/W.1¹³⁹)

MR. DEHOUSSE (Belgium) felt that the Chairman would be right to put the United Kingdom draft resolution (A/C.3/370) to the vote first. Should it be adopted, the Cuban proposal would automatically fall. According to the rules of procedure, the United Kingdom draft, being farthest removed, must be voted on first. However, in regard to the third paragraph of the United Kingdom draft resolution, the French amendment (A/C.3/371) to that paragraph would have to be voted on first.

Addressing himself to the representative of France, Mr. Dehousse expressed scruples as to the legal correctness of including the problem of petitions in a declaration which would not legally bind its signatories. He would vote in favour of the French amendment, however, because it attempted to avoid postponing that very important question for a year, but he would like to see it so worded that the Assembly would complete the declaration at its next regular session. Should the amendments not be accepted, he would still be grateful if the French representative would make a statement for the record, to the effect that the General Assembly was absolutely free to decide whether or not it would insert in the declaration anything concerning the system of petitions.

MR. CASSIN (France) stated that, in submitting his amendment, he had been guided by the idea that as the question of the right of petition had not been sufficiently studied to warrant its being inserted in the declaration, he had deemed it advisable to suggest that the question should be studied during the interim period, so that a decision could be taken at the next regular session of the General Assembly. It was the right and duty of the Assembly to request its subordinate organs to submit a text on which to base a decision, though the Assembly was not bound to act upon any such recommendation.

The right of petition could be included as a complementary provision of the declaration, but the ultimate decision would rest with the General Assembly.

MR. DAVIES (United Kingdom) declared that adoption of the French amendment would mean that the declaration would not be completed at the present session of the General Assembly but would be postponed until the next regular session. That would be most regrettable after [3] all the hard work that had been done in regard to the declaration. There would be the danger that the whole matter would be re-opened and undoubtedly the prestige of the United Nations would suffer. He urged that the door might be left open with regard to including the right of petition

¹³⁹ Document A/C.3/W.1 was issued with an erroneous document code on 26 November 1948. The document was issued again on 29 November 1948 with the document code A/C.3/W.13. A footnote in the latter document explains this. The document appears in this compilation under the corrected document code A/C.3/W.13.

in the declaration or covenant. A straight vote on the United Kingdom draft resolution would show whether the Committee wanted the question to be dealt with in regard to the declaration or preferred it to be included in the covenant, that is to say, whether it wanted the declaration to be completed at the present session of the Assembly or not.

MR. PEREZ CISNEROS (Cuba) pointed out that the United Kingdom draft had been submitted only a few hours previously and therefore, in his opinion, could not be considered by the Committee. That draft mentioned the covenant, whereas the Committee was now discussing the declaration which, it had been decided, should be completed before the covenant was discussed. If, as he believed, the right to petition was an essential human right, it should be included in the declaration; if on the other hand, it was no more than a measure of implementation, the United Kingdom point of view was correct.

The Committee would first have to take a decision as to whether the right of petition was an essential right or not.

He further requested, on the strength of rule 109 of the rules of procedure, that the vote on the United Kingdom draft resolution (A/C.3/370) should be postponed until the following day, to give the members of the Committee time to study the relevant documents and to consult their delegation and, if need be, their Governments.

MR. CASSIN (France) pointed out that the word "complete" in the English translation of his amendment to the United Kingdom draft resolution should be replaced by "supplement". There had been no intention on his part to postpone the adoption of the declaration by the General Assembly.

MR. DEHOUSSE (Belgium) agreed with the French representative that, while the French amendment would make it possible for the General Assembly to deal with the question of the right of petition at its following session, the General Assembly would be entirely free to decide whether or not it wished to include in the declaration an article dealing with that right.

[4]

He called the attention of the Cuban representative to the fact that in the past various bodies of the United Nations had frequently voted on amendments which had not even been circulated in writing. Moreover, the United Kingdom proposal was a resolution, so that the part of rule 109 dealing with amendments did not apply to it. He thought it could be put to the vote at once; nevertheless, in view of the Cuban representative's objection, the matter was for the Committee to decide.

MR. WATT (Australia) remarked that the Committee was divided in its views: some representatives wished to decide at the present session that there should be no article on the right of petition in the declaration, others wanted the contrary, while a third group preferred a compromise solution, which was to avoid prejudging whether

the right of petition should be exercised on the national plane alone or on the international as well.

In a spirit of compromise and with the intention of permitting further debate on the whole question, he proposed the following amendment in place of the French amendment, incorporating a drafting change suggested by the United Kingdom representative: "to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions".

MR. DAVIES (United Kingdom) accepted the Australian amendment, which thereupon became part of the United Kingdom resolution.

MR. CASSIN (France) said that he was not prepared to withdraw his own amendment in favour of the Australian amendment. The former met the wishes of those who considered the right of petition to be a basic human right and at the same time permitted the question to be carefully studied, as a number of other delegations thought it should be. The French amendment would merely "enable", it would not oblige the General Assembly at its next session to add to the declaration an article dealing with that right. By its phrasing it did, however, express the hope that the General Assembly would do so; that nuance was lost in the Australian amendment.

MR. PEREZ CISNEROS (Cuba) interpreted rule 109 of the rules of procedure to mean that the Chairman could authorize immediate discussion and study of a new proposal, but not a vote on it. Representatives were not being granted sufficient time to draft amendments to the United Kingdom proposal.

[5]

He nevertheless submitted the following amendments: the insertion, as the first paragraph in the United Kingdom resolution, of the following: "Whereas the right of petition is an essential human right as is recognized in the Constitution of a great number of countries;" and the deletion of the paragraph beginning with the word "Decides", since that paragraph was in contradiction with the one which he wished to have inserted.

MR. PAVLOV (Union of Soviet Socialist Republics) pointed out that there were two questions before the Committee, one of procedure and one of substance.

The United Kingdom resolution dealt entirely with procedure; it was therefore possible, under rule 109, to vote upon it at the present meeting.

The Cuban amendment, on the other hand, raised an important and highly controversial question of substance; it and any other amendment of like nature could be put to the vote only after at least a day had passed.

Considering the Cuban amendment on its merits, Mr. Pavlov could not agree that the right of petition was a basic human right like the right to work, to vote or to education. The right of petition by itself meant very little; it was, in fact, pointless to permit men to complain unless alleged wrongs could be redressed, which was generally done within the framework of each State. It would be to show disrespect

of national sovereignty to permit individuals to petition the United Nations; moreover, it was surely premature to include in the declaration an article based on the assumption that the rest of the rights contained in it would be violated. The USSR could not accept the Cuban amendment.

THE CHAIRMAN ruled that the United Kingdom resolution and the French and the Cuban amendments were equally receivable.

MR. DEHOUSSE (Belgium) moved the closure of the debate, and asked that a vote might be taken on the question whether or not the Committee should postpone the vote on the texts before it.

MR. PEREZ CISNEROS (Cuba) opposed the motion for closure. He wished to have the opportunity to defend his amendment, which had not been generally discussed but had been subjected to criticism.

The motion for closure was adopted by 21 votes to 7, with 8 abstentions.

The motion to postpone decision on the United Kingdom resolution was rejected by 16 votes to 6, with 11 abstentions.

The meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.

[6]

THE CHAIRMAN stated that the Cuban amendment to insert a paragraph would be put to the vote first.

MR. PAVLOV (Union of Soviet Socialist Republics) thought that it would be contrary to the first part of rule 109 of the rules of procedure to vote on a substantive amendment which had not been circulated a day previously.

The vote taken by the Committee to close the debate could not apply to the Cuban amendment, since the debate on it had never been opened and had, in fact, not taken place at all. He consequently protested against the Chairman's action.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) supported the USSR representative's remarks. He did not think the Committee's decision could apply to the Cuban amendment, which had not been debated; it had been taken solely with respect to the procedural question raised in the United Kingdom resolution.

THE CHAIRMAN said he was unable to accept the interpretation of Committee's [sic] decision put forward by the Byelorussian SSR and the USSR representatives.

MR. SANTA CRUZ (Chile) supported the Chairman's point of view. The Cuban amendment had been submitted before the closure of the debate and therefore, the closure applied to it as well as to the United Kingdom draft resolution.

MRS. NEWLANDS (New Zealand) asked for a separate vote on the first part of the Cuban amendment, contained in document A/C.3/W.1,¹⁴⁰ which read as follows: "Whereas the right of petition is an essential human right. . ."

¹⁴⁰ Issued as A/C.3/W.13. See previous footnote for explanation.

On the request of the Cuban representative, a vote was taken by roll-call as follows:

Burma, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Chile, Colombia, Cuba, Denmark, Dominican Republic, France, Haiti, Honduras, India, Iran, Lebanon, Mexico, Netherlands, New Zealand, Norway, Paraguay, Peru, Philippines, Uruguay, Afghanistan, Argentina, Belgium.

[7]

Against: Byelorussian Soviet Socialist Republic, Canada, China, Czechoslovakia, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, United States of America, Yugoslavia.

Abstaining: Burma, Pakistan, Saudi Arabia, Turkey, Venezuela, Yemen, Australia, Brazil.

The first part of the Cuban amendment was adopted by 22 votes to 11, with 8 abstentions.

The remainder of the Cuban amendment was adopted by 16 votes to 11, with 12 abstentions.

The Cuban amendment as a whole was adopted by 17 votes to 16, with 7 abstentions. The second paragraph of the amendment set forth in document A/C.3/W.1 was adopted as read.

MR. PEREZ CISNEROS (Cuba) moved the deletion of the third paragraph.

The motion was rejected by 22 votes to 9, with 9 abstentions.

MR. CASSIN (France) proposed the substitution of the first alternative addition to the draft resolution for the second.

The motion was rejected by 17 votes to 13, with 8 abstentions.

On the request of the United Kingdom representative, a vote was taken separately on the first part of the last paragraph of the resolution, down to the words “measures of implementation. . .”

The first part of the last paragraph was adopted by 28 votes to none, with 11 abstentions.

The second part of the last paragraph, including the second alternative text set forth in document A/C.3/W.1¹⁴¹ was adopted by 24 votes to none, with 16 abstentions.

The last paragraph as a whole was adopted by 24 votes to none, with 16 abstentions.

The resolution as a whole was adopted by 34 votes to 6, with 5 abstentions.

[8]

MR. PAVLOV (Union of Soviet Socialist Republics) said he had voted against the resolution because it was both unsatisfactory and contradictory. The first paragraph stated that the right of petition was an essential human right, while the third

¹⁴¹ Issued as A/C.3/W.13. See previous footnote for explanation.

paragraph stated that no action would be taken on the matter at the present session. The Committee had been wrong to adopt the Cuban amendment to the first paragraph, as the right of petition was valueless unless the Government concerned was responsible for rectifying the violation of rights.

As the resolution now read, it was contrary to the provisions of Article 2 of the Charter and would undermine the principle of national sovereignty. There was no basis for stating that the right of petition was a fundamental right. It would create illusions in the minds of the peoples of the world and despite the good motives that had prompted it, it could only be regarded as a mockery. It would have the further effect of weakening the declaration by giving the impression that the rights set forth in that document would be violated.

The resolution was particularly unacceptable to his delegation because it encroached upon the sphere of national sovereignty. Petitions had to be regarded as the responsibility of the Government concerned before they were transmitted to the United Nations. The votes he had cast in favour of the first two paragraphs of the original United Kingdom draft resolution (A/C.3/370), could not be considered as binding either the USSR delegation, the General Assembly, or any other organ of the United Nations.

MR. PEREZ CISNEROS (Cuba) realized that, viewed as a whole, the resolution could not be considered satisfactory. It did not really recognize the essential right of petition and here, once again, the text of the Bogotá Agreement would be superior to that of the declaration. The Cuban amendment had attempted no more than to state that the right of petition had to be respected within national boundaries. It was to be hoped that owing to United Nations action, it would be respected internationally as well as nationally. It had been argued that the veto was undesirable in regard to petitions from nations, it was surely equally undesirable that it should be applied to petitions from individuals. The resolution had not been adopted unanimously, but the Cuban delegation was satisfied that a large majority of the Committee had approved the insertion of the right of petition.

[9]

MR. DE ATHAYDE (Brazil) pointed out that the Brazilian Constitution, like others, recognized the right of petition, whether on the part of Brazilian citizens or of other people and therefore, he had no difficulty in supporting the Cuban amendment. He also agreed, however, with those representatives who had stated that the question of the right of petition should be considered in connexion with the covenant rather than in connexion with the declaration. The original French proposal set forth in A/C.3/306 had expressed a splendid ideal, but because the international atmosphere was not propitious for the adoption of such an article, he had voted for the United Kingdom resolution.

MR. CASSIN (France) had voted for the resolution although he was not completely satisfied with the text that had been adopted. He assured the Committee that France would devote all her efforts to ensuring the right of petition, within the limits allowed by the present international atmosphere.

MRS. NEWLANDS (New Zealand) said her delegation would have been prepared to accept an article along the lines of the one originally submitted by the French delegation. As both the French and Cuban articles had been withdrawn, she had supported the French amendment to the United Kingdom resolution. She had also supported the United Kingdom resolution itself and the first part of the Cuban amendment to it. She had voted against the second part of the first Cuban amendment, because it implied that individuals could only petition their national authorities and not the United Nations.

MR. DE ARÉCHAGA (Uruguay) drew attention to the fact that his delegation had made great efforts to have the right of petition accepted at the Bogotá Conference. They had maintained a similar attitude during the discussions in the Third Committee and hoped that, at a later date, it would be possible to get agreement on an even more acceptable text.

MR. WATT (Australia) said he had abstained on the first Cuban and French amendments, because it had seemed fairer to leave open the question of whether the right of petition should be dealt with in connexion with the declaration or with regard to the covenant. Because of the principle involved, it had not been possible for him not to support the resolution as a whole. In his opinion, the adoption of the Cuban amendment would mean [10] that petitions could be addressed either to national authorities, international authorities, or to both.¹⁴²

Additional articles proposed for the Draft Declaration (A/C.3/307/Rev.2)

THE CHAIRMAN suggested that the USSR proposal, the Danish proposal and the second paragraph of section A and section B of the Yugoslav proposal should be considered together. The Cuban, Lebanese, Egyptian and first paragraph of section A and section C of the Yugoslav proposal would be considered separately.

MR. PLEIC (Yugoslavia) pointed out that the second paragraph of section A did not deal with the question of minorities, while section B referred to the protection of collective minority rights and not to the rights of individual members of minorities.

THE CHAIRMAN agreed that the second paragraph of section A of the Yugoslav proposal could be considered separately, but ruled that section B of that proposal would be considered together with the USSR and Danish proposals.

¹⁴² Pursuant to A/C.3/SR.1609/Corr.1 of 2 December 1948, this sentence is replaced with: "In his opinion, the adoption of the Cuban amendment left completely open the question whether the right of petition was exercisable in the national field, the international field, or both."

MR. PEREZ CISNEROS (Cuba) withdrew his first proposed article because its substance had already been adopted in the form of a Mexican amendment. In reply to the Chairman, he said he would press for the adoption of his second proposed article on the grounds that since the substance of it was included in the preamble of the declaration and, therefore, it should form the subject of a specific article.

MR. KURAL (Turkey) moved the adjournment of the meeting.

The motion was carried by 22 votes to 9, with 1 abstention.

The meeting rose at 6 p.m.

A/C.3/372

26 November 1948

Draft Resolution on article on measures of implementation as adopted by the Third Committee

The General Assembly

Whereas the right of petition is an essential human right as is recognized in the constitution of a great number of countries;

Having considered the draft article on petitions in A/C.3/306 and the amendments offered thereto by Cuba and France;

Decides not to take any action on this matter at this session;

Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the draft covenant on Human Rights and measures of implementation, in order to enable the General Assembly to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions.

A/C.3/307/Rev.2/Corr.2

27 November 1948

Original Text: Russian

Additional articles proposed for the draft Declaration (E/800) Corrigendum to document E/800, Union of Soviet Socialist Republics:

Add to the text adopted a separate new paragraph in place of the corresponding article 31 of the Geneva text rejected by the Commission:

“All persons, irrespective of whether they belong to the racial, national or religious majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the Courts and in other official premises.”

A/C.3/373

27 November 1948

Original Text: French

Haiti: Draft Resolution

The General Assembly

Considering that the United Nations cannot remain indifferent to the fate of minorities;

Considering that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises, without endangering the national unity of Member States and without creating a new source or cause of aggravation of the discriminations outlawed both by the United Nations Charter and by the present Declaration.

Considering the universal character of the Declaration of Human Rights;

Decides not to deal with the question of minorities in the text of the present Declaration, and

Requests the Economic and Social Council to ask the Commission on Human Rights and the Sub-Commission on the Protection of Minorities to make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, ethnic and religious minorities.

A/C.3/SR.161¹⁴³

27 November 1948

Summary Record of the Hundred and Sixty-First Meeting **[of the Third Committee]**

Held at the Palais de Chaillot, Paris, on Saturday,

27 November 1948, at 11 a.m.

Chairman: Mr. EMILE SAINT-LOT (Haiti); later, MR. C. MALIK (Lebanon).

¹⁴³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 717–26.

89. Draft international declaration of human rights (E/800) (continued)***Proposals Concerning the Protection of Minorities (continued)***

In the absence of the Chairman, and also of the Vice-Chairman, Mrs. Begtrup (Denmark), for reasons of health, Mr. Saint-Lot (Haiti) took the Chair.

THE CHAIRMAN drew the attention of the Committee to three proposals relating to the protection of minorities, submitted by the delegations of the USSR (A/C.3/307/Rev.2/Corr.2), Yugoslavia (A/C.3/307/Rev.1/Add.1), and Denmark (A/C.3/307/Rev.1/Add.2), respectively.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) requested The Chairman first to consult the Committee on whether it wished the declaration to contain articles which were not included in the draft prepared by the Commission on Human Rights. He pointed out that each of the other articles had been the object of a very thorough examination and formed a harmonious whole. The inclusion of new articles which had not received such careful study as the others might, in practice, have unexpected results.

MR. PAVLOV (Union of Soviet Socialist Republics) considered that the proposal submitted by the Uruguayan representative was not in order, at least in so far as it related to the proposal submitted by the USSR delegation. The latter proposal confined itself to resubmitting the text of article 31 of the Geneva draft,¹ which had been submitted to Governments a year previously; it appeared again in document E/800, distributed to Governments at least six months previously. Everyone had therefore had time to study the implications of the USSR proposal. The procedure to be followed for examining additional articles had already been decided, and Mr. Pavlov could only regard the Uruguayan proposal as an attempt to prevent the adoption of an article which

^[1] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement No. 1.

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gave to each ethnical group the right to develop its own culture.

If the additional article proposed by the USSR were adopted, his delegation would wish it to be inserted after article 6 of the declaration.

He asked that the USSR proposal should be put to the vote.

MR. PÉREZ CISNEROS (Cuba) supported the proposal submitted by the representative of Uruguay. He pointed out that the same procedure had been followed (160th meeting) in connexion with the article relating to the right of petition, which had also been examined at great length before it had been submitted to the Third Committee. It had been found, however, that it would be better to give it further study. The same was true of the texts which had been proposed with regard to the protection of the rights of minorities.

MR. RADEVANOVIC (Yugoslavia) pointed out that the Third Committee was perfectly free to consider other articles besides those proposed in the draft declaration of human rights prepared by the Commission on Human Rights.

The Committee had already decided that question when it had fixed the date up to which delegations had the right to propose additional articles. The proposals before the Third Committee had been submitted two months previously and had been duly distributed to the members. The question of the protection of minorities was closely connected with fundamental human rights.

The adoption of the motion submitted by Uruguay would prevent the Third Committee from giving the minorities the protection they should have.

MR. CONTOUMAS (Greece) stated that the Economic and Social Council had set up under the Commission on Human Rights the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, which was dealing with the question of minorities, and had asked the Secretary-General to define the various forms in which discriminatory measures appeared, and to study the question as to whether and to what extent the treaties and declarations relating to the protection of minorities and dating from the time of the League of Nations were still in force, at any rate in respect of those of their clauses which did not provide for a League of Nations guarantee.¹

To take up the question of minorities without awaiting the results of that study would be a very unwise course, for it would entail the risk of adopting a solution which had reference only to a single aspect of the question (the protection of the language) and perhaps might not square with the conclusions of the Sub-Commission and the Secretary-General.

MR. DEHOUSSE (Belgium) gave three reasons why he considered that the proposal submitted by the representative of Uruguay could not be retained. Firstly, the texts submitted were in order, as they had been presented within the time

^[1] See *Resolutions adopted by the Economic and Social Council during its Sixth Session*, No. 116C(VI).

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fixed by the Committee itself; secondly, some of those texts had already been the object of prolonged examination, although the Commission on Human Rights had not been able to make a decision in their regard; thirdly, it could not be argued that additional articles would disturb the balance of the declaration, since it was understood that a drafting committee would be formed to harmonize the various articles of the declaration. Mr. Dehousse asked that the texts submitted should be considered without delay.

Mr. Malik (Lebanon) took the Chair.

After a brief procedural debate, the CHAIRMAN decided that the Uruguayan proposal could not be put to the vote.

The representative of Uruguay stated that there was nothing to prevent the Committee from voting on that proposal, whereupon the Chairman explained that the proposals for additional articles were in order and that the Committee had not yet discussed them. He recalled that it was only after a discussion on the substance of the question, in which twenty-two speakers had taken part (158th, 159th and 160th meetings), that the Third Committee had considered the proposal to refer the proposed article on the right of petition to the Economic and Social Council and to the Commission on Human Rights. The situation was, therefore, not the same.

THE CHAIRMAN opened the general debate on the additional articles proposed by the USSR, Yugoslavia and Denmark, and asked the authors of those proposals to present them in turn.

MR. PAVLOV (Union of Soviet Socialist Republics) read out his draft additional article. It concerned all persons without exception, whether they belonged to a majority or a minority of the population. The use of the native language and the right of a population to develop its own national music and culture were fundamental human rights.

Since 1917, the peoples of the Soviet Union had proclaimed a voluntary alliance in a declaration of rights and had abolished all privileges and all other obstacles to the exercise of those rights; their relations were therefore based on a voluntarily accepted legal equality. The right to both cultural and political autonomy was laid down in that declaration.

The USSR representative quoted examples of the manner in which cultural autonomy was guaranteed to the sixty great peoples and the hundred or so different nationalities living in the USSR. The success of the solution adopted in that country was confirmed by the fact that there had been no serious friction between the various peoples of the Soviet Union – a state of affairs very different from that which had prevailed during the Tsarist rule. The Second World War had found those peoples fighting side by side in a spirit of brotherhood.

It had been said that the USSR proposal bordered on internationalism. In that connexion it should be made clear that internationalism could be achieved in two ways: firstly, by respecting [720] the rights, the independence and the sovereignty of all peoples, which was the method followed by the Soviet Union; secondly, by assimilating the various peoples; that method the USSR rejected.

In view of the division of the world into exploited and exploiting peoples, the Soviet Union representative understood perfectly well that the majority of countries were not yet prepared to adopt as radical a solution as the one chosen by the Soviet Union since 1917. He had, therefore, limited his draft article to the expression of ideas which could be accepted there and then; they constituted a modest declaration, to which all States which considered themselves democratic could subscribe.

MR. RADEVANOVIC (Yugoslavia) read out his proposal B. It was prompted by the solidarity which linked the individual to the community to which he belonged.

The problem of national minorities was one of protecting small national groups which were scattered like islets in the midst of the territory of a nation. Those minorities were always in danger of losing their national character. In order to ensure the protection of the individuals who formed a community, that community must first of all be recognized and protected. Thus the principle of the recognition and protection of national minorities as communities must appear in the Declaration of Human Rights, The cultural and ethnical rights of all persons belonging to a national minority, the right to develop their own ethnical culture, to establish schools, to use their native language in public administration etc. all depended upon the recognition of the minority itself as an ethnical group, if that minority was to be able to make a collective effort to create the necessary conditions for the enjoyment of those rights. Individual human rights were, in fact, dependent on the position which the community enjoyed in the State in which it lived. That position was contingent upon the solidarity and interdependence existing between the community and the individual.

The problem of minorities was one of protecting men who were bound together by a national bond and who were thus in a special situation with regard to the State.

The Yugoslav proposal aimed, therefore, first of all at the protection of the ethnical rights of national minorities. It did not touch directly upon the individual rights of persons belonging to minorities. It merely constituted a statement of principle, without any practical measures, and it would not, therefore, be sufficient to ensure the protection of individual rights; it would, however, acquire a practical value as soon as provisions concerning the rights of the individual were added to it. Those rights should be expressly recognized as deriving from the principle of the equality of men, irrespective of whether they belonged to a majority or a minority. That was the advantage of the USSR proposal and, in particular, of the Danish proposal. The Yugoslav proposal would acquire full significance when it was joined to that of the USSR.

[721]

MR. HVASS (Denmark) submitted the text which he proposed to add to article 23 of the Declaration of Human Rights. He expressed great interest in the arguments so brilliantly advanced by the representative of the USSR. He thought, however, that Mr. Pavlov's draft was too detailed, whereas a declaration which was to be completed by a covenant demanded brevity and conciseness.

MR. CAMPOS ORTIZ (Mexico) drew the Committee's attention to the fact that there was not the same problem of minorities on the American continent as in Europe or in other parts of the world. Foreigners entering America were not affected by any discriminatory measures. They had the advantage of a very generously

conceived naturalization, with the result that the various legislative bodies had not needed to consider the question of the protection of minorities.

Before the last war, the Nazi and fascist regimes had indeed tried to introduce the idea that they had authority over various minorities throughout the American continent, but their contentions had been invalid. That, moreover, was the opinion of all the Latin-American countries. At the eighth International Conference of American States held at Lima in 1938, a resolution had been unanimously adopted, by which foreigners, enjoying as they did in the countries of the American continent the same rights and privileges as the nationals of those countries, were not entitled to demand special protection as communities.

The representative of Mexico recognized that in countries other than those of the American continent the protection of minorities might be justified; he did not therefore oppose the principle of the inclusion of an article on that subject in the Declaration of Human Rights. Since that problem did not concern America in general and his country in particular, he would abstain from voting upon it.

MR. DE ATHAYDE (Brazil) stated that he could not support the draft submitted by the USSR; if it were adopted and applied, many countries, especially those of Latin America, might find their national unity disrupted.

In Brazil, in particular, all teaching was carried out in the national language. The use of a language was one of the strongest characteristics of nationality. If foreigners were able to use their mother tongue in the schools, before the courts and in various other circumstances, immigrants would have no interest in learning Portuguese and in becoming assimilated as rapidly as possible into the Brazilian population. When he immigrated, a foreigner agreed of his own free will to comply with the laws of the country which received him. He should therefore accept the disadvantages of his situation as an immigrant, since he also had the advantages which went with it. If groups of foreigners living within a State remained too closely attached to the country of their origin, their assimilation into the country that had received them would be jeopardized. That country would be pursuing a policy of national suicide if it were to harbour groups of foreign agents who might prove to be extremely dangerous. The [722] Brazilian representative emphasized that his country, showing a broad liberal spirit and characteristic tolerance, made no distinction between its own nationals and foreigners.

The question raised by the text of the Danish draft resolution did not arise in America either; where it did arise, it should be settled by the application of liberal principles.

MR. SANTA CRUZ (Chile) recognized that the problem of the protection of minorities, with which the drafts submitted by the USSR, Yugoslavia and Denmark were concerned, did arise in many countries. It was therefore necessary to adopt proposals to remedy the situation. The United Nations had been

considering that complex problem for a long time, and the Commission on Human Rights had created the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

He could not, however, agree that the provisions proposed in those three drafts should appear in the declaration of human rights, unless such complex ideas as those of the majority and minority of populations and of ethnical and national culture had first been clearly defined.

The application of those drafts would be extremely dangerous for countries such as Chile, which had received large numbers of immigrants, many of them Europeans persecuted by dictatorial regimes. Nazi Germany had endeavoured to make use of the descendants of the refugees of 1848. Chile had been obliged to forbid any teaching which might foster national feeling among the immigrants. The same problem had arisen in Brazil, which had given the world an unprecedented example of the fusion of races, to which Mr. Santa Cruz paid tribute.

In conclusion, the Chilean representative stated that he was prepared to support any carefully considered measure which might solve the complicated problems dealt with by the three drafts in question, but could not agree to include provisions of universal scope in the declaration of human rights. He proposed that those problems should be referred to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

The Chilean delegation would vote against the proposals for additional articles submitted by the USSR, Yugoslavia and Denmark.

MR. CASSIN (France) declared that his delegation approached the problem of the protection of minorities with a freedom of thought which was all the greater, inasmuch as France was a country which received immigrants and at the same time had extensive responsibilities in various continents and towards numerous races.

The Versailles Treaty and other peace treaties concluded in 1919 had studied the question of minorities only in so far as Central Europe was concerned. The problem had developed considerably since then. The Third Committee, when considering the draft declaration of human rights, had already proclaimed the equality of all men everywhere. The greater part of the rights of [723] minorities was therefore covered by the terms already laid down, but there still remained some questions which had not been considered, especially the question of languages. Some of the proposals made by the representative of the USSR, one of which concerning the right to make use of an interpreter in court had been adopted, were an endeavour to solve certain aspects of that question.

The problem of minorities was greatly complicated by the different structure of the various States. Some countries, such as the USSR, were federal republics in which linguistic minorities were contained within certain specific territories corresponding to States which had previously existed.

Other States were unified; such was the case with old countries, such as France, or with the young States of America, in which new peoples had come to settle side by side with the indigenous populations. In France there were no minorities, but its colonial possessions included Mohammedan countries in which communities of Mohammedans, Jews, Christians, etc., lived side by side. There were also various ethnical groups in Non-Self-Governing Territories, where one hundred and fifty tribes lived together, each with its folk-lore and traditions.

It was therefore exceedingly difficult to find a common denominator for the problems raised by such varied populations. Either the Committee would be unable to find any common denominator other than a principle of infinitesimal scope, which would appear to be useless, or it would have to pass a resolution instructing the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to prepare, side by side with the declaration of human rights, a set of minimal rules which could be applied to cases such as those he had just described.

He was aware of the great things already accomplished by the USSR and Yugoslavia, but he could not support the drafts submitted by their delegations, which were of too general a character. If the measures advocated by the USSR were in fact applied without discernment, there would be a danger of cutting off certain communities and thereby working against the community of nations. Such measures might result in certain populations being unable to read any newspapers except those printed in their own tongue, and in their being excluded from taking part in competitive examinations for official posts or in the active life of the nation; thus, a whole category of persons, whose emancipation was being sought, would instead be cut off from their surroundings.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) stated that, by reason of the regime under which Uruguay was administered, his delegation opposed the granting of special rights to minorities. His country made no distinction between the status of immigrants and that of its own nationals. The law provided for absolute equality of rights for all, and granted immigrants the right to naturalization and free access to public service. The delegation of Uruguay, however, fully realized the necessity of adequate measures to guarantee individual rights in States where the problem of [724] minorities existed. Nevertheless, it could not agree to the inclusion of such provisions in a declaration which was of universal scope.

MRS. KALINOWSKA (Poland) emphasized that the declaration should include the rights of minorities, which represented the positive aspect of the principle of non-discrimination. Between the two wars, Poland had exercised a policy of discrimination with regard to minorities. At the current time, however, not only were the rights of minorities recognized by the Polish Government, but those minorities were in fact being encouraged by the Government, although Poland was neither a large State nor a federal State. Yet the members of those minorities were excellent citizens.

In her opinion, the draft of the USSR contained a more comprehensive and complete affirmation of the essential rights of minorities than did the Danish draft. National culture, which was not mentioned in the Danish text, was the very expression of the life of the national community. In Poland, the first measures taken by the Nazis had been directed against education, and also against the expression of national cultural life. They had even forbidden the performance of Polish music.

The Polish delegation favoured the statement of the rights of minorities in the declaration all the more strongly in that there were at present numbers of Poles living abroad. It was greatly to be hoped that their cultural rights and the right to use their own language would be assured to them.

MR. SAINT-LOT (Haiti) pointed out that the declaration should be a document of universal scope. The representative of France had emphasized in a general way the diversity of the solutions to the problem of minorities, and the representatives of Mexico and Brazil had pointed out that the Latin American countries could not agree to the special treatment of minorities without endangering their national unity. It was therefore impossible to establish a uniform rule for every country. Moreover, article 2 of the declaration proscribed discrimination; yet the protection of minorities would amount to an increase of discrimination.

The delegation of Haiti would vote against the three drafts, but hoped that the Committee would adopt a resolution recommending the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to study the question of a convention or of international machinery to ensure effective protection for minorities, without endangering the national unity of countries and without entailing any aggravation of discrimination.

MR. DEHOUSSE (Belgium) said that his delegation thought that it would be advisable to insert in the declaration a text concerning the protection of minorities. It was not sufficient to consider the individual separately; the individual was also a member of a community.

The Latin American countries had raised objections to the insertion of such a text. The problem of minorities, however, was distinct from that of immigration. The immigrant went to establish himself in a foreign country and it was [725] natural that he should submit to the laws of the country that received him; minorities, on the other hand, were historically constituted groups, settled in one or more determined territories. The Belgian delegation was anxious that mention should be made of that interpretation in the summary record of the meeting.

The League of Nations had to some extent failed in the question of minorities. The weakness of its system lay in the differentiation between the countries which were subject to minority protection and the others. But it had had the advantage of providing a procedure and specific guarantees for the protection of minorities.

The question could be raised whether the League of Nations treaties on minorities were still in force. Without settling that question for the moment, the fact that it was a moot point was an added reason for including the rights of minorities in the declaration.

The Belgian delegation was of the opinion that the three texts submitted were inadequate in that they limited the protection of the minority to the protection of its culture and the right to use its own language. In its opinion the protection of a minority also covered the latter's right to have special institutions with well-defined regional powers.

Nevertheless, the Belgian delegation, which wanted to have an article on minorities included in the declaration, would vote for the text proposed by the USSR; it was the most complete, it defined minorities by referring to race, national origin or religion, and in dealing with the protection of the language it specifically mentioned, not only the right to teach that language, but the right to use it in the Press, at public meetings, in the courts, and in other organs of public administration. Those provisions were in conformity with the practice established by Belgian tradition and legislation.

MR. WATT (Australia) drew attention to the complexity of the problem. The European countries were rightly concerned with guaranteeing the protection of minorities. That problem, however, was unknown in Australia and in the Latin-American countries, where the issue was one of assimilation and not of protection of minorities. The representative of Belgium had drawn a distinction between the question of immigrants and that of minorities. The problem, however, needed closer study: thus, in countries of immigration, would the descendants of immigrants who demanded the right to use their own language be considered as a minority? As for other countries, at what stage was the group recognized as a minority? The Australian delegation agreed with the conclusions of the representative of France.

The only experience Australia had had of the minorities problem was when it had been raised by German propaganda. The Australian Government had consequently been forced to take restrictive measures to guarantee national security, although such measures were not in accordance with the spirit of Australian law. In general, Australia shared the point of view of the Latin-American countries; it desired the dispersal of groups rather than the formation of minorities; similarly it desired that one language should prevail and, though it went without saying that [726] foreign languages were taught in the schools, Australia would not be able to admit as a fundamental right the use before a tribunal of any language other than the national language.

The Australian delegation held that bilateral or multilateral conventions were the appropriate instrument to deal with the question of minorities, rather than the declaration. It would support any resolution which referred the question back to

the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

MRS. ROOSEVELT (United States of America) recalled that the Commission on Human Rights had studied with close attention the possibility of including a provision concerning minorities in the declaration. During its third session the Commission had decided to delete from the declaration article 31 of the Geneva draft,¹ which dealt with minorities, considering that it was preferable to await the conclusions of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities before drafting the text.

Furthermore, the Commission on Human Rights had noted that the problem of minorities was not of a universal nature. The representative of Chile had shown, in connexion with article 23 of the declaration, that the problem was quite different in Europe and in America; other members had stressed the same fact during the current meeting. In America the problem was traditionally one of assimilation. That tradition had been affirmed and established at the Pan American conferences of Lima and Mexico. It was, therefore, impossible to deal in the declaration with a problem which, in actual fact, concerned only the continent of Europe. She must emphasize that, unlike the representative of Mexico, she considered that it was impossible to adopt a neutral attitude on the insertion in the declaration of a right which was not of universal significance.

It had also been argued in the Commission on Human Rights that the guarantee of the rights of the individual made any reference to the rights of minorities superfluous. The rights and freedoms enumerated in the declaration fully covered the rights of minorities, with the possible exception of the provisions of the article as drafted by Yugoslavia. That proposal, however, was of a different character since it concerned the rights of ethnic communities and thus alluded to the very special circumstances obtaining in a State composed of a group of States.

The question of Porto Rico, where Spanish was the official language and where the Governor was a Porto Rican, had been raised in connexion with the United States. Mrs. Roosevelt pointed out that the status of Porto Rico was under discussion and might perhaps be subject to modification and that it would not impede the application of the general principle of voluntary assimilation. In her opinion, the best solution of the problem of minorities was to encourage respect for human rights.

The United States delegation would consequently vote against the three texts before the Committee.

The meeting rose at 1:15 p.m.

[¹] See document E/CN.4/SR.74.

A/C.3/SR.162¹⁴⁴

27 November 1948

***Summary Record of the Hundred and Sixty-Second Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Saturday,
27 November 1948, at 3:30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

90. Draft international declaration of human rights (E/800) (continued)

Proposals Concerning the Protection of Minorities (continued)

MR. CONTOUMAS (Greece) pointed out that the question of the protection of minorities was formally covered in Article 1, paragraph 3, and Article 55 c of the United Nations Charter. That protection was elaborated in greater detail in article 2 of the declaration. It had to be borne in mind that the protection of minorities applied to groups which, although they wished to be treated on an equal footing with the rest of the population, often required differential treatment, enabling them to retain linguistic and other characteristics which distinguished them from the majority. Equalitarian treatment, which met over 85 per cent of the wishes of the minorities, was already ensured to a great extent by the formal provisions of the Charter and of the declaration itself. Differential treatment, or the “remaining questions” mentioned by the representative of France, presented certain very delicate aspects. A minority abusing such treatment tended to become disloyal to the Government of its State and to act as a fifth column at the orders of a foreign Government.

The question was such a delicate one that it was still being studied by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. It would therefore be advisable to await the conclusions of that body rather than to make a hasty decision at once.

Yugoslav proposal B, moreover, dealt with the question of national minorities as “ethnic communities”. Such a proposal was beyond the scope of a declaration of the rights of the individual, since it belonged more properly to the sphere of the political structure of States.

MRS. MENON (India) said she was not interested in participating in a formal debate. The principle being discussed was the right of members of minorities to education, to have their own culture and their own language. As the representative of a country that had been under foreign domination for many years, she would

¹⁴⁴ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 727–36.

naturally support the USSR proposal. India faced difficulties with regard to its own minorities, the most conspicuous example being the partition of the country on religious grounds. However, it hoped to solve those difficulties on the basis of the USSR policy of political integration with cultural independence. In Bombay there were schools for the children of many different national minorities, and in her own province school examinations could be taken in four different languages.

[728]

There were dangers connected with the protection of minorities, as could be seen in regard to the Sudeten Germans in Czechoslovakia and the Jews in Palestine. Those risks, however, had to be taken. Indians were learning Indian philosophy from German writers and studying Indian culture at London University and at the British Museum.

MR. RADEVANOVIC (Yugoslavia) expressed the view that the USSR proposal was much broader in scope than the one put forward by the Danish delegation. The principle of equal rights for all, whether they belonged to a minority or to the majority of the population, was of particular importance. Each minority had its own culture, and, because a country's regime was established by the majority, it was necessary specifically to guarantee the cultural rights of minorities. Unlike the Danish proposal, the USSR proposal was designed to protect the individual member of a minority. It was therefore essential to insert it in the declaration.

MR. DAVIES (United Kingdom) moved the closure of the debate.

The motion was rejected by 14 votes to 8, with 14 abstentions.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) felt that the USSR proposal needed little clarification. It laid down the minimum protection which should be guaranteed to members of a minority and, as such, it should receive the support of the Committee. The individual's right to his own language and culture was one of the most important human rights and played a large part in the development of the race and the nation.

It was impossible to ignore the fact that, at one time, Australia had carried out a policy of forceful elimination of its aboriginal group and that the North American Indian had almost ceased to exist in the United States. In colonial territories, there were no signs that indigenous culture was being developed and encouraged, and yet the representatives of metropolitan Powers made constant references to the spread of civilization. The South African representative had actually spoken of the need to defend Western civilization against the threat of the indigenous population of South Africa. Ninety per cent of the peoples in the British colonies were illiterate, for the development of culture and the colonial yoke were mutually exclusive. It was only in the USSR that such conditions were unknown. There, peoples of many different races and nationalities developed their own cultures and lived together in friendship.

MR. WATT (Australia), speaking on a point of order, protested at the fact that the representative of the Byelorussian SSR had criticized his Government on matters which had not been dealt with by the representative of Australia during the debate. He asked the Chairman's permission for an opportunity to reply.

THE CHAIRMAN stated that he was reluctant to grant him that right since it would be apt to lead [729] to a lengthy extension of the debate. He would consider the matter and give his decision later.

MR. WATT (Australia), again on a point of order, stated that the remark of the representative of the Byelorussian SSR concerning the forceful elimination of aborigines contained a serious charge and that he should be given an opportunity to reply.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic), speaking on a point of order, stated that he had referred to the forceful elimination of aborigines and not to their extermination, adding that his remarks bore no reference to the existing Australian Government.

MR. KAYALY (Syria) pointed out that the principle of the protection of minorities had often been used as a political excuse to interfere with the domestic affairs of other nations. If it were to be incorporated in the declaration, he was afraid that some nations would again feel justified in abusing that principle.

In Africa, the indigenous populations were still prohibited from using their own languages in primary and secondary schools, and were not even allowed to establish universities. That being so it was the duty of the Committee to vote in favour of the individual's right to use his own language and have his own schools. That right should be granted, however, on the understanding that the individual would also be helped towards assimilation. There could be no question of granting the minority the right to interfere in national affairs.

MR. MAYBANK (Canada) said that, in common with certain other representatives, he found it difficult to accept any of the three proposals. It had been stated that the problem of minorities might arise in connexion with immigration or with respect to indigenous national groups. The problem, in the sense in which that word was used in the various proposals, did not exist in Canada. English and French Canadians lived side by side contentedly and, properly speaking, neither could be regarded as a minority.

There were many European and non-European immigrants in Canada. They were free to worship as they pleased and to speak their own language. The Government's policy was one of voluntary assimilation, looking forward to the day when the immigrant would regard himself as a Canadian citizen. While Canadians were free to use whatever language they wanted, the question of education remained within the jurisdiction of each province and the Federal Government neither wished nor was able to interfere in that connexion.

He felt that it was important that the articles of the declaration should have a general application to the peoples of the world. For that reason, he would vote against the Yugoslav, USSR and Danish proposals, but if the Committee so desired, he would be prepared to support the Haitian proposal (A/C.3/373) to refer the question to the Economic and Social Council for further study by two of its organs.

MR. KURAL (Turkey) said that while there were minorities in his country, no group was [730] numerically important. The members of those minorities had the right to freedom of religion and enjoyed the same civil and political rights as the members of the majority. They had the right to use their own language and they could establish schools, publish books and newspapers, etc.

Two objections had been raised to the inclusion of an article on the protection of minorities: firstly, that certain countries wanted to assimilate their minority groups, and, secondly, that the question was under consideration by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. He was in favour of the question being studied more thoroughly, but if the Committee felt otherwise, he would suggest the simple insertion of a reference to the individual's right to teach and use freely his own language, as that was the only provision not already covered by the declaration.

The Yugoslav proposal was not concerned with the rights of the individual and, further, presupposed only the existence of the federated State. The Danish proposal did not contain a reference to the individual's right to use his own language. The USSR proposal was lengthy and confused and the last part of it would tend to transform the languages of minorities into official languages.

MRS. NEULANDS (New Zealand) said that the discussion had convinced her that it would be undesirable to include an article on the protection of minorities in the declaration. None of the proposals put forward was satisfactory to her delegation, but if it was considered necessary, she was prepared to support the Haitian proposal.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that the objections which had been raised against his amendment were unfounded. In reply to the Turkish representative, he said that his proposal meant that the member of a minority would have the right to learn his own language, establish schools, be interpreted in court and so on. It had been suggested that there would be a danger in allowing a minority to retain its own language. He could understand that that view might be shared by the colonial Powers, but was surprised at the support it had received from the Latin-American countries. In his opinion, if it were granted its rights, the minority would remain loyal to the majority.

MR. CASSIN (France) recalled that many unsuccessful attempts had been made in the Commission to draft a satisfactory text concerning the protection of minorities. The proposals that were being put forward were interesting, but could not be regarded as covering the problem as a whole.

In order not to prejudice the future, he considered that the Haitian proposal would have to be adopted. If any satisfactory new proposal was put forward, he would accept it.

MR. DAVIES (United Kingdom) remarked that it was plain from the eloquent speeches of the USSR representative that he was sincerely and strongly in favour of the article proposed by [731] his delegation. His conception of the policies of the British Empire, however, was rather out of date. There had been considerable progress in the colonies towards self-determination, a fact which the USSR representative had chosen to ignore. Considerable care was also taken to preserve Native customs, although the latter sometimes retarded general cultural development. No evidence had been produced that the use of Native tongues was being restricted in any British colony.

The Commission on Human Rights, at its third session, had rejected an article dealing with minorities;¹ no new arguments had been advanced in the current debate to warrant the acceptance of such an article. As the United States representative had aptly remarked, it had not been possible to effect a compromise in a single article between the views of the New World which wished to assimilate immigrants and those of the Old World in which racial minorities existed.

The United Kingdom delegation took the view that the declaration already fully protected the rights of all minorities: thus, article 16 guaranteed freedom of religion, article 17 freedom of the Press and opinion, article 18 freedom of assembly, article 23 the choice of education, article 25 the right to participate in the cultural life of the community, and article 2 expressly protected all minorities. There was consequently no need for any of the three articles before the Committee; the declaration should not contain detailed statements which were not universally applicable.

Of the three articles proposed, the Danish text was the least objectionable, but was too limited in scope. The other two were quite unacceptable. The USSR amendment, in particular, was restrictive: it did not include cultural minorities and, more important still, it failed to protect political minorities.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) stated that his country, like the other republics which composed the Union of Soviet Socialist Republics, had successfully solved the problem of minorities by permitting them freely to develop their national cultures within the framework of a unified State. Numerous figures could be cited to show that under the Soviet regime all those republics had instituted schools, universities and theatres in which the Native languages were used; books and newspapers were printed in those languages. The result had been the greatest flowering of culture, science, music, and literature that the USSR had ever known. Moreover, a close friendship united the Republics, as had been shown by the common effort against the enemy during the war, and the help they were extending to each other in the great work of post-war reconstruction.

He had been somewhat surprised by some of the objections raised to the article proposed by the USSR delegation. In reply to the United Kingdom representative, he referred to a petition

^[1] See E/CN.4/SR.74.

[731]

by Natives of Tanganyika complaining that a proposed law affecting their interests and ostensibly supported by them had not even been translated into their Native tongue and that they had not had due cognizance of it. It was true that Native customs were frequently protected in the Colonies; those were the customs which impeded the cultural development of the Natives and which the colonial Powers found profitable to maintain. It was, unfortunately, equally true that, on the whole, Natives were prevented from using their language and developing their own culture. It was enough to cite the following figures: on the Gold Coast 90,000 out of a population of 3,500,000 Natives attended schools; in Kenya, the Government spent 500 times as much on each European child as on each African child.

He opposed the Haitian draft resolution, which sought to evade a vital issue, and supported the article proposed by the delegation of the Soviet Union.

MR. HVASS (Denmark) said that it was obvious that a number of delegations were in favour of the Haitian draft resolution, to which his own delegation did not object in principle. He suggested, however, that the second, third and fourth paragraphs of that draft resolution should be deleted, and that the words in the last paragraph "ethnic and religious minorities" should be replaced by "national, religious, or linguistic minorities".

MR. CONTOUMAS (Greece) said that he was satisfied, in the main, with the Haitian draft resolution. He himself and the United Kingdom representative pointed out, however, that the problem of the protection of minorities was to a great extent covered in the declaration and that only a few aspects of it required further consideration. He, therefore, supported the deletion of the second, third and fourth paragraphs of the Haitian draft resolution and proposed that the fifth paragraph should end as follows: "a thorough study *of those aspects of the problem of minorities which are not covered by the Declaration of Human Rights and particularly by article 2*".

That last amendment was necessary to avoid giving the impression that the declaration had not dealt with the problem of minorities at all; the fact was that it covered all its aspects with the exception of the differential treatment to be accorded to minorities.

MRS. ROOSEVELT (United States of America) wished to clarify a misunderstanding. In her previous statement she had said that the Sub-Commission on the Prevention of Discrimination and Protection of Minorities was already seized of

the problem of minorities; she had not been in favour of referring that particular question to it.

THE CHAIRMAN stated that the Haitian draft resolution, being of a procedural nature, would be put to the vote before any of the proposed articles. If it were adopted, no further action would be [733] taken on the articles; if it were rejected, the articles would be put to the vote, beginning with that submitted by the USSR delegation.

MR. PAVLOV (Union of Soviet Socialist Republics) stated that the USSR article and the Haitian draft resolution were not mutually exclusive, inasmuch as the latter dealt entirely with the problem of minorities while the former dealt with all persons regardless of whether they belonged to a minority or the majority of the population. Consequently, both texts should be voted on by the Committee.

MR. SAINT-LOT (Haiti) accepted the Chairman's suggestion that the last paragraph of his draft resolution should begin with the words: "*Refers to the Economic and Social Council the texts submitted by the delegations of the USSR, Yugoslavia and Denmark on this subject, contained in document A/C.3/307/Rev.2 and requests the Council. . .*"

THE CHAIRMAN recalled that he had previously made clear to the Committee that the three articles before it fell in the general field of minorities. The Haitian draft resolution was based on that understanding. The addition accepted by the Haitian representative made the situation perfectly clear. If the draft resolution were adopted, the texts currently before the Committee would be referred to other organs for further study.

MR. PAVLOV (Union of Soviet Socialist Republics) said that the Committee should not evade the issue but should have the moral courage to vote either in favour or against the USSR article, which dealt with a most important question.

As that vote was being circumvented, he formally moved that the Committee should vote whether or not it should vote on the USSR article, which had been submitted in due time and in full accordance with the rules of procedure.

He pointed out that that was a procedural motion which called for immediate action.

THE CHAIRMAN stated that the motion was not acceptable.

MR. PAVLOV (Union of Soviet Socialist Republics) felt that his proposal was as acceptable as the Haitian draft resolution.

He submitted that that was the first case on record when an article, properly presented and fully discussed, was not put to the vote. He protested, in the name of the USSR delegation, against such discrimination, and urged that his article should be either accepted or rejected.

THE CHAIRMAN replied that a precedent did exist: similar action had been taken the previous day with respect to the proposed new article dealing with the right of

petition. Moreover, regardless of precedent, it was the rule in organs of the United Nations that procedural proposals with [734] respect to texts had precedence over the substance of those texts.

He ruled that the Haitian draft resolution would be put to the vote first and that if it were adopted the article dealing with minorities would not be voted upon.

MR. PAVLOV (Union of Soviet Socialist Republics) appealed from the Chairman's ruling.

That appeal was rejected by 26 votes to 1, with 2 abstentions.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) moved the adjournment of the meeting.

That motion was rejected by 27 votes to 10, with 1 abstention.

THE CHAIRMAN put the Haitian draft resolution to the vote in parts, as indicated by various representatives.

The representative of Guatemala requested that the vote on the first paragraph be taken by roll-call.

The vote on the first paragraph was taken by roll-call, as follows:

The United Kingdom, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United Kingdom, United States of America, Uruguay, Yemen, Yugoslavia, Australia, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Mexico, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Siam, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Argentina, Belgium, Brazil, Denmark, India.

The first paragraph was adopted by 35 votes, with 5 abstentions.

THE CHAIRMAN then put to the vote the first part of the second paragraph ending with the words "in which arises".

The first part of the second paragraph was adopted by 27 votes to 9, with 2 abstentions.

THE CHAIRMAN put the remaining part of the second paragraph to the vote.

That part was rejected by 20 votes to 13, with 5 abstentions.

THE CHAIRMAN called for a vote on the third paragraph.

The third paragraph was adopted by 33 votes, with 6 abstentions.

After a brief discussion, MR. SAINT-LOT (Haiti) accepted the insertion of the words “in a specific provision” after the words “to deal” in the fourth paragraph of his resolution.

THE CHAIRMAN put the fourth paragraph to the vote.

The representative of Guatemala requested that the vote on that paragraph be taken by roll-call.

The vote was taken by roll-call, as follows:

[735]

The Byelorussian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Canada, Chile, China, Cuba, Dominican Republic, Ecuador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Netherlands, New Zealand, Panama, Paraguay, Philippines, Siam, United Kingdom, United States of America, Australia, Brazil.

Against: Byelorussian Soviet Socialist Republic, Czechoslovakia, India, Lebanon, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Belgium.

Abstaining: Denmark, Mexico, Norway, Peru, Sweden, Syria, Turkey, Uruguay, Yemen, Argentina.

The fourth paragraph was adopted by 22 votes to 9, with 10 abstentions.

THE CHAIRMAN then put to the vote the Danish proposal to delete the second, third and fourth paragraphs.

The proposal was rejected by 24 votes to 10, with 3 abstentions.

THE CHAIRMAN put to the vote the Greek amendment to the fifth paragraph.

The amendment was rejected by 20 votes to 4, with 15 abstentions.

THE CHAIRMAN put to the vote the Danish amendment to the fifth paragraph, replacing the words “ethnic and religious minorities” by “national, religious or linguistic minorities”.

The amendment was adopted by 11 votes to 3, with 26 abstentions.

THE CHAIRMAN then called for a vote on the following portion of the fifth paragraph:

“Refers to the Economic and Social Council the texts submitted by the delegations of the Union of Soviet Socialist Republics, Yugoslavia, and Denmark on this subject, contained in document A/C.3/307/Rev.2 and requests the Council to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and Protection of Minorities to make a thorough study of the problem of minorities.”

The representative of Guatemala requested that the vote be taken by roll-call.

The vote was taken by roll-call as follows:

The Netherlands, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Australia, Canada, Chile, China, Cuba, Dominican Republic, Ecuador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Lebanon, Mexico.

Against: Poland.

Abstaining: Siam, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Argentina, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Czechoslovakia, Denmark, India.

That first portion of the fifth paragraph was adopted by 28 votes to 1, with 12 abstentions.

[736]

The remaining portion of the fifth paragraph, as amended, was adopted by 16 votes to 11, with 10 abstentions.

The fifth paragraph in its entirety, as amended, was adopted by 25 votes to 1, with 11 abstentions.

THE CHAIRMAN stated that, in accordance with the request of the Guatemalan representative, the Haitian draft resolution (A/C.3/373) as a whole, as amended, would be put to the vote by roll-call.

A vote was taken by roll-call, as follows:

Haiti, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Haiti, Honduras, Mexico, Netherlands, New Zealand, Panama, Paraguay, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Australia, Canada, Chile, China, Dominican Republic, Ethiopia, France, Greece, Guatemala.

Abstaining: India, Lebanon, Poland, Siam, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Argentina, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Denmark, Ecuador.

The draft resolution, as amended, was adopted by 24 votes, with 16 abstentions.

The meeting rose at 7 p.m.

A/C.3/W.13

29 November 1948

**Present state of debate on United Kingdom Draft
Resolution (A/C.3/370)***

The General Assembly:

(1) *Cuban amendment:*

Whereas the right of petition is an essential human right as is recognized in the constitution of a great number of countries.

Having considered the draft article on petitions in A/C.3/306 and the amendments offered thereto by Cuba and France;

Decides not to take any action on this matter at this session;

Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the draft Covenant on Human Rights and measures of implementation in order to enable the General Assembly. . .

(2) *French amendment (A/C.3/371)*

1st alternative: “to supplement the Declaration on the subject at its next regular session”

2nd alternative: “to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions”.

[*] Some copies of this document were previously issued in error as A/C.3/1 on 26 November 1948.

A/C.3/314/Rev.1/Add.1

29 November 1948

Original Text: French

**Cuba and Chile: Amendment to the third paragraph
of the preamble (A/C.3/314/Rev.1*)**

Amend the third paragraph to read as follows:

“Whereas it is essential, if *individuals and peoples* are not to be compelled to rebel against tyranny and oppression, *which would be their legitimate right* as a last resort, that human rights should be protected by a regime of law; and”

A/C.3/339/Corr.1

29 November 1948

Original Text: French

**France: Amendment
Corrigendum to Document A/C.3/339**

In paragraph II between No. 2 and No. 3, add the following paragraph No. 2 bis:

“No. 2 bis. Whereas the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the supreme stake of the recent war;”.

A/C.3/351/Corr.1

29 November 1948

Original Text: French

**Ecuador: Amendment to the Preamble
Corrigendum to Document A/C.3/351**

In the last paragraph, between the words “territories” and “of such other countries” insert the words: “under their jurisdiction and among those”. The paragraph will then read as follows:

“Solemnly adopts this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society shall strive to promote respect for these rights and freedoms and to secure their universal recognition and observance, both among the peoples of Member States, among the peoples of territories under their jurisdiction and among those of such other countries as may desire to subscribe to its principles.”

A/C.3/376

29 November 1948

**Draft resolution adopted by the Third Committee concerning
the three proposals of additional articles submitted respectively
by the Union of Soviet Socialist Republics, Yugoslavia
(article B) and Denmark (A/C.3/307/Rev.2)**

The General Assembly

Considering that the United Nations cannot remain indifferent to the fate of minorities,

Considering that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises, and

Considering the universal character of the Declaration of Human Rights,

Decides not to deal in a specific provision with the question of minorities in the text of the present declaration, and,

Refers to the Economic and Social Council the texts submitted by the delegations of the Union of Soviet Socialist Republics, Yugoslavia and Denmark on this subject contained in document A/C.3/307/Rev.2 and requests the Council to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problem of minorities in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities.

A/C.3/377

29 November 1948

Original Text: Spanish

**Argentina: Draft Resolution concerning the Article
relative to the “Right to resist acts of oppression
or tyranny (A/C.3/307/Rev.2*)**

“The General Assembly,

“Considering that the ‘Right to resist acts of oppression or tyranny’ is one of the fundamental human rights, as is recognized in the constitution of certain Member States;

“Having examined this part of the proposal of the delegation of the Cuban Republic (A/C.3/261).

“Decides to take no action in this matter during the present Session;

“Requests the Economic and Social Council to ask the Human Rights Commission to undertake a study of the problem of the ‘Right to resist acts of oppression or tyranny’ and to examine the Cuban proposal with a view to taking a decision during the next Regular Session on the basis of the study to be made.”

A/C.3/378**29 November 1948****Original Text: French**

**Chile: Alternative text for the additional article
submitted by Cuba (A/C.3/307/Rev.2*)**

When a government seriously or systematically violates fundamental human rights and freedoms, individuals and peoples are entitled, without prejudice to an appeal to the United Nations, to resist oppression and tyranny.

A/C.3/SR.163¹⁴⁵**29 November 1948**

**Summary Record of the Hundred and Sixty-Third Meeting
[of the Third Committee]**

Held at the Palais de Chaillot, Paris, on Monday,
29 November 1948, at 10 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

91. Draft international declaration of human rights (E/800) (continued)

Proposals for Additional Articles

Additional article A proposed by the Yugoslav delegation (A/C.3/307/Rev.1/Add.1)

MR. RADEVANOVIC (Yugoslavia) introduced article A which he proposed for insertion in the declaration. He pointed out that the second paragraph of that article did not deal with minorities in the accepted sense, that is to say, nationals of one State living within the confines of another, but with complete national groups forming part of the population of a State.

Every individual was entitled to have his national community safeguarded, inasmuch as his ability to exercise all the other rights granted to him in the declaration depended to a large extent on the status of the community in which he lived, and would be curtailed if that community were the victim of oppression on the part of other national groups which obstructed its free development. It was

¹⁴⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 736–48.

therefore essential to include in the declaration a general statement to the effect that all the national communities composing a State should enjoy equal rights.

He foresaw the objection that the proposed article would not be appropriate in a declaration [737] of the rights of the individual. Man could not, however, be regarded as isolated from his fellow human beings. In the modern world, every individual was a member of a social group, and his rights depended largely upon the status of that group. The declaration already contained article 14, which dealt with the family, and articles 19 and 26, which dealt with the State; since it had been recognized that a mention of those two groups was necessary for the full protection of individual rights, it could hardly be argued that an article dealing with national communities was unacceptable because it did not directly state an individual right. That third group, which fell between the other two, deserved express mention for the same reasons. The proposed article would complete the concept, already included in the declaration, of the individual as a member of society.

Yugoslavia's own experience gave proof of the harmful effects of the oppression of one national group by another within a State. It was at present a free union of several autonomous republics, each representing different nationalities, in a federated State. All those republics enjoyed full equality of rights, as consequently did their citizens.

Equality of individuals was impossible without the equality of the national groups to which they belonged. Consequently, the principle contained in the proposed article must be written into the declaration as a prerequisite to the enjoyment of all the other rights stated therein.

MR. CONTOUMAS (Greece) observed that the only part of the proposed article which could properly be considered in connexion with the declaration was the phrase "Any person has the right to the recognition and protection of his nationality", if the word "nationality" was used in its true sense, that of relationship of allegiance existing between individual and the State to which he belonged. If such was the case, the wording proposed by the Yugoslav representative would repeat the provisions of article 13 of the declaration, and would, consequently, be useless.

The author of the proposal, however, had been careful to indicate that by protection of nationality he meant the preservation of the ethnic characteristics of the individuals belonging to minorities. But that was a question relating to the protection of minorities, and still under study by a special United Nations sub-commission: it could not, therefore, be dealt with in the declaration.

Lastly, in so far as it dealt with national communities forming part of the population of a State, it could not be considered in connexion with the declaration, the subject of which was the rights of the individual, though it might one day deserve attention, should the United Nations ever decide to deal with the subject of federalism.

MR. KAYALY (Syria) fully agreed that the rights of man both as an individual and as a member of society should be thoroughly covered in the declaration. Article A proposed by the Yugoslav representative contained a concept that was both novel and just; it was, however, superfluous, since the declaration protected man's [738] individual rights directly and on an equal basis, regardless of whether he belonged to a national minority or not.

The only reason for extending protection to national communities could be that individuals within those communities were victims of discrimination; but the declaration proclaimed the equality of the rights of all individuals without distinction. There was consequently no need for special protection on grounds of nationality.

The proposed article might, in fact, be regarded as destructive rather than constructive, since it appeared to be based on the assumption that Governments which subscribed to the declaration would not treat all their citizens alike.

It had been previously decided to refer to the Economic and Social Council articles dealing with the problem of minorities; the proposed article raised an analogous problem and should be accorded similar treatment.

MRS. ROOSEVELT (United States of America) remarked that the general statement she had made at the 161st meeting with respect to the articles dealing with minorities applied to article A as well, with the exception of the opening phrase of that article, the subject of which had been included, after a lengthy debate, in article 13.

MR. DEHOUSSE (Belgium) said that the proposed article – and in particular its second paragraph – raised the delicate and controversial question of federalism. It appeared to imply that States with heterogeneous populations should adopt the federal system of government. While Mr. Dehousse shared that view with respect to his own country, he could not consider it universally applicable or desirable.

Article A was concerned, not with the rights of man, but, as its sponsor had aptly remarked, with the rights of national communities as distinct from national minorities. It was, in effect, a recommendation to Governments to adopt the federal system.

Since he did not wish to vote against the principle of federalism and was unable to vote in favour of a text which went beyond the limits of the declaration, he would abstain from voting on the article.

MR. CASSIN (France) thought that article A raised another aspect of the problem of nationality than that covered in article 13. The text, while extremely interesting, could not be properly included in the declaration of human rights; its place was, rather, a declaration of the rights of nations. The status of national groups within a State was an important question, but not one which could be resolved in a debate on the rights of man.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that his delegation would vote in favour of article A. The thesis that the article was unacceptable because the declaration dealt with the rights of the individual was untenable. Man

could no longer be [739] considered apart from the community in which he lived, whether or not he happened to belong to a national minority. There was no reason why the declaration should not guarantee the rights of that community, since by so doing it would, in a concrete and practical manner, guarantee the free exercise of individual rights.

He could not agree with the Belgian representative that the Yugoslav article was a recommendation favouring the federal system of government. It contained no mention of the principle of federalism; it merely granted equality of rights to all national groups, thereby providing special protection for minorities which stood in great need of it. The rights of the majority were protected by the declaration as a whole; it was only just to reserve one article to the rights of minorities.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) recalled that his delegation had opposed the action taken by the Committee at the previous meeting to postpone consideration of articles dealing with the rights of minorities. He still held that the right to his Native culture was a basic right of every human being.

He thought article A should be included in the declaration because it would supplement article 2 and would provide recognition of each man's right to live in a free and freely developing national community. It was a concrete and realistic statement, which applied equally to the majority and the minority and was sorely needed in the declaration.

The delegation of the Byelorussian SSR would consequently support it.

MR. WATT (Australia) had no desire to minimize the importance of the problems raised in the Yugoslav article. He could not but agree, however, that there was no place for it in the declaration. The question of minorities was no longer before the Committee. In so far as the article dealt with man's right to a nationality, it was a repetition of article 13; in so far as it dealt with the right of a nation to free development and equality, it was a repetition of Article 2, paragraph 1 of the Charter, which, being binding upon its signatories, surely did not require repetition.

He thought the second part of that article dealt not with national minorities, as some representatives had said, but with countries already organized on a federal basis. That was the structure of his country; a number of others might, however, prefer a centralized form of government.

He was unable to support the Yugoslav article.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) pointed out that national communities in many countries were suffering from discriminatory treatment. The Yugoslav proposal was therefore useful and should be included in the declaration. The representative of Syria had argued that to demand equal rights for national communities would be destructive rather than constructive, because Governments must treat all their nationals on a footing of equality. There were, however, countries where such communities did not in fact enjoy equal rights, so

that the Syrian representative's view was incorrect and the explicit statement of that right was essential. Equality of treatment between national communities was not destructive, as conditions in his own country showed; on the contrary, it made for friendship between the peoples and the wellbeing of the State. He disagreed with the representative of the United States who had argued that the Yugoslav proposal was superfluous because article 13 as amended covered the right to nationality. The Yugoslav proposal had no connexion with that article because it went much further by mentioning the free development of the nation and of national communities.

The representative of Belgium had claimed that the Yugoslav proposal went too far and implied that the General Assembly would be recommending the adoption of a federal system. Nothing in the proposal could be so construed. He pointed out to the Belgian representative that it was no valid objection to say that the proposal constituted a recommendation to Governments, because the entire declaration was intended as such. He disagreed with the Syrian representative's suggestion that the problem should be referred to the Economic and Social Council. That might appear merely an effort to exclude the proposed article from the declaration. It had been sufficiently discussed by the Third Committee.

He would therefore vote for the Yugoslav proposal.

MR. RADEVANOVIC (Yugoslavia) explained that the basic idea of his proposal had been to safeguard the rights of national communities which existed within a state community. Such communities had to have equality of national, political and social rights. The individual and the community were closely interdependent. The provision in the second paragraph should be regarded as a condition for the enjoyment of human rights. It did not imply insistence upon a federal system although his country naturally preferred that system; but that was not necessarily the sole solution of the problem. He welcomed the support given by some delegations.

THE CHAIRMAN, at the request of the representative of Iran, put the additional article A proposed by Yugoslavia to the vote in parts.

The first paragraph was rejected by 20 votes to 8, with 8 abstentions.

The second paragraph was rejected by 22 votes to 6, with 8 abstentions.

Additional article C proposed by Yugoslav delegation (A/C.3/307/Rev.1/Add.1)¹

MR. RADEVANOVIC (Yugoslavia) said that the declaration should reflect the conscience of the

^[1] Article 3 of the draft universal declaration of human rights (A/777).

[741]

times. The fundamental human rights therein declared should be applicable to every person, including all persons belonging to the population of Trust and Non-Self-

Governing Territories. All delegations would probably agree in principle that the human conscience had progressed so far as to find oppression of colonial peoples intolerable. The declaration could not in itself alter existing conditions, but it could and should proclaim that the principle of human dignity applied to the populations of Trust and Non-Self-Governing Territories, who were in every way equal in dignity to everyone else. The article was not superfluous even in the light of article 2. The general principle of non-discrimination had been repeatedly declared, but it had not always been applied in colonial territories.

A wider statement was needed; the last lines of the preamble were too vague. Such a statement should appear in a separate article rather than in the preamble and should clearly apply to colonial peoples. The preamble was a statement of general principles and might be open to conflicting interpretations; colonial peoples should not be at the mercy of such conflict. The rights of colonial peoples should receive the same consideration as those of others if the declaration was to avoid the appearance of making discriminations.

MR. SAINT-LOT (Haiti) said that his delegation would give the fullest support to the Yugoslav proposal. He had always fought for the universal application of the declaration; without the proposed article, the document would lack universality. A colonial application clause appeared in all international conventions signed by Members of the United Nations under the pretext that signatories could not impose their will upon their colonies. That had, however, never prevented such Powers from imposing their will when they had so desired.

The mention of territories under the jurisdiction of Member States in the preamble was not sufficient; it was not binding, and there had been few precedents which gave much grounds for hope that it would be applied. It was probable that many of the delegations which had opposed the Yugoslav proposal had little idea of the feeling of exasperation and despair generated in peoples living under a colonial regime. The peoples of the Non-Self-Governing Territories above all should be assured that they had the good-will of the United Nations directed towards them.

MRS. ROOSEVELT (United States of America) pointed out that the USSR delegation had submitted an amendment (E/800, page 31) to the preamble very similar to the Yugoslav proposal. Articles 1 and 2 showed clearly that the declaration applied to all human beings. The preamble, moreover, spoke of the peoples of territories under the jurisdiction of Member States. She disagreed with the view that that was vague.

[742]

The Yugoslav proposal was therefore superfluous and repetitious, and her delegation would vote against it.

MR. CASSIN (France) agreed in principle with previous speakers but disagreed on the method suggested. There could be no doubt that the declaration was intended to apply equally to all persons. He would, indeed, submit a proposal at a later stage that

the word “universal” should be substituted for the word “international” in the title of the declaration.

Mr. Cassin pointed out that the part of the preamble quoted by the United States representative was in the operative part and not in the introductory one. While he agreed in principle with the Yugoslav proposal, he thought that the proposal would fit in better in the preamble, which would then be given binding force. To introduce a separate article might give the impression of discrimination against those Members which had Trust or Non-Self-Governing Territories under their care in relation to non-member States, in whose possessions violation of human rights might be much more widespread.

He therefore opposed the Yugoslav proposal.

MR. DEHOUSSE (Belgium) agreed with the representatives of France and the United States. An additional argument against the Yugoslav proposal was provided by article 2, the scope of which was absolutely general in that it stated that the rights in the declaration could be invoked by everyone. He agreed with the representative of France that the principle of the Yugoslav proposal was excellent but that the proposal was unacceptable, because such an article would appear to be an implicit reproach against certain Member States. In the light of article 2, it would be impossible to include a provision referring implicitly to certain particular States.

Mr. Dehousse pointed out that the attitude of certain delegations appeared to be contradictory. At previous meetings they had opposed the right of petition; however they were appearing to favour the proposal under discussion. The Belgian delegation, on the other hand, had been consistent: it had voted for the first two proposals concerning minorities and had abstained on the one concerning the federal system only because it appeared to go too far. If the Yugoslav proposal were adopted, that might be interpreted as discrimination against the States to which it alluded.

MR. SAINT-LOT (Haiti) thanked the representative of France for drawing his attention to the fact that the principle of universality was included in the operative part of the preamble. The position of the Haitian delegation, however, was logical. It was surprising that countries which had had no experience of colonial conditions should attempt to lay down the law to those which had. His country, as representing a number of similar [743] States, had received many petitions asking that such an article should be included into the declaration. It was strange to find the cry for freedom taken up in the Committee by countries which had not had a good record in their dealings with Non-Self-Governing Territories.

MR. CONTOUMAS (Greece) said that the text of Article 76 *c* of the Charter reinforced such arguments as that of the French representative. Mention of peoples under the jurisdiction of Member States in the operative part of the preamble was of a binding character. Repetition in a separate article would merely weaken it.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said that the Yugoslav proposal filled a gap in the declaration. The Committee had always agreed that the rights were applicable to the populations of Trust and Non-Self-Governing Territories. That principle ought to be emphasized in a separate article, particularly in order to avoid confusion when it came to determining the scope of its application. Half of the human race lived under systems which continually violated human rights. The United Nations should declare that the protection of those rights applied above all to such peoples.

The Yugoslav proposal introduced no repetition and correctly defined the scope of the declaration. He had been surprised that certain delegations had raised some objections as to its form; he could not entirely credit their good faith. The peoples to whom the declaration was addressed would have little opportunity to find expressions of sympathy made towards them in the course of those debates; the declaration, therefore, must clearly state that it covered them.

He would vote for the Yugoslav proposal.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that the declaration had been described in the Press as a lofty ideal. Such statements appeared not to realize that very many progressive proposals had failed of adoption. The declaration, however, still contained a number of useful articles which might help metropolitan countries to clarify the existing situation and to progress to a point where they could create decent living conditions for all in Non-Self-Governing and Trust Territories.

The Yugoslav proposal was important because it lent emphasis to such an intention. His delegation would therefore support it.

The principle might be stated either in the preamble or in a separate article. It had been argued that the proposal might be interpreted as a reproach against the countries possessing colonies but the declaration nowhere reproached anyone, and simply stated rights. It should lay emphasis on the effort to achieve democratic progress; there was no need to fear what interpretation might be placed on any specific article. The idea contained in the Yugoslav proposal might alternatively be [744] included in the preamble though if that were done, it would not be as strong as if it were included in a separate article.

He reserved his right to raise the matter again during the discussion on the preamble.

MRS. NEWLANDS (New Zealand) said there were some difficulties in the form in which the Yugoslav proposal was presented. She agreed with the view that the substance was covered in the preamble; a separate article might weaken the effect of the reference to dependent territories. The New Zealand delegation had expressed its views on the substance of the Yugoslav proposal in the light of its own position towards Trust Territories in its draft amendment to the preamble (A/C.3/267).

MR. DAVIES (United Kingdom) agreed with the Yugoslav representative's statement that Trust and Non-Self-Governing Territories should enjoy the rights set forth in the declaration. That document was a most important statement of ideals which the United Kingdom's Non-Self-Governing Territories had fully approved.

He agreed, however with the United States representative that there seemed no necessity to single out such territories for mention. Article 2 left no doubt that the declaration applied to all persons, whether in these territories or behind the "iron curtain"; there could be no question that universal application was intended. The Yugoslav proposal, therefore, was superfluous.

He felt, with the Belgian representative, that there might be some ulterior motive in making special mention of the Non-Self-Governing Territories; it might introduce an element of propaganda into a statement of ideals. It might be that such rights as those contained in articles 11 and 17 were less fully applied in the Yugoslav representative's own country or in some of its neighbours than in Non-Self-Governing Territories; if any areas were to be singled out, they should not necessarily be those territories. There was, however, no ground to single out any group or area, for that would detract from the universality of the declaration.

His country had been in constant consultation with its Non-Self-Governing Territories, which had approved of its attitude throughout the discussions.

Replying to the representative of Haiti, he pointed out that the colonial application clause was simply part of the machinery by which international conventions could become applicable to Non-Self-Governing Territories. That question might be raised again during the discussions on the covenant and the measures of implementation; it was inappropriate to mention it in the declaration. He could see no reason why the Yugoslav proposal had been submitted unless the motive had been political.

MR. SHAHI (Pakistan) said he would vote for the Yugoslav proposal because it was in entire [745] conformity with the provisions of article 2 and the principle of the universal application of the declaration. The idea contained in the proposal was of such great importance that it should be stated explicitly in the body of the declaration instead of merely being left to be interpreted from the document as a whole.

The New Zealand representative had expressed the view that it was unnecessary to insert the proposed new article, as it was already covered by the terms of the preamble. In his opinion, the purpose of the preamble was to set forth in a condensed form what was later laid down in the body of the declaration. For that reason, it was necessary to include a separate article on the rights of colonial peoples.

The Pakistan delegation believed that the greatest deprivation a people could suffer was to be denied its political independence. His delegation's attitude was based, not only on an instinctive sympathy with the lot of dependent peoples, but also on the intellectual conviction that freedom was indivisible. The rights set forth

in the declaration should, therefore, be explicitly extended to the peoples of the Trust and Non-Self-Governing Territories.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) drew attention to the two different attitudes that had been expressed during the debate. On the one hand, there was the point of view of the colonial Powers, who, not surprisingly, objected to the adoption of the Yugoslav proposal. On the other hand, several representatives had demanded equal rights for all the peoples of the world, among them representatives of countries that had experienced the colonial yoke.

The declaration indicated that human rights should be enjoyed by all the peoples of the world. For some reason, the representatives of the colonial Powers had argued that the insertion of the Yugoslav proposal would weaken the declaration. The French and Belgian representatives had asked why it was necessary to include a special reference to the Trust and Non-Self-Governing Territories. It was necessary, because it was in those areas of the world that people were not allowed to exercise their rights to equal pay for equal work, to education and so on.

The colonial peoples must be able to see a clear statement of fact that the rights set forth in the declaration applied equally to them as to other peoples of the world, for they might not be able to understand that that was so from the general terms of the document.

The United Kingdom representative had repeated his customary remarks about the "iron curtain" and had accused the Yugoslav representative of submitting his proposal for propaganda reasons. Was it propaganda to say that human rights should be applied in Trust and Non-Self-Governing Territories or, on the other hand, was the United Kingdom representative opposed to the Yugoslav proposal because he did not want human rights to be applied in those territories? He had claimed that conditions in the Non-Self-Governing Territories were better than in the countries behind the "iron curtain". What about the right to freedom of movement in [746] Africa, the right to freedom of expression in the Gold Coast and the many other similar examples of the violation of human rights to which he could refer?

The French representative's suggestion for the substitution of the word "universal" for "international", in the title of the declaration, was not sufficient; it was necessary for the Committee to adopt the Yugoslav proposal. It had been argued that the provisions of article 2 covered the Yugoslav representative's points of view, but that was not the case; article 2 laid down general principles, while the Yugoslav text indicated concretely that the declaration would apply to those who had been specifically deprived of their rights.

The appropriate place for the Yugoslav text could be decided later, but it was essential for the Committee now to express its approval of it.

MR. SAINT-LOT (Haiti) requested a roll-call vote on the additional article C, proposed by the Yugoslav delegation.

A vote was taken by roll-call on article C proposed by Yugoslavia, as follows:

Iraq, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: New Zealand, Pakistan, Peru, Poland, Saudi Arabia, Syria, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, Yemen, Yugoslavia, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Ethiopia, Haiti, India, Iran.

Against: Australia, Belgium, Canada, Chile, China, Costa Rica, Dominican Republic, France, Honduras, Netherlands, Paraguay, Sweden, United Kingdom, United States of America.

Abstaining: Argentina, Brazil, Denmark, Ecuador, Greece, Uruguay, Venezuela.

The additional article C was adopted by 16 votes to 14, with 7 abstentions.

MR. SANTA CRUZ (Chile) recalled that his delegation had consistently supported all measures that would help the Non-Self-Governing Territories and lead to their complete independence. He had been unable to vote for the Yugoslav proposal, however, because there was nothing in the declaration which would leave the slightest doubt that it was not applicable to all the peoples of the world. The affirmative vote that had been cast implied that there were exceptions as regards the application of the declaration. Furthermore, the manner in which the proposal had been presented and supported had convinced him that it was an effort at propaganda.

MR. BEAUFORT (Netherlands) said he had not spoken during the general discussion of the Yugoslav proposal because his point of view had been made clear by several representatives. He wanted it to be noted, however, that his delegation considered that the declaration was applicable to all the peoples of the world.

He had, voted against the proposed additional article as he felt it would weaken the solemn statement in the preamble and article 2, to the effect [747] that the declaration was for all peoples without discrimination.

MR. JIMÉNEZ DE ARÉCHAGA (Uruguay) had abstained in the vote for the reasons he had given at the previous meeting in regard to the question of minority rights.

MR. CARRERA ANDRADE (Ecuador) drew attention to the vote that had been taken on the additional article A, proposed by the Yugoslav delegation. He had abstained on the first paragraph as he felt it would mean unjustified interference in the internal affairs of the State. Further, the free development of the nation was not a right; it was entirely dependent upon the economic development of the country concerned.

He had abstained on the second paragraph of article A because it dealt with the rights of States and not those of the individual. Further, although he agreed with the principle of equality, it was an expression of political faith that could not be applied to certain backward groups, such as were to be found in parts of Latin America.

He had voted against the proposed additional article C, as he felt it should be taken up in connexion with the covenant rather than the declaration.

MR. KAYALY (Syria) had voted against articles A and B of the Yugoslav proposal, but had voted for article C because he found it necessary to emphasize the principles of the Charter, of the preamble of the declaration and all its various articles. All Member States had proclaimed their support of those principles and yet in many States, Trust Territories and Non-Self-Governing Territories, they were being violated.

He hoped that in the future the States concerned would be sincere in their undertaking to respect the rights both of dependent territories and individuals. The declaration must emerge as a document the provisions of which would not only be read but would also be applied.

MR. THURROTT (Canada) pointed out that his delegation had consistently taken the stand that the declaration must be general in character and in application.

He had voted against the additional article C, proposed by the Yugoslav delegation, because it implied that exceptions to the application of the declaration existed and thereby weakened the effect of the declaration.

MRS. NEWLANDS (New Zealand) had voted for the proposed additional article, despite her belief that its provisions were already covered by the preamble of the declaration, because she wanted to make sure that there would be no misunderstandings about the New Zealand Government's attitude on the question.

Additional article proposed by the Cuban delegation (A/C.3/261) and draft resolution submitted by the Argentine delegation (A/C.3/377) relating thereto

In the absence of the Cuban representative, MR. COROMINAS (Argentina), supported by the representative of Uruguay, pointed out that at [748] the previous meeting, the Cuban representative had said he would withdraw his amendment if the Committee decided to refer the question to the Commission on Human Rights for further consideration. For that reason he submitted the draft resolution contained in document A/C.3/377.

The same question had been raised at the Bogotá Conference, and after considerable discussion it had been referred to the Inter-American Juridical Committee for further study. The Cuban representative had attended the Conference and had agreed to that procedure.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) moved the adjournment of the meeting.

The motion was adopted by 32 votes to none, with 3 abstentions.

The meeting rose at 12:55 p.m.

A/C.3/SR.164¹⁴⁶

29 November 1948

***Summary Record of the Hundred and Sixty-Fourth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
29 November 1948, at 3:15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

92. Draft international declaration of human rights (E/800) (continued)

Proposals for Additional Articles (continued)

Additional article proposed by the Cuban delegation (A/C.3/261) and draft resolution submitted by the Argentine delegation (A/C.3/377) relating thereto (continued)

MR. SANTA CRUZ (Chile) pointed out that it was not the first time that the Committee had considered the right to resist oppression and that the French delegation, in particular, had already submitted to the Commission on Human Rights a text on the subject, contained in document E/CN.4/21. The question having already been studied by several delegations, he did not think that there would be objections to the General Assembly adopting an additional article for incorporation in the declaration, at the current session.

The right to resist oppression was a fundamental right, which was in its proper place among the other essential rights of the individual that the Third Committee had studied in detail during the current session of the Assembly.

Any truly democratic State must respect that right, for it was at the very basis of its existence. The Chilean delegation fully realized the merits of the Cuban proposal but could not accept the vague and too general wording of the text. He preferred resubmitting in his own name the text previously proposed by the French delegation, as an amendment to the Cuban proposal (A/C.3/378). It was a more acceptable text because it took into consideration any serious or systematic violation of fundamental rights and freedoms and the individual's right to appeal to the international authority which, under the Charter of the United Nations, must defend the rights of man.

[749]

Should the Cuban delegation withdraw its proposal, he hoped that it would be adopted in the form of his own amendment.

¹⁴⁶ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 748–757.

MRS. ROOSEVELT (United States of America) criticized the dangerous character of the Cuban and Chilean proposals. In her opinion, the recognition in the declaration of human rights of the right to resist acts of tyranny and oppression would be tantamount to encouraging sedition, for such a provision could be interpreted as conferring a legal character on uprisings against a Government which was in no way tyrannical. It would be better not to enter upon the dangerous subject of particular doctrines which could easily be abused. The third paragraph of the preamble mentioned the question with sufficient clearness to do away with any need to include such proposals in the body of the declaration. She would, therefore, vote against those proposals, as they might be used for evil purposes.

MR. PÉREZ CISNEROS (Cuba) said that the right to resist acts of tyranny and oppression was incorporated in the Cuban Constitution in the form in which it was laid down in his amendment (A/C.3/261). He realized, however, that the French representative had previously submitted a more concise proposal to the Commission, the text of which had just been sponsored by the Chilean delegation in its amendment to the additional article proposed by Cuba.

In reply to the objections that had been raised against the right to resist oppression, he stated that his proposed additional article was not dangerous but expressed a legitimate right which had for its object the independence and sovereignty which the free exercise of human rights should guarantee.

Referring to the history of his country, he observed that that right had been recognized in the Montecristi manifesto, drawn up by Máximo Gómez, which was the cornerstone of Cuban liberation.¹⁴⁷ The same idea had been adopted by many other American nations and was reflected, in particular, in the speeches of Jefferson, Bolivar and San Martin.

It was, nevertheless, difficult to define the right to resist in a manner that was both cautious and precise, as was shown by the work of the Bogotá Conference and then of the Inter-American Juridical Committee at Rio de Janeiro. From that point of view, he recognized the merits of the text proposed by the French representative, which was already old.

Having paid tribute to the French Resistance, he concluded by stating that his delegation did not object to the French text, presently sponsored by the Chilean delegation, but that it would vote for the Argentine draft resolution that no decision should be taken at the present session and that the Commission on Human Rights should examine the question which would come before the Committee again at the next regular session.

MR. CASSIN (France) thanked the Chilean delegation for having sponsored a text submitted [750] unsuccessfully by France to the Commission on Human Rights, in

¹⁴⁷ Written by José Martí and Máximo Gómez in 1895, the Manifesto of Montecristi set out the case for Cuban independence from Spain.

1947. It was based on the noble principles of 1789 and also on the situation created by recent events.

Should the Cuban delegation maintain its additional article, he would propose that it should be amended because it contained a permission to disobey, which should not be included in the declaration. The right to resist acts of tyranny and oppression could be recognized only in the case where such acts were practised by a regime and systematically. The exercise of that right could not be guaranteed in respect of isolated acts against human rights, such as those, for example, committed by a government official.

Should the Cuban delegation withdraw its additional article, he would urge the retention of the minimum concerning that question contained in the third paragraph of the preamble, even if the Argentine draft resolution should be adopted.

In conclusion, he said his delegation was ready to help in improving the text of the additional article proposed by the Cuban delegation. Should it be rejected, he would ask for the retention of the third paragraph of the preamble, without prejudice to the adoption of the Argentine draft resolution.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said he was decidedly in favour of the additional article submitted by the Cuban delegation, which in a simple and unpretentious form repeated a noble idea of unquestioned historical significance. Indeed, the right to resist acts of tyranny and oppression had brought about in the eighteenth century in France that vast popular movement which had thrown off the yoke of tyranny. However, the 1789 Declaration of the Rights of Man and of the Citizen was today regarded by many people as partially obsolete. That right had also formed the basis of the Declaration of the Rights of the People of the Soviet Union. More recently, the Nazi oppression, under which many States Members of the United Nations had suffered, had provided a further reason for mentioning that right in the declaration of human rights.

He would vote for the additional article proposed by Cuba, which, in his opinion, should not have met with any opposition in the Third Committee.

MR. COROMINAS (Argentina) recognized the merits of the additional article proposed by the Cuban delegation. His country had always recognized that right, which was also a real social duty. He was glad to note that that point of view was shared by many delegations.

The Republic of Cuba, whose Constitution established the right to resist acts of oppression or tyranny, had repeated the same formula in its proposed additional article; in Mr. Corominas' opinion, however, the article was too short. As the work of the Inter-American Juridical Committee had shown, a detailed study would be necessary before that inalienable and indefeasible right, which was easier to exercise than to define, could be appropriately formulated in a declaration.

[751]

However, to show that he was ready to cooperate in drawing up an article on that right, he would be ready formally to withdraw his draft resolution. Should the Cuban proposal be rejected, his delegation would have no objection to its own draft resolution being put forward by another delegation, if necessary.

MR. DAVIES (United Kingdom) said he realized that all delegations agreed, in principle, to the additional article proposed by the Cuban delegation; nevertheless, many of them did not want the affirmation of that right to be incorporated in the declaration of human rights. Such a step would be inopportune and dangerous; non-revolutionary democratic methods should be sufficient to do away with tyranny and oppression. The right to resist should manifest itself openly, only when the legal regime came to the point of collapsing, as had been the case with many countries after the Nazi invasion; at such time, resistance was not only a necessity, it was a duty. The aim which the Committee should pursue, however, was to attempt to make recourse to acts of resistance against oppression useless or impossible. Although the history of England showed that in certain circumstances the British people could resort to violence, they had long since returned to the democratic practices derived from very ancient traditions.

He was, therefore, strongly opposed to the Cuban proposal to incorporate in the international declaration of human rights the right to resist. In his opinion, it was not a right, but a last resource and what was to be aimed at above all was the establishment of a system, a rule of conduct, which would ensure the abolition of oppression and tyranny. Recognition of that right would entail the risk of inciting to anarchy. Moreover, how would it be possible to determine precisely where oppression and tyranny began? It would be very difficult to establish such a criterion. He wondered therefore whether the real significance of the adoption of the Cuban additional article was understood.

He agreed with the United States representative that the question was dealt with sufficiently in the third paragraph of the preamble.

Turning to the draft resolution which Argentina had decided to withdraw, he said that he doubted whether a more thorough examination of the question by the Commission on Human Rights would be of any use, since the purely theoretical work of that body would have no influence on the actual facts.

He concluded by stating that he would vote against the Argentine draft resolution if taken up by another delegation and against the additional article proposed by the Cuban delegation, because he considered it dangerous and inopportune.

MR. WATT (Australia) felt that in adopting the Cuban proposed additional article, there would be a danger of creating more difficulties than would be solved. The Australian delegation respected those countries whose constitutions included a clause of that nature. Such a provision, however, [752] could not be reconciled with, for instance, Australian legislation, which aimed above all at preventing

individuals, or groups of individuals, from taking justice into their own hands. If one accepted the case of legitimate defence, the individuals in his country had always, whether by means of civil action or the application of the rule of *habeas corpus*, an established legal recourse against any arbitrary measure.

The legitimization of the right to resist tyranny and oppression would necessitate a clear definition of those two expressions. Such a definition would raise very great difficulties: where did oppression and tyranny begin? The explanations given by the French representative in the text he had proposed were judicious. The provisions of Australian legislation concerning the definition of seditious acts were, however, sufficient to show how difficult it would be to find a definition that would be applicable to all countries.

It would be dangerous to include in the declaration the additional article proposed by Cuba without the necessary guarantees that it would not be used to justify anti-constitutional intrigues within a country. In his opinion, it would be preferable to deal with that subject in the preamble from the point of view expressed in the third paragraph.

The Australian delegation was opposed to the adoption of the additional article proposed by the Cuban delegation.

MR. CARRERA ANDRADE (Ecuador) emphasized the fact that resistance to tyranny and oppression was not a right, but a duty and an honour for the citizen of a democratic country. The additional article proposed by the Cuban delegation would have its place, not in a declaration of rights, but in a declaration of the rights of man and of the citizen. Furthermore, it raised problems of a delicate nature: how could resistance to oppression be made legal when it was necessarily of an illegal character?

In the name of his delegation, he said he would sponsor the draft resolution which the Argentine delegation had first submitted and later withdrawn. He considered it to be the better solution.

COUNT CARTON DE WIART (Belgium) said that the right to resist oppression should be regarded as similar to the right to act in legitimate defence. It was a natural and sacred right which was exercised whenever the security of the individual was threatened. The practice of that right, many examples of which could be found in the history of Belgium, was anchored in the tradition of the Belgian people.

However, the incorporation of that right in the declaration would appear to be incomprehensible: who would decide what constituted an act of oppression or tyranny? The democratic system was based on a freely accepted discipline. It would be inopportune, in a declaration defining the rights of man, to stress the right to resist.

The Belgian delegation was therefore opposed to the adoption of the additional article proposed by Cuba. It did, however, fully support the principle contained in

the third paragraph of the pre-[753]amble to the declaration. The Belgian delegation was also opposed to the Argentine draft resolution, taken up by the delegation of Ecuador, because it did not see the use of any further study of the question by the Commission on Human Rights.

MR. PÉREZ CISNEROS (Cuba) suggested that the third paragraph of the preamble should be discussed simultaneously with the proposal submitted by his delegation. If, during the discussion of that paragraph, the Committee agreed to give it greater clarity and precision by a direct reference, acceptable to all the delegations, to the right to resist oppression, the Cuban delegation would be satisfied and would withdraw its proposal.

THE CHAIRMAN pointed out that it would be preferable to complete discussion of additional articles before considering the preamble.

MR. SANTA CRUZ (Chile) said that, in order to prevent a question of such importance being set aside by the Committee, he would withdraw his amendment to the additional article submitted by Cuba, provided he would be able to submit a joint amendment by the delegations of Cuba and Chile to the third paragraph of the preamble to the declaration.

MR. CARRERA ANDRADE (Ecuador) also withdrew the draft resolution submitted by his delegation.

THE CHAIRMAN accepted the proposal of the Chilean representative.

Additional article proposed by the delegation of Egypt (A/C.3/264)

THE CHAIRMAN pointed out that the additional article proposed by Egypt with regard to the implementation of the declaration was the last one before the Committee, as the delegation of Lebanon had withdrawn its proposal (A/C.3/262).

MR. DAVIES (United Kingdom) considered that the Egyptian proposal might involuntarily create confusion between the significance of the declaration and of the covenant. The United Kingdom delegation was of the opinion that, although the declaration was of great significance, it was a statement of principles devoid of any obligatory character. It should, therefore, be followed by the preparation of a draft covenant providing for the implementation of the rights and freedoms laid down in the declaration, which would be binding as soon as it was signed by the States. Those documents together with the measures for implementation would form the complete text of the charter on human rights. The words "if necessary" contained in the additional article proposed by Egypt, were liable to give the impression that the declaration had an obligatory character or that the draft covenant was not necessary.

The United Kingdom delegation was therefore opposed to that proposal.

MR. AQUINO (Philippines) pointed out that, although the declaration was not legally binding, it imposed a moral obligation. If the Egyptian proposal were

adopted, the moral force of that document would be made to depend on the measures for implementation and on the good-will of the States.

For that reason the Philippines delegation was opposed to that proposal.
[754]

MR. CASSIN (France) stressed the fact that it could be foreseen that a subsequent single instrument would not be adequate to establish sufficient and definite guarantees of the rights laid down in the declaration. A great number of conventions would be necessary. The Egyptian proposal had the disadvantage of being restrictive from that point of view.

The French delegation could therefore not accept it.

MR. SAINT-LOT (Haiti) considered that the Egyptian proposal raised an important problem. If the declaration was a legal document, it was difficult to argue that the rights enumerated therein had no positive sanction. That would reduce it to a mere enumeration of moral abstractions devoid of any legal value.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought that the terms of the Egyptian proposal were too vague for it to be adopted as an article in the declaration. It was a mere explanation of the implementation of the declaration and, in its present form, it could, in no circumstances, be incorporated into the declaration.

MRS. ROOSEVELT (United States of America) endorsed the remarks made by the United Kingdom representative. The complete text of the charter of human rights would have to comprise, apart from the declaration, a covenant and measures of implementation, and that article would be out of place in the declaration, which was only a statement of principles.

MR. CONTOUMAS (Greece) pointed out that the declaration was to some extent binding, on account of its moral force. If the article proposed by Egypt were adopted, that significance of the declaration would be disregarded, and its implementation would be delayed until the adoption of a subsequent instrument.

He was, therefore, opposed to the Egyptian proposal.

THE CHAIRMAN put the additional article proposed by Egypt (A/C.3/264) to the vote.

That article was rejected by 30 votes to 1, with 6 abstentions.

Preamble

THE CHAIRMAN noted that the amendments to the preamble of the declaration of human rights were recapitulated in document A/C.3/314/Rev.1.

Since three of those amendments concerned the preamble as a whole and aimed at substituting another text in place of that submitted by the Commission on Human Rights, he opened the discussion on the preamble as a whole.

He proposed that statements of speakers submitting amendments should be limited to ten minutes though enabling them to speak again for another ten minutes in a second statement and five minutes in subsequent ones.

The proposal was adopted by 22 votes to 5, with 5 abstentions.

THE CHAIRMAN pointed out that speakers who had not submitted amendments would conform [755] with the decision previously taken by the Committee on the procedure to be followed during the debate on the Declaration of Human Rights. Their first statement would be limited to ten minutes, all subsequent ones to five minutes.

MR. BEAUFORT (Netherlands) submitted his delegation's amendment (A/C.3/219). He recalled the substance of the amendment submitted (92nd meeting) by the Brazilian representative (A/C.3/215). The latter had withdrawn his amendment (99th meeting) during the examination of the articles of the declaration, although reserving the right to return to the question when the amendment proposed by the Netherlands to the preamble was discussed.

The Netherlands amendment affirmed the relation existing between the Creator and man, stated the latter's origin and referred to his destiny.

It had been said that amendments of that kind could not be accepted by members who were agnostics. It would most certainly be a crime to impose ideas, since all convictions should be respected. Those, however, who wished to see their convictions respected, should also respect those of others. For those who were agnostics or atheists, the Netherlands amendment was merely devoid of any meaning, but it could not harm them or offend their conscience, since they adhered to the formula *ignoramus et ignorabimus*. On the other hand, if the amendment were adopted, it would give satisfaction to the majority of the world's population, which, generally speaking, still believed in the existence of a Supreme Being. The amendment proposed by the Netherlands expressed the conviction of that majority which had already keenly felt the absence of such a statement in the Charter. By incorporating the Netherlands amendment in the Declaration of Human Rights, they would be given satisfaction and a serious gap would be filled.

The Chinese representative had recently said that if the proposed provision were given a meaning in conformity with the ideas of the eighteenth century, it might be acceptable to the Committee. The Netherlands representative did not endorse that argument, since the philosophy of the eighteenth century had a one-sided and incomplete idea of man. The Chinese representative had also said that the declaration of human rights should be human. If it was to be really so, the whole nature of man should be described, and that could only be done by giving that nature a comprehensive definition. The fundamental relations existing between man and his Creator should likewise be recognized.

It had been said that the declaration of human rights should not contain statements of a metaphysical nature. It would be an illusion to think it possible to draft a declaration of human rights without referring to metaphysical data. That declaration did, in fact, already state that all human beings were free and equal in dignity and rights; that dignity and those rights derived from the nature of man and since that dignity was inherent in man, by his very nature, one could not but ask what that nature was. Moreover, that definition was required for practical reasons, [756] because the rights of man had to be protected in countries where the omnipotence of the State had precedence over the rights of individuals.

In order to fulfil his destiny, man must comply with many obligations towards his Creator, his fellow human beings, society, the State and the community of nations. It was precisely in order or enable him to fulfil his obligations that man possessed inherent and inalienable rights.

In the majority of documents, it was unnecessary to mention the relation existing between man and his Creator, but in a declaration of human rights, dealing with the whole of humanity, in a document of world significance, which, it might be hoped, would serve as a model for centuries to come, belief in the Creator should be fully expressed.

MR. DE MARCHENA Y DUJARRIC (Dominican Republic) stated that his delegation had submitted its amendment (A/C.3/217 and A/C.3/217/Corr.1) in order to harmonize the terms of the preamble to the Declaration of Human Rights with those which were used in the Charter, so as to avoid any false interpretation. The equality of rights of men and women should be formally confirmed, as had been done in the Charter.

MR. WATT (Australia) stated that his amendments (A/C.3/257) were primarily drafting amendments.

He would speak first of all on the amendment relating to the fifth paragraph. The aim of that amendment was to harmonize the terms of the preamble with those of the Charter. The English text of the preamble said “to achieve. . . the promotion”; it would be preferable to use the expression found in Article 62 of the Charter, and to say simply “to promote. . .”.

With regard to the proposed amendment to the second paragraph, it aimed, on the one hand, at the deletion of any reference to the Second World War, since, as the French representative had pointed out, the declaration of human rights ought to contain immutable principles. It was important not to give the impression that it was prompted by the particular ideas of one epoch. On the other hand, the amendment to the second paragraph aimed at stressing the fact that the fundamental freedoms should be recognized and guaranteed. The Australian representative considered that it was very important to state that the rights and freedoms of man should be guaranteed.

MR. DAVIES (United Kingdom) explained that he had submitted his amendment (A/C.3/253) because, in English, the term “regime of law” suggested the idea of laws as a whole. It should be made quite clear that it was not only a question of applying the laws in force which were easily promulgated and repealed, because that was likely to give a somewhat precarious guarantee of the enjoyment of rights and freedoms; that enjoyment should, above all, be in conformity with the sources of law and that was expressed more clearly in English by the term “rule of law”. It was well known in the United Kingdom that laws were made only because men had to live side by side, but by using the term “rule of law” it would [757] be shown more clearly that every action had to be justified and that every individual could be called upon to answer for his actions. That was of primary importance.

The meeting rose at 6:30 p.m.

A/C.3/379

29 November 1948

Text of articles 1 to 28 of the draft Declaration (E/800) and text of an additional article as adopted by the Third Committee

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2

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

Article 3

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

Article 4

Slavery and the slave trade are prohibited in all their aspects. No one shall be held in slavery or servitude.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(Note: The order of the sentences is not final; it is to be determined by the arrangement committee.)

Article 5

Every human being has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law and equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Everyone has the right to an effective remedy by the competent national [2] tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 7

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 10

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.

Everyone has the right to the protection of the law against such interference or attacks.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 12

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 13

Everyone has the right to a nationality.

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

[3]

Article 14

1. Without any limitation due to race, nationality or religion, men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the free and full consent of the intending spouses. Men and women shall enjoy equal rights both during marriage and at its dissolution.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 15

1. Everyone has the right to own property alone as well as in association with others.

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

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

Everyone has the right to freedom of peaceful assembly and association.
No one may be compelled to belong to an association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections, which shall be universal and equal and shall be held by secret vote or by equivalent free voting procedures.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

[4]

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for his family and himself an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

3. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living adequate for the health and wellbeing of his family and himself, including food, clothing, housing and medical care and necessary social services, and to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood have the right to special care and assistance.

3. Children born out of wedlock shall enjoy the same social protection as those born in marriage.

Article 23

1. Everyone has the right to education, which shall be free at least in so far as elementary and fundamental education are concerned. Elementary education shall be compulsory. Technical and professional education shall be made generally available. There shall be equal access to higher education on the basis of merit.

2. Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of understanding, tolerance, and friendship among all nations, racial or religious groups, as well as of the activities of the United Nations for the maintenance of peace.

3. Parents have a priority right to choose the kind of education that shall be given to their children.

Article 24

Everyone has the right to leisure, to reasonable limitation of working hours and to periodic holidays with pay.

Article 25

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

[5]

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 26

Everyone is entitled to a social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms can in no case be exercised contrary to the purposes and principles of the United Nations.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State, group or person to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.

Additional Article

The rights proclaimed in this Declaration also apply to any person belonging to the population of Trust and Non-Self-Governing Territories.

A/C.3/314/Rev.1/Add.2

30 November 1948

Original Text: French

**Greece: Drafting amendment to the last paragraph
of the preamble (A/C.3/314/Rev.1)**

“Proclaims this Declaration of Human Rights as a common standard of achievement with which individuals and organs of society should become familiar through teaching and education and which all peoples and all nations should strive to attain

by progressive measures, national and international, to the end that recognition and observance of the rights and freedoms herein set forth may be universally and effectively ensured in the immediate future.”

A/C.3/380

30 November 1948

Draft Resolution suggested by the Chairman

The Third Committee

Decides to set up a sub-committee composed of the following eleven members: Australia, Belgium, China, Cuba, Ecuador, France, Lebanon, Poland, Union of the Soviet Socialist Republics, United Kingdom and United States to examine the totality of the Declaration of Human Rights, i.e. the 29 articles and the Preamble, adopted by the Third Committee, solely from the standpoint of arrangement, consistency and uniformity to submit proposals thereon to the Third Committee.

This Sub-Committee in turn will set up a language group of five members, one for each of the official languages, to check and secure the exact correspondence of the text in the five official languages.

A/C.3/381

30 November 1948

Original Text: French

France: Draft Resolution

The General Assembly,

Considering that the adoption of the Universal Declaration of Human Rights is an historic act destined to consolidate world peace through the contribution of the United Nations towards the liberation of individuals from the unjustified oppression and constraint to which they are too often subjected;

Decides that the widest publicity shall be given to this act.

To that end the General Assembly:

1. Recommends Governments of Member States to show their adherence to Article 56 of the Charter by using every means within their power solemnly to promulgate the text of the Declaration and to cause it to be disseminated, displayed, read and expounded in schools and other educational institutions;

2. Requests the Secretary-General to have this Declaration widely disseminated;
3. Invites the specialized agencies and non-governmental organizations to do their utmost to bring this Declaration to the attention of their members.

A/C.3/382/Rev.1

30 November 1948

**Cuba, Chile, France: Joint Amendment to the
Preamble (A/C.3/314/Rev.1*)**

Amend paragraph 3 to read as follows:

“Whereas it is essential, if *man* is not to be compelled to *fall back, as a last resort, on rebellion* against tyranny and oppression, that human rights should be protected by a *rule of law*”.

A/C.3/383

30 November 1948

**Australia and France: Joint Amendment to the
Preamble (A/C.3/314/Rev.1*)**

Substitute the two following paragraphs for paragraph 2:

“Whereas disregard and contempt for human rights *have* resulted in barbarous acts which have outraged the conscience of mankind, and

“Whereas the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest inspiration of the common people.”

A/C.3/385

30 November 1948

Original Text: Russian

**Union of Soviet Socialist Republics: Amendment
to the Preamble (A/C.3/314/Rev.1*)**

After the first paragraph, insert the following:

“Whereas it is essential to ensure observance of all these rights and freedoms in order to promote social progress and improve the living conditions of the peoples;”

Insert before the operative section of the Resolution:

“Whereas it is essential to promote the development of friendly relations between nations;”.

A/C.3/SR.165¹⁴⁸

30 November 1948

Summary Record of the Hundred and Sixty-Fifth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday,
30 November 1948, at 10 a.m.

Chairman: MR. CHARLES MALIK (Lebanon).

93. Draft International declaration of human rights (E/800) (continued)

Preamble (continued)

MR. CARRERA ANDRADE (Ecuador) was surprised that at previous meetings certain delegations had voted against the inclusion of the right of petition. That right was as old as human law and had existed before democracy itself. The declaration, however, was extremely useful and would improve world conditions because a close link existed between international and constitutional law.

The basic text of the preamble contained three main theoretical principles, the mention of a common standard of achievement and a pledge undertaken by the United Nations to secure universal and effective recognition and observance of the rights and freedoms enunciated in the declaration.

His delegation was fully in accord with those general principles but believed that that document should be presented in a way which would ensure the greatest possible attraction to the people for whom it was designed. He thought it would be undesirable to include matter which referred to conflict rather than facts of common assent. Thus the allusion to the Second World War should be deleted.

The USSR amendment could not be accepted because it enumerated rights already incorporated in the body of the declaration. Other amendments might be accepted provided the Committee did not feel that they would weaken the preamble by the introduction of controversial matter.

¹⁴⁸ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 757–69.

The Ecuadorean amendment attempted to place the recitals in their logical order, narrowing from a general statement to the particular. A statement of methods of implementation should not close the recitals, because that might tend to interfere with the sovereignty of States and would in any case be more appropriate in the covenant.

The methods for securing recognition and observance of rights set out in the basic text was restrictive; teaching, education and progressive measures might not exhaust all possibilities. Such measures should be embodied in the covenant, not in the declaration.

MRS. NEWLANDS (New Zealand) agreed that the declaration, as distinct from the covenant, [758] should be a general statement of principles in simple, brief and unambiguous language. That had been achieved, with few exceptions, in the drafting of the articles; the text of the preamble, however, had none of those qualities and was perhaps the weakest part of the text. The preamble clearly showed its origin as an amalgamation rather than a synthesis of a number of drafts. Her delegation had submitted a redraft (A/C.3/267) which made no alteration of substance.

The New Zealand amendment proposed that the first three paragraphs of the present text should be deleted as they did not contain anything essential to an international declaration of fundamental rights and freedoms. The third recital, moreover, might be interpreted incorrectly as suggesting that the declaration constituted the basis for a regime of law protecting human rights.

She believed that it was not necessary to retain more than the first phrase of the fourth recital of the basic text, which appeared to be an amalgamation of different unconnected sections of the Charter. The omission of a reference to the equal rights of men and women which immediately followed the reference in the Charter to the dignity and worth of the human person might be wrongly interpreted. Moreover, the words "to promote social progress and better standards of life in larger freedom" appeared to have been removed from their context in the Charter and were irrelevant in the fourth clause of the preamble.

With regard to the fifth paragraph of the recital, its basis – a condensation of Article 56 of the Charter – omitted the reference to separate action, although the implementation of human rights was essentially a matter for action by Governments. Such an omission might seem to pervert the interpretation of the Charter.

The New Zealand amendment shortened the proclamation paragraph by transferring it to the last recital. That, moreover, gave emphasis to the idea of progressive achievement of the standard set by the declaration. A preamble shortened in the way proposed in the New Zealand amendment would be more consistent with the general form and character which the Committee desired to give to the declaration.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that he attached great importance to the form of the preamble. It could be likened to a passport which

would introduce the declaration to all peoples regardless of the jurisdiction under which they lived. That was why the USSR amendment (E/800, page 31) opened with a reference to the Charter. He believed that the reference in the first paragraph of the USSR amendment to the avoidance of discrimination was also extremely important.

The representative of the Netherlands had proposed the insertion of an assertion of man's divine origin (A/C.3/219). He would remind that representative that the dispute on the divine origin of man had been fought out in Paris as [759] long ago as 1789, when the Declaration of the Rights of Man and of the Citizen had included no reference to divine origin. The statement made then had been progressive, and the discussion should not revert to a still earlier period. The representative of the United Kingdom had advocated a return to the principles of the thirteenth century in declaring that those principles had been the only way of saving his country from totalitarianism after the revolution of the seventeenth century.

The representative of Ecuador, in opposing the USSR amendment, had said that it was undesirable to include a mention of social progress and improvement of living conditions in the preamble. Such matters, however, were the very essence, not only of the declaration, but of the thinking of the twentieth century; it was to that century that the declaration should essentially refer.

The second paragraph of the USSR amendment mentioned improved living conditions precisely because the declaration should have a practical and direct effect upon legislation, which should influence the peoples in their systems of upbringing and education. Those systems, moreover, should not be confined to metropolitan countries but should be extended to the Trust and other Non-Self-Governing Territories so that the development of backward groups might be so expedited as to enable them to reach the level of those countries which had already progressed. The declaration, therefore, should be conceived in terms of the widest possible scope and should thus become an instrument for promoting progress.

Work on the declaration had been strenuous and long drawn out; it would be justified only if the result were likely to promote progress, to be effective in improving living conditions and in promoting peace and the development of friendly relations between nations.

MR. PÉREZ CISNEROS (Cuba) explained that he had withdrawn his proposal of a separate article in order to give it the form of an amendment to the preamble; in his view it would be more effective in that form. He welcomed the support of the representative of Chile, who had associated himself with him in presenting that amendment (A/C.3/314/Rev.1/Add.1).

The word "mankind" in the basic text was too abstract; rebellion could be carried out only by individuals and peoples, thus those words, "individuals and peoples", should be substituted for the abstract term "mankind". His amendment further

proposed that the place of the words “as a last resort” should be altered to reflect the meaning that rebellion would be possible only when all other methods had been exhausted. It also emphasized that rebellion, when undertaken as a last resort, was a legitimate right. That view had already been defended in the course of the debate. It corresponded to the circumstances of the present time and bore no reference to the events of past centuries. There should be no need to defend the view that a resistance movement was by no means out of date, particularly in France.

MR. CASSIN (France) welcomed the intention of all the amendments to improve the presentation of the declaration to the peoples; such presentation was of paramount importance. The [760] word “universal” in the title should replace the word “international” in order to give that emphasis. The fact that the Committee had adopted the Haitian resolution (A/C.3/373), which specifically mentioned the universal character of the declaration, constituted a strong argument in favour of the change.

The preamble should open with the words “We, the peoples of the United Nations” taken from the Charter and originally suggested by President Roosevelt. Other United Nations documents might take the form of proclamations of the General Assembly; but the declaration should follow the technique of the Charter.

With regard to amendment 2 submitted by his delegation (A/C.3/339), the representative of France explained that it was essential to have a preamble which recalled that ignorance of and contempt for human rights were one of the essential causes of human suffering and which specifically referred to the acts of barbarism which had outraged the conscience of mankind. When dealing with the body of the declaration, he had always advocated the removal of any controversial wording; but in the preamble it was absolutely essential to set down a protest against the horrors which had taken place before and during the Second World War out of which the United Nations had risen. Such a protest was the essential starting point for a declaration of human rights.

He would be prepared to accept the joint Cuban and Chilean amendment.

COUNT CARTON DE WIART (Belgium) suggested that one might question the need to have any preamble at all. It might be useless if it merely repeated what was contained in the body of the declaration. If it stated anything else, it might run the risk of being ignored.

He would, however, accept the decision of the Commission on Human Rights and the precedent of the Charter. He agreed with the representative of France that the preamble should derive from the Charter, should be general in scope, solemn in tone and as concise as possible. Some of the amendments submitted appeared likely to improve the basic text.

The Netherlands amendment (A/C.3/219) repeated an idea which had been raised by the representative of Brazil at the 92nd meeting. Count Carton de Wiart was

personally inclined to favour that amendment because it provided the idea of the equality of man with perhaps the only possible ultimate argument and would thus strengthen the declaration. The representative of the USSR had argued that the French Declaration of the Rights of Man and of the Citizen had eliminated reference to the deity; but the American Declaration of Independence differed by the mention of the words “endowed by their Creator”. Such an expression would reach an immense mass of people who would thereby consider that the declaration had been given solemnity. The proposal, however, raised a very delicate philo-[761]sophical problem; and in any case it would be inconceivable for the Committee to try to solve that question by a vote.

He fully supported the first amendment presented by the delegation of the Dominican Republic (A/C.3/217 and A/C.3/217/Corr.1). However, the real equality of rights as between men and women had been affirmed in the body of the declaration. He might question, therefore, whether to repeat it in the preamble might not be inappropriate.

He supported the first three paragraphs of the USSR amendment, but the wording of the fourth paragraph might give rise to ironical criticism when it stated that appropriate legislative and other measures should be adopted by Members of the United Nations at their discretion. With regard to the question of application, the basic text defined the scope better and in more general terms than did the USSR amendment.

With regard to the Australian amendment (A/C.3/257), the deletion of the mention of the Second World War was logical because quite as many barbarous acts had been committed in the First World War, so that there seemed to be no reason to speak of the former without mentioning the latter. In any case, it would be better to exclude controversial matter from the preamble. That argument also applied to the mention of Nazism and racialism proposed by the French amendment (A/C.3/339). It might also be asked why allusions to fascism and totalitarianism had been omitted.

He agreed with the French proposal, however, that the declaration should be entitled “universal” rather than “international”.

MRS. KALINOWSKA (Poland) recalled that a number of pertinent amendments to various articles in the body of the declaration had been rejected on the grounds that the declaration should be clear and concise. That criterion had not, apparently, been applied to the draft preamble, which contained vague and rambling generalities. Moreover, its lengthy introduction led to a surprisingly weak operative clause. Was the work of two years by various bodies of the United Nations to result merely in urging individuals and organs of society to “strive by teaching and education to promote respect for” and to “secure . . . observance” of human rights and freedoms?

The preamble failed to make any mention of the most important subject of the development of friendly relations among nations, although Article 1, of paragraph 2 of the Charter did so; and of the principles of non-discrimination and of the equality of rights between men and women, although they were included both in the Charter and in the body of the declaration itself. The preamble in its present form was inadequate and unsatisfactory; it read more like a sermon than an introduction to so important a document as the declaration of human rights.

[762]

She wished to deal briefly with various amendments proposed to the preamble. The Netherlands amendment failed to take into account the fact that the declaration was a United Nations document which could not properly deal with metaphysical questions. The Netherlands representative's remark that his amendment could be discounted by non-believers (164th meeting) was not a valid argument; it would be most dangerous to apply that reasoning to any part of the declaration, since it could then be applied to any other part.

The text proposed by New Zealand was shorter than the original draft and included a mention of the principle of non-discrimination, but said nothing concerning the promotion of social progress and improvement of living conditions. The text proposed by Ecuador was too general.

The USSR text was the only one which covered the subject fully, since it mentioned the need of social progress and of the promotion of friendly relations between nations, the principle of non-discrimination and the fact that the provisions of the declaration extended to colonial populations. It was, moreover, the only text which recommended the declaration to Member States as a guide for their legislative measures and systems of education. It was both concise and effective, in contrast with the Commission's text, in which fine phrases were used to sugar-coat the bitter pill of substantive inadequacy.

MRS. ROOSEVELT (United States of America) called the Committee's attention to the fact that the preamble as drafted by the Commission on Human Rights represented a composite text reflecting the views of a number of Governments and that the Commission had devoted a great deal of thought to it. In the opinion of the United States delegation that text came as close as circumstances permitted to being generally acceptable and should therefore be retained without change.

She could not accept the USSR amendment because its total effect would be to weaken the preamble and to restrict the scope of application of the declaration. The basic text called upon "every individual and every organ of society" to implement the principles of the declaration, whereas under the USSR amendment the General Assembly would call upon Governments to implement it "at their discretion", a phrase which would seriously impair the moral forcefulness of the declaration as a whole. The fact that the declaration would not be legally binding upon Governments

made it all the more necessary so to phrase the preamble that it would exercise upon them the greatest possible force of moral suasion. The reference to colonial populations was also to be found in the Commission's draft, where it was better worded than in the USSR text.

The United Kingdom amendment (A/C.3/253) represented a stylistic improvement and should therefore be adopted.

[763]

While she personally preferred the Australian redraft of the second paragraph, she realized that a number of delegations strongly favoured express mention of the Second World War and her delegation was prepared to support the original text.

The French proposal to begin the preamble with the words used in the Charter, "We, the peoples of the United Nations", was not acceptable. The declaration would be an act of the General Assembly; it would be misleading to give it the form of an international treaty.

The Ecuadorean amendment (A/C.3/351) contained several good phrases; yet on the whole it was less clear and less concise than the Commission's text.

It could not be said that the New Zealand amendment (A/C.3/267) lacked either clarity or precision; it did, however, omit certain points which the Commission had considered essential and achieved brevity at the expense of substance.

The concept introduced in the Cuban-Chilean amendment (A/C.3/314/Rev.1/Add.1) was adequately treated in the Commission's text. It would be unwise to legalize the right to rebellion, lest the formula should be invoked by subversive groups wishing to attack or undermine genuinely democratic Governments. Honest rebellion against tyranny was permitted by the declaration. Subversive action was quite a different matter and the United States delegation would oppose the inclusion in the declaration of any text sanctioning it.

She did not consider the Dominican Republic amendment (A/C.3/217 and A/C.3/217/Corr.1) necessary. The time had come to take for granted that such expressions as "everyone", "all persons" and "mankind" referred to both men and women.

The United States delegation attached particular importance to the operative part of the preamble, every word of which had been debated at considerable length and which, by describing the declaration as "a common standard of achievement for all peoples and all nations", accurately reflected the true character of that document. It was essential that the operative part should be maintained without amendment.

MR. WATT (Australia), speaking on a point of order, called attention to the fact that the last phrase of his amendment (A/C.3/257) to the fifth paragraph should read: ". . . universal respect and observance of human rights and fundamental freedoms".

MRS. MENON (India) said that her delegation would whole-heartedly support the amendment submitted by the Dominican Republic. She could not agree that the principle of the equality of rights between men and women would be weakened by

repetition or that its general acceptance could be taken for granted. The United States representative had herself stated at a previous meeting that it was dangerous to use general terms since they might be misconstrued.

[764]

The Indian representative called attention to the fact that the fourth recital, which reproduced the language of the Preamble to the Charter, did not reproduce the phrase "the equal rights of men and women" contained in that passage of the Charter. Such an omission appeared strange in a text which was the result of long deliberations. All the objectives of the declaration should be set forth in the preamble in clear and unmistakable terms.

It was quite true that the principle of equal rights for men and women was recognized in the body of the declaration, and that it would be dealt with in the covenant. It should not be forgotten, however, that even explicit laws had been rendered inoperative by judicial interpretation; the fate of the Fourteenth Amendment to the United States Constitution was a striking example of that fact. The omission in the preamble of a statement to the effect that men and women were equal in rights could very easily be construed as permitting discriminatory measures by nations which did not believe in the equality of the sexes. Mrs. Menon consequently appealed to the Committee to adopt the amendment of the Dominican Republic.

She was prepared to support either the preamble as it stood or a compromise text acceptable to the Committee. She would, however, vote against the Netherlands amendment for reasons given on a previous occasion. India was a secular State, in which numerous creeds, ranging from animism to atheism, were practised. The declaration, which was to be universally applicable, could not make a dogmatic statement on that point. Mrs. Menon hoped that the Netherlands representative would withdraw his amendment.

She remarked that the reference to colonial populations contained in the last paragraph of the USSR amendment might no longer be needed, since the Committee had adopted a separate article dealing with that subject. The Australian redraft of the fifth recital appeared preferable to the original text. The New Zealand amendment had the advantage of brevity. It sacrificed, however, some of the ideas contained in the original text, such as the implied right of rebellion against tyranny and the reasons for the promulgation of the declaration by the General Assembly.

She was consequently unable to support it, but would, on the other hand, support the Cuban-Chilean amendment, which would give explicit recognition to the right of rebellion.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) observed that his delegation was not satisfied with the preamble as drafted by the Commission because, while it used solemn phraseology, it failed to state the objectives of the declaration

clearly. Its operative part, when seen in connexion with the recital, appeared to state that the main purpose of the declaration was merely to teach men to respect human rights and freedoms. While there was a vague reference to progressive measures, it contained no recommendation that progressive laws should be passed to ensure a common standard of achievement. Not only did the preamble fail to make concrete proposals but, like the rest of the dec-[765]laration, it attempted to create an artificial cleavage between man and the society in which he lived by treating man as a sort of world citizen living outside time and space – not a creature of flesh and blood, although endowed with reason and conscience.

It was notable that the word “State” did not appear in the preamble at all, and that no mention was made of the duties either of the individual towards the State or of the State towards the individual. Yet the whole declaration was intended to protect the rights of individuals living in society and subject to the laws of different States; it could not, therefore, consider the individual save in relation to society and the State.

The second recital of the preamble might lead the reader to conclude that the barbarous acts committed before and during the Second World War were the only reasons for the statement of human rights and freedoms contained in the declaration. It would have been more correct to indicate that one of the dangers of oppression had been its use by fascists as a method of conquest, that millions of workers and inhabitants of colonies still lived under oppression and that a real threat of further oppression could be seen in the racial theories embraced by some countries, the reactionary, domestic and aggressive foreign policies of others and the continued existence of fascist regimes. It was most unfortunate that the preamble failed to mention either the possibility of a re-birth of fascism or the need to develop friendly relations between nations in the interests of safeguarding human rights.

The USSR amendment was short and concise; it provided concrete guarantees of the protection of human rights; it proclaimed the principle of non-discrimination; it spoke of social progress, the improvement of living conditions and the development of friendly relations between nations. It would ensure the necessary conditions for the preservation of the dignity and worth of the human person and would oppose the spread of fascism. Moreover, its final paragraph contained clear and concrete provisions for the practical implementation of the principles contained in the declaration. For all those reasons, the delegation of the Byelorussian SSR would support the USSR amendment.

Mr. Kaminsky did not consider the Egyptian (A/C.3/264) and Netherlands amendments acceptable because neither could be proved scientifically. Both attempted to justify existing inequalities by metaphysical statements. The

Netherlands amendment, in particular, should be rejected by the Committee, because it was contrary to the constitutions of a number of countries which proclaimed the separation of Church and State and granted freedom of religion and conscience to their citizens. The Netherlands text would be inappropriate in any document of the United Nations, which was a secular organization.

MR. DE ATHAYDE (Brazil) pointed out that it was the possession of certain special qualities [766] which differentiated man from animals. His intelligence, for example, enabled him to progress and to contribute to the wellbeing of the community in which he lived.

The only criticism that could be offered concerning the draft declaration prepared by the Commission was that it remained too limited in time and space. The origin of the concept of rights and freedoms was to be found in the conscience of society itself. More than that, from time immemorial, man had been attempting to set out his thoughts, and that effort would not have been made had he not been of divine origin. The reference to the dignity and worth of the human person, to the barbarous acts committed before and during the Second World War and to tyranny and oppression was the result of centuries of experience. The rights set forth in the declaration existed because of an abstract force and not as a result of any materialistic concept.

The Brazilian delegation had submitted an amendment (92nd meeting) to article 1 with a view to satisfying the religious feelings of the masses. The amendment had been withdrawn (99th meeting), it was true, but it had received warm support in all parts of the world. It should have been adopted by the Committee, for it would have considerably strengthened the declaration. As the document then read, it would be unacceptable to a great part of the peoples of the world. The Netherlands amendment would have the effect of relating the declaration to the human conscience and because that was the element which bound people together the declaration would, thus, become more understandable to the individuals for whom it was intended.

MR. AQUINO (Philippines) supported the amendment put forward by the United Kingdom delegation. As a result of the regime of law, established by Hitler and his satellites, the expression had come to have an obnoxious meaning. He agreed with the French representative that it was necessary to include a reference to the Second World War. Mankind had to be reminded of the fact that a few men, through the use of force, had attempted to eliminate the fundamental freedoms. It also had to be reminded of the fact that freedom could not be taken for granted.

The French amendment, however, made no mention of fascism. The doctrine was still as repugnant as it had ever been and was the basic cause of the militarism which had attempted to destroy the whole of Europe and parts of the Orient. In certain parts of the world, fascists were still on the alert, awaiting an opportunity to seize control.

For that reason, fascism had to be mentioned equally with Nazism and racism, as one of the essential causes of human suffering.

In his opinion, the principle of the USSR amendment, that Member States should promote international understanding through legislation and education, was already covered in the final paragraph of the present text of the preamble. The reference to the populations of Trust and Non-Self-Governing Territories was not necessary in the preamble as it had already been more effectively incorporated in the body of the declaration.

[767]

The South African amendment (A/C.3/226) had fortunately been withdrawn; fortunately, because its motive was so obviously questionable. The French proposal to substitute the word “universal” for “international” was unrealistic. The declaration strove for universality but, at best, could be regarded as having an international character. The amendment put forward by the Cuban and Chilean delegations was already covered by the third paragraph of the basic text of the preamble.

MR. CARRERA ANDRADE (Ecuador) recognized that some aspects of the basic text of the preamble were satisfactory, but disagreed with the order of the ideas contained therein. It should begin, for example, with a reference to the purpose of the United Nations in drafting such a declaration.

The reference to education in the USSR amendment seemed to him rather conservative and tended to weaken the declaration, as many years would be needed for the purpose of educating people to the provisions of the declaration. Furthermore, it was inappropriate to include in the preamble a recommendation concerning the implementation measures to be put into effect by the various individual States.

He sympathized with the motives of the French delegation, but could not support the proposal for the insertion of the words “Nazism and racialism”. It would have the effect of dating a document which, like the Magna Charta and the American and French bills of rights, was intended for all times. The American Bill of Rights, for example, did not contain a single word of reproach, even though it had been drafted at the end of a bitter struggle for independence. Moreover, there was no danger that the barbarities of the Second World War would be forgotten.

The New Zealand amendment contained no new idea and was merely an inadequate synopsis of the basic text. He would support the inclusion of the proposal from the representative of the Dominican Republic. His objections to the Netherlands amendment had been made clear (96th meeting) in the discussion on article 1.

The United States representative had stated that the Ecuadorean amendment was too diffuse, but, in his opinion, it was clearer and more orderly and, therefore, an improvement on the original text.

MR. GRUMBACH (France) recalled the remarks he had made in regard to the Brazilian amendment to article 1. The Netherlands amendment was unacceptable, because it dealt with a matter which had divided men for centuries, and, as the Belgian representative had pointed out, it would be wrong to take a decision by a majority or minority vote on the insertion of a reference to man's origin.

In the past, believers and unbelievers had behaved intolerantly and often cruelly towards each other; neither had been more tolerant in their [768] attitudes. There still would be no point in voting on the Netherlands amendment, however, as agreement was impossible. It was necessary for the declaration to be acceptable to as many Governments as possible so that there might be the most favourable circumstances for its implementation.

For that reason he requested the Netherlands representative to withdraw his amendment.

MR. RADEVANOVIC (Yugoslavia) felt that the preamble stated too many facts, ideas and motives for it to be generally acceptable. The USSR amendment, on the other hand, set forth general principles and objectives and, like the New Zealand amendment, was a concise and clear text.

The former was preferable because it contained the major ideas of the declaration. It referred to the Charter, namely, to the basic law of the United Nations. It emphasized the interdependence of the legal aspect of man and his social progress. Finally, and most important of all, it referred to the promotion of the development of friendly relations between nations.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) felt that the USSR text was the clearest, briefest and most acceptable. All the necessary ideas were included in it, such as the manner in which the declaration should be implemented, the question of social progress and the promotion of international understanding. He could not agree with the Belgian, United Kingdom and United States representatives that the reference to the declaration having to be used at the discretion of Member States was a restriction on the scope of the document.

The Netherlands amendment was unacceptable because it raised a philosophical and often disputed question. It violated the right to freedom of conscience and did not take into consideration the fact that in many countries the State was separated from the church. Should that amendment be accepted, he would be unable to vote for the declaration as a whole.

The New Zealand amendment was simply a repetition of certain of the articles in the declaration. Like the last part of the Ecuadorean proposal, it referred to the declaration as a common standard or ideal to be achieved by Member States. He was unable to accept that point of view as certain countries, such as the USSR, had already gone very far towards the achievement of fundamental human rights. Such a provision would, therefore, be restrictive in character.

He would support the amendment put forward by the representative of the Dominican Republic, for the reasons given by the Indian and other representatives. The Cuban and Chilean amendment was very important and should be incorporated in the declaration. It was impossible to speak of human rights without also referring to the right to rebel against tyranny and oppression. It had been suggested that the right to rebel could be abused. In his opinion, such fears were unjustified, on the grounds that where no tyranny [769] or oppression existed, there was no danger of incitement to revolt. The right was an important one because of the existence of fascist countries such as Franco Spain.

MR. CARRERA ANDRADE (Ecuador) drew attention to the fact that in the French text of the corrigendum to his amendment (A/C.3/351/Corr.1) the words *l'idéal commun* should be changed to read *la norme commune*.

The meeting rose at 1:5 p.m.

A/C.3/SR.166¹⁴⁹

30 November 1948

Summary Record of the Hundred and Sixty-Sixth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Tuesday,
30 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

94. Draft international declaration of human rights (E/800) (continued)

Preamble (continued)

MR. WATT (Australia) began by discussing the amendments proposed as a new text for the preamble. Of those, the USSR amendment (E/800, page 31) would be acceptable at any rate in so far as the first two paragraphs were concerned. He was, however, somewhat apprehensive of the last paragraph, for it expressed a tendency which had recently appeared in the Committee to endow the declaration with a legally binding character, while the legal obligation of States to implement the declaration must be the object of a subsequent covenant. If such a character were given to the declaration, many delegations would find it impossible to sign it, and its scope would thereby be limited.

¹⁴⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 769–81.

The New Zealand amendment (A/C.3/267) was praiseworthy for its brevity, but it did perhaps carry that virtue too far, for it did not take into account certain important principles. If the delegations which had stated those ideas considered that they should be contained in the declaration, they could not be better placed than in the preamble.

A noble and lofty style, such as that of the Ecuadorean amendment (A/C.3/351 and A/C.3/351/Corr.1), should be adopted in a preamble of such importance. However, the third and fifth recitals of the preamble were couched in terms which ought to be more explicit.

Passing to the amendments merely contemplating the modification of the text of the Commission on Human Rights, he stated that his delegation would be prepared to accept the Netherlands amendment (A/C.3/219). However, the opinion of delegations which were opposed to its adoption should be taken note of. Similarly, while he considered that the Dominican Republic amendment (A/C.3/217, A/C.3/217/Corr.1) was superfluous, he would conform to the general opinion, if a majority decided in its favour.

The joint amendment submitted by Cuba and Chile (A/C.3/314/Rev.1/Add.1) was prompted [770] by a most laudable principle, but since the text of the preamble contained the essentials of that amendment, he hoped that the delegations of Cuba and Chile would not insist on maintaining it.

In conclusion he said that his delegation would reserve its opinion concerning the amendment it had submitted (A/C.3/257), which was, however, only of a drafting character; it would decide whether to retain it or withdraw it in the light of the forthcoming debate.

MR. CASSIN (France) pointed out that all the new texts proposed as substitutions to the text submitted by the Commission on Human Rights had a great advantage over the latter in that they were brief. In that respect, the USSR amendment would be particularly apt, except for its last paragraph, which the French delegation could not accept, as it largely overstepped the bonds determined by the Charter with regard to the competence of the States and the United Nations; the text prepared by the Commission on Human Rights was therefore the better one. That text was also better than the one contained in the New Zealand amendment, the operative part of which did not contain any definite programme and gave no prospect that States would be called upon to take measures to harmonize their respective legislation with the principles laid down in the declaration.

The Ecuadorean amendment was drafted in noble terms. He considered that some of its paragraphs should serve as a model for the corresponding paragraphs of the final text.

Finally, he thought that the three texts submitted as substitutions would be perfectly acceptable if the fourth paragraph of the Commission's text did not

already contain a reference to social progress and to living standards and moreover recalled very aptly certain provisions of the Charter. He therefore considered it unnecessary to modify that part of the text proposed by the Commission on Human Rights.

As regards the amendments proposing changes of detail, the French delegation could not lend its support to the Egyptian amendment to the fifth paragraph (A/C.3/264) and thought that the term *favoriser* was too weak, especially since all the States which had signed the Charter had pledged themselves, in so doing, to certain obligations. He preferred the word *assurer*, which was clearer and more forceful. The French delegation could not accept the Australian amendment either, at any rate in its present form; yet that amendment had been prompted by the laudable desire to simplify the preamble and ought to be given special attention.

The United Kingdom amendment (A/C.3/253) proposed the substitution of the expression "regime of law" by the term "rule of law". He perfectly understood the desire for precision which had motivated that amendment. If the English text was thus modified, the French text should also be amended by substituting the term *régime de droit*, which was closer to the English term "rule of law".

As regards the joint amendment of Cuba and Chile, he considered that its wording was too [771] strong. However, as those used in the text of the Commission on Human Rights might be found too weak, he proposed a compromise consisting of replacing the words *en dernier ressort* by the expression *recours suprême*.

In conclusion, he pointed out that, except for certain justified criticisms, the preamble as a whole as worded by the Commission on Human Rights was satisfactory. It had the advantage of being set out logically, since it began with a reference to history and ended with a reference to the Charter. The French delegation would therefore be able to accept only slight modifications.

MISS BERNARDINO (Dominican Republic) thanked the delegations which had supported the amendment submitted by the Dominican Republic, proposing that an explicit mention should be made of the equality between the rights of men and women in the preamble of the declaration. Certain delegations had decided in favour of the principle contained in that amendment, although they considered that it was out of place in the preamble. They had shown the same attitude at San Francisco during the drafting of the Charter of the United Nations. She thought that attitude was the result of an unwillingness to grant women the same rights as those of men.

The delegation of the Dominican Republic was so persistent in its amendment because it was aware that in certain countries the term "everyone" did not necessarily mean every individual, regardless of sex. Certain countries did in fact recognize

certain rights for “everyone”, but experience had shown that women did not enjoy them, as, for instance, voting rights. She thought it was necessary to state that principle explicitly, in order to pay tribute to the part which women had played in the cultural development of the world and to the heroism that they had shown during the war.

She appealed to all the delegations to adopt the amendment submitted by the Dominican Republic unanimously.

MR. CHANG (China) wished to make certain remarks concerning the amendments proposed to the first recital of the preamble. He recalled that he had had the honour of taking part in the work of the Commission on Human Rights and that the members of the Commission had then considered that first recital too long. The Netherlands amendment would make the text even more lengthy and more complex.

Moreover, if the idea of the divine origin of man were to be embodied in the declaration, it should be done in a separate paragraph so as to stress its importance; but as certain delegations had pointed out, it was impossible to decide so important a problem by a vote which would only reflect political factors; for the consideration of such a question the number of votes for each country should be proportional to the size of its population.

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For all those reasons, he hoped that the Netherlands delegation would withdraw its amendment.

MR. DAVIES (United Kingdom) stated first of all that he was happy to note that his delegation’s amendment had received the approval of a number of delegations.

The Netherlands amendment contained a very important principle which he wished to see included in the declaration. Nevertheless, he pointed out that the Committee had already decided not to include the concept of God in the declaration, since it was aware of the fact that such a concept might rouse the opposition of delegations representing more than half of the world’s population. If the declaration was to have a universal character the views of those delegations should be respected.

As regards the amendment of the Dominican Republic, he thought that since the principle which had prompted it was already contained in article 1 of the declaration, that amendment was superfluous. The same was true of the Egyptian amendment.

The USSR amendment had the great advantage of being shorter than the text submitted by the Commission. Nevertheless, he considered that it was not desirable to leave the implementation of the declaration of human rights to the discretion of the States concerned; for that reason the United Kingdom delegation felt itself obliged to vote against that amendment.

The amendment submitted by Australia to the second paragraph (A/C.3/257) was both brief and general. If the Australian delegation retained it, he would vote for it. He did, however, prefer the text of the Commission to the second amendment of Australia concerning the fifth paragraph of the preamble.

The United Kingdom delegation would be glad to accept the New Zealand amendment, which was briefer and the style of which was more lofty than that of the Commission's text, but, on the one hand, that amendment was prompted by a philosophical concept which all the delegations would not perhaps be able to endorse and, on the other hand, its enacting part did not appear sufficiently extensive and definite. The text of the Commission was therefore the better one.

In the same way, the United Kingdom delegation would not be able to vote for the French amendment to the second paragraph (A/C.3/339), which seemed to confuse somewhat the distinct character of the declaration, which should confine itself to proclaiming fundamental human rights, with the character of the covenant, which should show the measures to be taken to implement the declaration. Moreover, a statement to the effect that ignorance of human rights was the essential cause of the world's sufferings would appear to provide an excuse for the atrocities committed by the Nazis.

The amendment of Ecuador had been inspired by very noble principles, but its vagueness made it unacceptable. Nor could the United Kingdom delegation support the joint amendment of Cuba and Chile, which might be construed as an invitation to revolt, since it stressed the right to rebel.

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In conclusion, the United Kingdom representative stated that his delegation would vote for the draft preamble as proposed by the Commission on Human Rights as amended by the United Kingdom and Australian proposals.

MR. PÉREZ CISNEROS (Cuba) thought that, in view of the urgent need to conclude the work, it would be advisable to speed up the Committee's decisions. He therefore proposed the closure of the debate.

MR. SANTA CRUZ (Chile) opposed the motion for closure of the debate. Some delegations, his own for instance, had had no chance to speak; he was sure that, had the Cuban delegation been aware of that fact, it would not have submitted such a proposal.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) endorsed the opinion of the Chilean representative, and added that while some delegations had had no opportunity to speak, others had only been able to submit their own amendments, without making any observations on the amendments of other delegations. It was therefore not advisable to close the debate.

THE CHAIRMAN put the motion for closure of the debate to the vote.

The motion was rejected by 20 votes to 12, with 8 abstentions.

MR. PÉREZ CISNEROS (Cuba) regretted that a technical hitch had prevented the members of the Committee from hearing his second statement, during which, in view of the remarks of the representative of Chile, he had withdrawn the motion for closure of the debate.

MR. ANZE MATIENZO (Bolivia) gave general approval to the terms of the preamble drafted by the Commission on Human Rights, although he would have preferred a simpler style. In order to improve the original text, the Third Committee might take as a model certain amendments, in particular that of Ecuador, the style of which was remarkably clear.

The Bolivian delegation took up the cause of the Netherlands amendment, believing that it was fitting to mention Providence in a document in which man affirmed his rights, which might otherwise appear to be a manifestation of pride.

At the same time, the Bolivian representative endorsed the amendment of the Dominican Republic, paying tribute to the representative of that country for her admirable efforts in support of women's rights.

In connexion with the joint amendment of Cuba and Chile, he referred to the struggles of his nation and other countries on the American continent for the conquest of freedom, and stated that those countries were fundamentally opposed to all forms of tyranny. He deplored the tendency of young peoples to be swept away by the spirit of revolt, to the detriment of political stability, and feared that a solemn affirmation of the right [774] to rebel might encourage anarchistic tendencies. He believed that that matter should be handled with the greatest prudence.

MR. SANTA CRUZ (Chile) thought that the draft preamble proposed by the Commission on Human Rights was on the whole satisfactory and in keeping with the contents of the declaration. Most of the amendments would involve complete redrafting of the original text.

Among the drafts submitted as substitutions, he pointed out that that of Ecuador did not mention economic and social rights, which, on the other hand, were included in the USSR amendment. It might be a good plan for the Committee to draw upon the latter amendment to improve the text of the preamble.

The Chilean representative, having endorsed the amendment of the Dominican Republic, stressed the difficulty of adopting the Netherlands proposal, which touched upon the divine origin of man. He recalled that Chile, where the bulk of the nation was sincerely Catholic, had no mention of Providence in its Constitution, out of respect for the convictions of an important minority. For similar reasons, Chile would not support the Netherlands amendment.

In reply to objections raised to the joint Chilean and Cuban amendment, he declared that the adoption of that draft would not encourage subversive movements

against legitimately established order. The idea of national sovereignty was explicitly safeguarded by article 20 of the declaration, and articles 27 and 28 had been drawn up for the defence of public order in a democratic society. There was nothing in the amendment in question to encourage rebellion against a really democratic regime based upon universal suffrage and respect of human rights. It was concerned only with the right to rise up against a system of tyranny or oppression; such a right was legitimate and sacred.

Opposition to the adoption of that amendment would be tantamount to implicit legalization of acts of tyranny and oppression; its adoption, on the other hand, would give hope to millions of human beings who were suffering under oppression.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the Netherlands amendment was unacceptable to certain delegations, not only from the philosophical point of view, but also as being incompatible with the constitutions of some countries which had proclaimed the separation of the Church and State.

The representative of the USSR supported the amendment of the Dominican Republic. He also stated that he had no objection to the alterations in the text proposed by the representative of the United Kingdom.

The USSR delegation could not accept the addition proposed by the Egyptian amendment (A/C.3/264), because it did not recognize the principle that a man possessed individual rights, independently of his status as a citizen of a given [775] State. He raised no objection, however, to the other Egyptian amendment regarding the French text of the fifth paragraph.

As the Australian delegation had declared that its amendment implied no change of substance, the USSR representative saw no reason for adopting it.

The New Zealand amendment was no improvement on the text of the Commission on Human Rights, except that it was shorter. Furthermore, the final sentence of that amendment, stating that the declaration represented "a common standard for achievement by all peoples and nations", appeared to him to be an exaggeration.

The French amendment concerning the title of the preamble (A/C.3/339), stressing the universal character of the declaration, tended to make it binding upon all countries, whether they were Members of the United Nations or not. The USSR delegation could not accept that principle. On the other hand, the French amendment to the second paragraph contained ideas of which the USSR representative approved, but he did not like the way in which it was drafted, and did not consider the explanation given of the barbarous acts committed by the exponents of Nazism and racialism to be a valid one. The USSR delegation would support that part of the French amendment provided it was suitably reworded.

Referring to the amendment of Ecuador, he considered that it contained too much controversial matter: such as the idea that a juridical standard was the foundation of the existence of peoples, or the theory that disregard for human rights was the main cause of wars and revolutions, The USSR delegation did not consider the amendment acceptable from a sociological point of view.

In reply to objections raised by the representative of Bolivia to the joint Chilean-Cuban amendment, MR. PÉREZ CISNEROS (Cuba) affirmed that those objections were an expression of pessimistic philosophy. The contention of Cuba and Chile, on the contrary, was based on the conviction that all progress in the field of social justice was the outcome of struggle against oppression.

In order to obtain unanimous adoption of its proposal, the Cuban delegation would consent to the use of the expression "to resort to the extreme measure, which was revolt" proposed by the French delegation.

MR. SANTA CRUZ (Chile) stated that his delegation also accepted that amendment.

MR. CONTOUMAS (Greece) stressed the fact that, although the last paragraph of the text proposed by the Commission on Human Rights contained just ideas, it was in a way somewhat illogical. The French text also contained an unfortunate repetition (*les nations devront s'efforcer. . . afin que tous les individus. . . s'efforcent*). For those reasons, the Greek delegation proposed that the final paragraph should be redrafted (A/C.3/314/Rev.1/Add.2) and that the new text should address the need to achieve the aims of the declaration in the near future.

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MR. CARRERA ANDRADE (Ecuador) pointed out that the French amendment to the second paragraph, which condemned Nazism and racialism, was silent on other equally criminal systems, such as Italian fascism and Japanese militarism. As any list of such systems might be incomplete, it would be preferable to abandon the idea of including one in the preamble.

Some of the expressions used in the Australian amendment could well be substituted for the corresponding words in the original text of the Commission.

He warmly supported the joint proposal of Cuba and Chile, which would arouse sympathetic feelings.

Replying to the objections regarding his delegation's draft he remarked that even if certain ideas contained in the two first paragraphs of the basic text were omitted, the preamble would not lose thereby. In answer to the representative of the United Kingdom, who had asked the meaning of the expression *norme juridique*, the representative of Ecuador explained that it meant the legal frame within which the life of a nation unfolded itself.

MR. BEAUFORT (Netherlands) wished to clear up certain misunderstandings in regard to his amendment. The representative of France had said that it was not necessary to take a decision on such a controversial question as the origin of man.

The Committee would not be called upon to vote upon that question, but upon the advisability of mentioning in the preamble the origin and destiny of man.

It was also incorrect to say that a decision had already been taken on the matter when the Brazilian amendment to Article 1 (A/C.3/215) had been considered; a number of representatives had expressed their views, but the Committee as a whole had been unable to give its opinion, since the Brazilian amendment had been withdrawn.

Moreover, the Netherlands representative did not share the opinion that controversial questions should be eliminated in order to attain unanimity. Was agreement really impossible between those who believed that human rights were inalienable and those who affirmed that man was only a means and that the State was an end in itself?

To all those who emphasized the diversity of the various conceptions and beliefs he replied that his amendment was so drawn up as to be accepted by the major portion of the population in every country, being compatible with all religions and even with the ideas of those who believed in the existence of a Supreme Being on strictly philosophical grounds. Bitter experience in the recent past had shown the danger of allowing the monstrous materialistic conception of man as a mere tool in the service of the State.

To the remark that some peoples preferred physics to metaphysics and desired to base human rights on a scientific foundation, he replied that science had to serve not only material, but also [777] spiritual, ends and purposes. If man forgot that important fact, he would be unable to remain the master of creation. Man was, in fact, destroying human and other life by the products of his own spirit while the progress of science could only bring benefit to all if its results were handled in the right spirit; the Netherlands delegation wished that spirit to be included in the declaration.

Nevertheless, in view of the fact that his amendment had not met with the approval of the majority of the members of the Committee, he would not press for a vote on it.

MR. THURROTT (Canada) stated that his delegation preferred the text of the preamble as drafted by the Commission on Human Rights and incorporating the alteration advocated by the United Kingdom. He also hoped that the Australian delegation would maintain its proposals with regard to the second and fifth recitals.

MR. CHANG (China) considered that the two first recitals in the text as submitted by the Commission on Human Rights should be retained. As for the third recital, it would be wise to accept the modification proposed by the United Kingdom delegation. On the other hand, he did not approve of the proposed additions to the fourth recital recapitulating ideas expressed in the Charter.

Although the declaration dealt with all the rights of man, it was not necessary to refer to all of them in the preamble.

MR. CASSIN (France) stated that his delegation withdrew his own amendment to the second recital and would submit a joint amendment with Australia. As for the third recital it would also submit a joint amendment with Cuba and Chile.

The fifth recital of the text, as drafted by the Commission on Human Rights, would be improved by aligning it with Article 55, paragraph c of the Charter, i.e., by adding at the end of the sentence the words "for all".

MR. WATT (Australia) recalled that the purpose of the Australian amendment to the second recital was to delete all reference to the Second World War. Having consulted the representative of France, he would withdraw that amendment and replace it by an amendment jointly submitted by his delegation and that of France (A/C.3/383). It read as follows:

"Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and

"Whereas the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people."

MRS. MENON (India) expressed the opinion that the objection raised by the representative of China to the amendment submitted by the Dominican Republic (A/C.3/217 and A/C.3/217[778]Corr.1) was unfounded. It was quite normal to quote the whole of the second paragraph of the preamble of the Charter in the fourth recital, and not to cut it, as had been done in the text submitted by the Commission on Human Rights.

She earnestly appealed to members of the Third Committee to affirm in the declaration the principle of equal rights for men and women.

MRS. NEWLANDS (New Zealand) regretted that the majority of members of the Committee did not consider brevity to be essential in the preamble. In view of the criticisms that had been made, however, she would not press for a vote on her amendment.

The New Zealand delegation wished to express its sympathy for the Netherlands amendment to the first recital; it would have voted for it had it not been withdrawn by its author.

She shared the point of view of the representative of the Dominican Republic and of India with regard to the fourth recital. The principle of equal rights for men and women should be explicitly mentioned.

In the opinion of her delegation the draft preamble submitted by the USSR had the virtue of brevity. The second paragraph of that draft should be inserted in the text which would be adopted in due course by the Committee. It would be difficult

however to accept the third paragraph because of the phrase: “to be used at their discretion”.

MR. SHAHI (Pakistan) recalled that the United Kingdom representative had stated that the term “rule of law” was preferable to the term “regime of law”, since it guaranteed that any government action which violated human rights would be subject to the jurisdiction of courts and thus provide a more effective guarantee against any such violation. The United Kingdom representative’s statement had not convinced the Pakistan delegation, who considered that the proposed term was inseparably linked to a doctrine special to Anglo-Saxon law. It could not be used in a document of so universal a character as the declaration of human rights. Moreover, there were certain human rights which could not be legally defined, such as the rights established by article 23 or article 25. Those rights could not be guaranteed by courts.

The Pakistan delegation was therefore of the opinion that the United Kingdom amendment was not appropriate to a declaration which was not a legal document but which simply enunciated general principles.

MR. PÉREZ CISNEROS (Cuba) stated that his delegation could not be indifferent to the amendment submitted by the Dominican Republic. Indeed, it was the Cuban delegation, together with the delegations of Brazil, Mexico and the Dominican Republic, which had caused the principle of equal rights for men and women to be enunciated in the Charter.

The Cuban delegation whole-heartedly supported the amendment of the Dominican Republic and hoped that the Third Committee would agree [779] to the necessity of inserting an explicit reference to the principle in the preamble of equal rights for men and women.

Establishment of a Sub-Committee to Examine the Draft International Declaration of Human Rights as a Whole

THE CHAIRMAN asked the Committee to take an immediate decision on the draft resolution which he had submitted (A/C.3/380) to set up a sub-committee to examine the declaration of human rights as a whole, only from the viewpoint of presentation, compatibility and uniformity.

He hoped that that draft would be adopted without a lengthy debate.

MR. SANTA CRUZ (Chile) supported without any reservation the draft resolution submitted by the Chairman. It met the wishes of all the members of the Committee and answered an obvious need.

MR. PÉREZ CISNEROS (Cuba) thought that the draft resolution was entirely in accordance with the procedure his delegation had proposed from the beginning of the examination of the declaration of human rights.

He would ask for clarification on the question whether the work of the Third Committee and of the sub-committee suggested by the Chairman would in due course be carried on simultaneously. There was the possibility that the Committee might hold three daily meetings in order to finish its agenda; the small delegations in particular would find it difficult to accept such a solution. If the sub-committee had to meet while the Third Committee continued its work, he would find it impossible to accept the nomination to serve on the sub-committee.

It would be appropriate for the sub-committee to take into account the Cuban proposal with regard to the final form of the declaration of human rights (A/C.3/218).

MR. WATT (Australia) had the same reservation to make as the representative of Cuba on the holding of simultaneous meetings of the Third Committee and the sub-committee.

THE CHAIRMAN stated that there was no question of holding three daily meetings regularly. He recalled, however, that the Committee had a very important task to fulfil before the end of the session of the General Assembly. The proposed sub-committee would have to accomplish the task entrusted to it in a very short time.

MR. LUNDE (Norway) supported the draft resolution submitted by the Chairman and believed that the sub-committee would perform a very useful task.

Attention must be drawn to the importance of the sub-committee's terms of reference; it would undoubtedly be desirable for it to have unofficial contacts with all the delegations which had submitted amendments to the text proposed by the Commission on Human Rights.

MR. DAVIES (United Kingdom) approved of the Chairman's draft resolution.
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He pointed out, however, that the sub-committee's sole task would be to improve the text referred to it without making any substantive alterations and he therefore thought that it would be desirable to add after the word "uniformity" the words "and of style". He wondered if it would be necessary for the sub-committee to set up a language group; the task of that group could perfectly well be carried out by the technical services of the Secretariat.

MR. CASSIN (France) supported the addition of the words "and of style" proposed by the United Kingdom representative.

The second paragraph of the draft resolution might be so modified as to indicate merely that the sub-committee was entrusted with the task of checking and ensuring the concordance of texts. It would be for the sub-committee itself to decide whether it was absolutely necessary to set up a language group.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) considered that it was indispensable to set up a language group within the sub-committee. The responsibility of correlating the texts in the five official languages could not be left to the technical services of the Secretariat.

In view of the importance of the declaration of human rights the text must be established by representatives of the Member States with the assistance of qualified translators.

In his opinion the Committee should not continue to work while the sub-committee held its meetings and he thought it would be wise to suspend the Committee's meetings for a day or two.

MR. CHANG (China) shared the USSR representative's views on the adjournment of the Committee's work during the meetings of the sub-committee.

THE CHAIRMAN recalled that the Third Committee had a very heavy agenda and that it was consequently difficult to cancel several meetings. The Committee, however, was free to take a decision on that point.

MR. PÉREZ CISNEROS (Cuba) favoured the setting up of a language group. In order to work efficiently, the sub-committee must first draw up the text of the declaration in the two working languages and entrust to the language group the drafting of it in the three other official languages. That was the procedure which had been adopted when the Charter had been drafted at San Francisco.

It would be desirable for the Third Committee to hold only one meeting instead of the three meetings scheduled for 2 December.

MR. SANTA CRUZ (Chile) pointed out that in all probability the session of the General Assembly would soon be adjourned and resumed at Lake Success in the beginning of 1949. There was therefore not so much urgency for the Third Committee to finish its agenda and it would consequently be regrettable to sacrifice the efficiency of the work to considerations of speed.

[781]

On the other hand, he thought that the General Assembly might prolong for a day or two the work on which it was engaged, in order to study the declaration of human rights.

MR. COROMINAS (Argentina) supported without reservation the Chairman's draft resolution. The work of the sub-committee could be done in a matter of hours and he thought there was no need to cancel the meetings scheduled for 1 and 2 December.

THE CHAIRMAN requested the Committee to express its opinion first on the draft resolution (A/C.3/380) and then to decide whether the Third Committee should meet on 1 December.

The draft resolution was adopted unanimously.

By 21 votes to 8 with 7 abstentions, the Committee decided not to meet on 1 December.

The meeting rose at 6:45 p.m.

A/C.3/SR.167¹⁵⁰

30 November 1948

***Summary Record of the Hundred and Sixty-Seventh Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Tuesday,
30 November 1948, at 3 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

95. Draft international declaration of human rights (E/800) (continued)

Preamble (continued)

THE CHAIRMAN said he was anxious that the text of the preamble to the draft declaration should be adopted during that meeting. He explained that since the other drafts had been successively withdrawn, the Committee had now before it only the amendment proposed by the USSR (E/800, page 31), the amendment proposed by Ecuador (A/C.3/351 and A/C.3/351/Corr.1), the joint amendment submitted by Cuba, Chile and France (A/C.3/382/Rev.1), and the joint amendment submitted by Australia and France (A/C.3/383).

THE CHAIRMAN said that he would put to the vote first the two texts to replace the whole of the preamble proposed by the Commission on Human Rights, namely the USSR amendment and then the Ecuadorian amendment.

MR. BOGOMOLOV (Union of Soviet Socialist Republics), requested that the vote be taken in parts.

The first paragraph was rejected by 14 votes to 11, with 8 abstentions.

The second paragraph was adopted by 13 votes to 11, with 10 abstentions.

The third paragraph was adopted by 15 votes to 11, with 9 abstentions.

The fourth paragraph was rejected by 24 votes to 8, with 3 abstentions.

[782]

MR. SANTA CRUZ (Chile) commenting on the result of the vote, asked the USSR representative if he would consent to the second and third paragraphs of his amendment, which had just been adopted, being added to the preamble instead of being substituted for it.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) agreed to the two paragraphs in question being added to the preamble.

¹⁵⁰ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 781–91.

MR. DAVIES (United Kingdom) objected to that procedure, which he declared was unacceptable; the Committee had plainly voted on a new text to substitute for the other; there could thus be no question, at that juncture, of an addition to the preamble.

The USSR representative, moreover, had not made his intentions very clear; he should explain them again.

MR. CHANG (China) said he was very surprised at the change of position which had occurred during the voting. The Chairman should take a vote on whether the two paragraphs which had been adopted should be submitted for the whole of the preamble or not, because a decision to add them to the preamble would create an entirely new situation.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) said that the USSR representative was perfectly entitled to ask that the two paragraphs which had just been adopted be added to the preamble.

MR. SANTA CRUZ (Chile) pointed out that there had been instances of similar changes of position in the past. The USSR representative should, in his opinion, be able to present his amendment as he wished. If the Committee did not agree to an addition being made, it had merely to vote against the two paragraphs as a whole.

MRS. ROOSEVELT (United States of America) pointed out that the addition to the preamble of the two paragraphs which had been adopted separately would constitute a complete change of position; moreover, it would be difficult to superimpose those texts on the preamble, which they to a certain extent duplicated.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) referred to rule 118 of the rules of procedure in justification of his attitude. He quoted, moreover, a precedent in the First Committee in connexion with a draft submitted by his delegation. Only three paragraphs out of six in that draft had been adopted, and the Committee had disposed of those three as it thought fit. The same method should be adopted again at the present time. There could be no question of putting to the vote the two paragraphs which had been adopted separately as a substitute for the preamble as a whole; they should obviously be added to the preamble.

COUNT CARTON DE WIART (Belgium) urged that everyone should be allowed to express his opinion freely and clearly. He noted that the request of the USSR representative was acceptable because the two adopted paragraphs were not at [783] variance with the preamble. They could therefore be added to the preamble, and he supported that solution.

He considered that the Chairman should give a ruling or, if he hesitated to do so, he should consult the Committee.

MR. PÉREZ CISNEROS (Cuba) agreed with the representatives of Chile and Belgium. He declared that points of procedure should be used to whittle down a text. The vote of the Committee had indicated its desire that the two paragraphs

adopted should be inserted in the preamble. If there was any doubt about the matter, they should not be afraid to take a fresh vote, and abide by the decision of the majority.

MR. CHANG (China) wondered where the text should be inserted, if the principle were accepted that the two paragraphs should be added to the preamble. Furthermore, should the two paragraphs be added to the actual preamble, or to the text proposed by the Ecuador delegation?

Mr. Chang proposed that, in order to same time, they should first take a vote, and then the USSR representative should explain in what form he wished the two paragraphs to be added.

THE CHAIRMAN agreed with the Chinese representative's proposal.

MR. AZKOUL (Lebanon) supported those who opposed the proposal to add the two adopted paragraphs to the preamble. He said it was forbidden to change the meaning of the vote, which had indisputably been taken on a substitute text and not on an additional text. The Committee was entitled to reconsider a vote but not to change its attitude in the middle of a vote.

He also stressed that if they were to take a fresh vote on the question, they should first have time to reflect, in view of the extreme importance of the wording of the preamble.

MR. DAVIES (United Kingdom) thought that, under rule 118 of the rules of procedure, the situation was quite clear. The two separately adopted paragraphs should be voted on a substitute for the draft preamble prepared by the Commission on Human Rights. There could be no question of voting on their addition to the preamble. But the USSR representatives was entitled to propose the addition of the two paragraphs, as amendments, during the voting on each separate paragraph of the preamble.

MR. ENCINAS (Peru) stated that neither of the two paragraphs in question was incompatible either with the text of the Ecuador amendment, or with the wording of the preamble as drawn up by the Commission on Human Rights.

He suggested that the new ideas contained in those paragraphs of the USSR amendment which had been adopted should be referred to the newly constituted Sub-Committee so that the latter could decide how they were to be inserted in the preamble.

MR. CASSIN (France) declared that, in justice to the other delegations which had submitted additional texts, his delegation was unable to [784] agree that the USSR amendment should be changed from a substitute text into an additional text.

MR. THURROTT (Canada) objected to the meaning of the vote being modified. Moreover, he wondered, like the Chinese representative, where the addition should be made, if it were decided to add the two adopted paragraphs to the preamble.

MR. BOGOMOLOV (Union of the Soviet Socialist Republics) again defended the thesis that his text should be added to the preamble. The fact that the majority of the Committee had deliberately adopted those two paragraphs indicated that they considered that the preamble would thereby be improved. Hence the Committee had indicated its intention to supplement the preamble by improving it.

In reply to the Chinese representative, he thought that the two paragraphs could be inserted after the first paragraph of the preamble; that was however a question to be settled by the Drafting Sub-Committee.

He asked to be given the necessary time in order to submit his text in the form of a new proposal, and stated that the fact that it had already been accepted by the Committee must of course be taken into account.

THE CHAIRMAN in view of the amount of work still before the Committee, insisted that a vote should be taken on whether the two adopted paragraphs should be substituted for the whole of the text proposed by the Commission on Human Rights.

He opposed the proposal made by the Peruvian and USSR representatives to refer those paragraphs to the Drafting Sub-Committee, since the Committee had as yet no preamble to refer to that Committee.

Finally, he stated that the USSR representative should submit his text in the course of that meeting, in the form of an amendment either to the Ecuadorean text, or the text proposed by the Commission on Human Rights.

He put to the vote the two paragraphs in question as a substitute text for the preamble proposed by the Commission.

That text was rejected by 22 votes to none, with 6 abstentions.

MR. CARRERA ANDRADE (Ecuador) agreed to incorporate in the text of his amendment the joint Cuban, Chilean and French amendment which would replace the fourth paragraph of the text prepared by his delegation. He also agreed that the third paragraph of the USSR amendment concerning the development of friendly relations between nations should be added at the end of the second paragraph of the Ecuadorean amendment. He thought that if his amendment was not adopted as a whole, those parts which were adopted should be substituted for the corresponding parts of the text proposed by the Commission on Human Rights.

THE CHAIRMAN stated that he could not follow a different procedure in regard to the Ecuador-[785]ean amendment from that which had been followed in regard to the USSR amendment. He would consider the adopted paragraphs as a proposed substitution for the whole of the text proposed by the Commission.

In reply to a question by MR. CHANG (China), THE CHAIRMAN explained that the vote would be taken on whether the text proposed in the Ecuadorean amendment

should be substituted for the text of the Commission and not on the ideas expressed in the various parts of the amendment.

At the request of MR. PÉREZ CISNEROS (Cuba), the Chairman agreed that if the Ecuadorean amendment – into which the joint amendment submitted by Cuba, Chile and France had been inserted – was rejected, the joint amendment would be voted upon as an amendment to the text of the Commission on Human Rights.

THE CHAIRMAN put to the vote paragraph by paragraph the amendment of Ecuador, into which the joint amendment of Cuba, Chile and France and the third paragraph of the USSR amendment had been incorporated.

The first paragraph was rejected by 23 votes to 5, with 10 abstentions.

The second paragraph was rejected by 19 votes to 6, with 12 abstentions.

THE CHAIRMAN put to the vote the third paragraph, namely the third paragraph of the USSR amendment.

That paragraph was adopted by 15 votes to 14, with 9 abstentions.

THE CHAIRMAN put to the vote the fourth paragraph, formerly the third paragraph of the Ecuadorean amendment.

That paragraph was rejected by 20 votes to 4, with 12 abstentions.

MR. PÉREZ CISNEROS (Cuba) drew attention to the English text of the fifth paragraph, which corresponded to the former joint amendment submitted by Cuba, Chile and France to the text of the Commission on Human Rights. The words “to fall back as a last resort. . .” seemed to indicate that, to some extent, a concession was concerned, which was not true of the French text.

MR. WATT (Australia) also thought the English and French texts differed substantially from one another: the French text had a positive meaning, which the English text did not give.

MR. SANDIFER (United States of America) proposed that the words “to fall back, as a last resort, on rebellion” should be replaced by the words “to have recourse, as a last resort, to rebellion”.

It was so decided.

MR. DAVIES (United Kingdom) proposed that, in the English text, the words “by a rule of law” should be replaced by the words “by *the* rule of law”.

It was so agreed.

THE CHAIRMAN put the fifth paragraph thus modified to the vote.

[786]

A vote was taken by roll-call as follows:

The Byelorussian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ecuador, France, Haiti, India, Mexico, Panama, Poland, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Canada, Greece, Honduras, Lebanon, Pakistan, Sweden, United Kingdom, United States of America, Australia, Belgium.

Abstaining: China, Denmark, Ethiopia, Netherlands, New Zealand, Peru, Philippines, Venezuela, Afghanistan, Argentina, Brazil, Burma.

That paragraph was adopted by 16 votes to 10, with 12 abstentions.

THE CHAIRMAN put the sixth and seventh paragraphs to the vote successively.

The sixth paragraph was rejected by 21 votes to 3, with 14 abstentions.

The seventh paragraph was rejected by 16 votes to 9, with 13 abstentions.

THE CHAIRMAN refused to accede to a proposal to withdraw the approved parts of the Ecuadorean text, on the grounds that the parts already adopted were henceforth the property of the Committee.

He put to the vote as a whole those parts of the Ecuadorean amendment which had been adopted separately.

That text was rejected by 18 votes with 16 abstentions.

THE CHAIRMAN then opened the discussion on the draft preamble submitted by the Commission on Human Rights and on the proposed amendments to the various paragraphs of the draft.

He first put to the vote the French amendment (A/C.3/339) consisting in the substitution of the word “universal” for the word “international” in the title of the declaration.

The amendment was adopted by 17 votes to 11, with 10 abstentions.

THE CHAIRMAN put to the vote the French amendment consisting of the adoption of the phraseology of the United Nations Charter so that the preamble would begin with the words: “We, the peoples of the United Nations”.

MR. CASSIN (France) drew the Committee’s attention to his country’s proposal that the final operative clause of the preamble should begin with the words “Proclaim through our representatives in the General Assembly, this declaration etc. . . .”

The amendment was rejected by 19 votes to 10, with 9 abstentions.

THE CHAIRMAN put the first paragraph of the draft preamble to which no amendments had been proposed to the vote.

That text was adopted unanimously.

THE CHAIRMAN drew the Committee's attention to the joint Australian and French amendment (A/C.3/383) to the second paragraph of the preamble prepared by the Commission.

[787]

MR. CHANG (China) proposed formally that the second paragraph of the amendment should be replaced by the last sentence of the first Australian amendment (A/C.3/257): "... and have made apparent the supreme importance of the recognition and guarantee of fundamental freedoms".

He thought that everyone was acquainted with the fundamental freedoms proclaimed by President Roosevelt and set forth in the joint Australian-French amendment. To mention them would therefore be sufficient, but it was essential to provide for the recognition and guarantee of those fundamental freedoms.

MR. SAINT-LOT (Haiti) did not agree with the Chinese representative. On the contrary he believed it was essential to state which were man's fundamental rights and freedoms.

MR. SANDIFER (United States of America) proposed that the joint Australian-French amendment should reproduce the exact words of President Roosevelt's declaration on fundamental freedoms.

MR. CASSIN (France) replied that when presenting the amendment he had tried to set forth the generally accepted opinions which had been so well expressed by President Roosevelt. His intention had not been to quote the President word for word.

MR. SANDIFER (United States of America) withdrew his proposal.

THE CHAIRMAN put to the vote the first paragraph of the joint Australian and French amendment (A/C.3/383).

That paragraph was adopted by 32 votes with 5 abstentions.

THE CHAIRMAN put to the vote the proposal just made by the Chinese representative in regard to the second paragraph of the joint Australian-French amendment.

The proposal was rejected by 17 votes to 9, with 10 abstentions.

THE CHAIRMAN put the second paragraph of the joint Australian-French amendment to the vote.

At the request of the representative of China, the representatives of France and Australia confirmed that they had already agreed to join the two paragraphs of their amendment together so as to eliminate the word “whereas” at the beginning of the second paragraph.

The second part of the amendment was adopted by 25 votes with 10 abstentions.

THE CHAIRMAN put the whole of the joint Australian-French amendment to the vote, as modified.

The amendment was adopted by 27 votes with 8 abstentions.

THE CHAIRMAN opened the discussion on the third paragraph of the draft preamble prepared by the Commission and put to the vote the joint amendment submitted by Cuba, Chile and France (A/C.3/382/Rev.1).

[788]

Replying to MR. AZKOUL (Lebanon), he said that the French and English versions would be brought into harmony by the Sub-Committee which would be asked to prepare the final version of the declaration. The Sub-Committee would provide an accurate English translation for the words *régime de la loi* used in the French version.

MR. PÉREZ CISNEROS (Cuba) asked for a vote by roll-call.

A vote was taken by roll-call, as follows:

France, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: France, Greece, Haiti, Honduras, India, Lebanon, Mexico, Netherlands, New Zealand, Panama, Poland, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Afghanistan, Argentina, Australia, Brazil, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Dominican Republic, Ethiopia.

Against: Sweden.

Abstaining: Pakistan, Peru, Philippines, United Kingdom, United States of America, Venezuela, Belgium, Burma, Canada, China, Denmark.

The amendment was adopted by 25 votes to 1, with 11 abstentions.

THE CHAIRMAN put to the vote the amendment submitted by the Dominican Republic (A/C.3/217) to the fourth paragraph of the Commission’s draft preamble with a slight drafting change in the English version to bring it into conformity with the phraseology used in the Preamble of the Charter.

A vote was taken by roll-call as follows:

Guatemala having been drawn by lot by the Chairman was called upon to vote first.

In favour: Haiti, Honduras, India, Lebanon, Mexico, Netherlands, New Zealand, Pakistan, Panama, Peru, Philippines, Poland, Sweden, Syria, Ukrainian Soviet

Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Afghanistan, Argentina, Australia, Belgium, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, France, Greece.

Against: United States of America, China.

Abstaining: United Kingdom, Canada, Ethiopia.

The amendment was adopted by 32 votes to 2, with 3 abstentions.

THE CHAIRMAN put to the vote by show of hands the fourth paragraph of the draft preamble prepared by the Commission.

The fourth paragraph, as amended, was adopted by 36 votes to none, with 1 abstention.

THE CHAIRMAN then put to the vote the fifth and sixth paragraphs of the draft preamble prepared by the Commission.

The fifth paragraph was adopted unanimously.

The sixth paragraph was adopted by 35 votes to none, with 2 abstentions.

[789]

THE CHAIRMAN said that the new amendment to the Commission's draft preamble proposed by the USSR representative was contained in document A/C.3/385, which had just been circulated.

MR. AZKOUL (Lebanon) proposed an amendment to the second part of the USSR amendment, which he thought should be added to the sixth paragraph of the preamble in the following form: "and the development of friendly relations between nations".

He wished his own amendment to be put to the vote first.

THE CHAIRMAN said he could not accept that amendment as it changed the very meaning of the second part of the USSR amendment and could not, therefore, be proposed during the vote.

THE CHAIRMAN put to the vote the first part of the USSR amendment.

The first part of the amendment was rejected by 17 votes to 14, with 5 abstentions.

THE CHAIRMAN put to the vote the second part of the USSR amendment.

A vote was taken by roll-call, as follows:

Iceland, having been drawn by lot by the Chairman was called upon to vote first.

In favour: India, Mexico, Pakistan, Panama, Peru, Poland, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Argentina, Australia, Belgium, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, France, Haiti, Honduras.

Against: Netherlands, New Zealand, United Kingdom, United States of America, Venezuela, Canada, China, Greece.

Abstaining: Lebanon, Philippines, Afghanistan.

The second part of the amendment was adopted by 26 votes to 8, with 3 abstentions.

THE CHAIRMAN put to the vote the Greek amendment (A/C.3/314/Rev.1/Add.2) to the last part of the draft preamble prepared by the Commission on Human Rights with a few drafting changes in the last sentence of the amendment.

The amendment was rejected by 23 votes to 7, with 8 abstentions.

THE CHAIRMAN put to the vote the last part of the draft preamble prepared by the Commission on Human Rights.

That text was adopted by 34 votes to 1, with 3 abstentions.

MR. CASSIN (France) pointed out that that text made it appear as though the declaration of human rights did not apply to non-member States. It might be possible to fill that gap by submitting again, as an additional amendment, the last sentence of the operative part of the preamble proposed by the delegation of Ecuador (A/C.3/351/Corr.1).

MR. PÉREZ CISNEROS (Cuba) formally proposed, in accordance with rule 112 of the rules of procedure, that the vote should be reconsidered so [790] that the Committee could adopt the amendment proposed by the French representative.

MR. SANDIFER (United States of America) objected to that proposal. The Committee had had sufficient time to examine the text of the operative part of the preamble. It would be a bad procedure after an almost unanimous vote to reconsider a decision already taken.

MR. CHANG (China) said the Cuban representative's proposal could not be accepted as the Committee had not yet finished voting on the preamble. Once the whole of the preamble had been voted upon, it would be possible for the Committee to take a decision on a proposal to reconsider its vote.

MR. PÉREZ CISNEROS (Cuba) withdrew his proposal as a result of the observations made by the Chinese representative.

THE CHAIRMAN read out the whole of the Commission's text of the draft preamble, as amended.

The preamble, as amended, was adopted by 36 votes to none, with 1 abstention.

MR. COROMINAS (Argentina), speaking on a point of order, reminded the Committee that his delegation's draft resolution (A/C.3/384) relating to the declaration of old age rights had been distributed during that meeting.

As he would soon be leaving and would no longer be able to attend the meetings of the Committee, he wished the Committee to adopt his delegation's draft resolution at the current meeting; it merely asked the General Assembly to refer the question to the Economic and Social Council for consideration.

THE CHAIRMAN pointed out that the Committee should first decide whether to include the question raised by the Argentine representative in the agenda of that meeting.

MR. SANDIFER (United States of America) and MR. SANTA CRUZ (Chile) supported the Argentine representative's proposal.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) thought the Committee should examine the question at its next meeting and moved the adjournment of the debate.

The motion was rejected by 25 votes to 7, with 7 abstentions.

THE CHAIRMAN put to the vote the Argentine proposal that the Committee should immediately proceed to examine item 9 of its agenda on the declaration of old age rights.

That proposal was adopted by 29 votes to none, with 7 abstentions.

...

A/C.3/386

30 November 1948

Text of preamble of the draft Declaration (E/800) Adopted by the Third Committee

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; and

Whereas it is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and to promote social progress and better standards of life in larger freedom;

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedom is of the greatest importance for the full realization of this pledge;

Whereas it is essential to promote the development of friendly relations between nations;

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every [2] individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

A/C.3/SC.4/1

1 December 1948

**United Kingdom: Proposed drafting changes to
articles 4, 5, 6, 10, 14 and 23 of the Draft
Declaration (A/C.3/379)**

Article 4. In order to bring style into harmony with the rest of text, redraft as follows:

“No one shall be held in slavery or servitude and the slave trade shall be prohibited in all its forms.

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Article 5. For “every human being” read “everyone”.

Article 6. Redraft as follows:

“All are equal before the law and without any discrimination are entitled to equal protection of the law, including equal protection against any discrimination or incitement thereto which violates this Declaration.”

Article 10. For “arbitrary” read “unreasonable”.

Article 14. Sub-paragraph 2, second sentence, to be moved up to paragraph 1 and read as follows:

“are entitled to equal rights both during marriage and at its dissolution”.

Article 23. For “priority rights” substitute “prior rights”.

A/C.3/SC.4/2

1 December 1948

Original Text: French

Ecuador: Proposed arrangements for the first Six Articles

Article 1. Right to life (Article 3 of the adopted Draft Declaration)

Article 2. Equality before the law (Article 6 of the adopted Draft Declaration)

Articles 3 and 4. Freedom of thought (Articles 16 and 17 of the adopted Draft Declaration).

Article 5. Right to work (Article 21 of the adopted Draft Declaration)

Article 6. Right to an adequate standard of living (Article 22 of the adopted Draft Declaration)

A/C.3/SC.4/3

1 December 1948

Original Text: French

Cuba: Amendment to Article 2

Add the following as a second paragraph of article 2:

“Neither shall there be any discrimination against anyone because he is an inhabitant of a non-self-governing territory, trust territory or metropolitan power (administering authority).”

(This text is to replace the additional article. It expresses the same idea in a different form, in order not to conflict with the terms of the first paragraph of article 2.)

A/C.3/SC.4/4

1 December 1948

France: Compromise proposal for the text of Article 2

Article 2

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

A/C.3/SC.4/8

1 December 1948

Original Text: French

Cuba: Draft plan of the Declaration of Human Rights*

I. Introduction

- A. Article 1: Freedom, equality, reason, conscience, brotherhood.
- B. Article 2 and additional article: Universality of the rights.

II. Statement of Rights

(a) Fundamental Rights

- C. Article 3: Life, liberty, security.
- D. Article 4: Concerning slavery (cruelty is further dealt with in article 9).
- E. Article 16: Freedom of thought and religion.
- E(i). Article 17: Freedom of opinion and expression.
- F. Article 10: Privacy, honour.
- G. Article 14: Family, marriage.
- H. Article 22(2 and 3): Motherhood, childhood, sons.

(b) Social Rights

- I. Article 20: General.
- J. Article 21: Work.
- K. Article 22(1): Social security.

- L. Article 24: Rest.
- M. Article 23: Education.
- N. Article 25: Culture.

(c) Legal and Political Rights

- O. Article 5: Recognition as a person before the law.
- P. Article 6(1): Protection of the law without discrimination.
- Q. Article 6(2) Right to an effective remedy.
- R. Article 13. Nationality.
- S. Article 19: Participation in government.
- T. Article 11: Freedom of movement and residence.

[*] A few copies of that document have been distributed by error with symbol A/C.3/SC.4/3.

[2]

- U. Article 18: Assembly and association.
- V. Article 15: Property.
- W. Article 7: Arbitrary arrest.
- Y. Article 8: Tribunals
- Z. Article 9 and Article 4(3): Penal system
 - a. Article 12: Asylum.
 - b. Article 26: International order.

(d) Extent of Rights

- c. Article 17: Extent of rights.
- d. Article 28: Extent of rights.

A/C.3/SC.4/5

1 December 1948

**Cuba: Amendment to the additional article, to become
paragraph 2 of Article 2**

There may also not be any distinction based on the fact that the person belongs to the population of metropolitan, non-selfgoverning or trust territory.

A/C.3/SC.4/5/Rev.1
2 December 1948

**Cuba: Amendment to the additional article, to become
paragraph 2 of Article 2**

“2. There may also not be any distinction based on the political status of the country to which a person belongs.”

A/C.3/SC.4/6
2 December 1948

Belgium: Proposal for the text of Article 6

All are equal before the law and are entitled, without any discrimination, to equal protection of the law, including protection against any discrimination in violation of this present Declaration or against any incitement thereto.

A/C.3/SC.4/7
2 December 1948

**Text of Articles 1 to 10 of the draft Declaration as adopted
by the Sub-Committee 4**

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2

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

Article 3

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

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 4(a)

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Everyone has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 6(a)

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
[2]

Article 7

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 10

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

A/C.3/SC.4/9**2 December 1948****Text of Articles 11 to 13 of the draft Declaration as adopted by the Sub-Committee 4****Article 11**

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 12

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

Provisional Text: 2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 13

Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

A/C.3/SC.4/10**2 December 1948****Cuba: Amendment to Article 14 (Document A/C.3/379)**

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. Men and women have the right, upon reaching full age, to marry to found a family. They shall enjoy fully equal rights as to marriage and its dissolution.
3. Marriage shall be entered into only with the free consent of the intending spouses.

A/C.3/SC.4/11

2 December 1948

Text proposed by China, the United Kingdom and the United States of America for article 14

Article 14

Substitute for paragraphs 1 and 2:

- “1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights and to marriage and shall enjoy equal rights both during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and free consent of the intending spouses.”

A/C.3/SC.4/12

2 December 1948

China: Suggested re-draft of paragraph 1 of article 23

Everyone has the right to education. Elementary and fundamental education at least shall be free. Elementary education shall be compulsory; technical and professional education shall be made generally available and there shall be equal access to higher education on the basis of merit.

A/C.3/SC.4/13

2 December 1948

Text of articles 15 to 19 as adopted by Sub-Committee 4

Article 15

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

Everyone has the right to freedom of peaceful assembly and association.
No one may be compelled to belong to an association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

A/C.3/SC.4/14

2 December 1948

Original Text: French

Cuba: Amendment to Article 20

Everyone, as a member of society, has the right to social security. He also has the right to expect the national effort and international co-operation, in accordance with the organization and resources of each State, to secure the observance of the economic, social, and cultural rights indispensable to his dignity and the full development of his personality.

A/C.3/SC.4/15

2 December 1948

Original Text: French

France: Amendment to Article 20

Everyone, as a member of society, has the right to social security. He is entitled to see the economic, social and cultural rights indispensable to his dignity and to the free development of his personality satisfied by means of national effort and international co-operation, and in accordance with the organization and resources of each State.

A/C.3/SC.4/16

2 December 1948

Original Text: French

Lebanon: Drafting amendment to Article 20

Everyone, as a member of society, has the right to social security; he is entitled to see the economic, social and cultural rights indispensable to his dignity and to the free development of his personality satisfied through national effort and international co-operation, and in accordance with the organization and resources of each State.

A/C.3/397

3 December 1948

China: Suggested rearrangement of the last three sentences in paragraph 1 of article 23 of the draft Declaration (E/800)

Article 23 (A/C.3/SC.4/20)

(changes are underlined)

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory; technical and professional education shall be made generally available; and *higher education shall be equally accessible to all* on the basis of merit.”

A/C.3/SC.4/8/Rev.1

3 December 1948

Original Text: French

**Cuba: Proposal concerning the order of the articles of the
(Draft Declaration)**

Introduction

1

2

Fundamental Rights

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4(a)

4

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14

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Social and Economic Rights

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23

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Political Rights

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18(?)

Legal Rights

6

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8

6(a)

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[2]

(Penal System)

9

7

12

International Order

26

Extent of Rights

27

A/C.3/SC.4/17

3 December 1948

Text of Articles 21 to 28 of the draft Declaration as adopted by the Sub-Committee 4

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
3. Everyone has the right to form and to join trade unions for protection of his interests.

Article 22

1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and children are entitled to special care and assistance. Children whether born in or out of wedlock shall enjoy the same social protection as those born in marriage.

Article 23

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available. There shall be equal access to higher education on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and [2] fundamental freedoms, as shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 24

Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay.

Article 25

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 26

Everyone is entitled to a social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community in which alone the free and full development of his personality is possible:
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the right and freedoms of others and the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purpose and principles of the United Nations.

A/C.3/SC.4/17/Corr.1

3 December 1948

**Text of Articles 21 to 28 of the draft Declaration as adopted
by the Sub-Committee 4**

Corrigendum to Article 22

Amalgamate paragraphs 2 and 3 so that the entire article reads as follows:

“1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

“2. Motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock shall enjoy the same social protection as those born in marriage.”

A/C.3/SC.4/18

3 December 1948

**Text of Article 14 of the draft Declaration as adopted
by the Sub-Committee 4**

Article 14

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

A/C.3/SC.4/19

3 December 1948

**Text of Article 20 of the Draft Declaration as Adopted
by the Sub-Committee 4**

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

A/C.3/SC.4/20
3 December 1948

**Text of Articles of the draft Declaration as adopted
by the Sub-Committee 4**

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

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

2. Furthermore, no distinction shall be made on the basis of the political status of the country to which a person belongs.

Article 3

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

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 4(a)

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Everyone has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any

discrimination in violation of this Declaration and against any incitement to such discrimination.

[2]

Article 6(a)

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 7

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 10

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 12

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations. (*provisional text*)

Article 13

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

[3]

Article 14

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 15

1. Everyone has the right to own property alone as well as in association with others.

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

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Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 19

1. Everyone has the right to take in part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

[4]

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and children are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection as those born in marriage.

Article 23

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available. There shall be equal access to higher education on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have the prior right to choose the kind of education that shall be given to their children.

Article 24

Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay.

Article 25

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material [5] interests resulting from any scientific, literary or artistic production of which he is the author.

Article 26

Everyone is entitled to a social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. Those rights and freedoms may in no case be exercised contrary to the purpose and principles of the United Nations.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State, group or person to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.

A/C.3/SC.4/21

3 December 1948

Original Text: French

France: Proposal for the last paragraph of the Preamble

The General Assembly

Proclaims the Universal Declaration of Human Rights as the common standard of achievement for all peoples and all nations: (to this end,) every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

A/C.3/400

4 December 1948

Draft Report of Sub-Committee 4 of the Third Committee

Submitted by Mr. Alan S. Watt (Australia), Rapporteur

Terms of Reference of the Sub-Committee

At its 166th meeting, on 30 November 1948, the Third Committee set up a Sub-Committee “to examine the totality of the Declaration of Human Rights, i.e. the 29 articles and the Preamble, adopted by the Third Committee, solely from the

standpoint of arrangement, consistency, uniformity and style and to submit proposals thereon to the Third Committee”.

The Sub-Committee was also asked to “set up a language group of five members, one for each of the official languages, to check and secure the exact correspondence of the text in the five official languages”.

Composition of the Sub-Committee

The Sub-Committee was composed of the representatives of the following eleven countries: Australia, Belgium, China, Cuba, Ecuador, France, Lebanon, Poland, Union of Soviet Socialist Republics, United Kingdom, United States of America.

Summary of the proceedings and recommendations of the Sub-Committee

The Sub-Committee held 10 meetings from 1 December to 4 December 1948.

The first meeting of the Sub-Committee was called to order by the Director of the Division of Human Rights and immediately proceeded to the election of the following officers: Chairman: Professor René Cassin (France); Rapporteur: Mr. Alan S. Watt (Australia).

[2]

Mr. John Humphrey, Director of the Division of Human Rights, represented the Secretary-General and Mr. T. L. Tchang acted as Secretary.

At its first meeting, after hearing statements by the representatives of China, Cuba and Ecuador on the general structure of the Declaration and the order of the articles, the Sub-Committee proceeded to a detailed examination and study of the Declaration article by article. This detailed examination continued through the second to the ninth meeting.

As a result of this examination and study, and subject to the reservations indicated below regarding the text of certain articles and the question of order and arrangement, the Sub-Committee decided to recommend to the Third Committee the text attached hereto as Annex A. Subject to the same reservations, it also decided to recommend that the order of the paragraphs in the preamble and of the articles of the Declaration be as therein indicated.

The Committee had before it the following documents: A/C.3/380, A/C.3/218, A/C.3/379 (E,F,C,R,S), A/C.3/386 (E,F,C,R,S), A/C.3/SC.4/W.1, A/C.3/SC.4/1 to 21.

The Sub-Committee has not yet had the time to examine the Chinese, Russian and Spanish texts. It considered however that, having regard to the urgency of the Third Committee’s task, it should make the preliminary report as soon as possible and report later on the correspondence of these texts.

During the course of the debates various members requested that certain points be brought to the attention of the Third Committee. These points are the following:

Article 2

Paragraph 1: The representative of the Union of Soviet Socialist Republics protested against the action of the Sub-Committee in changing the place of the word “birth”. He said that this changed a decision taken by the Third Committee on a question of substance, and reserved his right to bring the matter up again in the Third Committee.

Paragraph 2: The representatives of Ecuador, Poland and the Union of Soviet Socialist Republics were of opinion that the Sub-Committee had exceeded its terms of reference in changing the additional article adopted by the Third Committee which now appears in modified form as paragraph 2 of article 2. In what it considers a drafting change, the Sub-Committee had, they felt, changed the substance of a decision of the Third Committee. These representatives therefore protested against the action taken by the Sub-Committee and reserved their right to raise the question in the Third Committee.

Article 12

Paragraph 2: Certain representatives felt that the suggested new [3] version of the second paragraph might affect the substance of the article as adopted by the Third Committee.

Article 18

The Sub-Committee decided to ask the Third Committee whether it was advisable to retain the word “*pacifique*” in the French text of Article 18.

Article 19

The representatives of Cuba, France and the Lebanon were strongly of opinion that the French text of paragraph 3 of article 19 should begin: “*La volonté du peuple est le fondement. . .*”

Article 20

The representative of Ecuador is of opinion that the French version of article 20 as proposed by the Sub-Committee is completely different from the English version which he considers to be the basic text.

Article 22

Certain members of the Sub-Committee thought that the suggested change “All children, whether born in or out of wedlock. . .” in paragraph 3 of article 22 might affect the substance of the article as voted by the Third Committee.

Article 23

The representative of Ecuador protested against any modification of the fundamental right to free education as stated in the text voted by the Third Committee.

At the ninth meeting of the Sub-Committee, the Cuban Representative criticized the Secretary-General for not having provided interpretation from Spanish into the working languages notwithstanding the fact that interpretation had been provided from one of the other official languages. He requested that this protest be recorded in the report of the Sub-Committee.

During a discussion of the order of the articles at the ninth meeting, the representative of Cuba requested roll-call votes on three issues.

The first of these votes was on the Cuban proposal to insert articles 16 and 17 immediately after article 4(a). The result of this vote was as follows:

Australia, no; Belgium, abstention; Ecuador, no; Cuba, yes; China, no; USA, no; [4] France, no; Lebanon, abstention; Poland and USSR, did not participate in the vote; United Kingdom, no
Result: 1 for, 6 against, 2 abstentions.

In the explanation of his vote, the representative of Cuba referred to the importance of his proposal and reserved his right to take up the matter before the Third Committee.

The second roll-call vote was on the Cuban proposal to insert article 14 immediately after article 4(a). The result of this vote was as follows:

Australia no; Belgium, abstention; Ecuador, no; Cuba, yes; China, no; USA, no; France, no; Lebanon, abstention; Poland and USSR, did not participate in the vote; United Kingdom, no
Result: 1 for, 6 against, 2 abstentions.

The third roll-call vote was on the Cuban proposal to insert articles 20 to 25 inclusive immediately after article 4(a). The result of this vote was as follows:

Australia, no; Belgium, abstention; Ecuador, no; Cuba, yes; China, no; USA, no; France, no; Lebanon, abstention; Poland and USSR, did not participate in the vote; United Kingdom, no
Result: 1 for, 6 against, 2 abstentions.

[5]

In the explanation of his votes on these three issues, the representative of Cuba referred to the importance of his proposal and reserved his right to bring them up again before the Third Committee.

[6]

Annex “A” Draft Universal Declaration of Human RightsText of the Third Committee
Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; and

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law; and

Whereas it is essential to promote the development of friendly relations between nations; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge;

[7]

Now therefore the General Assembly

Text of the Sub-Committee
Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; and

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law; and

Whereas it is essential to promote the development of friendly relations between nations; and

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and determined to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge;

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

[8]

Text of the Third Committee

Text of the Sub-Committee

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

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

...

The rights proclaimed in this declaration also apply to any person belonging to the population of Trust and Non-Self-Governing Territories. (Additional article)

Article 3

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

Article 4

Slavery and the slave trade are prohibited in all their aspects.

No one shall be held in slavery or servitude.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

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

2. Furthermore, no distinction shall be made on the basis of the political status of the country to which a person belongs.

Article 3

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

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 4(a)

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Every human being has the right to recognition everywhere as a person before the law.

Article 5

Every human being has the right to recognition everywhere as a person before the law.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 6

All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

[9]

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 6(a)

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 7

No one shall be subjected to arbitrary arrest, detention or exile.

Article 7

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.

Article 8

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 10

No one shall be subjected to arbitrary interference with his privacy, family, home

Article 10

No one shall be subjected to arbitrary interference with his privacy, family, home

or correspondence, nor to attacks upon his honour and reputation.

Everyone has the right to the protection of the law against such interference or attacks.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

[10]

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 12

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 13

Everyone has the right to a nationality.

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

Article 14

1. Without any limitation due to race, nationality or religion, men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the free and full consent of the intending spouses. Men and women shall enjoy equal rights both during marriage and at its dissolution.

3. The family is the natural and fundamental ground unit of society and is entitled to protection by society and the State.

Article 15

1. Everyone has the right to own property alone as well as in association with others.

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

or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 12

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 13

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 14

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 15

1. Everyone has the right to own property alone as well as in association with others.

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

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change

[11]

his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

Everyone has the right to freedom of peaceful assembly and association.

No one may be compelled to belong to an association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be universal and equal and shall be held by secret vote or by equivalent free voting procedures.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

[12]

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change

his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

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Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration insuring for his family and himself an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

3. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living adequate for his health and well-being of his family and himself, including food, clothing, housing and medical care and necessary social services, and to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood have the right to special care and assistance.

3. Children born out of wedlock shall enjoy the same social protection as those born in marriage.

Article 23

1. Everyone has the right to education, which shall be free, at least in so far as elementary and fundamental education are concerned. Elementary education shall be compulsory. Technical and professional education shall be made generally available. There shall be equal access to higher education on the basis of merit.

[13]

Article 21

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay.

Article 22

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 23

1. Everyone has the right to education, which shall be free, at least in so far as elementary and fundamental education are concerned. Elementary education shall be compulsory. Technical and professional education shall be made generally available. There shall be equal access to higher education on the basis of merit.

2. Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of understanding, tolerance and friendship among all nations, racial or religious groups, as well as of the activities of the United Nations for the maintenance of peace.

3. Parents have a priority right to choose the kind of education that shall be given to their children.

Article 24

Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay.

Article 25

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interest resulting from any scientific, literary or artistic production of which he is the author.

Article 26

Everyone is entitled to a social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and the just requirements of morality, public order and the general welfare in a democratic society.

[14]

2. Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 25

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 26

Everyone is entitled to a social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms can in no case be exercised contrary to the purposes and principles of the United Nations.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State, group or person to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.

Additional Article

The rights proclaimed in this Declaration also apply to any person belonging to the population of Trust and Non-Self-Governing Territories.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State, group or person to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.

(see paragraph 2 of Article 2)

A/C.3/400/Rev.1
4 December 1948

Report of Sub-Committee 4 of the Third Committee

Submitted by Mr. Alan S. Watt (Australia), Rapporteur

Terms of Reference of the Sub-Committee

At its 166th meeting, on 30 November 1948, the Third Committee set up a Sub-Committee “to examine the totality of the Declaration of Human Rights, i.e. the 29 articles and the Preamble, adopted by the Third Committee, solely from the standpoint of arrangement, consistency, uniformity and style and to submit proposals thereon to the Third Committee”.

The Sub-Committee was also asked to “set up a language group of five members, one for each of the official languages, to check and secure the exact correspondence of the text in the five official languages”.

Composition of the Sub-Committee

The Sub-Committee was composed of the representatives of the following eleven countries:

Australia, Belgium, China, Cuba, Ecuador, France, Lebanon, Poland, Union of Soviet Socialist Republics, United Kingdom, United States of America

Summary of the proceedings and recommendations of the Sub-Committee

The Sub-Committee held 10 meetings from 1 December to 4 December 1948.

The first meeting of the Sub-Committee was called to order by the Director of the Division of Human Rights and immediately proceeded to the election of the following officers: Chairman: Professor René Cassin (France); Rapporteur: Mr. Alan S. Watt (Australia).

[2]

Mr. John Humphrey, Director of the Division of Human Rights, represented the Secretary-General and Mr. T. L. Tchang acted as Secretary.

At its first meeting, after hearing statements by the representatives of China, Cuba and Ecuador on the general structure of the Declaration and the order of the articles, the Sub-Committee proceeded to a detailed examination and study of the Declaration article by article. This detailed examination continued through the second to the ninth meeting.

As a result of this examination and study, and subject to the reservations indicated below both regarding the text of certain articles and the question of order and arrangement, the Sub-Committee decided to recommend to the Third Committee the text attached hereto as Annex A. Subject to the same reservations, it also decided to recommend that the order of the paragraphs in the preamble and of the articles of the Declaration be as therein indicated.

The order in the Annex is the same as that of the original text with the exception of a few changes in the order of articles and of one paragraph in the Preamble. The representative of Cuba explained his vote against the proposed re-arrangement because he considered that this order contained serious mistakes in that it did not take into proper account (1) the right to protection of the family; (2) the right to freedom of thought, conscience and religion; (3) social rights (articles 20 to 25).

It will be noted that there has also been one change in the order of the recital of the preamble.

The Committee had before it the following documents: A/C.3/380, A/C.3/218, A/C.3/379) (E,F,C,R,S), A/C.3/386 (E,F,C,R,S), A/C.3/SC.4/W.1, A/C.3/SC.4/1 to 21.

At its last meeting, the Sub-Committee set up the language group mentioned in its terms of reference. The membership of this group is as follows:

Dr. P. C. Chang and Mr. T. Y. Tsao (China); Mr. Borisov and Petrov (Union of Soviet Socialist Republics); Dr. Pérez Cisneros (Cuba) and Mr. Carrera de Andrade (Ecuador); Mr. Rundall (United Kingdom); Mr. Ryckmans (Belgium.)

During the course of the debates various members requested that certain points be brought to the attention of the Third Committee. These points are the following:

Article 2

Paragraph 1: The representative of the Union of Soviet Socialist Republics protested against the action of the Sub-Committee in changing the place of the word “birth”. He said that this changed a decision taken by the Third Committee on a question of substance, and reserved his right to bring the matter up again in the Third Committee.

[3]

Paragraph 2: The representatives of Ecuador, Poland and the Union of Soviet Socialist Republics were of opinion that the Sub-Committee had exceeded its terms of reference in changing the “additional” article adopted by the Third Committee which now appears in modified form as paragraph 2 of Article 2. The representative of the Union of Soviet Socialist Republics said that this amounted to a deletion of the “additional” article as a separate article. The representative of Ecuador was of opinion that the suppression of the colonial clause constituted a reconsideration of a decision taken by the Third Committee and that such reconsideration required a two-thirds majority vote of the Third Committee.

Article 4

The representative of the Union of Soviet Socialist Republics said that the change made by the Sub-Committee in the order of the article weakened the text in that the emphasis had been altered.

Article 12

Paragraph 2: Certain representatives felt that the suggested new version of the second paragraph might affect the substance of the article as adopted by the Third Committee.

Article 18

The Sub-Committee decided to ask the Third Committee whether it was advisable to retain the word “*pacifique*” in the French text of Article 18.

Article 19

The representatives of Cuba, France and the Lebanon were strongly of opinion that the French text of paragraph 3 of article 19 should begin: “La volonté du peuple *est* le fondement. . .”

Article 20

The representative of Ecuador is of opinion that the French version of article 20 as proposed by the Sub-Committee is completely different from the English version which he considers to be the basic text.

Article 22

Certain members of the Sub-Committee thought that the suggested change “All children, whether born in or out of wedlock. . .” in paragraph 3 of Article 22 might affect the substance of the article as voted by the Third Committee.

Article 23

The representative of Ecuador protested against any modification of the fundamental right to free education as stated in the text voted by the Third Committee. The representative of the Union of Soviet Socialist Republics reserved his right to raise this question in the Third Committee inasmuch as the text had not been improved but weakened.

Additional article

The representative of Ecuador desired to draw the attention of the Third Committee to the fact that this article no longer appears in the draft Declaration as a separate article.

[4]

At the ninth meeting of the Sub-Committee, the Cuban Representative criticized the Secretary-General for not having provided interpretation from Spanish into the working languages notwithstanding the fact that interpretation had been provided from one of the other official languages.

He requested that this protest be recorded in the report of the Sub-Committee.

During a discussion of the order of the articles at the ninth meeting, the representative of Cuba requested roll-call votes on three issues. The first of these votes was on the Cuban proposal to insert articles 16 and 17 immediately after article 4(a). The result of this vote was as follows:

Australia, no; Belgium, abstention; Ecuador, no; Cuba, yes; China, no; USA, no; France, no; Lebanon, abstention; Poland and USSR, did not participate in the vote; United Kingdom, no.
Result: 1 for; 6 against, 2 abstentions.

In the explanation of his vote, the representative of Cuba referred to the importance of his proposal and reserved his right to take up the matter before the Third Committee.

The second roll-call vote was on the Cuban proposal to insert Article 14 immediately after Article 4(a). The result of this vote was as follows:

Australia, no; Belgium, abstention; Ecuador, yes; Cuba, yes; China, no; USA, no; France, no; Lebanon, no; Poland and USSR, did not participate in the vote; United Kingdom, no.

Result: 2 for, 6 against, 2 abstentions.

[5]

The representatives of the Union of Soviet Socialist Republic and Poland stated that they had been unable to participate in the voting on the two Cuban motions mentioned above because no general plan for the order of articles had been adopted by the Sub-Committee which had only considered the location of individual articles. In these circumstances, it was impossible for them to judge the advisability of making isolated changes in the order of the articles.

The third roll-call vote was on the Cuban proposal to insert articles 20 to 25 inclusive immediately after Article 4(a). The result of this vote was as follows:

Australia, no; Belgium, yes; Ecuador, yes; Cuba, yes; China, no; USA, no; France, no; Lebanon, abstention; Poland, yes; USSR, yes; United Kingdom, no.

Result: 5 for, 5 against, 1 abstention.

In the explanation of his votes on these three issues, the representative of Cuba referred to the importance of his proposals and reserved his right to bring them up again before the Third Committee.

At the ninth meeting of the Sub-Committee the representative of the Union of Soviet Socialist Republics said that, because the language group had not been established, the Sub-Committee was working under abnormal conditions and had not performed its mandate.

This revision of the draft report of the 4th Sub-Committee does not contain the Annex A, which is to be found in Document A/C.3/400.

A/C.3/401

4 December 1948

Note by the Secretary-General

Annex A of document A/C.3/400 is a comparative collation: The text in the left column is the one contained in documents A/C.3/386 and A/C.3/379. The

text in the right column is the one contained in documents A/C.3/SC.4/22 and A/C.3/SC.4/20.

These four documents are available in Russian and Spanish.

A/C.3/402

4 December 1948

Original Text: French

Cuba: Amendments to the French Draft Resolution (A/C.3/381)

- (a) Insert the following as a second paragraph of the preamble: “Considering that the text of the Declaration should be disseminated among all classes of society throughout the world;”
- (b) At the end of paragraph 1 of the operative part, insert the words: “. . . without distinction based on the political regime of countries or territories”,
- (c) At the end of paragraph 2 of the operative part, insert the words: “. . . and to that end, to publish, and distribute texts, not only in the official languages but also, as far as possible, in all languages”.

A/C.3/SC.4/22

4 December 1948

Text of Preamble as adopted by Sub-Committee 4

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in this world; and

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; and

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law; and

Whereas it is essential to promote the development of friendly relations between nations; and

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and determined to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge;

Now therefore the General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, [2] national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

A/C.3/SR.174¹⁵¹

4 December 1948

***Summary Record of the Hundred and Seventy-Fourth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Saturday,
4 December 1948, at 4.15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

104. Draft universal¹ declaration of human rights (E/800): (continued)

THE CHAIRMAN congratulated Sub-Committee 4 on having completed its work on the draft universal declaration of human rights and said that the report would be ready for consideration at the following meeting.

In the meantime, he suggested that the Committee should turn its attention to the French draft resolution (A/C.3/381).

¹⁵¹ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 847–9.

In reply to MR. BOGOMOLOV (Union of Soviet Socialist Republics), THE CHAIRMAN announced that the text of the draft declaration had already been completed in all five official languages.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) expressed the view that the Committee could not consider the French draft resolution until it had completed its examination of the draft declaration. He therefore moved the adjournment of the meeting.

THE CHAIRMAN put the USSR motion for adjournment to the vote.

[¹] See 167th meeting.

[848]

The motion was rejected by 18 votes to 11, with 7 abstentions.

A short discussion ensued, in which it was pointed out, on the one hand, that it would be wrong to discuss a draft resolution advocating the widest publicity for the Universal Declaration of Human Rights before the declaration itself had been adopted and, on the other hand, that it would save time to take a decision on the French draft resolution at the current meeting. It was also pointed out in that connexion that if the declaration were not adopted, the Committee would be at liberty to reverse its decision concerning the French text.

MR. PÉREZ CISNEROS (Cuba), in an effort to save the Committee's time, moved the closure of the debate.

THE CHAIRMAN put the Cuban motion of the closure of the debate to the vote.

The motion was rejected by 9 votes to 7, with 15 abstentions.

MRS. CORBET (United Kingdom) was surprised that the representatives of the Soviet Union, the Byelorussian SSR and the Ukrainian SSR had desired the adjournment of the meeting. Only two slight modifications in the text of the declaration would need to be discussed. She therefore believed that it would be proper to debate the French draft resolution immediately; the Committee could rescind its decision in the event that the report of the Sub-Committee 4 was not adopted.

MRS. ROOSEVELT (United States of America) said that logic, as invoked by the USSR representative, should be coupled with good will. The peoples of the world, for whom the declaration was intended, would benefit from the quickest possible adoption of it. There would be no considerable changes of substance in the text submitted by the Commission on Human Rights.

The French draft resolution did not prejudice the final form of the declaration. It would be perfectly proper to vote on that draft immediately, since it was most probable that it would be adopted; any other result would be deplorable.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that there were discrepancies between the English and French texts of the declaration; there was even more reason to suppose that such discrepancies would appear in the translation into the other official languages. Some amendments had altered the substance of the text; he could not agree with the representative of the United Kingdom that they were slight. Until texts were available in all official languages it would be inappropriate, in the absence of basic documents, to discuss the French draft resolution.

MRS. ROOSEVELT (United States of America) moved the closure of the debate and asked that the French draft should be discussed immediately.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) protested against the closure, because it would preclude argument by those representa-[849]tives who believed that it would be illogical to discuss the French draft before action had been taken on the Sub-Committee's report. Before such action could be taken, that report must be available in all official languages.

Replying to the representative of the United States, Mr. Demchenko said that the discussion on article 21 had shown the relative attitudes of the delegations towards the wellbeing of the peoples of the world.

THE CHAIRMAN put to the vote the United States motion for the closure of the debate.

The motion was adopted by 21 votes to 7, with 3 abstentions.

After a discussion on procedure, in which the representatives of Cuba, Greece, Saudi Arabia and the Ukrainian Soviet Socialist Republic took part, the Chairman declared the meeting adjourned.

The meeting rose at 1 p.m.

A/C.3/SR.175¹⁵²

4 December 1948

Summary Record of the Hundred and Seventy-Fifth Meeting
[of the Third Committee]

Held at the Palais de Chaillot, Paris, on Saturday,
4 December 1948, at 4.15 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

¹⁵² The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 849–53.

**105. Draft universal declaration of human rights (E/800): report of
Sub-Committee 4 (A/C.3/400 and A/C.3/400/Rev.1)**

MR. WATT (Australia), Rapporteur of Sub-Committee 4, presented the Sub-Committee's report (A/C.3/400) and drew attention to the various changes proposed by it, which appeared in the right-hand column of the annex. The left-hand column gave the text adopted by the Third Committee.

He recalled the terms of reference of Sub-Committee 4 and drew attention to the observations on the various articles of the preamble made by some representatives, who considered that the Sub-Committee had exceeded its terms of reference, and had made changes which altered the meaning of the declaration.

MR. CASSIN (France), Chairman of Sub-Committee 4, congratulated Mr. Watt on the accuracy of his report and drew the Committee's attention to the terms of reference of the Sub-Committee which empowered it "to examine the totality of the declaration of human rights, i.e., the 29 articles and the preamble adopted by the Third Committee, solely from the standpoint of arrangement, consistency, uniformity and style and to submit proposals thereon to the Third Committee".

The Sub-Committee had therefore made the necessary changes to give the text coherence and to eliminate both the contradictions and the repetitions which had been discovered after careful analysis. In some cases, the fusion of certain [850] paragraphs of the declaration had been recommended. In others, certain sentences had had to be redrafted.

Those who thought that some of those changes altered the sense of the text had said that all changes should be approved by a two-thirds majority. Speaking as a jurist, Mr. Cassin thought the Sub-Committee's terms of reference, which had been adopted unanimously, already carried that approval, since they authorized it to revise the text. It could not, therefore, be contended that the Committee had exceeded its powers. The majority of the Sub-Committee was convinced that all the modifications made affected only form.

It was for the Third Committee to adopt or to reject the Sub-Committee's text, but it need adopt the changes by only a simple majority.

Mr. Cassin suggested that the Committee should begin with a comparative study of the two texts and then pass on to an examination of the arrangement of the text.

THE CHAIRMAN proposed that the Committee should proceed to an examination, paragraph by paragraph, of the text submitted by the Sub-Committee to make sure, first of all, that the sense had not been altered, and that it should then pass on to an examination of the proposals made by the Sub-Committee concerning the arrangement of the articles, as the French representative had suggested.

MR. PÉREZ CISNEROS (Cuba) suggested that members who had submitted amendments should be limited to ten minutes for their first statements, and that all other statements should be limited to five minutes.

MR. CARRERA ANDRADE (Ecuador) suggested that the Committee should begin by discussing the additional article, the position and the wording of which had been changed by the Sub-Committee.

A short procedural discussion followed.

MRS. ROOSEVELT (United States of America) asked for the closure of the discussion and suggested that the method proposed by the Chairman should be followed.

The motion was adopted by 22 votes to 2, with 9 abstentions.

THE CHAIRMAN put to the vote the proposal made by the representative of Cuba on limiting the time for speakers.

That proposal was adopted by 29 votes to one, with 3 abstentions.

THE CHAIRMAN put to the vote the proposal of the representative of Ecuador that the discussion of the report of Sub-Committee 4 should begin with the examination of the additional article.

That proposal was rejected by 17 votes to 9, with 6 abstentions.

THE CHAIRMAN then put to the vote his proposal that the Committee should examine each of the articles which had been altered by the Sub-Committee.

That proposal was adopted by 31 votes to none, with 3 abstentions.

[851]

Preamble

THE CHAIRMAN read out the first three paragraphs of the preamble of the Sub-Committee's text.

The only criticism made was by MR. CONTOUMAS (Greece), who in the French text preferred the word *est* to the word *constitue* in the first recital.

THE CHAIRMAN put to the vote the text proposed by the Sub-Committee for the first three recitals.

The first three paragraphs of the recital were adopted by 11 votes to 2.

THE CHAIRMAN pointed out that the fourth paragraph of the recital had not been changed by the Sub-Committee.

*The fifth, sixth and seventh paragraphs of the recital were adopted.
The enacting part of the preamble was adopted.*

THE CHAIRMAN pointed out that article 1 had not been altered by the Sub-Committee, and opened discussion on article 2.

Article 2

MR. BOGOMOLOV (Union of Soviet Socialist Republics) criticized the alterations made by the Sub-Committee in the wording of the first paragraph of article 2.

He recalled that when the article had been studied in the Third Committee he had declared himself opposed to the use of the word “birth”, to which he preferred the word “estate” (101st meeting). Since certain delegations had not wished that expression to be used, though it was rich in meaning both historically and politically, he had agreed to accept the word “birth” on condition that it should be in its proper place in the Third Committee’s text, namely, following considerations of a social character.

He considered that the alterations made by the Sub-Committee deprived the word “birth” of the sense which it was intended to have, and he suggested that the text adopted by the Committee should be retained.

MR. CASSIN (France) could well understand the justifiable concern of the USSR representative, but thought he would be able to dispel that anxiety.

As regards substance, the idea of “estate”, the absence of which Mr. Bogomolov deplored, was introduced in three of the places: in the expression “without distinction of any kind”, “social origin”, “or any other status”, and the word “birth” itself recalled sufficiently the division of classes or “estates” of the *ancien régime* or of Tsarist Russia.

Moreover, he did not agree that the change in the position of the word “birth” had robbed it of its meaning. Placed after the word “religion”, it could not lead to ambiguities or acquire biological implications.

His country was responsible for the wording of the French text and he urged that the word “birth” should be retained in the place suggested by the Sub-Committee. He would have no objection if the Russian translation used a term corresponding to “estate”.

[852]

MR. CHANG (China) favoured the text submitted by the Sub-Committee, for reasons of form.

MR. WATT (Australia) recalled that his delegation had voted against the new wording in the Sub-Committee because the Third Committee had added the word “birth”, at the suggestion of the USSR and had allotted it a precise place. He thought, therefore, it would be impossible to alter that vote for reasons of form.

MR. PÉREZ CISNEROS (Cuba) entirely shared Mr. Cassin’s opinion on the new text. He stated however that he would prefer to see in the French text the expression *toute personne* retained at the beginning of the first paragraph for he considered it better than the word *chacun*. Any *sujet de droit* must needs be a *personne*.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) wished to reply to Mr. Cassin, whose attitude he did not quite understand. The regime of “estates” had, it was true, disappeared in Russia as it had in France, but the historical term did nevertheless remain. It should not be forgotten that the declaration of human rights should also apply to countries which had not yet evolved as fully as France and the USSR, and that there were still backward countries, in some of which castes and privileges attached to “estates” still existed. There were countries where the revolution which had abolished the “estates” in France had not taken place.

He thought the French representative’s arguments unconvincing. The declaration should contain principles of universal significance, as the French delegation itself had asked.

The alteration to the original text made by the Sub-Committee therefore affected the substance itself of the question, and for that reason the USSR delegation could not adopt it.

MR. AZKOUL (Lebanon) recalled that in the Sub-Committee he had voted against the new text because the alteration made considerably affected the sense of the paragraph.

He wondered whether the representatives of France and the USSR could not reach agreement by taking the original text of the Third Committee and inserting at the end of the paragraph the words “property or other status”.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) criticized the Sub-Committee for having redrafted the original text and having considerably altered its sense.

He stated that a two-thirds majority would be required for the changes to the Third Committee’s text to be adopted.

MRS. CORBET (United Kingdom) suggested that, in order to satisfy the USSR delegation, the words “property or other status” should be added to the original text after the word “birth”.

MR. CHANG (China) suggested the following wording: “. . . language, religion, national or social origin, political or other opinion, birth, property or other status”. [853]

MR. BOGOMOLOV (Union of Soviet Socialist Republics) requested that the original text, should be retained, in view of the ambiguity of the word “birth” and of his delegation’s attitude on that question.

MR. CASSIN (France) pointed out that he was ready to accept a compromise solution, but could not agree that, in order to avoid an absurdity in one language, an absurdity should be imposed in another. The word *état* would no longer be understood in French.

MR. AZKOUL (Lebanon) proposed the adoption of the following order of enumeration in the first paragraph of article 2: “. . . without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status”.

The text was adopted unanimously.

With regard to the substitution of the term *toute personne* by *chacun* in the French text, MR. CONTOUMAS (Greece) pointed out that in a State where individuals might lose their juridical personality, these individuals, by virtue of the text adopted by the Committee, would no longer enjoy any protection. Besides, the word *chacun* was closer in meaning to the English term “everyone”.

MR. PÉREZ CISNEROS (Cuba) consequently withdrew his proposal.

THE CHAIRMAN asked the Committee to pass to the examination of the second paragraph of article 2.

MR. CARRERA ANDRADE (Ecuador) said that, in the Sub-Committee, his delegation had reserved its right to come back to that paragraph.

In the text adopted by the Third Committee, there was an additional article on the colonial clause which the Sub-Committee had rejected by a majority of five votes, thereby ignoring the will of thirty countries expressed in the Committee. Although four members of the Sub-Committee, including the Chairman, had claimed that the amendment was only one of form, four other members, including himself, had considered that the amendment was one of substance, as the Sub-Committee had reopened a decision adopted by the Committee. However, any reconsideration of the article would be possible only if it were decided upon by a two-thirds majority vote of the members of the Committee.

The representative of Ecuador could not accept Mr. Cassin’s assertions that the Sub-Committee had full powers to act in that way. In his opinion, the Sub-Committee had exceeded its terms of reference.

THE CHAIRMAN stated that it was very difficult to determine the nature of a modification. However, he felt that when a paragraph had been transposed and certain words deleted at the same time, and when some members had raised serious objections, as in the case of the paragraph in question, the decision should be taken by a two-thirds majority vote.

The meeting rose at 6:55 p.m.

A/C.3/404

6 December 1948

Original Text: French, English

Lebanon: Compromise proposal for Article 2 Para 2 (A/C.3/400)

Add words in italics on page 8, (A/C.3/400)

Article 2

Para. 2: “Furthermore, no distinction shall be made on the basis of the political, *jurisdictional or international* status of the country *or territory* to which a person belongs, *whether this territory is an independent, Trust or Non-Self Governing territory.*”

A/C.3/405**6 December 1948****New Zealand: Draft Resolution**

The General Assembly

Considering that the plan of work of the Commission on Human Rights provides for an International Bill of Human Rights, to include a Declaration, a Covenant on Human Rights and Measures of Implementation;

Considering that the approval of the Universal Declaration of Human Rights leaves this plan of work uncompleted;

Recognizes that fulfilment of the Charter requirement that the United Nations promote universal respect for and observance of human rights and fundamental freedoms necessitates the early completion of a Covenant on Human Rights and Measures of Implementation; and

Requests to the Economic and Social Council to ask the Commission of Human Rights to continue to give priority in its work to the preparation of a draft Covenant on Human Rights and draft Measures of Implementation.

A/C.3/406**6 December 1948****Greece: Proposal for Article 28**

Nothing in this Declaration may be interpreted as implying for any State, group or person the right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.

A/C.3/SR.176¹⁵³

6 December 1948

***Summary Record of the Hundred and Seventy-Sixth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
6 December 1948, at 10:30 am

Chairman: MR. CHARLES MALIK (Lebanon).

**106. Draft universal declaration of human rights (E/800): report of
Sub-Committee 4 (A/C.3/400 and A/C.3/400/Rev.1) (continued)**

Article 2 (continued)

MR. RADEVANOVIC (Yugoslavia) stated that Sub-Committee 4 had inserted paragraph 2 of article 2 in the declaration in an irregular manner, while rejecting the additional article adopted by the Committee. The wording of that additional article had been perfectly clear and there had been no need to alter it in any way. On the contrary, the new text proposed by the Sub-Committee was too vague and did not correspond to the original idea, which was to make a special declaration of the rights of the populations of Trust and Non-Self-Governing Territories.

According to the terms of reference received from the Third Committee (166th meeting), the Sub-Committee was only a technical organ, without competence to introduce substantive modifications. In proposing an entirely new text, it had exceeded its terms of reference. The Committee had concluded the debate on the substance and no new proposal could be accepted unless the Committee decided to reopen the debate in accordance with rule 112 of the rules of procedure.

MRS. KALINOWSKA (Poland) recalled that there had been stubborn opposition in the Committee to the additional article.¹ She thought that paragraph 2 of article 2, which the Sub-Committee proposed to substitute for that article, sprang from the same attitude of mind which was in favour of the colonial system.

The draft convention on genocide, the protocol on narcotic drugs and many other similar documents contained clauses to the effect that those documents were not applicable to Non-Self-Governing Territories. The draft declaration on human rights was fortunately an exception in that respect. The additional article proclaimed the rights of the millions of inhabitants of colonies and Trust Territories; the Committee had decided to state those provisions in a separate article. The Sub-Committee was

¹⁵³ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 854–64.

not empowered to reverse that decision by deleting that article. The Polish delegation had already made a statement to that effect in the Sub-Committee.

MR. KAYALY (Syria) agreed that the Sub-Committee had no right to replace the separate article by a mere paragraph.

The Syrian delegation considered that the modification which had been made in the text and which related to a question of substance was inadmissible.

[¹] See 163rd meeting.

[855]

MRS. ROOSEVELT (United States of America), though not fundamentally opposed to the idea on which the additional article was based, wondered whether they were really doing a service to the peoples in question by mentioning them specifically at the end of the declaration.

On reading over the complete text, the members of the Sub-Committee had realized that it was not logical to state in article 2 that “everyone is entitled to all the rights and freedoms. . .”, and then to state afterwards, in an article 29, that those rights “also apply to any person belonging to the population of Trust and Non-Self-Governing Territories”. That would amount to saying that the general term “everyone” did not apply to a specific group of people.

If, however, some delegations considered it logical to include in one and the same text two contradictory statements, then the United States delegation would not oppose the adoption of article 29. Nevertheless, the United States delegation thought paragraph 2 of article 2 definitely preferable, because it was of universal scope.

MR. RADEVANOVIC (Yugoslavia) pointed out that the United States representative was raising questions of substance and THE CHAIRMAN replied that members were perfectly entitled to raise such questions. It was only when it was a matter of introducing a modification of substance into the text of the declaration that the Committee had first to decide, by a two-thirds majority, to reopen discussion on the point raised.

MR. SAINT-LOT (Haiti) asserted that the Sub-Committee had exceeded its terms of reference in adopting paragraph 2 of article 2.

The French representative’s argument that they should be careful not to cause offence to the colonial peoples had not convinced the representative of Haiti. His country, which could speak for those peoples, assured the Committee that they would prefer such a slight to their pride rather than have their rights go unrecognized.

The delegation of Haiti was opposed to the step taken by the Sub-Committee and thought draft article 29 should stand, unless the Committee decided otherwise by a two-thirds majority.

MR. PÉREZ CISNEROS (Cuba) recalled that it was his delegation which, in the Sub-Committee, had proposed the new paragraph of article 2. He could not allow

the motives of those who had proposed or approved that text to be called in question. In the Fourth Committee, where he also represented his country, he had always upheld the cause of the peoples of Trust Territories. There were occasions when representatives made mistakes, and sub-committees exceeded their terms of reference, but to question the good faith of the members of the majority on Sub-Committee 4 and of its Chairman, Mr. Cassin, was inadmissible.

The Sub-Committee was entitled by its terms of reference to ensure that the various clauses of the declaration were logically consistent and that there was no unnecessary repetition. Article 2 covered all possible forms of discrimination. [856] The aim of the additional article was to exclude difference of treatment based on the legal status of a certain category of territories. The Cuban delegation, together with the majority of the Sub-Committee, had thought that that idea should be incorporated in the provisions of article 2 and expressed in such a way as to ensure universal application. It was not only a question of Trust and Non-Self-Governing Territories. There were other countries where it was vital to protect human rights, namely, countries under foreign occupation, which none had yet thought of defending.

The Cuban delegation had thought that the text adopted should be couched in terms general enough to apply to those countries also. If that delegation had exceeded the terms of reference of the Sub-Committee, it had done so with the best of intentions; but he thought that it was in fact a question of form and, as such, came within the competence of the Sub-Committee. He asked the Committee to take a vote on whether the modification made by the Sub-Committee affected the substance of the additional article or merely the form.

He was willing to grant the critics of paragraph 2 of article 2 that it did not express the generous idea behind the additional article as clearly as that article did.

For that reason he was making a formal proposal that the words "and jurisdictional" should be added between the words "political" and "status", and, that the territory of the individuals should be mentioned at the same time as his country.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) pointed out that the arguments that were being put forward were the same as those which had been used to oppose the adoption of the additional article. The Committee, however, had already adopted that article (163rd meeting), the text of which was extremely clear. That text contained explicit mention of the peoples of Trust and Non-Self-Governing Territories, whereas the text proposed as a substitute for it referred to the political regime of various countries. The wording of the new paragraph lacked clarity as it seemed to give the impression that it was no longer a matter of defining the rights of the individual as such, but the rights of persons attached to certain territories.

The representative of Cuba wanted to broaden the conception of the political regime in order to make it apply to occupied countries. The Byelorussian

representative did not think there was any need to take account of occupied countries. Moreover, any comparison between the occupied zones of Germany and the colonial territories would be unfavourable to the latter.

He thought that the Committee should reject paragraph 2 of article 2, and retain the text of draft article 29.

MR. CASSIN (France) explained that, as Chairman of Sub-Committee 4, he had abstained from voting on paragraph 2 of article 2; nevertheless, the text had been adopted by the Sub-Committee by 6 votes to 3. He protested against the tendency [857] to question the good faith of the members who constituted that majority. He recalled also that when the Cuban delegation had proposed the text in question he had pointed out that it might be regarded by some as a substantive modification. The Sub-Committee had therefore decided to draw the attention of the Committee to that aspect of the question.

The French representative declared that his country's attitude on the subject of the Trust and Non-Self-Governing Territories had never changed. France wished to defend the rights of all human beings without exception. The Territories in question were already mentioned in the preamble to the declaration; to repeat that idea was unnecessary, and to mention it in a restrictive sense would be dangerous. Failure to mention other categories of countries, such as occupied countries, might restrict the universal application of the provisions of article 2. He urged that, as matters stood, the article would gain in effectiveness through being as general as possible.

As regards procedure, the French representative recalled that the terms of reference of the Sub-Committee included the obligation to avoid contradictions, duplication and gaps. The Committee was free to take decisions on the substance as well as on the form; it should relieve the Sub-Committee of its mandate and take a simple majority vote on each question.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) recalled that his delegation had already protested against the Sub-Committee's decision, which was a violation of the basic decision previously taken by the Third Committee. None of the explanations given to justify such a deviation was convincing. The fact that a principle was stated in the preamble to the declaration should not exclude all later mention of it. In such a case, repetition could only add to the force of the principle.

The USSR delegation therefore formally requested that the additional article should be restored to its original form. With regard to the place to be taken by that article in the body of the declaration, the USSR delegation would give its opinion when the Committee discussed the final form of the draft.

MR. SANTA CRUZ (Chile) said that the text drawn up by the Sub-Committee, particularly if it were amended in the sense proposed by the Cuban representative, was fundamentally more satisfactory than the narrower version which had been adopted by the Committee itself. He admitted, however, that a substantive

amendment was involved and that any decision in favour of its adoption should therefore be supported by a two-thirds majority of the Committee, in accordance with the rules of procedure.

He added that, in adopting that attitude, the Chilean delegation did not question the intentions of the members of the Sub-Committee, for whom it had the highest respect.

MR. CONTOUMAS (Greece) pointed out that it seemed impossible to interpret the draft prepared [858] by the Sub-Committee otherwise than as extending the rights established in the declaration to every individual without exception. The only criticism, if any, might be that that text was broader than the earlier version, since it extended the enjoyment of human rights not only to the inhabitants of Trust and Non-Self-Governing Territories, but to the inhabitants of every country and every territory in the world, whatever its international political status.

The misunderstanding no doubt arose from the absence of the word “international”, because “political status” might be taken as meaning the internal regime of the territories in question, and appeared to have been so taken by some delegations. In putting the emphasis on the international aspect, such territories as Tangier, which had a special international status, would be understood to be included, together with any new forms of jurisdiction which might be established in the future for other territories. As thus defined, the text proposed by the Sub-Committee would be perfectly clear and would be an improvement on the original.

MR. CARRERA ANDRADE (Ecuador) said that the political status of a country was determined by its internal structure and not only by the form of government it happened to have. The members of the Sub-Committee had recognized their mistake since the representative of Cuba proposed an amendment to the text sponsored by his own delegation and the French representative admitted that he had abstained from voting in the Sub-Committee of which he had been Chairman.

The additional article, as adopted by the Committee, called for no change in style or form; moreover, its explicit purpose was to extend the protection of the declaration of human rights to the inhabitants of colonies, Trust Territories and Non-Self-Governing Territories; it therefore seemed preferable to retain it.

His delegation wished to point out that, in taking up that position, it did not question the good faith of the members of the Sub-Committee, and particularly of the Cuban representative, whose intelligent and devoted contribution to the cause of human rights was known to all.

COUNT CARTON DE WIART (Belgium) said that the Sub-Committee had been entrusted with a very delicate task. Having taken part in most of the meetings, he could not express an opinion upon the value of its work but he wished to pay a tribute to the sincerity shown in all its discussions and to the great ability of its Chairman, Mr. Cassin.

The Sub-Committee had been instructed to give the draft declaration as harmonious a form as possible. From that point of view the Belgian delegation did not think it had been wrong to insert, instead of an article referring solely to the inhabitants of Non-Self-Governing Territories, a more general text, which was also much clearer. As had been noted by the representative of Greece, one advantage of the new text was that it also included inhabitants of territories with a [859] special juridical status which had not previously been taken into account, namely, Tangier and Trieste currently and Jerusalem in the future. The two amendments proposed by the representative of Cuba clarified that point very satisfactorily.

If the Committee adopted the new text, amended in the sense proposed by the Cuban representative, it would respect the basic idea which had inspired all its work, namely, the principle of the universal application of the Declaration of Human Rights, and would avoid the danger of excluding a single human being from enjoying the rights and freedoms to be established in that declaration.

MR. BARODY (Saudi Arabia) stated that his delegation would vote in favour of the Committee's text.

It would not be able to accept the Sub-Committee's proposal, which undoubtedly affected the substance of the original text, nor could it be convinced by arguments that that proposal avoided a repetition, for his delegation considered that such a repetition would, on the contrary, be useful in the present case.

He was therefore in favour of retaining a separate article, as drafted by the Third Committee.

MRS. CORBET (United Kingdom) thanked the Cuban representative for the way in which he had clarified the debate.

The United Kingdom delegation would vote in favour of the new paragraph which the Sub-Committee wished to add to article 2. That did not mean that her delegation was opposed, in principle, to the provisions of the additional article; the contrary was the case; but it would like those provisions to be stated in conformity with the general wording of the declaration. It was undeniable that the purpose of draft article 29 was to broaden article 2; the Sub-Committee had respected that intention by drafting a text which could be incorporated in article 2. Although it did not mention them explicitly, there could be no doubt that that text implicitly included Trust and Non-Self-Governing Territories. Moreover, it had the advantage, especially if the Committee accepted the suggestions made by the representatives of Cuba and Greece, of including all other territories, such as Tangier and Trieste, which had been mentioned, or the regions at present under military occupation; that comprehensiveness was in complete accord with the general feeling, since it was stated that the declaration would be universal.

Certain delegations seemed to fear that the rights established by the declaration would not apply to the inhabitants of Trust and Non-Self-Governing Territories; that

fear had no foundation, for all the countries which still had links with those Territories were doing their utmost to lead them towards independence in accordance with the provisions of the treaties which they had signed. She feared that the danger was much more real in regard to the populations of totalitarian countries where human rights did not exist and were not likely to exist.

[860]

MR. AZKOUL (Lebanon) expressed his agreement with the argument that the additional article could not be inserted in the declaration in the form given to it by the Committee since that would weaken the universal scope of article 2.

Moreover, although the good faith of the authors of the text submitted by the Sub-Committee could not be questioned, it should nevertheless be realized that the text did not entirely correspond to the intentions of those who thought it necessary to include explicit mention of the populations of the Trust and Non-Self-Governing Territories in the declaration.

In order to reconcile those two points of view, the Lebanese delegation proposed the retention of the text and its insertion in article 2 – which would be more in conformity with the draft declaration as a whole. Taking into account the amendments suggested by the Cuban representative, he proposed that paragraph 2 of article 2 should be worded as follows (A/C.3/404):

“Furthermore, no distinction shall be made on the basis of the political, *jurisdictional or international* status of the country or territory to which a person belongs, *whether this territory is an independent, Trust or Non-Self-Governing territory.*”

MR. PÉREZ CISNEROS (Cuba) thanked the Byelorussian representative for the courtesy he had shown in presenting his constructive criticisms of the Cuban amendment. He drew his attention to the fact that it did not refer to Germany but to all territories, including colonies, which were under military occupation, and the exact status of which was unknown.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) recalled that, in defining the Sub-Committee’s terms of reference, The Chairman had carefully pointed out that its work would be of a purely drafting nature. The Sub-Committee had however gone as far as to delete an article which had been adopted by the full Committee by a considerable majority; it had therefore exceeded its terms of reference. Such liberties were not surprising: it was only one more manifestation of the attitude which certain colonial countries had maintained all through the debates on the declaration of human rights; giving seemingly innocent drafting considerations as a pretext, certain delegations had wished at all costs to prevent the declaration from including explicit mention of the populations of Non-Self-Governing or Trust Territories.

The same pretext had been given at the current meeting for eliminating an essential article from the declaration. The colonial populations were waiting

impatiently for their independence and their equality to be recognized; it was essential that that should be done. The additional article of the declaration fulfilled those aims perfectly; the Committee had adopted it and the new examination suggested by certain delegations was therefore unnecessary.

In conclusion, the Ukrainian representative expressed his support of the original text. He would not be able to accept the text as redrafted by the Sub-Committee, which had gone beyond its terms of reference in drafting it.

[861]

MR. AQUINO (Philippines) wished to stress the fact that there could be no doubt as to the good faith of the Cuban delegation, on whose initiative the Sub-Committee had decided to delete the additional article and reintroduce it in the form of a second paragraph to article 2. The progressive attitude which the Cuban representative had always shown would in itself suffice to dispel any possible misunderstanding in that connexion.

It was, however, indisputable that the Sub-Committee had gone beyond its terms of reference. Draft article 29 mentioned Non-Self-Governing Territories and Trust Territories. By substituting for those precise terms expressions which were so vague that they might be taken as including territories occupied by the Allies as a result of the war – and certain delegations had definitely stated that such an interpretation was possible – the Sub-Committee had touched upon questions of substance which did not fall within its competence.

For those reasons, the Philippine delegation would support the text of the additional article, as approved by the full Committee.

MR. AIKMAN (New Zealand) said he would vote in favour of the text submitted by the Sub-Committee, which not only kept intact the fundamental principle of the additional article but stated it in a way more in keeping with the declaration as a whole. The amendments proposed by the Cuban delegation were very appropriate in his opinion. So was the amendment submitted by the delegation of Lebanon though it would be preferable, however, if it could be worded slightly differently in order to improve the form of expression.

MR. RADEVANOVIC (Yugoslavia) pointed out that the authors of the text proposed by the Sub-Committee had themselves recognized the fact that they had intended to broaden the scope of the additional article. They had therefore admitted to having modified that article in regard to its substance.

If the clear terms of “Trust and Non-Self-Governing Territories” were replaced by the vague terms of “political status” and “countries”, the most fundamental part of the text adopted by the Committee would be deleted.

THE CHAIRMAN stated that there could be no doubt as to the complete good faith of members of the Sub-Committee. For the reasons which the representative of Yugoslavia had just given, however, it was evident that the Sub-Committee

had gone beyond its terms of reference. The additional article laid stress on two definite terms; that was the reason for its existence, as the discussion had shown. The Sub-Committee's text did not take into account the particular importance which the Committee had given those two terms; it was evident therefore that the Sub-Committee had introduced into the original text a modification in regard to its substance.

Consequently, the Chairman felt that he could not ask the Committee to vote on the new text unless the Committee decided, by a two-thirds majority, to re-examine draft article 29.

MR. PÉREZ CISNEROS (Cuba) stated that, with all due respect to the Chairman, he could not share his views on that point.

[862]

He appealed to the Committee against the Chair's ruling and said he would accept the Committee's decision.

He asked for a vote to be taken by roll-call.

A vote was taken by roll-call, as follows:

In favour: Argentina, Belgium, China, Cuba, France, Greece, United States of America.

Against: Afghanistan, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Haiti, India, Iran, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Saudi Arabia, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Abstaining: Australia, Bolivia, Canada, Colombia, Honduras, Lebanon, Netherlands, Turkey, United Kingdom.

The appeal was rejected by 29 votes to 7, with 9 abstentions.

MRS. CORBET (United Kingdom) explained that her delegation had abstained, not because it considered that the Sub-Committee had introduced changes in the substance of the Committee's text, but because it did not wish to question the Chairman's ruling.

MR. WATT (Australia) reminded the Committee that his delegation had abstained when the Sub-Committee had been called upon to vote on whether the amendments proposed with regard to the additional article were amendments of substance or of form. His abstention in the vote which had just been taken was therefore in conformity with the general position adopted by his delegation.

MR. SAINT-LOT (Haiti) had supported the Chairman's ruling which did credit both to the Chairman and to the Committee. Indeed, by recognizing the fact that they had wished to broaden the scope of the Committee's text, certain members of the Sub-Committee had admitted by implication that they had introduced modifications in regard to substance into the original text.

MR. CASSIN (France) had opposed the Chairman's ruling. He had done so quite objectively as he considered that a sub-committee which had been asked to make a text more coherent could not be criticized for having carried out its terms of reference.

He emphasized the fact that it was now the Committee's responsibility to fill the gaps in the original text.

MR. PÉREZ CISNEROS (Cuba) agreed with the statement made by the French representative.

He bowed to the Committee's decision and said that he was ready to vote in favour of the original text.

MRS. CORBET (United Kingdom) moved formally that the Committee should re-examine the additional article.

MR. CARRERA ANDRADE (Ecuador) asked for the vote on the United Kingdom representative's proposal to be taken by roll-call.

A vote was taken by roll-call, as follows:

[863]

In favour: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, France, Greece, Honduras, Netherlands, New Zealand, Norway, Panama, Paraguay, Sweden, Turkey, United Kingdom, United States of America, Yemen.

Against: Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Ecuador, Ethiopia, Haiti, India, Pakistan, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Abstaining: Dominican Republic, Iran, Iraq, Mexico, Peru, Philippines.

The result of the vote was 25 in favour, 14 against and 6 abstentions. The proposal for the re-examination of article 29 was not adopted, having failed to obtain the required two-third majority.

Article 3

Article 3 was adopted.

Article 4

THE CHAIRMAN drew attention to the fact that the only amendment introduced in article 4 consisted in an alteration of the order of the sentences.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) reminded the Committee that his delegation had spoken in the Sub-Committee against the change effected in the order of the sentences in that article. He considered that in its new form, article 4 had lost both in forcefulness of expression and in scope. It was therefore more reasonable to retain the article in its original form.

MR. WATT (Australia) said that the Committee had not taken a decision as to the final order to be given to the various paragraphs of article 4. The order which the Sub-Committee recommended appeared to him to be perfectly acceptable.

THE CHAIRMAN asked the Committee to vote on article 4 in its new form.

Article 4 was adopted by 32 votes to 6, with 3 abstentions.

Articles 4a, 5, 6 and 6a

Articles 4a, 5, 6, 6a were successively adopted.

Article 7

MR. CASSIN (France) proposed that the word *arbitrairement* should be placed at the beginning of the sentence, between the words *être* and *arrêté*, in order to avoid any possible misunderstanding. That modification concerned only the French text.

It was so decided.

With that further modification, article 7 was adopted.

Article 8

Article 8 was adopted.

Article 9

Pointing out a slight discrepancy between the French and English texts, MR. CASSIN (France) requested that the word *juridiquement* should be replaced, in the French text, by the word *légalement*.

[864]

It was so decided.

With that modification, article 9 was adopted.

Article 10

MRS. CORBET (United Kingdom) proposed that the word “arbitrary”, which could only be applied to interference prohibited by law, should be replaced by the word “unreasonable” which had a wider meaning and also included interference of a private nature.

MR. AQUINO (Philippines) supported that proposal.

MR. PÉREZ CISNEROS (Cuba) preferred the word “abusive” which appeared in the Spanish text of the draft declaration.

MR. ABADI (Iraq) suggested the word “unwarranted” which was more forceful in English than “unreasonable” and had a wider meaning than “arbitrary”.

MRS. CORBET (United Kingdom) agreed with that proposal.

MR. CASSIN (France) stressed the fact that the question had already been discussed at length and that the Committee had taken a decision on the matter which there was no cause to reconsider. The term “arbitrary” was used on several occasions in the draft declaration and it was fully understood that it expressed two shades of meaning: that of illegality and that which the United Kingdom representative had sought to define by using the word “unreasonable”.

MR. BOGOMOLOV (Union of Soviet Socialist Republics), MR. SAINT-LOT (Haiti), MR. CHANG (China) and MR. AIKMAN (New Zealand) shared the views expressed by the representative of France.

THE CHAIRMAN asked the Committee to vote on the replacement of the term “arbitrary” by the word “unwarranted”.

*It was decided, by 34 votes to 2, with 5 abstentions, to retain the word “arbitrary”.
Article 10 was adopted.*

The meeting rose at 1:10 p.m.

A/C.3/SR.177¹⁵⁴

6 December 1948

***Summary Record of the Hundred and Seventy-Seventh Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Monday,
6 December 1948, at 3:30 p.m.

Chairman: MRS. BODIL BEGRUP (Denmark); later, MR. CHARLES MALIK (Lebanon).

**107. Draft universal declaration of human rights (E/800): report of
Sub-Committee 4 (A/C.3/400 and A/C.3/400/Rev.1) (continued)**

Article 11

Article 11 was adopted.

Article 12

MR. BOGOMOLOV (Union of Soviet Socialist Republics) did not object to the text of paragraph [865] 2 of article 12 as drafted by the Sub-Committee, but pointed out that

¹⁵⁴ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 864–72.

the Sub-Committee had not merely altered the wording of the original text, but had touched upon the substance of the question. The original text of paragraph 2 had represented a legal definition of persecution; the Sub-Committee's text no longer did so, but merely listed exceptions to the principle stated in paragraph 1 of the same article.

THE CHAIRMAN put article 12 to the vote.

Article 12 was adopted by 29 votes to none, with 2 abstentions.

Articles 13, 14 and 15

Articles 13, 14 and 15 were successively adopted.

Article 16

MR. PÉREZ CISNEROS (Cuba) proposed that the word *ou* in the phrase *seul ou en commun* in the French text should be replaced by the word *et* for the sake of greater clarity.

In reply to a question by MR. CHANG (China), the Chairman stated that the replacement of *ou* by *et* in French must involve a corresponding change in the English text. He pointed out, however, that the word "either" in the English text made it clear that freedom to manifest religion or belief in public by no means excluded the freedom to do so in private.

MRS. CORBET (United Kingdom) agreed with the Chairman that if a disjunctive were replaced by a conjunction in the French text, a corresponding alteration must be made in the English text.

MR. CASSIN (France) had no objection to the Cuban representative's proposal as far as the French text was concerned, but thought that the text was sufficiently clear as it stood.

MR. PÉREZ CISNEROS (Cuba) withdrew his proposal in view of the opinion expressed by the representative of France, but reserved the right to make the appropriate change in the Spanish text.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that the Russian text of article 16 was not satisfactory as it did not correspond with either the English or the French texts; he reserved the right to make the necessary alteration.

THE CHAIRMAN put article 16 to the vote.

Article 16 was adopted.

Article 17

Article 17 was adopted.

Article 18

MR. CONTOUMAS (Greece) formally proposed the deletion of the word *pacifique* in the French text. The meaning of the word *pacifique* in French was not the same as that of “peaceful” in English: moreover, in the English text the word “peaceful” applied both to “assembly” and “association”, while in the French text the word *pacifique* applied only to *réunion*.

[866]

THE CHAIRMAN stated that the amendment proposed by the representative of Greece was one of substance, and called for reconsideration of article 18; he recalled that, under rule 112 of the rules of procedure, a proposal which had been adopted or rejected could not be reconsidered unless the Committee so decided by a two-thirds majority.

MR. PÉREZ CISNEROS (Cuba) thought that the Greek representative’s proposal did not constitute a request for reconsideration of article 18, but was merely a drafting change. It was essential that the English and the French texts should be as nearly identical as differences of language would permit.

MR. AZKOUL (Lebanon) suggested that the Greek representative’s second objection might be overcome if the French text were altered to read . . . *à la liberté de réunion et d’association pacifiques*.

THE CHAIRMAN put the Lebanese proposal to the vote.

The proposal was adopted.

THE CHAIRMAN put article 18, as amended in respect of the French text, to the vote.

Article 18, as amended in respect of the French text, was adopted.

Article 19

MR. AZKOUL (Lebanon) drew attention to the first phrase of paragraph 3 of article 19. He recalled that, during the discussions in Sub-Committee 4, there had been no divergences of opinion on any point of substance; however, two different views had been advanced as to the form of the verb “to be” which should be used in that phrase.

He proposed that the words *doit être* in the French text should be replaced by *est*; the use of the present indicative in that context would give more force to the principle proclaimed.

THE CHAIRMAN suggested that the matter should be decided by the French-speaking delegations, as the English text was unaffected by the proposal of the Lebanese representative.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) was strongly opposed to the Lebanese representative’s proposal, as it involved a change of substance. The

words *doit être* made it clear that not every Government could claim that its authority was based on the will of the people; they imposed a certain obligation, both on Governments and on peoples. The word *est*, on the other hand, implied that the authority of any Government was based on the will of the people, which did not correspond to the truth; such a formula might be used as an argument in favour of a Government not in fact based on the will of the people.

MR. CASSIN (France) pointed out that all members were agreed on the principle involved; the point at issue was the manner in which that principle should be most clearly and most forcefully proclaimed. In the French language, the present [867] indicative was the most emphatic form of the verb “to be”.

He recalled in that connexion that the Committee’s original draft of the first paragraph of article 4 read: “Slavery and the slave trade are prohibited in all their aspects.”

THE CHAIRMAN stated that, in the English language, the present indicative form of the verb “to be” was used in all declarations of principle, and had the force of an absolute statement. The difference of meaning referred to by the representative of the Soviet Union did not exist in English, although it might exist in Russian.

He could not therefore share Mr. Bogomolov’s opinion.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) reiterated the view that it would be more accurate and more appropriate to use the imperative future both in the English and in the French texts. The use of the present indicative, which obviously did not reflect the truth in the case in point, would merely weaken and distort the substance of the principle involved.

He urged that the text should be retained as it stood.

MR. CHANG (China) recalled that the current form of the first phrase of paragraph 3 had been established as a compromise solution, as the result of a concession by the French delegation, which had always expressed preference for the use of the present indicative. After some debate, the Committee had decided in favour of the current wording.

While expressing no personal preference, he suggested that, in order to avoid loss of time and a possible disparity between the French and English texts, the sentence should be retained as it stood.

MR. BOGOMOLOV (Union of Soviet Socialist Republics), speaking on a point of order, stated that the change proposed by the representative of Lebanon affected the substance of the matter and would therefore require a two-thirds majority vote. The proposed alteration was a question of politics rather than of grammar.

THE CHAIRMAN did not agree with the representative of the USSR; the Lebanese representative’s proposal was directed only at making the statement more emphatic and did not therefore require a two-thirds majority.

MR. CASSIN (France) supported by MR. RYCKMANS (Belgium), assured the representative of the Soviet Union that, in the French language, the present

indicative had the value of a categorical imperative; the substitution of *est* for *doit être* would give additional emphasis to the statement, while in no way changing its meaning.

MR. CONTOUMAS (Greece) agreed with the representative of France, and added that the present indicative was used in statements of principle in the French Constitution.

MR. WATT (Australia) believed that any change made in the French text should also be made in the English text. As far as the latter was concerned, the substitution of the word “is” for “shall be” would constitute an improvement by [868] making it perfectly clear that the statement in question reflected an abstract principle. The USSR representative’s objections did not apply to the case in point.

MRS. CORBET (United Kingdom) agreed with the representative of the Soviet Union that the use of the word “is” in the English text would constitute an inaccuracy; she believed that the English text was satisfactory and would prefer it to be retained as it stood.

THE CHAIRMAN put to the vote the proposal that the word *est* should be substituted for the words *doit être* in the French text.

The proposal was adopted by 15 votes to 5, with 14 abstentions.

THE CHAIRMAN put to the vote the proposal that the word “is” should be substituted for the words “shall be” in the English text.

The proposal was rejected by 26 votes to 3, with 9 abstentions.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the Russian text would be drafted to correspond to the English rather than to the French text.

THE CHAIRMAN put article 19, as amended in the French text, to the vote.

Article 19 was adopted, as amended in the French text.

Articles 20 and 21

Articles 20 and 21 were successively adopted.

Article 22

MR. LUNDE (Norway) stated that his delegation, which had submitted the amendment¹ on which the new text of paragraph 2 was based, was prepared to accept the Sub-Committee’s draft. It considered, however, that as a result of the combination of paragraphs 2 and 3, the idea of social protection for children born out of wedlock was not as clear as in the former text.

Mr. Lunde reserved the right to raise the question again.

THE CHAIRMAN put article 22 to the vote.

Article 22 was adopted.

Article 23

MR. CHANG (China) observed that he had submitted a slight amendment (A/C.3/397) to paragraph 1 of article 23, chiefly for the sake of uniformity of style. The first two sentences of the paragraph would remain unchanged; the third would read as follows:

“Elementary education shall be compulsory; technical and professional education shall be made generally available; and higher education shall be equally accessible to all on the basis of merit.”

MR. CASSIN (France) proposed the following translation of the last phrase of the Chinese amendment:

L'accès aux études supérieures doit être ouvert également à chacun en fonction de son mérite.

[1] See 143rd meeting.

[869]

MR. AZKOUL (Lebanon) suggested that *en pleine égalité* should be substituted for *également*, which was somewhat ambiguous.

MR. CASSIN (France) thought that if the Lebanese representative's suggestion were adopted, it would be impossible to say *à chacun* and it would be necessary to revert to the original text.

MRS. CORBET (United Kingdom) stated that she would vote for the Chinese amendment.

MR. PÉREZ CISNEROS (Cuba) and MR. CARRERA ANDRADE (Ecuador) asked that paragraph 1 of article 23 should be voted on in two separate parts.

THE CHAIRMAN put to the vote the first two sentences of paragraph 1.

The first two sentences were adopted by 27 votes to 8.

THE CHAIRMAN put to the vote the Chinese amendment to the remainder of paragraph 1.

The amendment was adopted by 13 votes to 1, with 7 abstentions.

Paragraph 2 of article 23 was adopted.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) asked that paragraph 3 should be put to a vote. As the paragraph was worded, it might be interpreted to mean that if a young man of 23 or 24 wished to study a certain subject, his parents had the right to prevent him from so doing.

He asked that the word “minor” should be inserted before the word “children”.

THE CHAIRMAN observed that as the USSR proposal was one of substance, a two-thirds majority would be required to decide whether it could be debated.

MR. AQUINO (Philippines) protested against the proposal of the representative of the Soviet Union because he felt that to reopen the whole question, which had already been debated at length, would create a bad precedent. He thought it was clear that the article referred to minors; that could be stated if the USSR representative so desired, but in any case proper parliamentary procedure should be followed.

MR. PÉREZ CISNEROS (Cuba) supported the proposal of the representative of the Soviet Union as far as the French text was concerned.

MR. CASSIN (France) pointed out that the paragraph had never been voted on. He suggested the addition of the word *mineurs* in the French text.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) said that the point at issue was simply to find a good equivalent in French and Russian for the word “child”.

THE CHAIRMAN pointed out that if the word “minor” were added, the Committee would then have to decide at what age a child ceased to be a minor; that age differed in different countries.

MR. CHANG (China) suggested replacing the words “to their children” by the word’s “to their offspring in their early childhood”.

[870]

MR. WATT (Australia) explained that the Australian delegation had opposed an earlier USSR suggestion for the introduction of the word “younger” only because that proposal had been made when the Committee was in the middle of voting.

No one had intended that parents should have such rights over their children up to all ages; indeed it was more the authority of the parent in relation to the State that had been envisaged. It had been considered, for instance, that it should be stated that parents had some say concerning whether their children should be sent to State schools or private schools.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) recalled that the wording of the paragraph had never been discussed in detail. After the existing wording had been adopted, the USSR representative had made his observations, which had convinced members of the Sub-Committee that the wording was not very good, that it enunciated an obsolete principle, and that it must be clarified.

MR. RYCKMANS (Belgium) said he would vote against the proposed amendment. The article was clearly intended to confirm parents’ priority over the State or organizations other than the family in matters of education. The draft declaration nowhere limited the authority of parents or determined when it should cease to be exercised. Naturally no one could compel an adult to enter an educational establishment against his wish; the article could therefore apply only to children under age.

MRS. CORBET (United Kingdom) opposed the amendment. There was a danger that the introduction of any change would entail material alterations of substance.

MR. CASSIN (France) pointed out that the existing text had the advantage of flexibility; it might refer to children up to 14, 18, or 21 years of age. The introduction of the word “minor” would make it refer specifically, at any rate in France, to persons under 21 years of age, and might thus have the effect of curtailing the freedom of children.

MR. ENCINAS (Peru) moved the closure of the debate.

The motion was adopted.

THE CHAIRMAN put paragraph 3 of article 23 to the vote.

Paragraph 3 was adopted.

Article 24

THE CHAIRMAN stated that it had been decided to place article 24 between articles 21 and 22.

MR. AIKMAN (New Zealand) suggested that the word “including” should be substituted for the word “to” between the words “leisure” and “reasonable”.

MR. PÉREZ CISNEROS (Cuba) and MR. SAINT-LOT (Haiti) thought that the addition of the word “including” in no way improved the text of article 24, which they considered to be quite clear already.

[871]

MRS. CORBET (United Kingdom) stated that her delegation welcomed the amendment of New Zealand, which laid emphasis on the right to leisure.

THE CHAIRMAN put the New Zealand amendment to the vote.

The amendment was adopted by 15 votes to 12, with 12 abstentions.

THE CHAIRMAN put article 24, as it had just been amended, to the vote.

Article 24, as amended, was adopted.

Articles 25 and 26

THE CHAIRMAN recalled that slight drafting changes had been suggested in respect to the French texts of articles 25 and 26. He put the articles, thus amended, to the vote.

Articles 25 and 26, as amended in respect of the French texts, were successively adopted.

Article 27

MR. PÉREZ CISNEROS (Cuba) considered that the wording of the French text of paragraph 1 was ambiguous; he asked whether it meant that an individual had duties and obligations towards society because society existed only for the purpose of enabling him to develop his personality.

MRS. CORBET (United Kingdom) stated that she had noticed in paragraph 2 that the term “prescribed” corresponded to the word *établies* in French; “prescribed” gave the impression of a written order, and was therefore not appropriate. She suggested the word “determined” in its place.

MR. CASSIN (France) confirmed the opinion of the representative of the United Kingdom, and informed the Cuban representative that his interpretation of paragraph 1 was correct, since society established the environment which permitted the individual to develop his personality.

THE CHAIRMAN stated that unless there were any objections, the United Kingdom amendment, substituting the word “determined” for the word “prescribed” in paragraph 2 of article 27, would be considered adopted.

It was so agreed.

MR. AZKOUL (Lebanon) stated that, with all due respect for the interpretation of paragraph 1 by the representative of France, he considered that the wording of that paragraph was ambiguous; it might well be understood that an individual had no duties towards a society which did not ensure his free development.

That was his delegation’s interpretation of that paragraph, and he wished it to be recorded.

MR. AIKMAN (New Zealand), while expressing respect for the opinion of the representative of Lebanon, desired to associate himself with the views of the representative of France.

THE CHAIRMAN put article 27, as amended in respect of the English text, to the vote.

Article 27, as amended in respect of the English text, was adopted.

[872]

Article 28

MR. AZKOUL (Lebanon) declared that the Sub-Committee had been unable to devote the necessary attention to article 28, and that the text before the Committee might be wrongly interpreted. From the wording, it might be deduced that a State, group or individual had the right to disregard the provisions of the declaration. That right was not recognized in the declaration. The Lebanese delegation could not accept a text which could allow of such an interpretation.

He suggested substituting the words “can be invoked” for the words “shall imply”.

MRS. ROOSEVELT (United States of America) stated that her delegation approved the text as it stood; she thought it unnecessary at that time to attempt to state in new words what was already perfectly clear.

MR. CASSIN (France) observed that the Lebanese proposal eliminated the concept of the law, which was very important.

MR. WATT (Australia) agreed with the United States representative that the text as it stood was satisfactory. He felt that it would be a mistake to attempt to redraft it hastily at that stage.

THE CHAIRMAN stated that due time would be given to the discussion of the question, and requested that the Lebanese amendment should be prepared in English and French in time for distribution at the meeting to be held the same evening.

He asked the French, Lebanese and Australian representatives to agree upon the wording of the Lebanese amendment before 8.30 that evening.

The meeting rose at 6:40 p.m.

A/C.3/SR.178¹⁵⁵

6 December 1948

Summary Record of the Hundred and Seventy-Eighth Meeting [of the Third Committee]

Held at the Palais de Chaillot, Paris, on Monday,
6 December 1948, at 8.30 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

108. Draft, universal declaration of human rights (E/800): report of Sub-Committee 4 (A/C.3/400 and A/C.3/400/Rev.1) (continued)

Article 28 (continued)

MR. CONTOUMAS (Greece) submitted a new text (A/C.3/406) for article 28, designed to meet the Lebanese representative's point that the article should contain a categorical statement (177th meeting). The new text read as follows:

¹⁵⁵ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 872–84.

“Nothing in this Declaration may be interpreted as implying for any State, group or person the right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms prescribed herein.”

[873]

THE CHAIRMAN put to the vote a proposal that in the English text of the amendment the words “the right to engage” should be replaced by the words “any right to engage”, and that the word “prescribed” should be replaced by the words “set forth”; and that in the French text the word *saurait* should be replaced by the word *peut* and the words *le droit* by the words *un droit quelconque*.

The proposal was adopted.

THE CHAIRMAN put the amendment, thus amended, to the vote.

The amendment was adopted.

THE CHAIRMAN put article 28, as amended, to the vote.

Article 28, as amended, was adopted.

Additional Article

MR. AIKMAN (New Zealand) suggested that in the additional article contained in the draft declaration of the Third Committee, the word “proclaimed” might be changed to “set forth”, which should be used throughout the declaration in preference to the words “prescribed”, “proclaimed” or “set out”.

It was so agreed.

MR. CAMPOS ORTIZ (Mexico), MR. CHANG (China) and MR. AZKOUL (Lebanon) suggested drafting changes whereby the word *également*, in the French text, would be replaced by the words *en pleine égalité*, and the English text would read as follows:

“The rights set forth in this Declaration apply equally to all inhabitants of Trust and Non-Self-Governing Territories.”

THE CHAIRMAN put the additional article, as amended, to the vote.

The additional article, as amended, was adopted.

Arrangements of Articles

MR. PÉREZ CISNEROS (Cuba) thought that the place of certain articles should be changed. As a first step, which could be put to the vote separately, he suggested

placing article 14 immediately before article 10, in order to bring together two articles which touched on the subject of the family.

MR. AZKOUL (Lebanon) remarked that it might be better that article 14 should follow article 10; the transition from the purely legal matters dealt with in articles 7, 8 and 9 to an article dealing entirely with marriage and the family would be too abrupt.

MR. WATT (Australia), speaking as Rapporteur of Sub-Committee 4, explained that the Cuban representative had wished to group the various articles in such a fashion that fundamental rights would form one section, economic and social rights another, legal rights a third, and so on. The Sub-Committee however, had been unable to agree which rights were fundamental, and had consequently contented itself with altering the position of article 24 alone.

Speaking as the representative of Australia, Mr. Watt requested the Cuban representative to explain the broad general lines of the changes he [874] had in mind. The Committee could not consider separate suggestions without having an idea of the general order proposed.

MR. CHANG (China) called attention to the fact that various bodies had worked on the declaration for two years, and that all the Governments had had an opportunity of considering it and making comments. The order in which the articles appeared in the declaration had stood the test of time. The document possessed an organic unity which should not be tampered with lightly, at the very end of the Committee's work.

With regard to the Cuban proposal, if article 14 were inserted between articles 7, 8 and 9, which granted purely legal rights, and article 10, which dealt only incidentally with the family and called for legal protection with respect to a number of other matters, a logical sequence would be destroyed.

The Lebanese suggestion was equally unacceptable since articles 11, 12 and 13, dealing with freedom of movement, asylum, and nationality, were much more closely associated in meaning with article 10 than was article 14.

He pleaded with the Committee not to alter the order of any of the articles save for good and sufficient reasons.

MR. PÉREZ CISNEROS (Cuba) remarked that his delegation, too, had followed the gradual development of the declaration for two years and had studied the comments of the various Governments; it had, moreover, taken part in the Bogotá conference, where the subject of human rights had been considered at length. In the light of its experience, it found the declaration admirable in detail, but lacking coherence as a whole.

He recalled that the Cuban delegation had raised the question of re-arranging the articles at the very beginning of the current session (93rd meeting), as well as in the Sub-Committee; it was its last opportunity to press a matter to which it attached considerable importance.

It was necessary to assign a prominent position to those rights which deserved the greatest attention on the part of the reader. For that reason, he wished to propose three changes: article 16, dealing with religion, should follow directly upon article 3; articles 20 to 25 inclusive, dealing with social rights, should come immediately after article 4 (a); and article 14 should be placed between articles 9 and 10.

There were serious reasons for those changes. In particular, social rights, which were the achievement of the twentieth century, should, in a twentieth century declaration, precede legal rights, acquired long ago and repeated in a number of similar documents. There was no doubt but that social rights deserved a place of honour, nor could there be any doubt but that an even more prominent place should be assigned to freedom of conscience and religion.

COUNT CARTON DE WIART (Belgium) agreed with the representative of China that the order [875] in the Sub-Committee's text was logical; he had no objection to it.

The Lebanese representative's proposal for the amendment of the order suggested by the Cuban delegation had the disadvantage of placing an article on marriage between one prohibiting interference with privacy and another on freedom of movement.

Recognizing that the declaration could not, in the nature of things, be finally perfect, he was prepared to agree with the Chinese representative's defence of the Sub-Committee's arrangement.

MR. CASSIN (France) agreed in general with the Chinese representative. The two initial articles stated general principles, within the framework of which individual rights were defined. There was a regular progression from individual rights to social rights. Between those two categories came, first, a group of articles dealing with the physical protection of the individual, then a group dealing with the relation of man to his fellows and to things – family, residence, frontiers, nationality and, finally, property; then came articles dealing with the great public freedoms, including freedom of religion, and their external manifestations in such forms as freedom of expression; and lastly, articles 20 to 26 provided guarantees of social security.

Had the intention been to base the order on contemporary values or on some abstract theory, it might well have been differently arranged; from the point of view of timeliness, for example, the articles on social rights would certainly have been given priority. The right to life, in Mr. Cassin's view, should come first in any case. Economic and social rights were almost as important as the right to freedom of thought, but to place them in the second group would break the chain of logic. He had originally thought that article 27 might be inserted between articles 2 and 3, but had abandoned that idea because the articles on social rights were very well placed at the end, as the logical development from the articles on individual rights.

He agreed with the representatives of Cuba, Lebanon and Belgium that the articles dealing with the family might be badly placed; the broader group should not come first. If the representatives of Cuba and Lebanon could agree on the

arrangement of those articles, he would be prepared to support them. Article 6 defined relations between man and society and so could be better placed between articles 26 and 27; it was extremely important not to confuse the rights therein set out with the ordinary course of justice. The articles on freedom of thought and freedom of expression should be grouped with the public freedoms. The main alterations which he suggested, therefore, involved only articles 6 and 14.

MRS. ROOSEVELT (United States of America) maintained that all articles in the declaration were of equal importance regardless of their position. The important point was that the rights should be [876] grouped in such a way that they would be intelligible to the person who reads the document. She therefore regretted that the Cuban representative had proposed a change in the order. The declaration should make its impact as a whole; there was no point in attempting to give priority to one or other article.

MR. DE ATHAYDE (Brazil) recalled that the Brazilian amendment (A/C.3/215) to article 1 and the Netherlands amendment (A/C.3/219) to the preamble, the purpose of which had been to give religion its due place in the declaration, had had to be withdrawn by their sponsors.

He therefore supported the Cuban proposal, which, he felt, gave the Committee a last opportunity to retrieve the regrettable error it had made in failing to accept the substance of those amendments.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) complained that there appeared to be no methodological plan in the arrangement. Too little stress had been laid on the rights of man as a toiler and on his place in society; man's role as the creator of wealth had been placed last. The general viewpoint was unduly individualistic and thus unrealistic. The views of the Cuban representative were somewhat closer to reality; they at least made a proper distinction between reality and abstract theory.

With regard to the additional article, its best place would be immediately following article 2, because it elaborated the provisions which would give to declaration a universal application.

MR. WATT (Australia) supported the Sub-Committee's text because he could see equal advantages and disadvantages in all the proposed changes.

If, as the Cuban representative had suggested, article 16 were placed after article 3, it would be divorced from article 17, whereas articles 16 and 17 had a natural affinity. The article would gain more prominence but the logical chain between the articles dealing with the person would be broken.

Similar considerations applied to the proposal to associate articles 10 and 14.

He agreed with the representative of France that there was a natural progression in the articles as they stood and with the United States representative that the order was not as important as the total impact.

The objection to the French proposal for the rearrangement of article 6 was that that article was closely linked to articles 7 and 8, dealing as they did with legal status.

There was some cogency in the USSR proposal that the additional article should be placed near the beginning, although it might be more appropriate as a second paragraph to article 2.

MR. CHANG (China) suggested a rearrangement of certain articles with a view to ensuring that there was no break in the organic progression [877] from articles on the right to life and the right to liberty to articles on the protection and enjoyment of those rights.

He agreed with the Brazilian representative that priority should be given to article 16, which should follow article 3; he felt, however, that articles 17, 18 and 19, which all dealt with the rights of the individual in relation to society, should continue to follow immediately upon article 16.

He would not object to the USSR proposal concerning the additional article if it met with the Committee's approval.

MR. PÉREZ CISNEROS (Cuba) agreed with the representative of Australia that articles 16 and 17 were closely connected and with the Brazilian representative that article 16 should be given an important place immediately after article 3. He agreed that all the articles of the declaration were equally important, but believed that that change would tend to give a driving force to the initial part of the declaration.

He would accept the Lebanese suggestion that article 14 should be placed immediately after article 10.

MR. AZKOUL (Lebanon) agreed with the representative of Cuba that articles 16 and 17 should be moved forward to follow article 3. It was the logical and intelligible position and, moreover, it followed the lines of the four freedoms enunciated by President Roosevelt; that would strengthen the declaration.

He was prepared to accept the proposal of the representative of the Soviet Union concerning the additional article.

THE CHAIRMAN put to the vote the USSR proposal for the insertion of the additional article as a new article 3. He made it clear that if that proposal were adopted, the remaining articles would be renumbered accordingly.

The proposal was adopted by 34 votes to none, with 3 abstentions.

THE CHAIRMAN, recalling that the Cuban proposal for the insertion of articles 16 and 17 after the additional article had been supported by the representatives of Lebanon and Brazil, put the proposal to the vote.

The proposal was adopted by 13 votes to 12, with 11 abstentions.

THE CHAIRMAN put to the vote the Chinese proposal for the insertion of articles 18 and 19 after articles 16 and 17 in their new position.

*The proposal was adopted by 21 votes to 3, with 12 abstentions.
It was agreed that article 4a should become article 5.*

MR. ANZE MATIENZO (Bolivia), MR. CASSIN (France) and MR. CAMPOS ORTIZ (Mexico) protested that the arrangement of the articles had become confused.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) and MRS. ROOSEVELT (United States of America) called for closure of the debate.

[878]

MR. PÉREZ CISNEROS (Cuba) and MR. CASSIN (France) opposed the motion for closure, emphasizing the need for fuller discussion.

THE CHAIRMAN put the motion for closure to the vote.

The motion was not adopted, 17 votes having been cast in favour and 17 against, with 2 abstentions.

MR. SAINT-LOT (Haiti), supported by MR. CASSIN (France), suggested a way out of the difficulty. The Committee should vote, by a two-thirds majority, for the reconsideration of the decisions on the Cuban and Chinese proposals. The adoption of the proposal of the Soviet Union had clearly been satisfactory and had met the intentions of the Committee.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) supported the Haitian proposal.

He suggested that a small sub-committee should be set up to clarify the situation.

MR. CHANG (China) withdrew his earlier suggestions. He pointed out that the new position of articles 16 and 17 had caused the confusion.

He supported the Haitian proposal for the reconsideration of the Committee's decisions.

MR. PÉREZ CISNEROS (Cuba) offered to withdraw all his other proposals on the understanding that articles 16 and 17 were retained in their new position.

MR. SANTA CRUZ (Chile), MR. CHANG (China) and MRS. CORBET (United Kingdom) urged that a single vote should be taken on the question of reconsidering the Committee's decisions on the arrangement of articles 16, 17, 18 and 19, which, they considered, represented a unified whole.

THE CHAIRMAN ruled that, since two distinct decisions had been taken, two separate votes were required on the question of reconsidering those decisions.

MR. PÉREZ CISNEROS (Cuba) and MR. AZKOUL (Lebanon) supported the Chairman's ruling.

MR. SAINT-LOT (Haiti) suggested that the vote to reconsider the decision on articles 16 and 17 might be taken first; if the required two-thirds majority were not obtained, those who wished to ensure that the four articles were not separated could vote against the reconsideration of the decision on articles 18 and 19.

MR. PÉREZ CISNEROS (Cuba) could not agree with those who held that the four articles were inseparable. Articles 16 and 17 dealt with individual rights, while articles 18 and 19 set forth the rights of the individual as a member of society.

In order to facilitate the work of the Committee, he suggested that a vote might be taken, by roll-call, on whether the four articles should be kept together. If the result of the vote was in the affirmative, he would withdraw all his proposals for rearrangement. He called attention, however, [879] to the fact that such a vote would mean that freedom of religion would not appear in the declaration in the place to which it was entitled.

THE CHAIRMAN put to the vote the proposal that articles 16, 17, 18 and 19 should not be separated.

A vote was taken by roll-call, as follows:

New Zealand, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: New Zealand, Norway, Peru, Sweden, Turkey, United Kingdom, United States of America, Venezuela, Afghanistan, Australia, Canada, China, Denmark, France, Greece, Haiti.

Against: Syria, Argentina, Bolivia, Brazil, Cuba, Lebanon, Netherlands.

Abstaining: Philippines, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Belgium, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia, Dominican Republic, Honduras, India, Iran, Mexico.

The proposal was adopted by 16 votes to 7, with 13 abstentions.

MR. PÉREZ CISNEROS (Cuba) thereupon withdrew his proposals with respect to rearranging the order of the articles in the declaration.

THE CHAIRMAN put to the vote the proposal for the reconsideration of the decision on articles 16 and 17.

The proposal was adopted by 23 votes to none, with 10 abstentions.

THE CHAIRMAN put to the vote the proposal for the reconsideration of the decision on articles 18 and 19.

The proposal was adopted by 25 votes to none, with 8 abstentions.

MR. SAINT-LOT (Haiti) moved the adoption of the order proposed by the Subcommittee, with two changes: the insertion of the additional article as article 3, and of article 24 between articles 21 and 22.

The proposal was adopted by 27 votes to 6, with one abstention.

MR. PÉREZ CISNEROS (Cuba) stated that he had voted against the Haitian proposal because he found the order of the articles unsatisfactory. The declaration

failed to assign due prominence to freedom of religion and to social rights and could not be called a coherent whole.

Vote on the Draft Declaration of Human Rights as a Whole

THE CHAIRMAN said that since the Committee had adopted separately the substance and the arrangement of the draft universal declaration of human rights, he would put to the vote the text as a whole.

A vote by roll-call had been requested by the representative of Chile.

A vote was taken by roll-call, as follows:

The Philippines, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, [880] Venezuela, Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Chile, China, Cuba, Denmark, Dominican Republic, France, Greece, Haiti, Honduras, India, Iran, Lebanon, Mexico, Netherlands, New Zealand, Peru.

Abstaining: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia.

The draft universal declaration of human rights, as amended, was adopted by 29 votes to none, with 7 abstentions.

***Draft Resolution Submitted by the Delegation of France (A/C.3/381)
concerning the Universal Declaration of Human Rights***

MR. CASSIN (France) introduced his draft resolution (A/C.3/381) and drew attention to certain corrections which should be made in the document. Only one correction, the substitution of the word “publicize” for “promulgate”, in paragraph 1 of the operative part, applied to the English text.

MR. DE ATHAYDE (Brazil), MR. ANZE MATIENZO (Bolivia) and MR. SAINT-LOT (Haiti) warmly supported the French draft resolution.

MR. CASSIN (France) accepted the Cuban amendments (A/C.3/402) and the suggestion of the representative of the Dominican Republic that words “of the world” should be inserted after “non-governmental organizations” in paragraph 3 of the draft resolution.

MR. PÉREZ CISNEROS (Cuba) drew attention to two corrections which should be made in the English text of his amendments (A/C.3/402) to the French draft resolution; in paragraph (a), the word “peoples” should be substituted for “classes of society”, and in paragraph (b) the word “regime” should be changed to “status”.

MRS. CORBET (United Kingdom) and MRS. ROOSEVELT (United States of America) warmly supported the French draft resolution, but felt that the financial implications of paragraph (c) of the Cuban amendment should be carefully considered by the Committee.

MR. CHANG (China) suggested that paragraph (c) of the Cuban amendment should be changed to read as follows:

“... not only in the official languages, but also, using every means at his disposal, in all possible languages”.

It was so agreed.

At the suggestion of MR. AZKOUL (Lebanon), MR. CASSIN (France) inserted the word “principally” after “expounded” in paragraph 1 of his draft resolution.

MR. KAYALY (Syria) suggested the deletion of the second paragraph of the preamble of the French draft resolution.

It was so agreed.

THE CHAIRMAN put the French draft resolution, as amended, to the vote.
[881]

The draft resolution, as amended, was adopted by 28 votes to none, with 8 abstentions.

***Draft Resolution Submitted by the Delegation of New Zealand (A/C.3/405)
concerning the Universal Declaration of Human Rights***

MR. BOGOMOLOV (Union of Soviet Socialist Republics) felt that no vote could be taken on the New Zealand draft resolution (A/C.3/405), because it implied that the Committee had already discussed and decided upon the covenant on human rights and measures of implementation. As no such discussion had taken place, the only resolution that could be passed by the Committee would be to the effect that the General Assembly, not having had time in which to discuss those questions, referred them again to the Commission on Human Rights.

In any case, there was no time at the current meeting to discuss the substance of the New Zealand draft resolution in a satisfactory manner.

MR. SANTA CRUZ (Chile) could not accept the USSR representative's point of view. The decision that the international bill of human rights should include the declaration, the covenant and measures of implementation had been taken by the Commission on Human Rights in December 1947.¹ Furthermore, that question had

been discussed in the Third Committee at the time of the decision to examine the draft declaration (94th meeting).

MR. CAMPOS ORTIZ (Mexico) agreed with the Chilean representative, but wondered whether it would be advisable to adopt the New Zealand draft resolution. In his opinion, the third paragraph was unsatisfactory because it emphasized the fact that the declaration would have very little weight without the covenant and measures of implementation.

MR. AIKMAN (New Zealand) recalled the position his Government had taken in regard to the declaration. It had originally been decided that the bill should be in three parts, to be adopted simultaneously. His delegation had reluctantly agreed to discuss the declaration separately and had voted for its adoption, but felt strongly that the whole purpose of the bill would be lost if emphasis were not laid on the fact that the declaration was insufficient without the covenant and measures of implementation.

In reply to the representative of the Soviet Union, he pointed out that both the first and the third paragraphs of his draft resolution were based on the provisions of reports of the Commission on Human Rights. The resolution was a simple one and merely requested the Commission to continue to give priority in its work to the preparation of the covenant and measures of implementation.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) felt that the Committee was not obliged to consider the New Zealand draft resolution in connexion with the declaration and that it would be preferable to consider it in connexion with

^[1] See *Official Records of the Economic and Social Council*, Third Year, Sixth Session, Supplement No. 1.

[882]

Chapter III of the report of the Economic and Social Council.

He therefore moved the adjournment of the debate.

THE CHAIRMAN agreed that the New Zealand draft resolution could be discussed in connexion with chapter III of the report of the Economic and Social Council, but felt that the Committee owed it to the New Zealand representative and to the other representatives who shared his point of view to attempt to come to some conclusion at the current meetings. There was always a danger that the Committee would not have sufficient time to complete its consideration of chapter III at the current session of the Assembly.

He put the motion for the adjournment of the debate to the vote.

The motion was rejected by 20 votes to 11, with 6 abstentions.

MR. SAINT-LOT (Haiti) considered that the operative part of the New Zealand draft resolution was dangerous because it would weaken the effect of the declaration. It would not be appropriate for the Assembly to recognize the inoperative character of the declaration, as that could be construed as exonerating States from any moral obligation to fulfil its provisions.

Subject to that criticism, however, he was generally in favour of the draft resolution.

MR. WATT (Australia) had always hoped for a resolution, or at least an expression of views, concerning the covenant and measures of implementation, because of the indisputable importance of the question. Should it prove impossible to adopt a resolution at that meeting, the matter should be raised during the discussion of the declaration in the General Assembly.

MR. CHANG (China) supported the views of the representatives of Haiti and Mexico and proposed that the third paragraph of the New Zealand draft resolution should be deleted.

MRS. CORBET (United Kingdom) associated herself with those representatives who considered that the covenant and measures of implementation were the important parts of the Bill of Human Rights. The easier part of the task had been completed and the emphasis had to be placed on the difficult work ahead.

She could accept the Chinese representative's suggestion for the deletion of the third paragraph of the New Zealand draft resolution, or the substitution of the words "renders desirable" for "necessitates" in the third paragraph of the resolution.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) felt that the adoption of the New Zealand draft resolution would have the effect of killing the declaration.

He again suggested that consideration should be given to his proposal that the draft covenant and measures of implementation should be referred back to the Commission on Human Rights.

MR. SANTA CRUZ (Chile) agreed with the Haitian and Mexican representatives that the New Zealand draft resolution would not kill, but [883] would seriously weaken, the declaration. Under the terms of resolution 151(VII) of the Economic and Social Council, it was necessary that the covenant and measures of implementation should be considered, as well as the declaration.

He therefore proposed the adoption of the following resolution:

"The General Assembly,

Considering that neither the Commission on Human Rights nor the Economic and Social Council have been able to complete the consideration of those parts of the report of the Drafting Committee relating to a covenant on human rights and to measures of implementation.

Takes note of the remainder of the report of the Commission on Human Rights and sends back to the Economic and Social Council those parts which refer to the covenant and measures of implementation, so that their study can be completed and a report submitted to the fourth regular session of the General Assembly."

MR. CASSIN (France) was prepared to support the Chilean draft with the addition of the first paragraph of the New Zealand draft resolution.

MR. SAINT-LOT (Haiti) also suggested a new text, which, unlike the Chilean draft, would retain the operative part of the New Zealand draft resolution, but in a form which would not have the effect of weakening the declaration.

MRS. ROOSEVELT (United States of America) was prepared to accept any of the proposals which had been made concerning the New Zealand draft resolution. The fact that the New Zealand resolution might be interpreted as weakening the moral effect of the declaration was a valid criticism, but it was also necessary to make it clear that there was more work to be done after the declaration had been adopted.

MR. AQUINO (Philippines) agreed that the New Zealand draft resolution perhaps overemphasized the fact that the work on the international bill of human rights was not yet completed, but felt that some such enabling resolution was necessary to lend continuity to the work of the Commission on Human Rights.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) urged the Committee not to adopt a hasty resolution and again moved the adjournment of the debate.

THE CHAIRMAN put the motion for the adjournment of the debate to the vote.

The motion was rejected by 20 votes to 11, with 6 abstentions.

MR. PÉREZ CISNEROS (Cuba) said he would support the New Zealand draft resolution if the second and third paragraphs were deleted. He would also be prepared to accept the Chilean draft.

AS MR. KAMINSKY (Byelorussian Soviet Socialist Republic) insisted on seeing the Chilean [884] draft resolution in writing, MR. SANTA CRUZ (Chile), in an effort to speed up the work of the Committee, withdrew his draft.

MR. AIKMAN (New Zealand) withdrew the third paragraph of his draft resolution and asked that the other three paragraphs should be put to the vote separately.

THE CHAIRMAN put the first paragraph of the New Zealand draft resolution to the vote.

The first paragraph was adopted by 19 votes to 10, with 4 abstentions.

THE CHAIRMAN put the second paragraph of the New Zealand draft resolution to the vote.

The second paragraph was rejected by 25 votes to 5, with 3 abstentions.

THE CHAIRMAN put the fourth paragraph of the New Zealand draft resolution to the vote.

The fourth paragraph was adopted by 20 votes to none, with 10 abstentions.

THE CHAIRMAN put the New Zealand draft resolution as a whole to the vote.

The draft resolution was adopted by 22 votes to none, with 10 abstentions.

The meeting rose at 3:10 a.m.

A/C.3/407

7 December 1948

Union of Soviet Socialist Republics: Draft Resolution

Whereas the text of the Declaration considered by the Third Committee requires serious improvements in a whole series of articles.

The Third Committee,

Requests the General Assembly to postpone the final adoption of the Declaration on Human Rights to the next session of the General Assembly.

A/777

7 December 1948

Original Text: French

Draft International Declaration of Human Rights Report of the Third Committee

Rapporteur: Mr. E. St. Lot (Haiti)

1. The Economic and Social Council, acting under Articles 62 and 68 of the Charter of the United Nations, established a Commission of eighteen members under the name of Commission on Human Rights; its main task was to prepare a draft international declaration of fundamental human rights and freedoms and a draft international covenant for the application of such rights and freedoms, as well as to study measures of implementing both these documents.

2. The Commission on Human Rights, after devoting three sessions and close on two years to this work partly at Lake Success and partly at Geneva, submitted to the Economic and Social Council a draft declaration and some advance drafts of an international convention.

3. The General Assembly, at its 142nd meeting held on 24 September 1948, referred to the Third Committee item 13 of the supplementary list of agenda items for the third regular session; this item concerned the draft declaration and related documents.

4. The Third Committee, at its 94th meeting, decided to consider only the draft declaration, as the other two documents (the covenant and measures of implementation) were not yet in a state suitable for consideration.

5. The Third Committee spent eighty-four meetings in considering and discussing the draft prepared by the Commission on Human Rights. Most of the articles were adopted by unanimous votes. Representatives exercised their rights to explain

their votes to a large extent and thus were able either to enter reservations or to indicate the meaning of their votes or the meaning which they attached to certain expressions. The summary records of these meetings (given in documents A/C.3/SR.88 to 116, A/C.3/SR.119 to 170 and A/C.3/SR.174 to 178) mention all these statements and reservations.

6. In view of the fact that a considerable number of amendments were adopted and having regard to the difficulty of making the resulting texts correspond exactly in the official languages and to the wish [2] to introduce a logical order, the Third Committee set up a Sub-Committee to consider the Declaration of Human Rights as a whole, including the twenty-nine articles and the preamble, solely from the point of view of arrangement, consistency, uniformity and style.

7. The report of the Sub-Committee was considered, discussed and adopted in the course of the 174th to 178th meetings of the Third Committee, resulting in the adoption of the following draft Universal Declaration of Human Rights (see text under A) which is recommended by the Third Committee of the General Assembly for adoption.

8. A draft resolution (resolution B) on the right of petition was adopted by the Third Committee at its 160th meeting.

9. A draft resolution (resolution C) concerning the fate of minorities was adopted at the 163rd meeting.

10. A draft resolution (resolution D) concerning publicity to be given to the Universal Declaration of Human Rights was adopted at the 178th meeting.

11. A draft resolution (resolution E) concerning the early consideration by the Economic and Social Council of the draft Covenant and measures of implementation was adopted at the 178th meeting.

12. The Third Committee therefore recommends for adoption by the General Assembly the following five texts:

International Bill of Human Rights

A

Draft universal declaration of human rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and [3] have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

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

Article 3

The rights set forth in this Declaration apply equally to all inhabitants of Trust and Non-Self-Governing Territories.

Article 4

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

Article 5

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 6

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 7

Everyone has the right to recognition everywhere as a person before the law.

Article 8

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against [4] any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 9

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 10

No one shall be subjected to arbitrary arrest, detention or exile.

Article 11

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 12

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 13

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 14

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 15

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 16

1. Everyone has the right to a nationality.
 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.
- [5]

Article 17

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 18

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 19

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 20

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 21

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 22

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 23

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and free development of his personality.
[6]

Article 24

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 25

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 26

1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 27

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 28

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

[7]

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 29

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 30

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 31

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

[8]

B***Resolution relating to the right of petition***

The General Assembly,

Considering that the right of petition is an essential human right as is recognized in the constitution of a great number of countries,

Having considered the draft article on petitions in document A/C.3/306 and the amendments offered thereto by Cuba and France,

Decides not to take any action on this matter at the present session;

Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the draft Covenant on Human Rights and measures of implementation, in order to enable the General Assembly to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions.

C***Resolution relating to the fate of minorities***

The General Assembly,

Considering that the United Nations cannot remain indifferent to the fate of minorities,

Considering that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises,

Considering the universal character of the Declaration of Human Rights,

Decides not to deal in a specific provision with the question of minorities in the text of this Declaration;

Refers to the Economic and Social Council the texts submitted by the delegations of the Union of Soviet Socialist Republics, Yugoslavia and Denmark on this subject contained in document A/C.3/307/Rev.2 and requests the Council to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problem of minorities in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities.

[9]

D***Resolution relating to publicity to be given to the
Universal Declaration of Human Rights***

The General Assembly,

Considering that the adoption of the Universal Declaration of Human Rights is an historic act destined to consolidate world peace through the contribution of the

United Nations towards the liberation of individuals from the unjustified oppression and constraint to which they are too often subjected,

Considering that the text of the Declaration should be disseminated among all peoples throughout the world;

1. *Recommends* Governments of Member States to show their adherence to Article 56 of the Charter by using every means within their power solemnly to publicize the text of the Declaration and to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories;
2. *Requests* the Secretary-General to have this Declaration widely disseminated and, to that end, to publish and distribute texts, not only in the official languages, but also, using every means at his disposal, in all languages possible;
3. *Invites* the specialized agencies and non-governmental organizations of the world to do their utmost to bring this Declaration to the attention of their members.

E

Resolution relating to the preparation of a draft Covenant and draft measures of implementation

The General Assembly,

Considering that the plan of work of the Commission on Human Rights provides for an International Bill of Human Rights, to include a Declaration, a Covenant on Human Rights and measures of implementation,

Requests the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft Covenant on Human Rights and draft measures of implementation.

A/778

7 December 1948

United Kingdom: Amendment to article 3 of the draft Declaration proposed by the Third Committee (A/777)

Delete Article 3 and substitute the following text as paragraph 2 of Article 2:

“Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether this territory be an independent, Trust or Non-Self-Governing territory.”

A/C.3/SR.179¹⁵⁶

7 December 1948

***Summary Record of the Hundred and Seventy-Ninth Meeting
[of the Third Committee]***

Held at the Palais de Chaillot, Paris, on Tuesday,
7 December 1948, at 3:35 p.m.

Chairman: MR. CHARLES MALIK (Lebanon).

109. Draft universal declaration of human rights (continued)

Mr. CHARAR (Afghanistan) expressed gratification that a universal declaration of human rights was becoming a reality. As the representative of a Moslem country, however, he found it necessary to state that certain articles in the declaration did not easily conform to the religious standards of his people.

He therefore reserved the right to bring those articles into harmony with Moslem principles, which were the basis of the political, social and economic existence of the people of Afghanistan.

MRS. CORBET (United Kingdom) referred to the declaration as a document of the greatest moral force, and as an important step towards early completion of the International Bill of Human Rights. When surveying its work, it was natural, of course, for the Committee to feel that it might have done better. It must not be forgotten, however, that the declaration was an international document, representing a common denominator of agreement among most of the nations in the world; and in view of the different systems of Government, laws and national philosophies represented in the Committee, the declaration was no small achievement.

[885]

The representative of the United Kingdom wished to make definite reservations regarding the additional article, which had become article 3 (178th meeting). That article was thoroughly unsatisfactory and seriously weakened article 2. The United Kingdom delegation would therefore reserve its right to propose, in the General Assembly, that the Lebanese amendment (A/C.3/404) to paragraph 2 of article 2 should replace article 3 and become paragraph 2 of article 2. The text of the amendment was as follows:

“Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether this territory is an independent, Trust or Non-Self-Governing Territory.”

¹⁵⁶ The text of the document is from *Official Records of the General Assembly*, Third Session, 1948, pp. 884–96.

The Lebanese amendment contained all the substance of the original paragraph, but would extend its scope; moreover, any ambiguities which might be contained in the Cuban amendment (A/C.3/224) would be avoided. Paragraph 2 would thus mention not only Trust and Non-Self-Governing Territories, but also other territories, and its provisions would therefore be of universal application.

Mrs. Corbet also referred to the question raised at the 178th meeting of moving article 16 to what had been termed a more prominent position in the declaration. The United Kingdom delegation did not consider any one place in the declaration to be more prominent than another; it might indeed be said that the most important articles were those concerning social rights, which came at the end of the document and formed a climax. Mrs. Corbet had been prepared to accept articles 16 to 19 as grouped, because they formed a logical sequence. She would also have been prepared to follow the Lebanese suggestion concerning article 6, which could be considered as a general introductory article to the articles dealing with legal rights. She had been willing to agree that the article on religion should be placed among the first articles of the declaration; the United Kingdom delegation did not hold religion in less esteem than did other delegations. She wished to point out, however, that that article did not deal exclusively with religion; it also covered freedom of thought and should not therefore be separated from the three articles which immediately followed it.

The United Kingdom delegation had abstained from voting on the French draft resolution (A/C.3/381) as amended by Cuba (A/C.3/402), not because it did not agree that the text of the declaration should be disseminated, but because it was not satisfied with the financial implications and the instructions given to the Secretary-General in regard to printing the text in all languages.

The United Kingdom representative wished to assure the representative of Afghanistan that she fully respected and sympathized with the reason which had prompted his statement.

MR. AIKMAN (New Zealand) recalled that in the general debate the representative of New Zealand had expressed her country's views as to the [886] future of the declaration, giving the reasons for which she had then considered it preferable that the declaration should not be adopted at the current session of the General Assembly.

The New Zealand representative had also suggested the simultaneous adoption of the declaration and the covenant. Since then, the Committee had spent nearly two months examining the draft declaration prepared by the Human Rights Commission. In spite of difficulties encountered, all members had had an opportunity of expressing their views on the vital subject under discussion, and much mutual good will and understanding had been shown. The resulting declaration was not perfect, partly because the draft was unnecessarily long and inconsistent, and partly because the procedural suggestion of the New Zealand delegation had not been adopted.

In view, however, of the importance of the declaration and the amount of work already expended on it, it would be unfortunate if the declaration could not be proclaimed to the world at the current session of the Assembly. It was for that reason that his delegation had voted in favour of the declaration. His Government unreservedly accepted its obligations under Article 55 of the Charter for the promotion of universal respect for and observance of human rights and fundamental freedoms.

The New Zealand draft resolution (A/C.3/405), submitted at the 178th meeting, requesting the Human Rights Commission to give priority to the work on the draft covenant and draft measures of implementation, demonstrated the importance his delegation attached to the work. Like other delegations, the New Zealand delegation had always held the view that the declaration, as distinct from the covenant, was not a legally binding document, but stated simply the essence of each fundamental right and freedom. It was a common standard of achievement for all peoples and all nations, and for that reason he had been glad to support the French draft resolution. The covenant, not the declaration, would create legal obligations, and must be regarded as the more important document.

Since the Committee had decided to recommend the adoption of the declaration separately from the covenant, Mr. Aikman wished to reemphasize that the New Zealand Government would not consider that the United Nations had fulfilled its task until a covenant and effective measures of implementation had been adopted by the General Assembly. New Zealand would continue to participate actively in discussions and strive for their successful outcome.

MR. THURROTT (Canada) stated that the abstention of the Canadian delegation did not indicate a light approach to so important a document. Canada had given and would continue to give sober consideration to the declaration and its implementation.

The Canadian delegation reserved the right to clarify its position in plenary meeting of the General Assembly.

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MR. BOGOMOLOV (Union of Soviet Socialist Republics) explained why his delegation had abstained from voting on the declaration. Throughout the discussions the USSR delegation had made detailed statements concerning the unsatisfactory aspects of the draft and had indicated a number of important principles on which it should have been based; unfortunately most of its amendments had been rejected, and the text adopted at the 178th meeting was practically identical with the original draft.

The delegation of the Soviet Union therefore submitted the following draft resolution (A/C.3/407):

“Whereas the text of the declaration considered by the Third Committee requires serious improvements in a whole series of articles,

“The Third Committee

“Requests the General Assembly to postpone the final adoption of the declaration of human rights to the next session of the General Assembly.”

The USSR delegation would reserve the right to submit appropriate amendments and proposals to the Assembly when discussion of the declaration took place.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic) stated that he had abstained from voting on the draft declaration because he found it unsatisfactory. It did not guarantee human rights since it did not provide for their implementation; moreover, it did not recognize the right to the protection of national culture.

He considered that articles 11 and 12, in the Sub-Committee's enumeration, constituted a violation of the sovereign rights of States. Moreover, no provision was made for the struggle against fascism; that was particularly unfortunate at such a time.

The delegation of the Byelorussian SSR therefore found it necessary to support the draft resolution of the Soviet Union for the postponement of the final adoption of the declaration.

MR. DEMCHENKO (Ukrainian Soviet Socialist Republic) stated that his delegation had abstained from voting on the declaration on the same grounds as those given by the USSR representative.

It also endorsed the proposal of the Soviet Union that the adoption of the draft declaration should be deferred until the following session of the General Assembly.

MRS. ROOSEVELT (United States of America) felt that the adoption of the declaration would be the one great achievement of the session and maintained that there should be no question of reconsidering the decision taken by the Committee.

MR. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the object of the USSR draft resolution was to improve the text of the declaration.

The United Kingdom representative had mentioned certain improvements she thought desirable, and similar remarks had been made by other delegations. Further, a number of important questions, such as those concerning nationality and national minorities, had been before the Committee without a decision having been reached; there was not a word in the declaration about the protection of minorities. The question had, however, been discussed by the Committee and had been referred to the Sub-Commission on the Prevention of Discrimination on the grounds that the documentation available was not sufficient.

The Committee had not specified that the adoption of the declaration must take place during the current session of the General Assembly. Only four days remained for the discussion of innumerable questions.

MR. AQUINO (Philippines) considered that the proposal of the Soviet Union was ill advised; it constituted a challenge to the good faith of the members of the Committee. Two months' labour had been expended on the declaration. A bill of human rights had long been needed by mankind and was necessary for the foundation of a common world order.

It was clear that the USSR delegation considered the declaration unworthy of approval only because it wished to make changes in that document.

The representative of the Soviet Union had stated that the declaration did not provide for the protection of minorities, but the majority of the Committee had agreed that that was a separate question, and it was even doubtful whether it came within the province of the declaration.

The Philippine delegation would vote against the USSR draft resolution and strongly urged that no step should be taken to cause any delay in the adoption of the declaration.

MR. CASSIN (France), referring to the USSR proposal, stated that his delegation felt that the Third Committee's decision on the draft universal declaration should be upheld; that text, which represented the work of the United Nations during three years, should be put to the General Assembly for its decision.

No document based on compromise could be perfect. France, like the USSR, had seen many of its amendments rejected by the Committee. It was not, however, a question of particular amendments, but of the draft declaration as a whole. Further consideration of the document would only weaken it.

The Committee should complete its work and face its responsibilities. By adopting the declaration at the current session, the General Assembly would enable the Commission, which was scheduled to meet in April 1949, to concentrate upon the draft covenant and the draft measures of implementation, thus consolidating the work on the matter.

It would be most dangerous for the Committee to go back on its decision and suspend its work without having reached any concrete results. Such action would have a disastrous effect upon public opinion.

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Mr. Cassin would therefore oppose any proposal for the postponement of the adoption of the declaration.

MR. BOGOMOLOV (Union of Soviet Socialist Republics), in reply to the representative of the Philippines, said that the latter's argument lacked consistency.

The USSR delegation believed that, in view of the shortcomings of the declaration, its adoption – a matter of grave responsibility for the Committee – should be postponed in order that the text might be improved. Mr. Bogomolov did not share the pessimism of those who believed that further consideration of the document was useless. On the contrary, there was good reason to expect that further study of the document might lead to certain improvements in it and bring about a greater measure of agreement with regard to certain of its provisions.

MR. CARRERA ANDRADE (Ecuador) stated that postponement of the adoption of the draft declaration would increase the anxiety of the peoples of the world and lower the prestige of the United Nations in their eyes. Moreover, such action would be illegal in view of the fact that the Committee had already adopted the draft declaration.

While the text was imperfect and not entirely adequate in parts, it constituted a step forward, since it was the first instance of international action to safeguard human rights.

The delegation of Ecuador was not entirely satisfied with the text of the declaration, particularly articles 20 and 23, and regretted that article 1 contained no reference to the preamble of the American Declaration of the Rights and Duties of Man adopted at the Ninth International Conference of American States. It should be pointed out, however, that the Committee had been charged to examine and, if necessary, to improve the text submitted to the General Assembly by the Economic and Social Council. Those terms of reference could not be changed. The work had been completed and should be transmitted to the General Assembly for final adoption. The representatives concerned could explain their points of view before the General Assembly; the Third Committee, however, should not reverse its decision.

In conclusion, Mr. Carrera Andrade stated that the adoption of the Universal Declaration of Human Rights would help to relieve the feeling of insecurity and fear in the world.

MRS. ROOSEVELT (United States of America) drew the Committee's attention to the fact that its work was still unfinished.

She doubted whether it was the feeling of the Committee that a series of articles of the draft declaration required reconsideration, as stated in the draft resolution of the Soviet Union.

She therefore moved the closure of the debate.

THE CHAIRMAN put the United States motion for the closure of the debate to the vote.

The motion was adopted by 27 votes to 6, with 1 abstention.

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THE CHAIRMAN, pointing out that the USSR draft resolution (A/C.3/407) required a two-thirds majority for adoption, put it to the vote.

The draft resolution was rejected by 26 votes to 6, with 1 abstention.

...

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...

THE CHAIRMAN ... thought the Committee might be interested to hear a few statistics in connexion with the declaration.

Eighty-five meetings of the Committee had been devoted to the question of human rights. The average number of members present at the time of voting and taking part in the votes had been 41; the average number of members absent had been 17. An average of 36 members had voted in favour of the articles, 1.5 against and 3.36 had abstained. Thus the percentage of votes in favour had averaged 88.1, those against 3.7, abstentions 8.2. The result of the final vote on the draft declaration had been 29 in favour, none against and 7 abstentions.

...

A/784**8 December 1948****Original Text: Russian**

Union of Soviet Socialist Republics: Amendments to the draft Declaration proposed by the Third Committee (A/777)

I. Substitute the following new article for article 3

Article 3

“1. Every people and every nation has the right to national self-determination. States responsible for the administration of non-self-governing territories, including colonies, shall facilitate the implementation of this right, guided by the principles and purposes of the United Nations in regard to the peoples of such territories.

“2. Every people and every nationality within a State shall enjoy equal rights. State laws shall not permit any discrimination whatsoever in this regard. National minorities shall be guaranteed the right to use their native language, and to possess their own national schools, libraries, museums and other cultural and educational institutions.

“3. The human and civic rights and fundamental freedoms set out in the present Declaration shall be extended to the population of non-self-governing territories, including colonies.”

II. Substitute the following text for article 20

Article 20

“It is the inalienable right of every person freely to express and disseminate democratic views and ideas, to defend democratic systems and democratic state and social institutions, and to combat fascism in the spheres of ideology, politics and state and public life.”

III. Substitute the following text for Article 22

Article 22

“1. Every citizen of any State, without distinction as to race, colour, nationality, birth, property status, social origin, language, religion, or sex, shall have the right to participate in the government of his country, and the right to elect and be elected to all organs of authority on the basis of universal, equal and direct suffrage by secret ballot, and shall have the right, equally with other citizens, of access to any state or public office in his country.

[2]

“2. The establishment of property, educational or other qualifications restricting participation by the citizens of any State in voting at elections to representative organs is incompatible with the present Declaration”.

IV. Insert the following new article after Article 30

“The human and civic rights and fundamental freedoms enumerated in the present Declaration shall be guaranteed by national laws. Any violation or limitation of these rights, whether direct or indirect, shall be deemed to violate the present Declaration and to be incompatible with the high principles proclaimed in the United Nations Charter.”

A/785

8 December 1948

Original Text: Russian

Union of Soviet Socialist Republics: Draft Resolution

The General Assembly

Considering that the draft Declaration of Human Rights submitted for the consideration of the General Assembly is unsatisfactory and requires considerable amendment in respect of a whole series of articles,

Resolves to refer consideration of the said draft Declaration of Human Rights to the fourth regular session of the General Assembly.

A/C.3/SC.4/23

8 December 1948

Original Text: French

Report by Mr. P. B. Ryckmans (Belgium) of the group of linguistic experts of Sub-Committee 4

At its tenth meeting, held on 4 December 1948, Sub-Committee 4 of the Third Committee, set up a group of five members: Belgium (Mr. P. Ryckmans); China

(Mr. P. Y. Tsao); Cuba (Mr. Guy P. Cisneros); United Kingdom (Mr. R. Ledward); USSR (Mr. Alexander P. Borisov) for the purpose of checking and ensuring the exact concordance in the five official languages of the text of the Draft International Declaration of Human Rights, taking the English and French texts as adopted by the Third Committee as their basis.

The Secretariat of the United Nations placed experts in these languages at the group's disposal.

At its first meeting on 5 December 1948, the group agreed to split up into four sub-groups:

1. the English-French group
2. the Chinese group
3. the Russian group
4. the Spanish group

The first of these was instructed to report on the original English and French texts.

The other three were instructed to prepare a draft text in their respective languages, corresponding to the Committee's text.

The group met again in plenary meeting on 7 December under the Chairmanship of Mr. Ryckmans. At this meeting it studied simultaneously the concordance of the texts in the other three official languages with the texts in the two working languages as prepared by the Sub-groups. The [2] final text, as adopted by the Third Committee (Document A/777), was read in each of the five languages.

The following comments were made when these texts were read at this meeting:

- Article 1* – The Spanish text gives greater prominence than the French text to a relationship between “endowed with reason and conscience” and the duty of human beings to act towards one another in a spirit of brotherhood.
- Article 2* – The words “such as” are not translated in the Spanish text.
- Article 7* – The Russian text gives “everyone wherever he may be” as the translation of “everywhere” (“*en tous lieux*”).
- Article 12* – The Spanish text (literally translated) says “has the right that his innocence be presumed. . .”
- Article 14* – The French, Spanish and Chinese texts speak of “a state” whilst the English and Russian texts speak of “each state”.
- Article 15* – The Spanish text gives “*cualquier país*”, as a translation of “other countries”.
- Article 17* – The Russian text conveys the idea of majority according to law.
- Article 20* – The word “ideas” is translated in Spanish by “*opiniones*”.
- Article 25* – The word “including”, which had been introduced as the result of an amendment, could not be translated into Spanish.

Article 27 – The word “fundamental” is translated in the Russian text by a word equivalent to “general”. The Russian text implies the notion that the education of very young children is referred to.

Although there are a small number of points where the texts do not seem to correspond perfectly in shades of meaning, the group nevertheless expresses the opinion that on the whole these texts are very satisfactory.

A/785/Rev.1

9 December 1948

Original Text: Russian

Delegation of the USSR: Draft Resolution

The General Assembly

Considering that the draft Declaration of Human Rights submitted to the General Assembly for consideration is unsatisfactory and requires considerable amendment in respect of a whole series of articles,

Resolves to refer adoption of the Draft Declaration of Human Rights to the Fourth Regular Session of the General Assembly.

A/785/Rev.2

9 December 1948

Original Text: Russian

Union of Soviet Socialist Republics: Draft Resolution

The General Assembly

Considering that the draft Declaration of Human Rights submitted to the General Assembly for consideration is unsatisfactory and requires considerable amendment in respect of a whole series of articles,

Resolves to refer adoption of the Declaration of Human Rights, together with texts B, C, D and E of document A/777, to the fourth regular session of the General Assembly.

A/PV.180¹⁵⁷

9 December 1948

***Verbatim Record of the Hundred and Eightieth Plenary Meeting
[of the General Assembly]***

Held at the Palais de Chaillot, Paris, on Thursday,
9 December 1948, at 8:30 p.m.

President: MR. H. V. EVATT (Australia).

**116. Draft universal declaration of human rights: report of the Third
Committee (A/777)**

***Amendment proposed by the United Kingdom (A/778/C/Rev.1) and amendments
proposed by the Union of Soviet Socialist Republics (A/784) to the Draft
Declaration***

***Draft resolution proposed by the Union of Soviet Socialist Republics
(A/785/Rev.2).***

MR. SAINT-LOT (Haiti), Rapporteur of the Third Committee, submitted the Committee's report [853] on the draft universal declaration of human rights¹ (A/777).

The report consisted of five parts: a draft universal declaration of human rights and four draft resolutions concerning the right of petition, the fate of minorities, publicity to be given to the universal declaration of human rights, and the preparation of a draft covenant on human rights and measures of implementation respectively.

As representative of Haiti, he thanked the delegations for having appointed him to bring before the Assembly the text of a declaration of human rights which, for the first time, was to be universal in scope and for having thus associated his country with that historic act.

A little over eight years ago, the forces of evil had been let loose to compass the destruction of the spiritual and moral values which represented for the majority of mankind the sole reason for living.

At a moment when the greatest confusion reigned in that epic struggle, the clear and sincere voice of President Roosevelt had rallied the hopes of those who for centuries had been seeking the path of justice and liberty amid the tortuous ways of iniquity. When President Roosevelt proclaimed that all men should enjoy freedom of conscience and freedom of expression, that they should be free from want and free from fear, he overcame the last doubts of the waverers, for his appeal was genuine and expressed clearly the aspirations of twentieth century man.

¹⁵⁷ The text of the document is from *Official Records of the General Assembly*, Third Session, pp. 852–75.

That was the concept which had inspired the Commission on Human Rights and the Third Committee in their work; upon that concept was based the draft universal declaration of human rights which was that day before the General Assembly of the United Nations.

After the war, at a time unpropitious for the success of such a venture, with rival ideologies confronting each other, the United Nations representatives had sought out, among old-established or recent political, economic, social and cultural rights, formulas which might be acceptable to men from the four corners of the earth. The text of the draft declaration represented a kind of common denominator for those various ideas. It was perhaps not perfect, but it was the greatest effort yet made by mankind to give society new legal and moral foundations; it thus

^[1] The Third Committee expressed its wish, at its 167th meeting, to have the draft international declaration of human rights called the draft universal declaration of human rights.

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marked a decisive stage in the process of uniting a divided world. Its authors had tried to make it simple, clear and easily intelligible both to the masses and to the *élite*. The articles followed a logical and rational order. Article 30 of the declaration provided for the possible limitation of the rights and liberties, which would otherwise be absolute, for reasons of public order, morality and the general welfare.

He reminded the Assembly that the declaration was to be supplemented by an international convention to give effect to the principles laid down and the measures of implementation. That was an urgent task. The adoption of the declaration would not, indeed, be sufficient to restore the shaken faith of men in their fundamental rights and liberties.

He proclaimed his satisfaction that, by a coincidence, the declaration had come into being in Paris, the capital of liberty, and that the Commission on Human Rights, which was mainly responsible for it, had been presided over by the wife of the apostle of fundamental human rights and liberties. In conclusion, he paid a stirring tribute to Mrs. Roosevelt for her wholehearted collaboration, as well as for her tempered authority and the deep knowledge she had brought to the preparation of that historic document.

The President requested the Assembly to consider the draft resolution concerning the declaration of human rights submitted by the delegation of the USSR (A/785).

MR. VYSHINSKY¹⁵⁸ (Union of Soviet Socialist Republics) recalled the active part taken by the representatives of the USSR in the preparation of the draft declaration of human rights from the time of the inception of the work in Geneva until the last meetings of the Third Committee. The Geneva text had had certain qualities, but it

¹⁵⁸ Andrey Januarevich Vyshinsky (1883–1954) was the Soviet prosecutor during the so-called purge trials of the 1930s. Later, he was responsible for Soviet participation in the International Military Tribunal.

had also had serious defects, among which might be counted its ultra-legal form and the absence of provisions for the implementation of the principles laid down. Although the Geneva text had undergone successive revisions, the faults still persisted in the text at present before the Assembly. They were apparent, for example, in the abstract form of some articles dealing with extremely important questions.

Article 4 was a case in point: it did not mention even the most elementary measures to be taken by the State to ensure practical application [855] of the rights enumerated therein. The USSR delegation had proposed an amendment to that article, providing that the State should assure for each person protection against any attack on his rights, as well as living conditions which would relieve him of the fear of hunger and death from exhaustion. Mr. Vyshinsky regretted that that amendment had been rejected and that the Third Committee had adopted a completely abstract formula with no real sense.

Article 23 was another example. It dealt with a very important problem, but it was doubtful if the solution offered was adequate for a question of such scope. It seemed as if the authors of the declaration, in their attempt to find a satisfactory solution to the problem, had been hindered by their ideology and certain political considerations. The present article 23 only retained a part of the article which had been proposed by the USSR delegation; it gave no assurance that the principles laid down would be implemented. The delegation of the USSR had asked that social insurance should be paid under national legislation by the employer or by the State, in order that its cost should fall upon those who benefited by the work done. Although that had merely been a proposal of moral import and, in any case, only a recommendation, it had met with vigorous opposition. As it stood, the article certainly contained fine ideas expressed in high-sounding phrases, but the experience of the last hundred and fifty years had shown that the realization of an ideal came into daily conflict with existing facts. The application of the principles laid down had therefore to be guaranteed and the Third Committee had not done that.

The delegation of the USSR could not accept article 20, which did nothing to solve the question. Complete freedom to disseminate ideas did not solve the problem of freedom of expression. There were dangerous ideas the diffusion of which should be prevented, war-mongering and fascist ideas, for instance. It was impossible to agree that that article should permit the propagation of such ideas, which had been responsible for the horrors that the world had recently known. Article 20 would allow even fascists to raise their heads unless the deformation of the concept of liberty contained therein was corrected. It was of no use to argue that ideas should only be opposed by other ideas; ideas had not stopped Hitler making war. Deeds were needed to prevent history from repeating itself. Not only must ideas be fought by other ideas but fascist manoeuvres and warmonger's machinations

must also and especially be made illegal and the necessary punitive measures must be provided for. The mistake of not considering any measures for [856] punishment might once again cost the world millions of human lives.

That article also made no provision for the free dissemination of just and lofty ideas. If freedom of expression was to be effective, the workers must have the means of voicing their opinions, and for that they must have at their disposal printing presses and newspapers. The USSR delegation had proposed that the article should be amended so as to give the workers the material means by which they could express themselves, but the USSR amendment had been rejected on the plea that it might permit the State to restrict freedom of expression. For its part, the delegation of the USSR considered that the rejection of that amendment constituted an attempt to prevent the masses of the people from obtaining the means of expression which would make them independent of the capitalist or official Press.

Article 21 had the defect of not recognizing the right to street demonstrations. The USSR amendment to that article had been rejected, but that freedom ought to be guaranteed. Another defect of that article was the fact that it did not deprive fascist groups of the right to hold meetings. The USSR amendment on that subject had also been rejected on the pretext that it was difficult to define fascism. It was a strange thing, after the sufferings through which the world had just passed, that it should be necessary to define fascism. Such arguments must not be allowed to permit its re-birth.

As regards article 28, the USSR delegation had suggested that a sentence should be added to the first paragraph, to the effect that all scientific discoveries should serve the cause of progress, the strengthening of democratic regimes and international co-operation. It was necessary to make sure that scientific research would not be used for war purposes which would obviously hinder progress. It was difficult to understand why such a self-evident truth should have met with the opposition of the majority. Did not the whole United Nations Organization serve the cause of democracy and progress? Were not the democratic regimes the only ones to assure the implementation of the rights specified in the declaration? The delegation of the USSR could therefore not accept the first paragraph of article 28 in its present form, because it was incomplete.

Mr. Vyshinsky then drew the Assembly's attention to a defect in the draft declaration which he considered to be fundamental: the absence of provisions guaranteeing the rights of national minorities. The Geneva text had contained an article which, although incomplete, had dealt with the necessity of assuring to ethnical or reli-[857]gious groups the use of their mother tongue, the right to have their own schools, to develop their own culture, to have their own newspapers and to participate in the government of the State. Although, in enunciating the general principles, the declaration stated that there should be equal rights for all, there was nothing which corresponded to that affirmation in the concrete provisions proposed for giving full expression to those rights.

Finally, the declaration did not mention the sovereign rights of States. Articles 14 and 20 only incorporated a part of the USSR amendments and those were the less important ones. The draft declaration of human rights therefore suffered from serious defects and omissions. That was largely due to the rejection of amendments proposed by the USSR; the adoption of a very small number of the USSR amendments was not enough to make the declaration acceptable.

The draft universal declaration of human rights should be worthy of its lofty purposes. The draft before the Assembly was unacceptable in its present form and there was no time to amend it properly. Hence he requested the General Assembly to postpone examination of the draft declaration of human rights until the fourth ordinary session.

MR. CHARLES MALIK (Lebanon) stated that the declaration was destined to mark an important stage in the history of mankind. As had already been said, that declaration had been inspired by opposition to the barbarous doctrines of nazism and fascism and, more directly, by President Roosevelt's proclamation of the four essential freedoms, as well as by the affirmation of human rights and fundamental freedoms mentioned on seven different occasions in the Charter.

Mr. Malik traced the origin and growth of the text at present before the Assembly. On 16 February 1946,¹ the Economic and Social Council had set up the Commission on Human Rights. It had decided that the work of the Commission should primarily be devoted to submitting proposals, recommendations and reports for an international charter of human rights.

The nine members of the original body had included Mrs. Roosevelt, representative of the United States of America, Mr. Cassin, representative of France, and Mr. Neogi, representative of India. During a preliminary meeting held at Hunter College from 29 April to 20 May 1946, it had studied the final composition of the Com-

[¹] See *Journal of the Economic and Social Council*, First Year, No. 12, resolution (5).

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mission on Human Rights and had asked the Secretary-General to collect all possible information on the subject. At that stage the Human Rights Division was set up in the Secretariat. That Division had begun a study of various drafts submitted by the delegations of Panama, Chile and Cuba and by the American Federation of Labor, as well as private drafts, especially those of Dr. Lauterpacht of Cambridge University, Dr. Alvarez of the American Institute of International Law, the Rev. Parsons of the Catholic Association for International Peace, Mr. McNitt of the Faculty of Law of South Western University, and Mr. H. G. Wells.

At the first session, which had been held at Lake Success at the beginning of 1947,¹ the Commission on Human Rights had confined itself to determining the general trend of the charter and to laying the foundations for the present text. After

many difficulties, Mrs. Roosevelt, President of the Commission, had proposed that that charter should be drafted in the form of a declaration or a manifesto which the General Assembly could adopt as a resolution, and which could be followed by conventions that would be legally binding on States. The Commission had asked its officers to make a preliminary draft with the help of the Secretariat. In view of the difficulties encountered by that small group, Mrs. Roosevelt had informed the President of the Economic and Social Council of its decision to set up a wider and more representative drafting committee. The Council had endorsed that decision and had asked the Secretariat to prepare a draft declaration as a basic text.

It could be said that the present declaration had been drafted on a firm international basis, for the Secretariat's draft was a compilation not only of hundreds of proposals made by Governments and private persons, but also of the laws and legal findings of all the Member States of the United Nations.

At the first meeting of the Drafting Committee, the United Kingdom representative, Lord Dukeston, had submitted a formal proposal on behalf of his delegation for preparing a draft convention or treaty concerning human rights. That draft had been examined together with the draft prepared by the Secretariat. As a result of discussions in the Drafting Committee, Mr. Cassin had prepared a new version of the Secretariat's draft. The Drafting Committee had then submitted to the Commission Mr. Cassin's and Lord Dukeston's texts to serve as a basis for a declaration and a convention on human rights.

[¹] See *Official Records of the Economic and Social Council*, Second Year, Fourth Session, Supplement No. 3.

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Mr. Malik spoke in appreciative terms of all those who had made an important contribution to the work of the Drafting Committee. He mentioned in particular the USSR representative who had been the first to stress the importance of the principle of equality and non-discrimination; the representative of Australia, who had emphasized the necessity for specifying measures for implementation and for the establishment of an international court of human rights; Mr. Chang, representative of China, Vice-Chairman of the Drafting Committee and of the Commission on Human Rights; the representative of Chile; the representative of India; and the representatives of the specialized agencies and non-governmental organizations.

The second session of the Commission on Human Rights, held at Geneva in December 1947, marked a historic stage in its work. It was in the course of that session that the conception of a charter of human rights comprising three parts had emerged: a declaration, a convention and measures for implementation. It had, in fact, become evident that many Governments were prepared to accept a draft declaration if it were to precede and not to replace a convention. One noteworthy result of that session was a report on the measures for implementation prepared by the representative of Belgium, which remained a basic document for all subsequent study in that field.

The Drafting Committee had met a second time in Lake Success from 3 to 21 May 1948. It had studied the draft declaration, taking into account the observations made by Governments, the new wording proposed for certain important articles by the Conference on Freedom of Information, the suggestions of the Commission on the Status of Women for articles 1 and 13, and, finally, the text of the Bogotá Declaration. It had submitted to the Commission a new text which was a compromise between too great conciseness on the one hand and the inclusion of too much detail on the other.

The third session of the Commission on Human Rights, held at Lake Success from 24 May to 18 June 1948, had been devoted entirely to a new examination of the individual articles of the draft declaration. Mr. Pavlov, the USSR representative, had stressed in particular the necessity of giving the declaration a practical character. His efforts, together with those of the other representatives of the USSR who had taken part in the Commission's work, had resulted in emphasis being placed on the four principles: non-discrimination, improvement in the living conditions of the masses, the duties of the individual towards society, [860] and the decisive role of the State in guaranteeing human rights and freedoms. The final text, drafted during the third session, had been adopted without any opposition. He once again paid a tribute to Mrs. Roosevelt for her able conduct of the work of the Commission on Human Rights.

Owing to a lack of time, the Economic and Social Council had, during its seventh session, done no more than refer the draft declaration to the General Assembly.

Mr. Malik then pointed out that the Third Committee had devoted 85 meetings to the discussion of the draft declaration, in addition to 20 meetings held by various sub-committees. Of the 29 articles of the present draft declaration, 18 had been adopted without any opposition. Of a total of 1,233 individual votes, 88.08 per cent had been affirmative, 3.73 per cent negative and 8.19 per cent had been abstentions. He stressed the contribution made to the drafting of the declaration by the members of the Third Committee, who had also earned the gratitude of the Assembly.

The Third Committee had not made any substantial alterations in the general structure of the declaration. The latter had, however, undergone certain important changes. He quoted the modifications made in article 3 on the proposal of the Yugoslav representative, in the preamble on the initiative of the representative of the Dominican Republic, in article 24 on the suggestion of the Cuban representative; article 10 had been amended as a result of a proposal of the Ecuadorean representative, and article 9, at the suggestion of the representative of Mexico. Finally, important changes had been made in the articles concerning economic and social rights.

In conclusion, Mr. Malik recalled that the Members of the United Nations had already solemnly pledged themselves, under the Charter, to promote respect for human rights and fundamental freedoms but that it was the first time that human rights and fundamental freedoms had been set forth in detail. Hence every

Government knew, at present, to what extent exactly it had pledged itself, and every citizen could protest to his Government if the latter did not fulfil its obligations. The declaration would therefore provide a useful means of criticism and would help to bring about changes in present legal practice. A convention could subsequently be prepared, but it would rest on the rights laid down in that declaration; the latter was consequently of extreme importance.

MRS. ROOSEVELT (United States of America) pointed out that the declaration of human [861] rights, the product of long and meticulous debate, was based on the views of the various persons who and Governments which had drawn it up. As a consequence, it represented, to a certain extent, a compromise which did not contain everything the delegation of the United States of America would have wished it to contain, nor doubtless, everything which other countries would have wished. Nevertheless, the United States delegation regarded it as a satisfactory document and would accord it full support.

The amendments submitted by the USSR to the Third Committee, and rejected by that Committee, were substantially the same as those submitted to and rejected by the Commission on Human Rights. Whilst paying a tribute to the USSR delegation for the tenacity with which it had defended its convictions, Mrs. Roosevelt remarked that people sometimes had to co-operate loyally with the majority even when they disagreed with its views. She was convinced that the amendments which the delegation of the USSR was at present putting before the General Assembly would be rejected without discussion.

The first two paragraphs of the USSR amendment to article 3 dealt with the question of minorities. The Third Committee had already decided that that question required further study, and had recommended that it be referred, for that purpose, to the Economic and Social Council and the Commission on Human Rights.

Moreover, it was clear from the USSR amendment to article 20 that the aim was to guarantee the rights of certain groups, and not the rights of individuals, with which alone the declaration was concerned.

The effect of the USSR amendment to article 22 would be to restrict freedom of opinion and expression. It proposed to set up standards which would allow any State to deny freedom of opinion and expression without violating that article. It had already become clear that the expressions "democratic opinion", "democratic States", "democratic system" and "fascism" were open to the most varied and misleading interpretations. The USSR amendment to article 22 introduced new elements into that article, without however improving the text submitted by the Committee. Article 2 already guaranteed equal rights sufficient to prevent discrimination; repetition of the same idea might merely have the effect of weakening the meaning of article 2.

The new article 30 proposed by the USSR delegation again proclaimed the obligations of the State, a conception which the USSR delegation had tried to

introduce into practi-[862]cally every article of the declaration. If that conception were adopted, the entire character of the declaration would be changed.

As regards the USSR proposal for referring consideration of the draft declaration to the next session of the General Assembly, the Third Committee had already rejected a similar draft resolution by 26 votes to 6. She was sure the Assembly would understand that the declaration represented the result of hard work over a long period of time, and that it should be approved now.

Mrs. Roosevelt then referred to article 30, which limited the exercise of the rights and the enjoyment of the freedoms proclaimed without any restriction in the other articles in order to meet the just requirement of morality, public order and general welfare in a democratic society. She thought that the right of equal access to the public service was provided for in article 30. The Government of the United States of America would not regard the exclusion from the public service of persons who failed to observe the basic principles of the laws and constitution of the country as an infringement of that right. That also applied to persons holding subversive beliefs. That had been already stated in the text submitted by the Commission on Human Rights. The delegation of the United States of America regarded article 23, as proposed by the Commission, as an “umbrella” article for that part of the declaration dealing with economic and social rights, despite the fact that that article contained no reference to the articles following it. It would therefore subscribe to the proclamation of economic, social and cultural rights contained in those articles.

Mrs. Roosevelt stressed that the Committee must bear in mind that the declaration of human rights was of basic importance: it was first and foremost a declaration of the basic principles to serve as a common standard for all nations. It might well become the Magna Carta of all mankind. Mrs. Roosevelt thought that its proclamation by the General Assembly would be of importance comparable to the 1789 proclamation of the Declaration of the Rights of Man, the proclamation of the rights of man in the Declaration of Independence of the United States of America, and similar declarations made in other countries. The fact that 58 States, which had had so much difficulty in reaching a common basis of agreement in many other fields, should have found a large measure of agreement on the subject of human rights was proof of their desire to raise the standard of living of peoples and guarantee mankind greater freedom.

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It was clear that the declaration was inspired by a sincere desire for peace. The declaration was based on the conviction that man must have freedom in order to develop his personality to the full, and have his dignity respected. The fact that the declaration had the moral support of 58 nations would help in the adoption of the measures necessary for its implementation.

Finally, Mrs. Roosevelt hoped that the adoption of the declaration of human rights, at the third session of the Assembly, as Mr. Marshall had desired, would

encourage those who were responsible for drafting the convention and working out the measures for its implementation.

MR. SANTA CRUZ (Chile) declared that the promulgation of the universal declaration of human rights would in itself be sufficient to justify the holding of the third session of the General Assembly. Henceforth, men everywhere would know what their rights and freedoms were. Mr. Santa Cruz emphasized that the presence of Mrs. Roosevelt, who had worked so actively and with such patience both on the Commission on Human Rights and on its Drafting Committee, and the proximity to the place where, a century and a half before, the 1789 Declaration of the Rights of Man had been born would make the promulgation a solemn occasion. Evoking the memory of President Roosevelt, of whom the present Declaration of Human Rights was, to a certain extent, the moral testament, he wondered whether the third session of the General Assembly might not perhaps go down in history as the "human rights session".

Both its universal nature and its juridical significance made the declaration of exceptional importance. All the States which were signatories to it undertook to respect and extend the basic rights proclaimed. It was not of course perfect; but it would constitute a safeguard for all human beings as long as the United Nations existed. Fifty-eight civilized nations had succeeded in overcoming ideological and juridical differences and had agreed on a joint proclamation of human rights. The only nations unable to subscribe to that declaration were States which denied the value of freedom as such and denied that man had rights independently of the form of the State, or which did not believe that man possessed inherent rights that had existed before the formation of social groups.

The true character of the declaration was revealed in three articles: articles 4, 23 and 29. Article 4 proclaimed the right of the individual to life, freedom and personal security; article 23 stated that everyone was entitled to the economic, social and cultural rights indispensable for his dignity, and to social security; article 29 proclaimed the need for a just social order and a peaceful international order – the two elements essential for the exercise of basic human rights.

The other principles enunciated completed the conception of a democratic society, on the national as well as on the international plane, and in the economic, social and political fields. The result was a conception of society which excluded all non-democratic regimes, and provided a criterion for distinguishing between true and false forms of democracy. Democracy was a system opposed to every form of dogmatism. No one could claim a monopoly of the truth, and common problems should be solved by universal and free suffrage. That system was based on national solidarity. Groups of persons subject to the orders of foreign authorities could not be called upon to take part in public affairs. Furthermore, efforts made to have the declaration recognize the State authority to restrict or regulate the rights proclaimed

had failed. The opinion of the majority had been that to do otherwise would amount to waiving indefeasible human rights and proclaiming the totalitarian rights of the State; whereas the declaration as it stood would make it incumbent on States to adapt their legislation to the principles laid down.

He was convinced that the declaration of human rights would be approved, respected and implemented. Whereas the Declaration of 1789 had brought the hope of freedom, the declaration of human rights stated that hope, in concrete terms, the form of unambiguous rights which no one could infringe without becoming an outcast from the community of nations.

MR. CASSIN (France) stated that his country wholeheartedly supported the declaration of human rights which, 100 years after the 1848 Revolution and the abolition of slavery in French territory, constituted a world milestone in the long struggle for human rights.

The declaration was the most vigorous and the most urgently needed of humanity's protests against oppression. The last war had taken on the character of a crusade for human rights. In the midst of the turmoil, President Roosevelt, and President Benes had proclaimed it as such; and France, though a prisoner at that moment, had added her voice to theirs in proclaiming that the practical application of the basic human freedoms was an essential requisite for the establishment of international peace. The United [865] Nations Charter mentioned human rights and fundamental freedoms on seven occasions as among the purposes to be attained, and those rights and freedoms had thus become a part of positive international law. To fulfil that promise, the Assembly must at present draw up a charter of human rights, which should not merely enumerate those rights but also set forth how they could be established, their limitations and the national and international guarantees in respect of them.

Mr. Cassin stressed that it was impossible to attain complete agreement on doctrine, but that an agreement based on the practical as well as the ideal could be achieved, and that was the more urgently needed because respect of human rights had been one of the major issues of the late war.

In that connexion, the universal declaration of human rights was a considerable effort on the part of individuals, groups and States alike. In common with the 1789 Declaration, it was founded upon the great principles of liberty, equality and fraternity; but it was adapted to the present epoch in which individualism had been condemned by facts, but in which the mechanization of mankind under the tyranny of powerful groups was also abhorrent. The principle of equality, for example, had been supplemented by the prohibition of discrimination.

The declaration rested on four fundamental pillars: personal rights, relationships between man and his fellow men, public liberties and fundamental political rights, and economic and social rights. The final texts of the declaration welded those elements together, for they implied ties between the individual and society and

affirmed the need of an adequate social and international order capable of ensuring that rights were respected; they provided safeguards or hope of safeguards, while at the same time also imposing certain limitations upon mankind. With regard to the latter, article 30 was one of the keystones of the declaration.

Mr. Cassin said he was very well aware of the shortcomings of the declaration. France had submitted certain amendments which had been accepted, such as the right to nationality and the general rights of intellectuals; but his country did not intend to leave the path trodden by others because not all its amendments had been accepted, especially those concerning the right of petition. The delegation of the USSR likewise knew that some of its amendments had also been adopted while others had not, either because the substance of them was already covered by some part of the declaration or else because they were more suitable for incorporation in a later convention. In addition, some of the objections raised by delegations would [866] have been dropped if those delegations had read the texts of the amendments and compared them with each other.

Mr. Cassin also observed that, in the declaration, a choice had had to be made between excessive simplicity and a fullness of detail which would have anticipated the measures for implementation. A universal declaration permitted of less freedom than did a national constitution.

It should finally be pointed out that the four pillars of the declaration were all of equal importance, and no hierarchy of rights could be established in the declaration.

To Mr. Cassin the chief novelty of the declaration was its universality. Because it was universal, the declaration could have a broader scope than national declarations and draw up the regulations that were essential to good international order. It was for States to conclude conventions between themselves for the preservation of that order; otherwise it would establish itself over their heads, for men could not be indefinitely deprived of the necessary protection of their rights.

The French delegation was happy to assent its complete agreement with all the delegations which had emphasized the importance of non-discrimination. Not merely did the declaration eliminate all distinction between nationals and aliens in regard to fundamental rights, but, in the opinion of the French delegation, it also consecrated the principle of territorial universality. France was convinced that the benefit of those fundamental rights could not be withheld from the peoples of Trusteeship or Non-Self-Governing Territories. Hence, non-self-governing peoples enjoyed in the French Union rights under the national Constitution equal to those of citizens. Nor could peoples be excluded whose Governments had not yet been admitted to membership in the United Nations: the declaration had been framed for them as well as for the peoples of the United Nations, for it was intended for all mankind.

The declaration had a wide moral scope. Furthermore, while it was less powerful and binding than a convention, it had no less legal value, for it was contained in a resolution of the Assembly which was empowered to make recommendations; it

was a development of the Charter which had brought human rights within the scope of positive international law. That being so, it could not be said that the declaration was a purely theoretical instrument. It was only a potential instrument; but that fact in no way detracted from the binding force of the provisions of the Charter.

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Mr. Cassin outlined the work that remained to be done and stressed that the declaration must constitute a beacon of hope for humanity. It must pave the way for the covenant, to which States would consign their undertakings in order to make them legally binding. It was, however, impossible to make this need of a convention the ground for an idea not contained in the Charter, namely, that the national sovereignty of the States remained absolute. Mr. Cassin recalled that in 1933, before the League of Nations Assembly, Hitler's henchmen had adduced arguments based on the national sovereignty of States to justify their actions with regard to their own countrymen and that the failure to punish the crime committed against the rights of the German people had led to the supreme crime of universal war.

True, they would have to rely on the goodwill and good faith of States, for, according to the Charter, the chief responsibility rested upon them. But the solidarity of nations was indispensable and their co-operation must be ensured by suitable means.

France had, in that connexion, already submitted to the Commission on Human Rights plans for the implementation of human rights, not by coercion but, in the first place, through petitions, conciliation and recommendations; for it was convinced that, with regard to the safeguarding of peace, the existing United Nations machinery, the General Assembly and the Security Council would, if need be, be able to assume full responsibility.

He expressed the hope that the 1948 Paris Assembly of the United Nations would, by the unanimity of its delegations, be known in history as the "human rights Assembly".

GENERAL ROMULO (Philippines) pointed out that, during its third session, the United Nations had been on trial for its life and that it was at that very moment that it had justified its existence before an anxious world by producing the universal declaration of human rights. The new charter of human freedom was the outcome of two and a half years of painstaking work by different bodies of the United Nations. It expressed the wish of the various peoples of the world to live together in amity, mutual co-operation and fuller freedom. That document was in reality the first in history which, from a truly universal standpoint, defined the basic rights and the fundamental freedoms to which all men were entitled. The declaration's greatest interest lay in the fact that it would prevent the recurrence of the recent [868] atrocities by ensuring human rights the protection of the law.

He then recalled all the recognized political rights of the individual. He further stated that, parallel to the bill of political rights, the document contained a bill of

economic and social rights. The practical implications of the economic and social provisions were the distinguishing features which really characterized the universal declaration of human rights as a charter of human freedom. The new declaration recognized rights which were perhaps not even contemplated in the Magna Carta, the 1789 Declaration of the Rights of Man, or the American Declaration of Independence. That recognition was based upon the fact that a traditional declaration of political rights would be insufficient unless buttressed by a declaration of economic and social rights.

The document certainly could make no claims to perfection since it had been the result of a compromise. At the same time, compromise was the essence of democracy and the very basis of the United Nations. That was best shown by the fact that the philosophy on which the declaration was based was valid for all peoples and all nations and was universally accepted.

The declaration, it should be borne in mind, constituted the first step towards a universal bill of human rights. The covenant would constitute the next step; then there would be measures of implementation which would reinforce the declaration. The imperfections of the universal declaration of human rights in themselves did not constitute an adequate reason why the Assembly should not adopt it. It could always be improved later.

It had been objected that the declaration infringed national sovereignty. In refutation of that statement, General Romulo quoted the preamble to the declaration. He then paid a tribute to the outstanding contribution of Mrs. Roosevelt in the drawing up of the document which had important implications for the future. In conclusion, he stated that the present General Assembly was in duty bound to give to all mankind what it had been seeking for so long: the respect of human rights and the guarantee of human freedoms.

MR. MANUILSKY¹⁵⁹ (Ukrainian Soviet Socialist Republic) said that his delegation had been disappointed by Mrs. Roosevelt's proposal that the USSR amendments should not be discussed. That conception of the declaration of human rights at present before the General Assembly constituted the first violation of that document, which [869] recognized freedom of opinion and the right of everyone to defend his opinions.

With respect to the substance of the problem, he stated that, in his opinion, it was not really desirable for the General Assembly to adopt the declaration. Great upheavals had taken place in the world. Since 1917, a new social system had been developing in the USSR, a land which covered one sixth of the globe. In Eastern Europe, several countries had, since the war, turned towards Socialism. The peoples of Asia were demanding freedom and national independence. Millions of men who had suffered greatly during the war were at present demanding the fulfilment of their

¹⁵⁹ Dmitriy Manuilsky (1883–1959) was a prominent Bolshevik.

aspirations. Nevertheless, the majority of the Third Committee had ignored those facts when working on the draft declaration; throughout their work, their thoughts had been directed to the past and not to the future.

It was, of course, possible to draft a declaration containing great humanitarian principles, but those principles should bear some relation to the every-day facts of contemporary life in capitalist countries. Each man's right to a luxurious mode of living could be proclaimed; it would, however, remain a fiction for millions of men as long as their living conditions were such that it was impossible for them to enjoy it. The laws of many countries guaranteed the freedom of the Press, but, since printing presses and paper were privately owned, that freedom was controlled by the political opinions of the owners. The bourgeois French revolution had proclaimed the equality of men, but equality had not been attained thereby; on the contrary, economic inequality had become more pronounced in bourgeois society than it had ever been under the feudal regime.

It was a salient feature of the present epoch that the great social reforms of the Soviet world had left their impression on the consciousness of millions of men who lived under a different social structure from the Soviet type. The right to work, the right to rest and the right to education were essential human rights and rights of the Soviet citizen. The fact that Soviet citizens fully enjoyed them constituted the greatest achievement of the Soviet world. It was an achievement that could not be ignored. It was not possible to ignore those facts. In capitalist countries there was and always would be a flagrant contradiction between what was said in the declaration of human rights and reality.

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The declaration proclaimed the right to work; but in real life something quite different happened. He quoted official data concerning the United States as an example. That country had nearly two million unemployed. If families were taken into account that made six million persons lacking the means of livelihood, to say nothing of those who were only partly employed. The same situation prevailed in the United Kingdom, which had long suffered from chronic unemployment. Moreover, the implementation of the Marshall Plan paralyzed the national industry of many European countries, where the number of the unemployed consequently increased and the standard of living went down.

The declaration accorded the right to rest; that statement, however, had a hollow ring in a society in which a small group always rested, while the overwhelming majority worked all the time. It was not possible to speak of rest for the masses while the purchasing power of wages was being systematically lowered, while the standard of living was reduced by inflation and mechanization, and while taxes to cover military budgets were steadily increasing.

The declaration proclaimed the right to education. What, however, happened in reality? There was compulsory free education in the United States; yet many children in that country either did not attend school or received inadequate schooling. The situation was obviously worse in colonial territories. Thus, in Nigeria, which had been under British rule for over a century, there was no governmental education system. Only seven out of every thousand children of school age attended school.

Before the rights to work, to rest and to education could be put into effect, it was necessary to alter drastically the economic system of private enterprise, the motive power of which was the desire for profit. Unemployment was an essential element of that system. It should also be noted that the present imperialistic stage of development of bourgeois society was characterized by a constant expansion of capitalist monopolies and the growth of military expenditure, whereas a glance at the situation in Western Europe and the United States showed that there was no allocation in any national budget for recreational facilities for workers. In the USSR, on the other hand, apart from paid holidays, to which all workers were entitled, millions of persons were able every year to rest at Government expense in rest homes and sanatoria.

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The least possible seemed to have been provided for in countries which had a different economic system from that of the USSR to implement the right to education. According to official data, 30 per cent of the budget of the USSR for 1948 had been allocated to economic and cultural needs. In the United Kingdom, only 3 per cent of the budget was allotted for purposes of education, while in the United States it was only $1\frac{1}{2}$ per cent. In the USSR over 34 million persons were pursuing their studies; moreover, 730,000 university students were educated at Government expense. That fact spoke for itself. If the Governments of the United Kingdom and the United States were to reduce their military expenses by one-third, as the USSR had proposed, those countries could then provide a practical basis for the exercise of the rights set forth in the declaration of human rights.

He next dealt with the principle of equality as enunciated in the declaration. There could be true equality among men only under an economic system which guaranteed to everyone equal conditions and opportunities for the development of his own potentialities. That was not the equality mentioned in the declaration of human rights. Again in countries the economic structure of which differed from that of the USSR, men spoke of political, national, or racial equality while, on the other hand, they did not hesitate to lynch Negroes, as in the United States, to pass racial laws, as in the Union of South Africa, to exterminate minorities, as in Greece, to quote only some examples.

The reader of the declaration of human rights found therein no mention of the elementary democratic right of minorities to use their own language in courts and schools, to have their own culture and books, and to be protected from racial discrimination.

Another elementary democratic right of every citizen was the right to participate in the government of his country and to have access to administrative posts regardless of his race, colour, language or religion. Voting once every four or five years did not constitute a full exercise of the right of the citizen to take part in the government of his country.

Neither did the declaration of human rights recognize the right of peoples and nations to self-determination, a right arising from human rights as each citizen was a member of the community and only the community could obtain such a [872] right for the individual. Lenin and Stalin had recognized that right and, if at present the States which had signed the United Nations Charter wanted to respect it, they must take steps to extend the right to self-determination to peoples of colonial, Trust and Non-Self-Governing Territories.

The absurd theory current among colonial Powers that there were superior and inferior races must be eradicated. It was reminiscent of the defeated Nazi theory. The Prime Minister of the Union of South Africa had frankly stated, in that connexion, in January 1948 that Europeans must be given education, social insurance and so forth, but that, if the same rights were accorded to the Natives, the Europeans would be unable to rule the country and would be obliged to leave it. Was that an application of the principle of equality? It was therefore not surprising that there should be no reference to democracy in the declaration of human rights, although the exercise of the rights set forth in it must be based on democratic principles and democratic equality. There was no need to go to the Union of South Africa to illustrate the obvious situation: the same situation would be found, for instance, in Indonesia.

There was furthermore not one word in the declaration condemning fascism. The delegation of the Ukrainian SSR regretted that Mrs. Roosevelt had not allowed that question to be discussed along with the principles of the declaration. She had taken a position reminiscent of the one held by the democratic parties in Germany under the Weimar Republic; they had considered fascism a legitimate political movement having the same right to existence as any other trend of public opinion. The tragic consequences of that attitude, which should not be reflected in the declaration, were known to all.

Mr. Manuilsky recalled that Mr. Molotov¹⁶⁰ had stated at the Paris Conference that, in the interests of all peace-loving peoples, the fight against fascism must be continued to the end. Those words should be borne in mind. It could not be forgotten that, in spite of the military defeat of the Axis countries, a fascist regime continued intact beyond the Pyrenees. Greece, supported by reactionary circles in the United States and the United Kingdom, was moving towards fascism. It could not be

¹⁶⁰ Vyacheslav Molotov (1890–1986) served as the USSR Minister of Foreign Affairs from 1939 to 1949, and again from 1953 to 1957.

forgotten either that criminals like Degrelle¹⁶¹ and Mosley were still at large. Those circumstances made it necessary to include in the declaration a provision permitting [873] the citizen to fight against fascism ideologically and publicly.

A study of the universal declaration of human rights consequently showed a series of rights which could not be exercised in view of the present conditions and the economic structure of a great number of countries, whereas several elementary democratic rights which could be realized even in a capitalist society had been deliberately omitted. Thus, the declaration was devoid of any significance from the point of view of democracy. That was scarcely accidental: the authors of the declaration had endeavoured to minimize its democratic scope and to conceal the fact by pronouncing grandiloquent principles.

He concluded by saying that those were the concrete practical reasons which moved his delegation to support the USSR proposal to postpone the adoption of the declaration of human rights until the fourth session of the General Assembly.

MR. VAN ROIJEN (Netherlands) stated that his delegation welcomed the fact that a first step had been taken towards the realization of a most important aim: the drafting of a bill of human rights.

He recalled that the long history of the Dutch people bore testimony to its great love of freedom in the field of thought, religion and politics. The Netherlands considered the rights of the individual to be sacred and the recognition of those rights the best safeguard of the physical and spiritual wellbeing of mankind.

He was grateful for the work done by the General Assembly at its third session. The solemn declaration, which was the first part of the bill of human rights, should serve as a common standard for all peoples and all nations throughout the world. Although the declaration was not legally binding on Governments, it should have great moral force and would serve as a guiding light to all those who endeavoured to raise man's material standard of living and spiritual condition. The Netherlands delegation understood that the adoption of the declaration placed a moral obligation on the different countries to find ways and means of giving effect to the rights proclaimed therein, and more especially to draft without delay a covenant on human rights and the necessary measures of implementation.

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He remarked that his delegation would warmly support the resolution included in the report of the Third Committee which stated that the preparation of the rest of the bill of human rights should have a high priority.

¹⁶¹ Léon Degrelle (1906–94) was a Belgian politician and Nazi collaborator. He fled to Spain at the end of the war and lived there in exile until his death in 1994.

While he would not dwell on the different aspects of the declaration in detail, he felt that the inclusion of social and economic rights constituted a marked improvement over previous declarations. Although his delegation would have preferred several articles to be differently worded, it accepted the text of the declaration as a whole. The people of the Netherlands would regard it as a recognition of principles which, generally speaking had already found expression in its national legislation.

Referring to the source of those rights, Mr. van Roijen regretted that man's divine origin and immortal destiny had not been mentioned in the declaration, for the fount of those rights was the Supreme Being, who laid a great responsibility on those who claimed them. To ignore that relation was almost the same as severing a plant from its roots, or building a house and forgetting the foundation. That conviction had always been one of the mainsprings of the actions of the Dutch people, and, in particular, of the resistance movement during the last war, when human rights had been so flagrantly violated. The solemn declaration it was proposed to adopt might have had, as its foundation, the recognition of the lofty origin of those rights. He realized that the time was perhaps not yet ripe for the acceptance of that idea. He hoped it would be accepted in the future.

Mr. van Roijen stated, in conclusion, that human rights could be fully exercised only if communities were prepared to protect and safeguard them. The authors of the declaration had proclaimed the rights of the individual, and in so doing they had set a standard for society. He hoped that all States would endeavour to give full effect to the principles of the declaration for the benefit of mankind in general and of posterity in particular.

The meeting rose at 12:45 a.m.

A/778/Rev.1

10 December 1948

**United Kingdom: amendment to Article 3
of the Draft Declaration proposed by the Third
Committee (A/777)**

Delete Article 3 and substitute the following text as paragraph 2 of Article 2:

“Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

A/PV.181¹⁶²

10 December 1948

***Verbatim Record of the Hundred and Eighty-First Plenary Meeting
[of the General Assembly]***

Held at the Palais de Chaillot, Paris, on Friday, 10 December 1948, at 10:45 a.m.

President: MR. H. V. EVATT (Australia)

117. Continuation of the discussion on the draft universal declaration of human rights: report of the Third Committee (A/777)

Amendment proposed by the United Kingdom (A/778/Rev.1) and amendments proposed by the Union of Soviet Socialist Republics (A/784) to the Draft Declaration

Draft resolution proposed by the Union of Soviet Socialist Republics (A/785/Rev.2)

MR. WATT (Australia) emphasized the importance of the draft international declaration of human rights submitted for approval to the General Assembly.

Some delegations might have preferred the draft declaration to be in the form of a short outline of fundamental principles; others, on the contrary, might have liked the draft to have been more detailed. Nations which had taken part in the preparation of the draft declaration differed profoundly from the political, economic, social and religious points of view and divergences were bound to become apparent regarding the manner in which the various aspects of the question should be approached and treated. The draft declaration presented, therefore, an effort at compromise and mutual understanding. It had been said that that would prejudice its authority; he thought, on the contrary, that having been accepted and approved by the majority of Member States of the United Nations, the declaration would go forth to the world with much greater strength and authority.

The Australian delegation attached particular importance to articles 23, 24, 25 and 26 of the draft declaration, which dealt with economic and social rights, and particularly with the right to social security, equitable and satisfactory working conditions, rest and leisure and an adequate standard of living to ensure the health and wellbeing of every man and his family. Those rights flowed from certain provisions which had been incorporated in the Charter on Australia's suggestion,

¹⁶² The text of the document is from *Official Records of the General Assembly*, Third Session, pp. 875–89.

namely, the provisions of Articles 55 and 56, under which Member States pledged themselves to take joint and separate action in co-operation with the United Nations, so as to [876] ensure higher standards of living, full employment and universal respect for, and observance of, human rights and fundamental freedoms.

Whatever its importance, however, the declaration did not by itself constitute an international charter of human rights. The working plan of the Commission on Human Rights had laid down that such a charter should also include a covenant relating to human rights and measures of implementation. The declaration represented a common ideal to be attained by all peoples of the world; it had no legally binding character. The General Assembly should see to it that the rights listed in the declaration did not remain a dead letter and should ensure effective respect of those rights.

The Australian delegation had always stressed, therefore, both in the Commission on Human Rights and in the Third Committee, the importance of the measures of implementation. Consequently, it gave its support, unreservedly, to draft resolution E proposed by the Third Committee, which requested the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft covenant on human rights and draft measures of implementation.

He recalled that, at the Paris Conference in 1946, Dr. Evatt, the head of the Australian delegation, had proposed the creation of an international court of human rights to which individuals, groups or States might have recourse if legitimate human rights were violated. At the time a number of delegations had considered that proposal as a rather bold one; since then, however, the usefulness of such a court had become apparent to many delegations. In the Commission on Human Rights, the Australian delegation had put forward a detailed plan relating to the creation of an international court on human rights (E/CN.4/15) and the plan would certainly be thoroughly examined by the Commission at its next session.

The Australian delegation sincerely hoped that the General Assembly would adopt the draft universal declaration of human rights by a very large majority, if not unanimously.

MR. PÉREZ CISNEROS (Cuba) reminded members that the Cuban delegation had submitted the first draft resolution which was to serve as a basis for the universal declaration of human rights.

[877]

He emphasized the importance and value of the draft declaration and paid tribute to the persevering efforts of the Commission on Human Rights and its Chairman, Mrs. Roosevelt. The draft declaration expressed in particularly clear and precise terms the most noble aspirations of twentieth-century man. That declaration would mark the advent of a world in which man, freed from fear and poverty, could enjoy freedom of speech, religion and opinion.

The Cuban delegation had taken a very active part in the work of the Third Committee and had submitted numerous amendments to the initial draft; it had done so in the belief that the importance of the question demanded much care and a critical approach on the part of every delegation.

On its suggestion, the Third Committee had decided to include in the draft some of the essential provisions contained in the Declaration of Human Rights proclaimed at Bogotá by the peoples of the American continent. Article 9 had been inserted in the draft declaration on the suggestion of the Mexican representative. It drew its inspiration from the "right to protection" which was embodied in Mexican legislation. The preamble to the draft declaration contained the essential part of an article of the Cuban Constitution, which recognized that man had the right to rebel against tyranny and arbitrary action. Social rights, which were a feature of the twentieth century, occupied a prominent place in the draft declaration. The Third Committee had deemed it useful to add two amendments submitted by the Cuban delegation, which proclaimed that everyone had the right to free choice of employment and to just and favourable remuneration which would ensure for himself and his family an existence worthy of human dignity and which would be supplemented, if necessary, by all other means of social protection. On the suggestion of France, Mexico and Cuba, the Committee had included in the draft declaration provisions relating to the protection of the moral and material interests of scientists, artists and writers. Indeed, such protection was indispensable to enable that intellectual and artistic elite to continue its work with dignity. Lastly, the Cuban delegation noted with great satisfaction that the draft declaration protected individuals against any attack upon their honour, finally condemned any distinction on racial grounds, and recognized the equality of men and women.

MR. THORS (Iceland) regretted that his delegation had been unable to participate as actively as it would have wished in the remarkable work of the Third Committee. His delegation attached [878] very great importance to that universal declaration of human rights which it regarded as a preamble to a future world constitution.

The delegation of Iceland was glad to note that the principles set forth in the draft declaration were also contained in the Constitution of his country. That Constitution was based on the conviction that all men were born free and equal in dignity and in rights; it recognized that everyone should enjoy freedom of thought, conscience and religion, freedom of opinion and expression, and the right to peaceful assembly and association. The Icelandic Government was freely elected and acted in conformity with the will of the people. Iceland had a social security system; the workers enjoyed periodical holidays with pay, and education was free for all. Furthermore, the Government granted scholarships to enable the less-well-to-do pupils to attend secondary and higher schools. All men and women in Iceland enjoyed equal rights and there was no distinction on account of race, class or religion. They enjoyed fair standards of living and took part in the direction of the public affairs of their country.

In those circumstances, the Icelandic delegation was prepared to vote for the draft declaration, especially as that draft had been carefully prepared by the Commission on Human Rights and the Third Committee.

The universal declaration of human rights would arouse great hopes among peoples who were still deprived of those rights. The success and the practical value of the declaration would depend on the goodwill with which the nations provided for its effective implementation.

MR. DE ATHAYDE (Brazil) paid a tribute to the efforts and the spirit of conciliation of all nations, great and small, which had taken part in preparing the draft universal declaration of human rights. The draft declaration was certainly not perfect; it was none the less a remarkable achievement and would have far-reaching effects.

The draft declaration did not reflect the particular point of view of any one people or of any one group of peoples. Neither was it the expression of any particular political doctrine or philosophical system. It was the result of the intellectual and moral co-operation of a large number of nations; that explained its value and interest and also conferred upon it great moral authority.

The Brazilian delegation sincerely hoped that the General Assembly would adopt the declaration, which had been conceived and drafted in a [879] liberal and generous spirit and which would open up a new era of liberty and justice for all mankind.

COUNT CARTON DE WIART (Belgium) felt that the universal declaration of human rights would undoubtedly be the most complete and most concrete achievement of the third session of the General Assembly. He paid a tribute to all those who had most actively contributed to the work, and in particular to Mrs. Roosevelt, and to the Chairman and the Rapporteur of the Third Committee, Mr. Charles Malik and Mr. Saint-Lot.

The essential merit of that declaration was to emphasize the high dignity of the human person after the outrages to which men and women had been exposed during the recent war. It was essential that the dignity of the human person should be safeguarded against the recurrence of such acts and also against the excessive risks of individualism and of State control.

The representative of Belgium noted that social rights, economic rights, cultural rights were being added by the declaration to the classical freedoms already set forth in similar documents. It further proclaimed the equality of rights between man and woman and stressed the rights of the family, which was the natural and fundamental element of society. It was also necessary to emphasize in that connexion the right to family wages and the parents' prior right to choose the kind of education to be given to their children.

That work, however, was not faultless. It would no doubt have been desirable to acknowledge the real basis of the equality of rights, namely, the common origin and destiny of all men.

Again, the order of the articles did not seem perfect. It was surprising to see an essential article like article 19, which proclaimed the right to freedom of conscience

and thought, placed after the recognition of the right to own property and after certain prerogatives of only relative importance. Article 25 declared that everyone had a right to periodic holidays with pay. That should be true of all workers, but the application of such an absolute regulation was hardly possible in certain cases such as, for instance, that of the mother of a family detained by her domestic duties.

The Belgian representative considered that article 3, referring to Trust and Non-Self-Governing Territories, was not a very successful one. Article 2 provided, in fact, for the universal application of the declaration in the most positive terms. There might, therefore, be some danger in including in article 3 a limitative enumeration. It would accordingly be better to delete [880] that article altogether or to make its terms more concrete and embody it in article 2 as a second paragraph.

In certain circles, it had been said that the declaration of human rights was a purely academic document. That statement was erroneous, for the declaration not only had an unprecedented moral value, it had also the beginnings of a legal value. The man in the street who appealed to the declaration could support his protests with the authority of the unanimous decision of the peoples and Governments of the United Nations.

It had also been alleged that the declaration spoke only of human rights, without mentioning duties. That criticism was unfair. Article 30, in fact, imposed on all men the duty to respect the rights of others, public order, morality and the general welfare as provided for in a democratic society. Those were limitations justified by civilized life itself, as well as limitations of conscience. It was therefore unjust to say that all those duties, taken together with the rights proclaimed, did not form a coherent whole.

The Belgian representative approved the request of the French delegation proposing that, by the employment of all modern means of disseminating information, the universal declaration of human rights should be given the widest possible publicity so that it might influence all minds and all hearts.

Count Carton de Wiart was happy that circumstances had allowed the universal declaration of human rights to be completed in the very heart of France which, throughout the ages, had given to the world so many noble and generous ideas. He hoped that the declaration would serve the cause of human dignity and would contribute to the rapprochement and friendship of peoples.

MR. AUGENTHALER (Czechoslovakia) regretted to have to state that the proclamation of the universal declaration of human rights would not be the splendid event, acclaimed by the masses and immortalized by history, as might have been expected.

The Third Committee had, in fact, held 85 meetings, during which 1,000 speeches had been made and 200 amendments submitted, and had endeavoured to improve the text submitted by the Commission on Human Rights. But the declaration that had been drawn up on those lines, had departed too far from the ideal which today represented the hope of some and the fear of others.

All present-day declarations of human rights had been the expression of a fully progressive society; they had looked towards the future, and [881] had clearly brought out the failure of declining Powers. The declaration before the Assembly was not imbued with that revolutionary spirit. It had been outstripped by the Constitutions of many Member and non-member States.

Mr. Augenthaler then quoted a passage from the preamble of the Czechoslovak Constitution which stated that Czechoslovakia was a popular democratic State in which the people carried out the laws they had chosen themselves, and where the national economy served the people and was intended to promote the general wellbeing, prevent economic crises and distribute the national income equitably in order to eventually put an end to the exploitation of man by man.

After acquiring such a Constitution, Czechoslovakia would feel that she was taking a step backward if it contented itself with the proposed declaration of human rights, which was neither bold nor modern.

The Czechoslovak delegation had constantly demanded that the first universal declaration of human rights should contain pledges for its immediate and progressive implementation, but the majority had concentrated above all on the verbal side of the declaration. Believing that it could not rise above the level of the constitutional evolution of all countries and forgetting that one of its arguments was to refuse to interfere with State institutions, that majority had rejected amendments submitted by the USSR which aimed at solving the problems of emigration and of choice of residence within the legislative framework of each State. The Third Committee, moreover, had approved by a majority of only one vote the amendment of the Soviet Union giving equality of rights in marriage to men and women; and it had not agreed to the abolition of the death sentence in peace time, although that had been done a century previously by the French Government of 1848. Further, the Third Committee had not agreed to denounce publicly and formally "fascism" and "aggression", although those words still had a cruel and sinister significance for many peoples, and although such denunciation should have been dictated by the principles of morality regardless of political concepts. The experience gained during the war should have received greater attention. Those who had refused to include in the declaration the right to protection against fascism and aggression had either known nothing of the war or were lacking in sincerity.

Articles 23 to 27 were among the most modern articles; they dealt with work, the greatest of human values. Recalling a discussion in the Third Committee as to whether man was created in the image of God or was a product of material evolution as conceived by Darwin, Mr. Augenthaler expressed his view, based upon the teachings of Marx and Engels, that man was a product of work. The work of the hand made the tool, and the tool permitted the development of the brain and the senses; by means of work man organized himself in society so as to meet his needs and achieve

his intellectual and moral development. In its present form, the declaration took no account of the practical aspect of the problem; it simply expressed lofty ideals, making no provision for their implementation in the difficult daily life of the workers. For example, there was surely no point in proclaiming the right to leisure if some men had no means of exercising that right. Unfortunately, the majority had not followed the advice of the Czechoslovak delegation when it had asked that the discussion should centre around the concept of work, and that the necessity for State guarantees should be recognized. Mr. Augenthaler considered that article 25 of the declaration lagged behind a French law of 25 February 1948, by which the French Government undertook to guarantee work to all citizens, and recognized the workers' right to group themselves together so as to enjoy the legitimate fruits of their work.

The declaration was a synthesis of ancient truths; it was out of touch with present realities and with the strength that resided in the people; it was only a vague picture of human rights as they could be conceived in the twentieth century.

The Czechoslovak delegation was, however, not averse to the codification of the average rights recognized in certain civilized States, because the most elementary rights were not yet acknowledged everywhere, and certain States permitted racial discrimination which was incompatible with the Charter of the United Nations. Some purpose would therefore be served by drawing up a list of fundamental rights, even though many States might already have recognized and guaranteed them, but it was essential to pave the way to progress.

It was for that reason that the USSR proposal afforded the only reasonable solution, that of postponing to the fourth session of the General Assembly the adoption of the universal declaration of human rights.

MR. DAVIES (United Kingdom) stressed the fact that the preparation of the draft declaration was a milestone on the road of human progress and observed that many speakers had compared the draft declaration to other declarations made in history. It had to be recognized, however, that never before had so many nations joined together to agree on what they considered to be the fundamental rights of the individual. More than 50 nations with differing systems of government [883] and differing social structures, religions and philosophies had adopted by an overwhelming majority the articles of the draft declaration under discussion. It was perhaps worthwhile recalling that previous declarations had lived in history long after the wars or disputes which had given rise to them; and it should not be forgotten either that the war, by its total disregard of the most fundamental rights, was responsible for the fact that the United Nations had drafted a new declaration of human rights.

That declaration was, however, only a first step. While in no way wishing to minimize its moral force, the United Kingdom felt strongly that the Commission on Human Rights should continue its work on the draft covenant and on the measures for implementation of the declaration.

The United Kingdom delegation therefore wholeheartedly supported draft resolution E of the Third Committee as well as draft resolution D proposed by France, concerning the publicity that should be given the declaration. Although the general view was that it was too late to modify the text of the draft declaration, the United Kingdom delegation nevertheless proposed an amendment (A/778/Rev.1) to article 3. That article contained one of the most serious blemishes in a declaration which included certain passages that doubtless could have been better drafted, but which the United Kingdom delegation and the majority of the Assembly were prepared to accept.

Article 2 laid down that every individual was entitled to the rights and freedoms proclaimed in the declaration, without distinction of any kind. If article 2 had any meaning and if its terms were sufficiently precise and enumerated sufficiently clearly the distinctions to be outlawed, there was no reason to add an article 3 stipulating that those rights applied to the inhabitants of the Trust and Non-Self-Governing territories.

The United Kingdom had been accused in the Third Committee of wishing to delete article 3, so that it should not have to respect the rights in its colonial territories. As the Assembly was aware, there was no justification whatsoever for making a statement of that kind. If that were the case, the United Kingdom would not have accepted article 2.

The fact was that at every stage of the preparation of the declaration, the United Kingdom had consulted its colonial territories and it would accept the declaration not only on its own behalf but also on behalf of those territories.

Mention had been made of territories in which all rights were disregarded. Such territories should not be sought among British territories, [884] which were largely self-governing, but rather among the totalitarian States of Eastern Europe, where there was no freedom of the Press except for supporters of the Government, where justice was subordinated to political requirements, where millions of human beings were held in concentration camps and where the role of parliaments was more and more limited to ratifying the decisions of the party in power. Mr. Davies merely mentioned those facts in answer to the observations that had been directed against the United Kingdom the previous day (180th plenary meeting).

Furthermore, the Third Committee had rejected certain amendments submitted by the USSR only after long and serious discussions; it had taken that action because the adoption of those amendments would have limited the universal scope of the declaration, and because consideration would have been given to motives of political propaganda. While the delegation of the Soviet Union had wished to restrict the scope of the rights recognized in the declaration in order that it might serve a specific purpose, the majority, on the other hand, had felt that any limitation on freedom of expression and opinion, no matter how noble the reason, would be preparing the ground for the domination of a certain set of ideas and would clear the

path for a totalitarian regime. The development of fascism had been due more to the suppression of the freedom of expression than to the dissemination of lies. The fact that political refugees came from the East to the West of Europe proved that that same danger still existed in some countries.

As regards the amendments proposed by the USSR (A/784), the United Kingdom delegation had no objection in principle to paragraph 1 of the amendment to paragraph 3. The United Kingdom had always encouraged the evolution towards self-government in the territories under its jurisdiction. Since, however, the document under discussion was a declaration of human rights, it would not be appropriate to include in it clauses dealing with the duties of States. The United Kingdom delegation had constantly maintained that point of view during the discussions.

Paragraph 2 of the USSR amendment to article 3 was a new version of an article on minorities which had already been discussed and rejected by the Third Committee. It was better not to insert such an article in the Declaration for the time being, since the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities was in the process of examining the question. Moreover, the USSR amendment was concerned only with national minorities; there were, however, also cultural minorities. Draft resolution C of the Third Committee showed that the Assembly, as the United Kingdom dele-[885]gation had already pointed out, was not indifferent to the fate of minorities.

Paragraph 3 of the USSR amendment to article 3 was unacceptable, for it insinuated that the colonial territories did not enjoy any rights.

The USSR amendment to article 20 tended to limit freedom of expression to the dissemination of "democratic" ideas. For the Soviet Union, the word "democratic" had plainly a meaning different than it had for the other States. Moreover, that amendment did away with the right to seek and receive information; while it granted every person the right to spread and to defend communist ideas, it did not grant the right to try to find out what was going on in the world.

Article 22, as proposed by the USSR, set forth very limited rights; it was, in fact, foreign to any concept of true democracy and could satisfy only those States in which the electorate voted for a single and carefully chosen list of candidates.

Finally, the new article which the Soviet Union proposed for inclusion after article 30 would have the effect of transforming the declaration into a pact which would be legally binding upon the signatory States; it was in contradiction to the last paragraph of the preamble.

Mr. Davies referred again to the amendment the United Kingdom had proposed to article 3, which constituted the last improvement that could be made in the declaration. Instead of merely deleting article 3, many delegations preferred to state explicitly that article 2 applied to all countries, whatever their political status might be.

Mr. Davies hoped that the General Assembly would accept that amendment, and that it would also adopt by an overwhelming majority the declaration as a whole, which could then be presented to the world as a truly universal document.

MR. CAMPOS ORTIZ (Mexico) said that his delegation considered that the universal declaration of human rights was a truly fundamental document. Although it was not a legal document with binding force, that declaration would serve as the basis for the realization of one of the highest aims of the United Nations, that of developing and encouraging universal respect for human rights.

The Mexican representative referred to the position which his Government had taken up in that matter. It therefore considered itself one of the initiators of the international movement which had been in progress during recent years, and the outcome of which had been the present proclamation of human rights. Mexico's attitude had been made clear following the Dumbarton Oaks Conference, the Conference of Chapul-[886]tepec and, finally, the San Francisco Conference where, with the delegations of Brazil, Ecuador, the Dominican Republic, Cuba and Panama, the Mexican delegation had submitted concrete proposals which were the basis of the Articles of the Charter referring to human rights. By the attitude it had adopted, Mexico had expressed its conviction that in a peaceful world it was essential to ensure respect for human rights.

The declaration was very well drafted in the sense that the various articles enumerated essential rights, the final article setting forth the principle of limitation of those rights. That presentation was preferable to one in which each article mentioned the limitations affecting the exercise of each right. It was for that reason that the Mexican delegation had always supported the draft prepared by the Commission on Human Rights, containing a formula according to which national legislations could impose limitations on the exercise of those rights, limitations which were warranted by the principles laid down in the general article of the draft prepared by the Commission on Human Rights.

The Mexican delegation wished to emphasize that it maintained the reservations it had made when it explained its vote in favour of articles 16 and 25 of the draft declaration of human rights.

The Mexican delegation congratulated itself on the reception which had been given to its amendments, in particular to its proposal that the right to a simple, speedy and effective legal remedy, which protected each individual against acts violating the fundamental rights granted him by the constitution or by law, should be acknowledged as an essential human right. That amendment had been inserted in article 9, thus establishing in the international field a legal rule which was common to many Latin-American countries and which for over a century had been part of Mexican law. That "right to protection" was the best guarantee that human rights would be respected.

Mr. Campos Ortiz considered that the adoption of the universal declaration of human rights was one of the most important actions in the history of the United Nations. It would mark a step towards the establishment of a lasting peace. He hoped that that document would have a significance and repercussion equal to that of the Declaration of the Rights of Man and of the Citizen which had been proclaimed in France.

MR. UGON (Uruguay) wished first to explain why his delegation was taking part in those discussions. In spite of the principle of the legal equality of Member States, certain questions such [887] as, in particular, the problems of international security, came principally within the province of the great Powers. But all States, whatever their geographic or economic importance, had the same sacred mission in so far as respect for and protection of human rights were concerned. In that field the principal criteria were the efforts made and the results obtained by each State. It was for that reason that Uruguay considered itself qualified to continue, in the General Assembly, the work it had undertaken on a national as well as an international plane.

The Uruguayan delegation warmly supported the draft resolutions submitted by the Third Committee and, in particular, the draft universal declaration of human rights. It viewed with satisfaction the adoption in that draft of fundamental principles, such as the one providing that the exercise of human rights could only be limited by laws necessary to ensure the general wellbeing in a democratic society. The general character of the law and the fact that it was usually formulated by representative organs were guarantees against arbitrary action.

The human being must be the *raison d'être* and the ultimate aim of the international community and of international law. Thus, the inherent rights and freedoms of the human being should be internationally protected and guarded.

The universal declaration of human rights had its inception in various provisions of the Charter. The principle which had inspired it was among the most noble principles of the United Nations. That declaration was a natural complement of the Charter, and thus, its enforcement and respect for its provisions would become one of the obligations of Member States. Human rights were at all times threatened and endangered by hidden forces and unfortunate events, and all those who would champion those rights had to be vigilant. Those human rights, however, would in future be protected and defended by all the peoples of the States Members of the Organization.

MR. AIKMAN (New Zealand) pointed out that the Preamble of the Charter had established a strong bond between peace and justice and the rights of the human being, thus calling to mind one of the fundamental principles of Roman Law. Human rights were rooted in the nature of man himself as well as in the structure and needs of the modern world. The principles proclaimed in the Declaration were not therefore the original creation of 58 nations or their representatives meeting in a twentieth-century committee room.

[888]

The preparation of the draft declaration had been a difficult task since its authors had different social, economic and philosophical backgrounds, but it had proved that with good will and a sincere desire to co-operate, it was possible for divergent points of view to be reconciled. Thus, that declaration could justly be described as being “universal”. It was a work of which the United Nations might be proud and to which the greatest possible publicity should now be given all over the world.

The discussions in the Third Committee had shown that as all the articles of the universal declaration of human rights were of equal importance, the order of those articles was of no particular significance. The New Zealand delegation supported that point of view, as it considered that all the rights enumerated were fundamental.

The New Zealand delegation noted with satisfaction the place given to economic and social rights. Experience had shown that the individual could only reach full development if he was assured of social security in the widest sense of the term. Economic and social rights could give the individual the normal conditions of life which would enable him to experience greater freedom, and in New Zealand it was considered a governmental function to promote their realization.

The universal declaration of human rights dealt with all fields of human activity either expressly or by implication. It was possible that all the principles set forth might not be respected as they should be, but everyone ought to make an effort to see that there was no cause for criticism.

It was true that the universal declaration of human rights, as a statement of principles, had moral force only. It imposed no legal obligations. It was for that reason that the New Zealand delegation had insisted on the draft resolution according to which the Commission on Human Rights should continue to give priority to the preparation of a covenant on human rights and measures of implementation.

Mr. Aikman recalled that the international bill of human rights should eventually consist of three parts: first, the declaration which was before the Assembly; secondly, a covenant or convention imposing on States obligations that would be legally binding; and lastly, effective measures of implementation. The New Zealand delegation considered that the covenant on human rights would be a more important document than the declaration itself, in view of the fact that it would impose legal obligations on the States ratifying it. It was to be hoped, moreover, [889] that a series of international conventions would progressively elaborate and define the principles set forth in the universal declaration of human rights; a beginning had been made by the preparation of three draft conventions on the freedom of information which the Third Committee had now on its agenda.

In the opinion of the New Zealand delegation, the Commission on Human Rights in its work on the covenant should in the first instance concentrate on only some of the rights set forth in the Declaration. The other rights would be dealt with later.

Some of them, in particular economic and social rights, could be entrusted to other organs such as the Economic and Social Council, the World Health Organization, the Food and Agriculture Organization and the International Labour Organization. At the same time, the Commission on Human Rights should examine proposals in connexion with the implementation of the Declaration, especially those relating to the right of petition. The latter was very important and should be examined very carefully by the Commission.

The New Zealand delegation attached great importance to the declaration of human rights, but it wished to emphasize that the United Nations would not have fulfilled all its obligations in that field until the General Assembly had adopted a covenant and effective measures of implementation.

The meeting rose at 1:10 p.m.

A/PV.182¹⁶³

10 December 1948

***Verbatim Record of the Hundred and Eighty-Second Plenary
Meeting
[of the General Assembly]***

Held at the Palais de Chaillot, Paris, on Friday, 10 December 1948, at 3:20 p.m.

Chairman: MR. H. V. EVATT (Australia)

**118. Continuation of the discussion on the draft universal declaration of
human rights: report of the Third Committee (A/777)**

***Amendment proposed by the United Kingdom (A/788/Rev.1) and Amendments
proposed by the Union of Soviet Socialist Republics (A/784) to the Draft
Declaration***

***Draft resolution proposed by the Union of Soviet Socialist Republics
(A/785/Rev.2).***

Sir MOHAMMED ZAFRULLAH KHAN (Pakistan), recalling the President's statement the previous day (179th plenary meeting) that the adoption [890] of the Convention on Genocide was an epoch-making event, said that adoption of the universal declaration of human rights would also be of that character. The Pakistan delegation fully associated itself with what had been said in praise of the declaration,

¹⁶³ The text of the document is from *Official Records of the General Assembly*, Third Session, pp. 889–911.

and with the appreciation of the work accomplished by all the delegations who had taken part in drawing up the document.

The few observations his delegation wished to make in connexion with the declaration concerned article 19 which dealt with freedom of conscience, including freedom to change one's religion. When the latter question was discussed in the Third Committee, its whole scope had not been understood; for that reason he thought it necessary to set out very clearly his delegation's position as to that part of article 19.

Pakistan was an ardent defender of freedom of thought and belief and of all the freedoms listed in article 19. There could be no doubt on that point and, if that question only had a political aspect, the declaration he had just made would have been sufficient. But for the Pakistan delegation the problem had a special significance as some of its aspects involved the honour of Islam. He therefore thought it necessary to explain his delegation's point of view on the subject to the Assembly; it was a point of view arising out of the teaching of Islam in that field.

The teaching of Islam was based on the Koran which contained the oral revelations made to the prophet Mohammed; the Koran was, therefore, the very word of God for Moslems. Now it stated that neither faith, nor conscience which gave birth to it, could have an obligatory character. The Koran expressly said: "Let he who chooses to believe, believe, and he who chooses to disbelieve, disbelieve", and it formally condemned not lack of faith but hypocrisy. The Moslem religion was a missionary religion: it strove to persuade men to change their faith and alter their way of living, so as to follow the faith and way of living it preached, but it recognized the same right of conversion for other religions as for itself.

Article 19 had given rise to anxiety among certain delegations because of the actions of the missionaries of certain other religions. He was glad to pay tribute to the work carried out by the Christian missionaries in the East, especially in the fields of education, hygiene and medicine; nevertheless, it was undeniable that their activity had sometimes assumed a political character which had given rise to justifiable objections. In certain cases, the means employed to bring [891] about conversion had made that conversion a worse remedy than the ill it set out to cure.

There were other aspects of the problem, but it was not appropriate to deal with them at that stage of the work. His delegation considered that the essential point was to repeat that for its part the Moslem religion had unequivocally proclaimed the right to freedom of conscience and had declared itself against any kind of compulsion in matters of faith or religious practices.

The Pakistan delegation would therefore vote for article 19, and would accept no limitation on its provisions.

MRS. BEGTRUP (Denmark) recalled that when the Charter was drawn up at San Francisco, free men and women felt that it should not be solely a document regulating relations between States, but that it should also include the promise of

establishing the rights of the individual which were the fundamental element of the State. Later on that conception prevailed. While the traditional concept of the sovereignty of States tended to disappear progressively, the promises given to humanity were on the contrary about to be realized. The universal declaration of human rights made the promises of the Charter a living reality.

Inequality among the races tended to disappear every day. But what concrete results had been achieved in the matter of equality of men and women? Mrs. Begtrup, convinced as she was that that equality would set free an exceptional human force which would render possible the better reconstruction of a peaceful world, attached particular importance to that aspect of the problem.

She wished to stress the importance of the work carried out by the United Nations in that field. That work had been due to the existence of the Commission on the Status of Women, the successor to the Sub-Commission which in 1946 had established a programme for the action of the United Nations and the specialized agencies. The programme could be adopted by all States sincerely desirous of putting the provisions of the Charter into effect; it was flexible enough to allow account to be taken of the particular conditions in each State. That programme had been based on four essential points: equal political rights; equal civil rights, including the very important right concerning marriage; equal economic rights; and equal rights of education. Some people had thought that bold plan too ambitious. The Economic and Social Council had understood its importance, however, and had seen that it constituted a kind of social revolution and that, for the first time in humanity's history, [892] emphasis had been laid on the need for studying the question of the equality of men and women from the economic, social and psychological point of view. The Economic and Social Council, understanding that experts in human rights were not necessarily experts in the rights of women, had established a commission which was to concern itself specially with those rights.

The work for the rights of women was the carrying out of the provisions of the Charter in a particular field of human rights. The Danish delegation was glad to see that the work had begun, and on the whole was satisfied by the provisions of the universal declaration of human rights relating to it. It wished, however, to stress that the word "everyone" should be understood as designating every man and every woman, and that it was sometimes desirable to repeat that the rights stated applied equally to men and women; it was necessary to repeat that without fear of incurring criticism, for that way of thinking was far from prevailing in the world. In that connection she recalled that the Declaration of the Rights of Man and of the Citizen proclaimed in France in 1789, which had so solemnly laid down the fundamental freedoms, made no mention of the rights of women and did not even imply them. The world had evolved since then, but men tended to be conservative when that was in accordance with their interests. It was therefore important to state clearly that the

declaration applied equally to men and women. To do that was to do more than render women the justice which was their due; it was to appeal to all women to extend the field of their activities and to understand that humanity needed them as well as men in the reconstruction of a peaceful world in a new future.

The last phases of the work of the General Assembly had shown that the spirit of comprehension and of mutual concession was not sufficiently developed; the way of thinking and of feeling which was characteristic of women might perhaps bring about new atmosphere in the Organization and in the action it undertook.

Certainly, the rights of women were only one aspect of the rights and freedoms set forth in the declaration. But although it was only a partial aspect, it was none the less important. The rights of the individual should be carried out in two ways: first of all the present legislation of Member States had to be alerted, and then a current of public opinion which would influence men's thought had to be created. The latter point was perhaps the more important, for public [893] opinion crossed all boundaries and reached all human beings.

Mrs. Begtrup took that opportunity to appeal to all the statesmen present, through whose voice the will of the peoples was expressed, and asked them not to forget that the women of the whole world were ready to collaborate with their work in peace in order to protect their homes and their children from the horrors of a new war. Each time the declaration mentioned the word "everyone" it should be remembered that it alluded to the rights and responsibilities of women as well as men, in the work of peace.

MRS. MENON (India) recalled that her delegation had taken part from the outset in the work of the Commission on Human Rights. She supported the declaration which the Commission had drawn up. It provided a solid basis for the international co-operation referred to in Article 55 of the Charter; and it expressed the aspirations of peoples, who, though they had but recently attained political freedom, had always accepted and practised the noble ideals of religious tolerance and cultural freedom.

The full significance of the Indian delegation's attitude in the Third Committee could only be understood when considered in relation to the decision taken by the Indian Constituent Assembly to include in the Constitution of that country the same rights and freedoms as were proclaimed in the declaration.

The universal declaration of human rights was born from the need to reaffirm those rights after their violation during the war. It was now more than ever necessary to reaffirm those rights. The remedies to be applied to humanity had to be adapted to the seriousness of the conditions in which it lived; and when conditions deteriorated the remedy had to be all the stronger and more drastic.

That was one of the reasons why the present declaration was fuller and more detailed than all the other similar declarations. Earlier declarations had not mentioned rights such as the right to equal pay for equal work; the right of mothers and

children to social protection, whether the children were born in or out of wedlock; the right to education; equality of rights for men and women. Those rights were the expression of a new social order, of true democracy based on social justice.

The listing of those rights and the consequences on the style and general form of the declaration had been commented upon too frequently for the matter to be ignored. Some delegations had objected to the repetition of certain phrases. Mrs. Menon thought, however, that harmony of [894] thought and purity of motive were much more important factors than mere beauty of words. The essential point was the contents of the declaration, and that ought not be sacrificed to considerations of style.

In accordance with the principles of the Charter, the declaration emphasized the equality of all human beings without any distinction whatsoever; and it proclaimed clearly, for the first time, that the rights mentioned were also applicable to Non-Self-Governing and Trust Territories. Those last provisions had been adopted by a large majority, despite the opposition of certain delegations. The indifference or opposition of certain States was significant, and should not be ignored. The stand of the Indian delegation on the matter had always been very firm and could not have given rise to any doubt. The Indian delegation stood, as always, against all forms of discrimination.

The Indian delegation had been reproached in certain quarters for lack of trust, and for its persistence in spelling out the obvious. Mrs. Menon declared that the attitude of her delegation had been inspired by the feeling that it was the duty of India, as a country which had just won its own independence, to help other countries which had not yet reached that stage.

Recalling how insistently the Indian delegation had stressed the importance of avoiding mention of any political doctrine either in the declaration or in the preamble, Mrs. Menon thanked the Third Committee for having understood that point of view. It would have been illogical to insist on political convictions which could not be shared by all, while at the same time proclaiming religious tolerance.

The right to hold different opinions was a sacred right and the prerogative of every truly democratic people. The Indian delegation had therefore upheld that right, though perfectly aware of the dangers inherent in it. India, like other countries, would never agree to restricting political rights in order to realize social aims, however noble those aims might be.

As regards article 30, the Indian delegation had accepted the restrictions it imposed, since, as Mahatma Gandhi had said, all rights were born of obligations, and no man could claim the right to live unless he fulfilled his duties as a citizen of the world. From the very fact that it proclaimed rights, therefore, the declaration was a declaration of obligations. Adoption of the declaration should not however lead to neglect of the most important document: the convention, the adoption of which the Indian Government was most [895] anxious to see; it hoped that it would be accompanied by effective measures for implementation.

In conclusion, Mrs. Menon expressed the hope that the declaration would pave the way to a new era of international solidarity, because the basis of rights was neither the State nor the individual, but the social human being, participating in social life, and striving for national and international co-operation.

MR. CHANG (China) pointed out that, in the course of the long debate on the universal declaration of human rights, representatives had reached agreement whenever they were concerned first and foremost with the defence of human rights. The disagreements had been due to preoccupation of a purely political nature.

Mr. Chang, who had worked for two years on drafting the declaration, hoped that it might prosper, nourished by the hope of mankind.

In the eighteenth century, when solemn declarations of the rights of man had been made in the west, the emphasis had been laid on human rights as contrasted with the divine right claimed by kings. The speaker stressed that Chinese thought had not been without influence on the evolution of those ideas in the western world. The first condition for defence of the rights of man was tolerance towards the various opinions and beliefs held throughout the world. Uncompromising dogmatism had caused much harm, by accentuating disputes, and lending them an ideological basis. In the present times, and more particularly during the years following the First World War, there had been a tendency to impose a standardized way of thinking and single way of life. With that approach, equilibrium could be reached only at the cost of moving away from the truth, or employing force. But, however violent the methods employed, equilibrium achieved in that way could never last. If harmony was to be maintained in the human community and humanity itself was to be saved, everyone had to accept, in a spirit of sincere tolerance, the different views and beliefs of his fellow men.

On the other hand, it was important that conceptions should be very accurately defined; that was no purely academic question. In the modern world, it was considered clever statesmanship to confuse one's adversary; but a real statesman could not tolerate confusion. Social order and peaceful co-operation could be achieved only if people learned to express clear ideas in precise terms. The disagreements all around were only too often the result of confusion spread [896] by the use – whether wilful or not – of inaccurate and ambiguous terms.

By pleading for tolerance of all opinions and beliefs and by insisting on precision of terminology, the Chinese delegation had striven to introduce certain improvements into the universal declaration of human rights.

MR. KAMINSKY (Byelorussian Soviet Socialist Republic), making a survey of the stages through which the declaration had passed, recalled that, in accordance with resolution 43(I) adopted by the General Assembly in December 1946, the declaration should reflect the spirit of the Charter. But as the document before the Assembly corresponded only partially to the aims proclaimed by the resolution, it was not certain that it could be finally adopted by the Assembly during that session.

The large number of amendments which had been moved to the original text was sufficient proof that the text did not fully satisfy the aims proposed. Few of those amendments, however, had been adopted, and as a result the final text of the declaration, while differing considerably from the original text, was not satisfactory to all delegations.

The declaration in its final form had many gaps. It was, in fact, merely a proclamation of human rights. It was true that it might lead to progressive respect for those rights if studied in scholastic institutions, but it should have fulfilled a less restricted purpose.

The restricted nature of the declaration was all the more regrettable in that it contained no guarantee of the rights it proclaimed. The aim of the amendments proposed by the USSR delegation had been to specify the measures for implementation of the rights proclaimed and to guarantee their application by the State within the framework of a democratic and progressive legislation. In rejecting those amendments, the Third Committee had distorted the meaning of the declaration. It was not sufficient to proclaim basic rights, such as the right to work, the right to equal pay for equal work, and social rights; it was also vital to think of their practical application.

The declaration did not even mention the existence of the State as such, and seemed thus to envisage the individual as being outside his own *milieu*. Moreover, it failed to lay due stress on the material conditions without which effective respect for the rights of individuals could not be [897] guaranteed. The delegation of the Byelorussian SSR could not accept that conception.

Furthermore, the declaration failed to proclaim the democratic principles which it was important to confirm. The right to a national culture, for instance, on which the Soviet Union had submitted an amendment, had not been mentioned. Yet that was a basic right, especially for the colonial peoples, which constituted almost half of the entire population of the world. Application of that right would enable millions of individuals to throw off the yoke of the colonial Powers.

There had also been no mention in the declaration of democracy's struggle against fascism and nazism. That struggle was an essential element in the protection of the rights of the individual. Certain capitalistic States, however, failed to recognize those rights. In other States, racial and nationalist campaigns were being carried on, and the forces of aggression were being let loose to sabotage the efforts of the democratic elements. Such facts could not be ignored, and yet the declaration did, in fact, ignore them.

The USSR delegation had submitted many amendments emphasizing the dangers of fascist reaction. One of those amendments had proposed that freedom of expression should be prohibited when it was being exercised for the purpose of fascist propaganda and incitement to racial hatred. Another had been aimed at the prohibition of fascist or anti-democratic organizations. The Third Committee, however, had

not wished to admit such legitimate requirements, and the declaration was consequently silent on the necessity for combating fascism. Worse still, article 21 which dealt with freedom of association could be cited in its present form by fascist organizations, such as the Ku Klux Klan, to justify their activities.

Finally, articles 20 and 14, which dealt respectively with freedom to seek and impart information and freedom of movement within a State or outside its borders, did not allow for any limitation which the State might find it necessary to impose. They were contrary to the definite provisions of the Charter, which was based upon respect for the sovereign independence of States.

The delegation of the Soviet Union had objected to those deficiencies in the declaration and had tried to put the question in a more concrete and realistic perspective. But its realistic and democratic claims had not been understood. In its present form, therefore, the delegation of the Byelorussian SSR considered the declaration as unsatisfactory. It was particularly to be regretted that the declaration did not contain the provisions which the USSR delegation had proposed [898] in its amendment to article 3, and which had been opposed by the United Kingdom representative. There was nothing surprising in that opposition, nor in the text of the amendment which the same delegation had itself recently proposed to article 3 (A/778/Rev.1). The latter was intended strictly to limit the scope of the article, though it allowed it to apply in occupied Germany. It was clear that the colonial Powers objected to the application of the rights stated to colonial territories.

If the declaration were examined for its more novel elements, they would be found in the statement of the rights to education, to equal pay for equal work and to a series of economic rights. However, as those rights were not guaranteed in any way, the delegation of the Byelorussian SSR could not support the declaration.

Nevertheless, it thought that the text could be improved and, for that reason, it associated itself with the proposal of the Soviet Union that the draft declaration, together with the amendments which had been submitted, should be referred to the fourth regular session of the General Assembly, and that the text should be reconsidered with a view to its improvement. In the belief that the declaration could only be effective when it was truly democratic and progressive, the delegation of the Byelorussian SSR would vote in favour of the USSR proposal.

MR. PEARSON¹⁶⁴ (Canada) said that his Government regarded the universal declaration of human rights as inspired by the highest ideals and as expressing the most noble principles and aspirations. It believed that each nation would endeavour to implement it, in its own way and according to their own traditions.

¹⁶⁴ Lester B. Pearson (1897–1972) led the Canadian delegation to the third session of the General Assembly as Minister of External Affairs. He later served as President of the General Assembly and Prime Minister of Canada. He received the Nobel Peace Prize in 1957.

It was clearly impossible to secure the immediate application of such principles in an imperfect world. Moreover, some of the provisions of the Charter itself were not yet applied throughout the world; but such universal application of the principles contained in those documents should be the aim of all people.

The draft declaration, which was a simple statement of principles, had unfortunately been often worded in vague and imprecise language, but that disadvantage appeared to have been unavoidable. In Canada legislation was not passed when it was not possible to indicate the obligations demanded of the citizens in precise terms. That example had not, however, been [899] followed in the case of the universal declaration of human rights. Some articles had not been drawn up with sufficient precision to enable them to be translated into positive measures of implementation.

Article 22, for example, granted everyone the right to take part in the government of his country, whatever his political convictions. If the provisions of article 31 were disregarded, that might be taken as putting a State under the obligation of accepting for public office even a person who had openly stated his intention of destroying all the free institutions which the declaration of human rights was intended to protect. Without those institutions, which could only flourish in a liberal society, human rights would be a fiction.

In the view of the Canadian delegation, the imperfections and ambiguities of the draft declaration might have been removed if a body of jurists such as the International Law Commission, had been asked to review the text before it had been submitted to the General Assembly.

If the delegation of the Soviet Union had borne such a procedure in mind in submitting its draft resolution (A/785/Rev.2), the Canadian delegation would have supported it. But the representatives of the USSR and Ukrainian SSR had made it clear that they would take the opportunity for a further consideration of the draft to try again to introduce certain ideas which were far from having any connexion with human rights.

The Canadian delegation could not accept the theory that human rights should be limited to those sanctioned and sacrificed by the communist doctrine, while all others were to be outlawed as fascist. The term "fascism" which had once had a definite and dread meaning in the dictionary of despotism, was now being blurred by the abuse of applying it to any person or idea which was not communist.

For its part, Canada intended to protect the freedom of the individual within its territory, as it had done in the past. There, freedom was not only a matter of revolutions but of day-to-day practice, promoted by the jurisprudence and the laws as a whole, and Canada intended to persevere in that tradition.

In the Third Committee, the Canadian delegation had abstained from voting on some of the articles of the declaration, whenever those articles dealt with matters

which, under the Canadian [900] Federal Constitution, came within the competence of the provincial governments. Mr. Pearson added that the Canadian Federal Government did not intend to encroach upon the rights of the provincial governments, to which the Canadian people attached as much importance as they did to the principles contained in the declaration. It had been for the same reason that his delegation had also abstained from the final vote in the Third Committee on the declaration as a whole.

Since the Government and people of Canada believed in and practised the principles of the declaration, the Canadian delegation, having defined the constitutional problems which adoption of the universal declaration of human rights would raise, would therefore vote for its adoption. It hoped that it would mark a milestone in humanity's upward march.

MR. ANZE MATIENZO (Bolivia) said that a breath of hope was being felt in the Assembly. Having survived a terrible war, the suffering world would soon have achieved universal recognition of human rights.

Henceforth, national and international law would provide a body of standards governing relations between the individual and the State on the one hand, and relations between the individual and the international community on the other. That community should inspire itself from humanitarian considerations. The association of peoples could only be maintained in so far as those peoples respected a number of moral principles in their political life and in the conduct of their Governments on the international plane.

Humanity would then enter upon a new phase which should lead to the establishment of a true international constitution, founded on the limitation of the sovereignty of States for the benefit of the individual.

Two opposing schools of thought had confronted each other in the discussion on that international moral code. There had been, on the one hand, the thesis upheld by the USSR, characterized by the desire to subordinate the individual to the State, and, on the other hand, the thesis supported by all the democratic countries, which was designed to make the individual capable of organizing a state, which, in turn, would respect the rights of the individual.

The Bolivian delegation had been instructed by its Government to pledge itself solemnly that Bolivia would adhere to all the provisions, which the Assembly was being called upon to adopt for the honour and wellbeing of humanity, as a [901] whole. As in the past, Bolivia would try to surmount the difficulties resulting from its geographical and ethnical complexity by subordinating the State to the individual.

The representative of the Ukrainian SSR had supported the thesis that the happiness of mankind should be subordinated to the interests of the all-powerful communist State. In that connexion, Mr. Anze Matienzo would only say that

messianic worship of the State was closer to Hitler than to Roosevelt, and that the democratic peoples abhorred the former and venerated the latter.

In the western countries the situation was not as serious as had been suggested by Mr. Manuilsky. Everything was not as perfect as the peoples would wish; but, by steady improvement, the ideal defined by the universal declaration of human rights was being approached more closely.

MR. VASCONCELLOS (Paraguay) recalled that the defence of human rights had been in part of his country's tradition, from colonial times, when the famous *Comuneros* movement¹⁶⁵ had struggled desperately, and its members had laid down their lives, for the people's ideal.

The city which had nurtured the ideals of liberty, equality and fraternity had had the significant privilege of receiving the representatives of 58 nations, who were now being asked to approve a declaration which would be regarded as a beacon in the history of mankind.

The representative of Paraguay paid a grateful tribute to Mrs. Roosevelt, the Chairman of the Commission on Human Rights and the worthy companion of the great President, now departed, whose memory would be recalled whenever a great and noble task was being undertaken. Franklin Roosevelt had given an example of a life devoted to the service of peace and the welfare of humanity. In proclaiming the principles of the Atlantic Charter, he had both inspired and foreshadowed the universal declaration of human rights.

Though imperfect, the declaration was the most harmonious, comprehensive and universal that had been so far achieved. It would not, as if by a magic wand, end all the ills that afflicted humanity. But it would shed a light on the way men had to tread to reach happiness.

The principles of the declaration were very advanced, compared with the conditions prevailing in some countries. Millions of men would rejoice to think that they or their descendants would one day enjoy such elementary rights as [902] freedom to move about at will, freedom to choose where they would live, to enjoy the fruits of their labour, to benefit from social and economic security, the right to rest and enjoy leisure, and that they would, at last, no longer be cogs in the machine of the State, but would become free members of the great human family.

The universal declaration of human rights ought to inspire every national legislative body as well as collective international action. Nothing could justify its rejection. A few small amendments would be sufficient to make the declaration fully effective.

¹⁶⁵ The *Comuneros*, meaning common and poor people, led a rebellion in what is modern-day Colombia during the final years of Spanish colonialism. Inspired by the indigenous leader Tupac Amaru, their goals were social justice and an improved standard of living.

The delegation of Paraguay therefore wholeheartedly acceded to the universal declaration of human rights, which expressed the true *raison d'être* of humanity.

MISS BERNARDINO (Dominican Republic) reminded the Assembly of the efforts her delegation had made in the Third Committee to have equality of men and women stated explicitly in the universal declaration of human rights. The Dominican Republic had constantly supported that principle at all the Pan-American and international conferences in which it had been represented.

It was true the Charter of the United Nations proclaimed the absolute equality of men and women. But it was important that that principle, supplemented by more precise juridical concepts, should also be included in the instrument supporting the legitimate aspirations of women, especially in those countries where women had not yet won their place in society.

For that purpose, the delegation of the Dominican Republic had proposed an amendment to the preamble of the draft declaration. One of the aims of the declaration should be to encourage Governments to seek, in conformity with the circumstances prevailing in the different States, methods to abolish the inequalities of which women were the victims. That task would be made easier by the fact that traditional prejudices were giving way to a more humane conception which tended to recognize that social injustice towards a given group affected the wellbeing and progress of the whole community.

Faithful to the attitude it had adopted at the recent Conference at Bogotá, the delegation of the Dominican Republic had instituted that the principle of equal pay for equal work without distinction of race or sex should be inserted in the draft declaration. It was known that, in reality, [903] discrimination was systematically being practised against the women workers.

Miss Bernardino did not think it necessary to expound once more the many reasons which militated in favour of international recognition of the rights of women. The work of the Commission on the Status of Women and the decisions which it had taken sufficed to show that in the contemporary world there was a noticeable trend towards proclamation of the principle of the absolute equality of the two sexes.

The world's leaders had not always understood, however, that woman was a pivot of society with regard to the development and the implementation of democratic principles. For that reason Miss Bernardino appealed to the women of the world, as well as to all women's organizations to assert their strength, to fight against the elements opposing their aspirations and to give effect to the principles embodied in the declaration. The delegation of the Dominican Republic was convinced that the declaration, for which men and women the world over were anxiously waiting, would be approved by the General Assembly and would receive the unqualified support of all peoples.

In closing, Miss Bernardino paid a tribute to the members of the Commission on Human Rights for the remarkable work which they had done, as well as to its

Chairman, Mrs. Roosevelt, who, conscious of the gravity of the hour and firmly convinced of the justice of the declaration, had devoted her time, energies and intelligence to that document.

MR. KATZ-SUCHY (Poland) wished to state at the beginning of his speech, that his delegation, considered that the General Assembly should not vote immediately on the draft declaration of human rights before it. Some improvements could then be made in the declaration which would make it not only more effective, but also acceptable to all the Members of the United Nations.

The Polish delegation asked that the vote should be postponed because it felt that the development and the encouragement of respect for human rights was one of the principal aims of the United Nations, as set forth in the Preamble of the Charter. Because it was profoundly aware of the importance of the problem, the Polish delegation had given its most ardent support to all the measures taken by the General Assembly and the Economic and Social Council to draw up a declaration of human rights.

[904]

It was, in fact, in the field of human rights that the activity of the United Nations for the maintenance of peace and international security could most successfully be carried out and on the broadest scale. That activity was the natural outcome of the struggle waged on the battlefields, a struggle designed principally to free humanity from attacks directed on human rights and human dignity.

The Polish delegation had welcomed the formation of the Commission on Human Rights. In the Economic and Social Council it had expressed its disappointment at the fact that the Council had only prepared the draft declaration and not the draft convention nor the measures of implementation which should have been elaborated simultaneously, especially in view of the fact that the declaration, as presented, was only an expression of principles with no legal force, with no provisions for implementation, and with only moral value.

The draft declaration presented to the General Assembly was as a whole not satisfactory. The discussions which had arisen while it was being drafted had shown, furthermore, that it had been calculated not to guarantee respect for human rights and fundamental freedoms. The draft, in fact, contained no details with regard to implementation and made no mention of the limitations to which the principles it proclaimed were subjected by the legislation of contemporary States. In present times, any declaration which failed to establish a close link between political rights and social and economic guarantees, and which did not assure a democratic basis for those rights, was pointless. The victory of the popular forces in several countries of Europe, however, had opened a wide road for the practical application of fundamental human rights by guaranteeing the political, economic and social liberties of the people.

The draft declaration which, according to some delegations should be considered as marking an important milestone on the road of human progress, in reality represented a step backward if compared with the Declaration of the Rights of Man and the Citizen, which had been produced during the French Revolution; if compared with the Communist Manifesto, which had proclaimed the compulsory nature of human rights a hundred years ago; and if compared with the principles which had inspired the October Revolution. It was surprising that, 30 years after that revolution, delegations such as that of the United States could appear before the United Nations and affirm that the declaration which the United Nations proposed to adopt could not impose on Governments the duty of assuring the enjoyment of those rights for their citizens; that it was [905] neither a treaty nor an international agreement; and that it therefore contained no legal obligations.

To have any weight in present times such a declaration should recognize, first of all, that the struggle for the respect of human rights and the struggle between democracy and fascism were closely linked. It should be emphasized that fascist ideology was based in part on the violation of human rights and on contempt of human dignity. Respect for human rights would only be assured by condemning fascism, by combating its remnants and by creating conditions of such a nature that no fascist regime could spring up again in any part of the world.

The Polish delegation noted with regret that such was not the case in reality. Fascist organizations were being encouraged in Germany; action against Franco Spain was being weakened; political fascism was cropping up again in many parts of the world. It noted with regret that, except in one article, the word "democracy" had been carefully deleted from the draft declaration and that nowhere in the document was there any allusion to the necessity of combating fascism.

There had even been some delegations which had maintained that it was difficult precisely to define the terms fascism and democracy. The United States delegation, in particular, had opposed the word "democracy" on the pretext that its inclusion would narrow the scope of the declaration.

Mr. Katz-Suchy stated that he had been surprised, on the preceding day (180th plenary meeting), to hear the representative of the United States of America inform the Assembly that her Government believed that the enjoyment of human rights should be subject to limitations in the interest of public order and the general welfare and that it would not consider that it was a violation of the declaration to dismiss from public employment persons whose political beliefs were subversive and whose attitude was contrary to the principles on which the Constitution of that country was based.

Thus, that delegation, which denounced an amendment intended to ensure that freedom of speech should be put at the service of the democratic ideal, on the pretext that it limited the scope of the declaration, did not hesitate in the same speech to

defend the action taken against certain American Government officials, an action which had been criticized by the President of the United States himself.

Mr. Katz-Suchy could understand, on the other hand, that the representative of Chile, a country which had 40,000 political prisoners and which attacked its miners and its railwaymen [906] with machine-gun fire, would oppose the inclusion of the word "democracy" in article 20. The representative of Chile had stated that groups having political ties with foreign authorities or organizations could not be allowed to take part in the management of public affairs. That was a strange conception of democracy. Of course, the argument was not new. In the course of the centuries, each time that a people had wished to gain its freedom, each time that the world had witnessed the birth of a liberation movement among the colonial peoples, or the rise of new social aspirations, the forces in power had attributed those efforts to alien influences.

Mr. Katz-Suchy reminded the members of the General Assembly that the war against fascism dated only from yesterday. Then there had been no divergence of opinion with regard to the meaning of fascism and democracy. The various declarations made by the Allied Powers, the joint Declaration of the United States, the United Kingdom and the USSR concerning Italy, dated 1 November 1943, the Yalta Declaration of 11 February 1945, the Potsdam Agreement and the Declaration of 5 August 1945 clearly indicated that the Allied Powers were then resolved to suppress every vestige of fascism and nazism and to tolerate no discrimination of any kind. Mr. Katz-Suchy read excerpts from those Declarations to show that they expressly mentioned democracy and anti-democratic movements.

For the Polish nations, the term democracy, and the struggle against fascism, were not empty words. It had learned their true meaning on the battlefields; for them it had sacrificed millions of lives, the best of its blood. It would not, therefore, accept any declaration which was silent on the great struggle which humanity had waged against fascism.

Moreover, the draft declaration before the Assembly only went so far as to state traditional freedoms and rights of the old liberal school. It omitted to mention that the counterpart of those rights was the duties of the individual towards his neighbours, his family, his group and his nation. Article 30, which merely said that everyone had duties towards the community which enabled him freely to develop his personality, created the erroneous impression that those duties were solely based on a debt of gratitude and that, consequently, their fulfilment was left to the discretion of the individual. At the present stage of civilization, a declaration of human rights could not restrict itself to a mere statement of rights. If that were the case, the declaration would be a retrograde document which would not fit into the economic and social conditions of the most advanced States. For the Polish people, freedom and duty went together. In Poland, [907] the State was a product of society,

serving it and not hostile towards it. The individual had duties towards the State which, in turn, guaranteed his rights.

However, it was not enough to state rights; their observance had to be ensured. Society had to stand behind those freedoms; it had to establish and guarantee them, and to make a reality of a declaration which, without its help, would remain a dead letter. The right to work, to rest, the right to leisure of the working classes, the right of all children without exception to education, should be more than a statement in a declaration of principle; those rights should be based on reality.

The way in which most delegations overlooked reality had been particularly shown by the manner in which they had considered the principle of non-discrimination. Discussions which had taken place in that connexion had also revealed that those delegations had not been willing to admit that the capitalist regime permitted discrimination and that millions of people were victims of it at the present time, in the colonies and Non-Self-Governing Territories and even in certain sovereign States such as the United States of America.

In their refusal also to admit that in many parts of the world, woman was still being treated as an inferior being, those delegations had rejected all amendments aimed at reaffirming the principle of non-discrimination in the text of the declaration, maintaining that the general statement made in article 2 was entirely sufficient. It had been only after some hesitation that they had agreed to include in article 21 the principle of equal pay for equal work for men and women, both white and coloured.

Mr. Katz-Suchy further pointed out that that declaration of human rights, drawn up in the twentieth century, completely ignored the right of every person to speak his own language, and to have the protection of his national culture ensured. The additional article on that matter proposed by the USSR had been set aside on the pretext that it only concerned the rights of minorities and should be the subject of more thorough examination. Poland, whose national culture had suffered appalling violations, could not subscribe to a declaration with such an omission.

Thus Poland, whose cultural life had been suppressed by Nazi Germany throughout six long years, was being confronted with a declaration allowing fascism full freedom of action. It had before it an article on the freedom of the Press which permitted propaganda inciting to hatred, [908] and another article on the right of asylum which sheltered fascist adventurers and even war criminals. Nor did the declaration contain any guarantee safeguarding the sovereignty of States with regard to their internal jurisdiction, although such a guarantee would prevent any abuse of freedoms and ensure the effective enjoyment of rights.

In respect of freedom to conduct scientific research, Mr. Katz-Suchy pointed out to what misuse that freedom could lead and to what restrictions it could be submitted. As instances, he cited the experiments carried out by the Nazis and the

work at present being done on atomic energy in the United States. Recalling that it was the duty of the scientists and intellectuals to contribute to the maintenance of peace, the Polish representative read the appeal for peace published by the representative of 45 nations, who had met at the Congress of Intellectuals held at Wroclaw in August 1948.¹⁶⁶ That appeal, made by the responsible voices of more than 500 eminent men who had considered it necessary to warn the world, in view of growing tension and of the renewal of fascist propaganda, should be heeded.

He then referred to certain expressions used by the Canadian representative who had spoken of slavery, world communism and oppression in connexion with the proposals of the Soviet Union. In that respect, he wished to draw the attention of the Canadian representative to certain facts in which the Polish delegation was particularly interested: for instance, he would refer to the Manitoba camp, in Canada, where 325 Poles lived in conditions closely resembling slavery or to the case of the manufacturer Dyon and the foreign girls whose labour he exploited. He would like to know, among other things, what had become of the art treasures which Poland had entrusted to Canada for safekeeping on the outbreak of war and which had not yet been returned in spite of its rightful claims.¹⁶⁷

Returning to the universal declaration of human rights, the Polish representative stressed the fact that its importance would depend on the extent of its implementation, and particularly on its application to all countries, whatever their legal status. He pointed out that the most ardent defenders of human rights forgot those rights when dealing with the colonial question. When it was a question of applying progressive measures to the colonies, they invoked local legislatures and the need to abide by the wishes of the populations. In trying, in the course of his last statement, to amend a text adopted by the Third Committee, the United Kingdom representative, in an attempt to justify his delegation's stand with respect to the article on the applica-[909]tion of the declaration to the colonies, had spoken of concentration camps and labour camps. Was he not aware that the British colonies were a gigantic enterprise for the exploitation of cheap labour? That was sufficiently evident from the reports submitted to the Trusteeship Council by the Non-Self-Governing Territories, each page of which showed that oppression, slavery and exploitation of labour, to a hitherto unknown degree, were the characteristic features of colonial administration.

¹⁶⁶ The World Congress of Intellectuals for Peace was held in Wroclaw, Poland, in August 1948. It was attended by left-wing intellectuals including Pablo Picasso, Bertold Brecht, Paul Éluard and Aldous Huxley, and led to the establishment of the World Peace Congress.

¹⁶⁷ In 1939, the Polish authorities entrusted Canada with the royal collection of treasures from the Wawel Castle in Krakow. At the conclusion of the war, the Polish government in exile with the assistance of government authorities attempted to conceal the treasure from the new communist government. The art was returned to Poland in 1961.

The Polish delegation would therefore vote for the USSR proposal to defer the vote on the draft declaration of human rights, as it thought that the draft had so many omissions that it should be the subject of further study and discussion during the fourth session of the General Assembly.

He emphasized that if he had been sure that the declaration would give the results that were hoped for, it would be applied to the colonies in the near future, it would help to save the defenders of liberty and democracy awaiting their death sentences in the prisons of France, or help the peoples struggling against United Kingdom domination; if he had thought that its adoption would ensure that the negroes of Mississippi would have the right to vote, that the provisions of article 14 would be applied to the immigrants wishing to enter the United States, that Pablo Neruda would be able to walk freely about the streets of Santiago and that the living conditions of the workers of the Gold Coast¹⁶⁸ and Uganda would be improved, he would not have hesitated to vote for it, in spite of its many imperfections. It had however been clearly established that it was merely a declaration of principles, which no Government would be obliged to implement. Under those conditions, its adoption did not seem to be a matter of any apparent urgency.

Mr. Katz-Suchy, stated that the Polish Government knew what it was defending in defending the principles set forth in its own legislation. One of the first acts of the Parliament which had been called upon to reconstruct the political system of the State, after the total destruction wrought by the war, had, in fact, been to promulgate a declaration of the rights of the citizen.

The Polish delegation wanted those principles, with which benefits it was acquainted, to be extended to all parts of the world. It fully recognized the positive aspect of the draft declaration, but thought it would be possible to improve it further, even at that stage. For that reason it requested the General Assembly not to regard the consideration of it as closed, so that agreement might be reached on a declaration worthy of [910] democratic progress and fully in keeping with the times.

MR. ANDREWS (Union of South Africa) stated that after the remarks made by the Polish representative, his delegation would first wish to pay a tribute to the magnificent work accomplished by Mrs. Franklin Roosevelt and to the devotion and sincerity she had shown in participating in drawing up the draft declaration of human rights.

He then explained the reasons why his delegation would abstain from voting on the draft declaration of human rights. In the Third Committee, at its 90th meeting, the South African representative had stressed the fact that the declaration, although it was not in the nature of an international convention, would none the less impose certain obligations on Member States if it were accepted by the General Assembly, as it would probably be interpreted as an authoritative definition of fundamental rights and

¹⁶⁸ The Gold Coast was a British colony in West Africa. Upon independence, in 1957, its name became Ghana.

freedoms which had been left undefined in the Charter. If such an interpretation were accepted, those Member States who voted for the draft declaration would be bound in the same manner as if they had signed a convention embodying those principles, with the difference however that, in the case of a convention, the obligations undertaken would be clearly defined, whereas in the declaration there were set out a number of human rights which were not only very loosely stated but which few States would be prepared to undertake as a legal obligation.

On the same occasion, the head of the South African delegation expressed apprehension that the draft declaration went far beyond fundamental human rights, and doubt as to the wisdom of a declaration which would be honoured in the breach rather than in the observance of its provisions. Finally, he had warned the Committee against the risk of having its debates exploited for purposes of political and ideological propaganda.

The course of the debates had taken seemed fully to have justified the South African representative's apprehensions. Instead of remaining on the high plane of moral principles, statements had often taken the form of attacks on Member States. It was interesting to note that those attacks were generally made by delegations representing countries where some of the most elementary freedoms mentioned in the draft declaration were not being implemented.

Moreover, the draft declaration submitted to the General Assembly went far beyond the rights and freedoms contemplated in the Charter. It was clear from the provisions of the Charter that [911] social, cultural and economic rights had never been intended to be included in the draft declaration. Indeed, the preamble, as well as articles 1, 13, 55, 62 and 76 dealt with economic, social and cultural problems quite independently of measures for "the promotion and encouragement of and respect for human rights and fundamental freedoms". The Charter therefore made a clear distinction between those two subjects.

The laws in force in the Union of South Africa ensured that everyone, without distinction of race, creed or sex, was able to enjoy all the fundamental rights and freedoms, such as inviolability of the person and property, freedom of conscience and religion, freedom of thought, personal liberty, equal justice in the courts of law, *etc.* In that respect, the Union of South Africa was second to no State represented in the Assembly.

It was such elementary basic rights that the Charter intended to proclaim in order to ensure human dignity. However, it certainly did not contemplate, as falling within the category of fundamental human rights, certain rights to which the Union of South Africa could not subscribe and in connexion with which it could not help wondering how many Member States would be willing or able to put them into practice.

There was, for instance, "the right to employment and remuneration". The Union of South Africa spared no effort to obtain work for all who needed it, but it could not

commit itself to guaranteeing full employment to everyone. The adoption of such an article would create an obligation, which probably very few States would be able to fulfil.

If the delegation was not intended to entail any obligations, it would be lacking in all practical value. Yet, according to the views expressed by several delegations in the Third Committee, which had taken the declaration to be a definition of the rights and freedoms mentioned in the Charter, the adoption of the declaration would entail certain legal obligations for the Governments subscribing to it. He wondered whether the delegations supporting that view realized to what extent they were committing their Governments. The scope of the declaration was such, indeed, that many questions, hitherto considered as falling wholly within the sphere of domestic jurisdiction of States, could in future be the subject of discussion, and even condemnation, by the General Assembly.

For the reasons stated, the South African delegation felt regretfully compelled to abstain from voting on the draft declaration.

The meeting rose at 6:20 p.m.

A/PV.183¹⁶⁹

10 December 1948

***Verbatim Record of the Hundred and Eighty-Third Plenary Meeting
[of the General Assembly]***

Held at Palais de Chaillot, Paris, on Friday, 10 December 1948, at 9 p.m.

President: MR. H. V. EVATT (Australia)

**119. Continuation of the discussion on the draft universal declaration of
human rights: report of the Third Committee (A/777)**

***Amendment proposed by the United Kingdom (A/788/Rev.1) and amendments
proposed by the Union of Soviet Socialist Republics (A/784) to the Draft
Declaration.***

Draft resolution proposed by the Union of Soviet Socialist
Republics (A/785/Rev.2).

MR. RAAFAT (Egypt) said that his delegation appreciated the high ideals which had guided the Third Committee in its work, the result of which was the declaration of human rights now before the Assembly. That declaration, together with the

¹⁶⁹ The text of the document is from *Official Records of the General Assembly*, Third Session, pp. 912–35.

Convention on Genocide, already unanimously adopted by the Assembly, constituted a real step forward in the establishment of legal and humanitarian principles.

Many of the principles set forth in the declaration of human rights were already established in the democratic constitutions of different countries, including Egypt. Mr. Raafat, however, wished to make certain reservations with regard to article 17 and 19 of the draft declaration.

Article 17 referred to the freedom to contract marriage without any restrictions as to race, nationality or religion. In Egypt, as in almost all Moslem countries, certain restrictions and limitations existed regarding the marriage of Moslem women with persons belonging to another faith. Those limitations were of a religious character, sprung from the very spirit of the Moslem religion, and therefore could not be ignored. They did not, however, shock the universal conscience, as did, for instance, the restrictions based on nationality, race or colour, which existed in certain countries and which were not only condemned, but unknown in Egypt.

With regard to article 19, Mr. Raafat pointed out that that text did not confine itself to proclaiming freedom of thought, conscience and religion – which of course his Government [913] approved without reservations – but that it also proclaimed man's right to change his religion or belief; the Egyptian delegation was not entirely in agreement with that "right". Religious beliefs could not be cast aside lightly. When a man changed his religion it was often due to outside influences or for purposes which were not very commendable, such as divorce. His delegation feared that by proclaiming man's freedom to change his religion or belief the declaration would be encouraging, even though it might not be intentional, the machinations of certain missions, well known in the Orient, which relentlessly pursued their efforts to convert to their own beliefs the masses of the population of the Orient. Mr. Raafat said that he might have withheld the reservations he had made on articles 17 and 19, but it seemed more loyal and frank to have stated them, since, in voting for the declaration, his country intended to apply and execute it in all honesty.

He concluded by stating that having submitted those explanations, which he wished to have inserted in the summary record, his delegation was ready to vote in favour of the declaration of human rights.

MR. RADOVANOVIC (Yugoslavia) said that the declaration of human rights was considered by many delegations as one of the most important questions dealt with during the third session of the General Assembly. Many representatives had stressed the historical importance of the new declaration, which the United Nations was about to offer to humanity.

The Yugoslav representative considered that, in spite of certain provisions of a progressive character, the text of the declaration gave rise to a number of serious objections.

In the first place, his delegation felt that the principles of human rights set out in the declaration lagged behind the social progress achieved in modern times; and that they did not grant full juridical and social protection to man. So as to have historical and juridical value, the declaration of human rights ought to reflect fully the progressive tendencies of the present generation. It should also provide a more general protection to man, not only as an individual but as a member of social groups, since a number of important human rights resulted from the interdependence existing between man and the community to which he belonged.

[914]

The text before the Assembly was based on individualistic concepts which considered man as an isolated individual having rights only as an individual, independently of the social conditions in which he was living and of all the forces which acted upon his social status. The Declaration of the Rights of Man of 1789 might have been drawn up on such a basis. At that time it represented a revolt against the feudal slavery of man and was the expression of a new and progressive concept of individual freedom. However, the individualistic doctrine which had liberated man from feudal slavery, at the end of the eighteenth century, had re-introduced that slavery in the course of the social development which had taken place during the second half of the nineteenth century, and in particular during the current century, within the framework of a new social capitalistic order which had brought man into a situation of dependence and economic subjugation. In theory, he was entitled to all kinds of human rights, but in reality, the enjoyment of those rights was not fully granted.

The economic factor had become decisive in the whole social development of the present time. Consequently, the social status of the individual was not based on juridical instruments but was the result of the social and economic conditions in which that individual lived. That meant that the civil and political status of the individual had become in a very great measure dependent upon his social status.

The radical change in social conditions emphasized the necessity to widen the traditional categories of human rights – which generally included political and civil rights – and of establishing a system of social rights, including the collective ones for certain communities. In the opinion of the Yugoslav delegation, the draft declaration of human rights did not pay sufficient attention to the new requirements of modern society or to the recognition of social rights. Generally speaking, it was a declaration of the political and civil rights of man. Of its 29 articles, 20 had those rights as their objectives. Undoubtedly, the category of political and civil rights was of the greatest importance to the individual and without the recognition of those rights, his own protection was impossible. However, Mr. Radovanovic pointed out that many of the rights which the Declaration contained had already been included in previous declarations drawn up during the last 150 years, and they had also been

introduced by legislative or constitutional measures in almost all modern States. In that sense, therefore, the declaration appeared to be an instrument of international codification rather than an instrument which [915] opened a new and brighter future for the individual in the vast field of social rights.

In the opinion of the Yugoslav delegation, in a modern declaration the inclusion of those traditional categories of human rights was necessary; they were not new as they were already recognized in the legislation of modern States, but they were not being fully respected throughout the world.

The historical development of the capitalistic society had imposed on the individual unfavourable economic conditions. Therefore, a simple declaration of those rights without providing assurances of adequate material conditions in which they could be enjoyed would be illusory. Moreover, fascism which was the enemy of democracy and of international peace as well as of human rights, though militarily defeated in the last war, had not yet been rendered completely harmless. On the contrary, it continued to exist and was very active.

The declaration of human rights, drawn up after the terrible trials humanity had undergone as a result of fascism, could not remain passive before such an enemy. The principal objective of the new declaration of human rights should not have been to simply enumerate those rights in terms which were already widely known, but the social and material conditions necessary for their enjoyment. Fascism ought to be denied the right to use democratic institutions for its fight against democracy. Only in that manner would the declaration of rights represent a step forward in the recognition and protection of human rights – at least in respect of political and civil rights. But the declaration had not gone further than the old concepts, and the Yugoslav delegation regretted that the continuous efforts of certain delegations, and in particular those of the USSR delegation with which the Yugoslav delegation concurred, had not found, in that respect, sufficient understanding on the part of the majority of the Committee; many proposals, which would have given the declaration a progressive and decisive character, had been rejected. It was only in certain articles that the draft declaration had widened the traditional category of human rights by the inclusion of provisions covering social rights. In the new part of the declaration dealing with the proclamation of social rights, particularly in respect to social rights which should be recognized so as to protect man against the system exploiting him in the social capitalist order, the draft was in a great measure inadequate. It had not even adopted the system of social protection of the worker which had already been established before the Second World War in a series of international conventions drawn up in collaboration with the International Labour Office.

Mr. Radovanovic enumerated some of the deficiencies and omissions contained in the declaration with regard to the physical protection of the working man.

Because of the position which had been adopted in respect of the social rights of man, in the opinion of the Yugoslav delegation, the declaration did not guarantee a sufficiently stable situation to man in so far as his political and civil rights were concerned. The strictly individualistic attitude of the majority of the Third Committee – which was also the fundamental characteristic of the declaration – had led to another important shortcoming, namely, the absence of provisions to protect different communities, such as national minorities.

The declaration was, in certain respects, not based on reality, because it described man as an isolated individual and overlooked the fact that he was also a member of a community. The inclusion of that concept had considerably reduced the objective value of the declaration.

The wellbeing of man depended in a very great measure on the conditions existing in the community to which he belonged, and, therefore, the protection of that community, whether social, religious or of any other character, ought to have been included among human rights. The need for the protection of the rights of national minorities became even more imperative. It was impossible to conceive that the rights of a member of a community could be guaranteed if the community to which he belonged was oppressed and persecuted. In that respect, one of the most serious shortcomings of the declaration was the fact that it did not contain any provisions for the protection of national minorities, and that it did not mention the rights of the individual resulting from such protection.

All those shortcomings, and others which he had not expressly mentioned, reduced, in a great measure, the political efficacy of the draft declaration before the Assembly; because of those shortcomings, the Yugoslav delegation was not entirely satisfied with the text. It had hoped that the discussion in the Third Committee would have resulted in a more complete and more progressive text, better adapted to present times.

[917]

However, in spite of all those shortcomings, the draft declaration contained certain positive aspects. In the first place, the Yugoslav delegation wished to stress the importance of the provisions of article 3 on the application of the declaration of human rights to the populations of mandated and Non-Self-Governing territories. In that respect, the declaration represented one of the few international documents in which the unjust and discriminatory colonial clause was not only abandoned but replaced by another clause having an opposite effect and recognized the equality between the colonial populations and those of other territories. That provision represented a step forward which was worthy of note as it contained the great principle of justice towards the unhappy colonial peoples who had always been denied that right.

With regard to the other provisions contained in the declaration, the Yugoslav representative pointed out that while the part of the declaration dealing with the

social rights was inadequate, it nevertheless contained two important principles concerning social protection with regard to work as well as social insurance. Finally, in the part relating to the political and social rights, the declaration contained provisions which the Yugoslav representative thought useful.

The delegation of the USSR had submitted several amendments which would considerably improve the text of the draft. The new proposal concerning article 3 introduced in the declaration the protection of national communities and minorities; the absence of their protection was a serious omission to which the Yugoslav delegation had previously drawn the attention of the General Assembly.¹ The new USSR proposal relating to article 20 included the necessary protection against fascism which would give the declaration a decisive democratic character. The further USSR proposal relating to article 22, confirming and defining the fundamental democratic principle with regard to public powers, should also be considered in the same light.

All those amendments would considerably increase the value of the draft declaration and correct its shortcomings to a large extent. For those reasons, the Yugoslav delegation would vote in favour of the amendments submitted by the USSR.

On the other hand, it did not see that any useful purpose would be gained by the adoption of the amendment submitted by the United

^[1] See *Official Records of the Third Session of the General Assembly*, Third Committee, 103rd meeting.

[918]

Kingdom which in no way improved the present drafting of article 3. On the contrary, it might even weaken the text because it proposed the replacement of a specific provision proclaiming the equality of colonial peoples with those of other territories by a provision covering the general equality of peoples. In the opinion of the Yugoslav delegation, the colonial world was, in general, under a rule of cruel inequality and such an explicit statement was necessary.

In conclusion, the Yugoslav representative stated that his dissatisfaction did not concern the principles envisaged in the draft – although he would have wished the text to have been more complete – but rather its serious shortcomings and omissions.

The Yugoslav delegation hoped that the General Assembly would adopt the amendments submitted by the USSR delegation which would greatly strengthen the value and authority of the declaration and rectify some of the omissions.

MR. CARRERA ANDRADE (Ecuador) said that throughout many centuries of political struggle to bring about human unity, the climax had now been reached with the preparation of the document in which 58 nations had expressed their common ideal and their identity of thoughts regarding fundamental human rights. From time immemorial, man had sought an international standard which would make peace and the universal concept of human rights a reality. Throughout the world man had endeavoured to establish an atmosphere of justice to allow him to

live and prosper within the framework of social, juridical, political, moral and religious rights. From the ruins of the destruction wrought by the Second World War, man had once again fanned the immortal flame of civilization, freedom, and law. The multiplicity of origin of human rights could be detected in reading the articles of the declaration. It was true that some of the articles had already become part of the Constitutions of many Member States whose democratic systems made their exercise possible, but that gave added strength to the declaration as it was proof that that international document was based on political realities and not on utopias.

Many of the rights established in the declaration had been the heritage of mankind for several years, but others had only recently come into existence, such as the right of man to work and his right to benefit from his leisure, the right to a decent standard of living, and the right to social security. All those rights constituted the [919] real triumph of the twentieth century, and were the foundation for the modern democratic system which believed that social peace depended on the wellbeing of the individual.

In the social systems being developed, there existed a close interdependence between man, the State and world order; thus if man were given peace and economic security the whole world would also enjoy that peace and security.

The delegation of Ecuador would not support any draft resolution recommending that the declaration of human rights should be referred back to the Third Committee for redrafting. Such a delay would not improve the international atmosphere and would dash the hopes of the ordinary people of the world, who today were not only expecting the restoration of material ruins but that of the human dignity as well.

Nazism and fascism having been destroyed, so had the brutal totalitarian States. The United Nations should strive for a new democratic internationalism which would have as its objective not war or conflicts, but the establishment of a lasting peace. It was the duty of democratic systems to create a just social order so as to make a century of progress possible.

The declaration of human rights contained a number of new rights which were the logical result of the victory of democracy and of the birth of that internationalist spirit to which he had just referred. Certain clauses dealt with social order while others dealt with the universal protection of human rights. All men had the right to live in a world ruled by justice and where laws were respected and freedoms recognized. The inclusion of those provisions was one of the great triumphs of the United Nations. The declaration of human rights had been drafted by the Third Committee with the help of specialized agencies which had based their work on long years of experience. An effort had been made to establish the status which a man should have from birth, and the document was based on social and international understanding.

The delegation of Ecuador had proposed in the Drafting Sub-Committee that the declaration should have a more rational structure. Its intent had been to enumerate all rights from the general to the particular, namely, the right to live, the right to

work, and the right to enjoy a decent standard of living, but those proposals had not been accepted by the majority of the Com-[920]mittee. The terms of the first article of the declaration were familiar inasmuch as they were similar to those of the Declaration of Bogotá. The contribution of the delegation of Ecuador to that document could be found in articles 10 and 24 which dealt with the freedom and physical integrity of man, as well as his right to work.

The Declaration of Bogotá had established the right to prevent not only arbitrary imprisonment and arrest, but also the archaic custom of exile which certain Latin-American countries continued to practise. Man should not be exiled, for he often preferred his country to his life. Many delegations in the Third Committee had supported the proposal of the delegation of Ecuador to include the prohibition of exile among the provisions set forth in article 10.

In the Drafting Sub-Committee, his delegation had proposed the inclusion of a clause dealing with social protection so that sufficiently high salaries would be paid to enable workers to live in human dignity. That clause to article 24 had been adopted by the Third Committee.

The declaration of human rights did not perhaps satisfy everybody but in such a period of historic evolution, it was first of all necessary to deal with the essential concepts. The best way of deciding whether the declaration was incomplete or unsatisfactory might be to allow it time and then judge from the results obtained. The declaration of human rights would bring a healthy democratic influence upon people's lives and would assure them the necessary protection. The document could be considered as a further step on the road to peace, for the democratic States were closely linked by their conventions and international treaties resulting from the vigilance of public opinion and a free Press. When international agreements were respected, no one would have recourse to war. For that reason, the world should view with alarm those countries where human rights were interfered with, as such interference endangered collective security.

Mr. Carrera Andrade appealed to the States represented in the Assembly not to delay the adoption of the declaration of human rights which would have only one result, namely, to increase the disappointment already felt in the world and to delay the efforts of the United Nations to preserve peace.

[921]

The historic moment had come to proclaim the dignity of man and his faith in the progress of society, as well as in legal standards which would lead him towards a new era of justice and culture.

MR. ABDUL RAHMAN KAYALY (Syria) said that in his delegation's view, the declaration set forth the principles already included in the constitution adopted and put into force in Syria five years previously. Thus, the Syrian delegation had been anxious to take part in the discussion and to help in the drafting of the declaration. It

did not believe that it was perfect, or that it fulfilled all the aspirations of humanity. The declaration had to be perfected; it needed some additions. But those additions could not be made in one year; many years of experience were necessary.

During the examination of the articles of the declaration in the Third Committee, it had been found that there were certain ideas or principles on which not all members were in agreement; the Syrian delegation had opposed some points and had agreed to others. It would, however, go along with the majority because democracy implied acceptance of the majority's decisions.

Throughout the discussion, the Syrian delegation had upheld three principles:

Firstly, the declaration should deal with the rights of individuals and not with those of the State or society. It should deal with human beings as individuals because, without the security and the welfare of the individual, society could not exist. The other aspect of the question had to be covered by other declarations, which would be established by means of international agreements;

Secondly, the principles set forth should be harmonious, logical, clear, concise, exact and understandable to all; there were to be no ambiguities;

Thirdly, there should be no contradiction between the declaration and the United Nations Charter. The declaration dealt for the most part with abstract principles and ideals the application of which had been left to future instruments of implementation. That was why the articles were short and precise.

It was in that spirit that the nations had to collaborate with each other; the Syrian delegation, together with many others, believed that the troubles of the world were not due to differences between power and weakness, or between small and great nations; neither were they due to the lack of equilibrium between individual nations, but to the fact that human beings did not have equal chances. Given freedom and [922] equal chances to develop their capacities and to follow their natural tendencies, men would live in friendship with one another. Human beings should be given equal chances to live as all men wished to live.

If there were no social justice, individuals would fight against each other and there would be no peace in the world. For that reason the great reformers, thinkers and philosophers had laboured hard for many centuries to establish a declaration of human rights to fulfil the requirements of social justice by giving an equal chance to all on a basis of universal brotherhood, to which article 1 of the present declaration referred. Mr. Kayaly recalled that he had asked the Third Committee for the meaning of that word "brotherhood", and had found that everyone understood it to mean the individual's right to live, to be free and to live in security. It was surprising, in the circumstances, that the concept of brotherhood had had to be defined; other questions outside the present declaration were even more in need of definition.

Some representatives had expressed disapproval of the declaration because it was not perfect, or because some Governments did not apply its principles in their own

territories, in territories which they held under Trusteeship, or in their colonies; it had also been suggested that the declaration should be referred to the fourth regular session of the General Assembly, so that the Economic and Social Council might reconsider it. But what more could the Economic and Social Council do than to approve the declaration as it stood? It was not the first time that human rights had been declared; they had often been proclaimed in the course of history; those earlier declarations had not all been perfect and they had not all been applied; civilization had progressed slowly, through centuries of persecution and tyranny, until, finally, the present declaration had been drawn up. It was not the work of a few representatives in the Assembly or in the Economic and Social Council; it was the achievement of generations of human beings who had worked towards that end. Now at last the peoples of the world would hear it proclaimed that their aim had been reached by the United Nations.

The nations should endeavour to work incessantly with faith and determination to honour the rights of the human being as proclaimed in the present declaration, and to ensure that they were put into effect in their legislations, their policies, their forms of government, and their education, thus bringing peace nearer.

[923]

Mr. Kayaly believed that Members who had criticized other States were mistaken in their attitude. They had claimed that their Governments were perfect in everything they attempted to do, while others were always wrong. They would do well to consider whether their claims were justified, and whether such an attitude could lead them to perfection.

The Government of Syria was determined to observe such rights as would ensure that all individuals would take their proper place in the brotherhood of men; it hoped that its approach was practical rather than theoretical. Mr. Kayaly called upon the Members not to be arbitrary in their attitude and not to try to separate the nations. He appealed to them not to try to enslave other nations; any nation which tried to enslave another would in turn enslave itself: the same applied to any individual.

MR. VYSHINSKY (Union of Soviet Socialist Republics) recalled that his delegation and other delegations which shared its views had already stated their position in respect of the declaration of human rights submitted by the Third Committee to the General Assembly, and had referred to concrete articles of the declaration to explain their view that the draft was unsatisfactory. Though, as he had said at a previous meeting, the declaration contained a number of positive elements and was not without merit, it did not befit the General Assembly to issue such a document on behalf of the United Nations, precisely because of the significance that a declaration of human rights had to have. The USSR delegation had pointed out that a number of articles completely ignored the sovereign rights of democratic Governments, moreover, that the draft contained provisions directly contradicting those of the Charter, which prohibited interference in the internal affairs of States.

The USSR delegation had also pointed out that it had spared no effort to eliminate those shortcomings from the declaration. It had not succeeded, and that was one of the main reasons why it could not support the declaration.

A certain theory which had already been advanced by some Members at the previous session was now being upheld; it was the entirely false theory that the principle of national sovereignty was a reactionary and out-dated idea, and that the repudiation of that principle was an essential condition of international co-operation. The draft declaration of human rights appeared to endorse that reactionary view directed against [924] national sovereignty and was therefore entirely inconsistent with the principles of the United Nations. It was sometimes argued that the declaration on human rights should not touch on matters of national significance because it was devoted to the rights of individual human beings. It was impossible to agree to such a view, if only because human rights could not be conceived outside the State; the very concept of right and law was connected with that of the State. Human rights meant nothing unless they were guaranteed and protected by the State; otherwise they became a mere abstraction, an empty illusion easily created but just as easily dispelled.

The representative of France had stated that Hitler, too, had proclaimed absolute sovereignty. He had quoted Hitler as saying that everyone was master in his own house and had argued that that attitude, constituting a crime against the human rights of the German people, had led to greater crimes against human rights in other countries.

Such an interpretation of the reasons for the Second World War, however, did not correspond to the facts. The reasons for the Second World War were not to be sought in the violation of the human rights of the German people, but in the policy of the leading European statesmen of that time, namely Daladier and Chamberlain, supported by the Government of the United States of America. The substance of that foreign policy had consisted in encouraging the re-establishment the war potential of Hitlerite Germany, so as to direct German aggression towards the Soviet Union and the East. The French representative, in making his remarks, had forgotten the real reasons leading up to the Second World War.

The question of national sovereignty was a matter of the greatest importance. Many experts in international law defined national sovereignty as the right of a State to act according to its own will, never serving as a tool of the policy of another State: such an evaluation was closer to the truth than the French representative's view.

Another school of thought, however, adopted a really reactionary position by attacking the principle of national sovereignty; there was a tendency to forget that if sovereignty were destroyed, the State itself might not survive. Propaganda against national sovereignty disguised by attacks against absolute sovereignty was nothing but an ideological preparation for a country's political surrender to a more powerful State and its economic might. The USSR delegation thought it [925] necessary to

warn Members against such attempts, to warn public opinion against plans of world domination threatening the economic and political independence of other and weaker States. The independence and wellbeing of a nation depended on the principle of national sovereignty: that was why the USSR delegation rejected the arguments against national sovereignty advanced by the representative of France. The latter might have been inspired by the examples of Mr. Eden, who had stated in the House of Commons on 22 November 1945 that, following the advent of the atom bomb, the world could save itself only by abandoning its present conception of sovereignty, or by Mr. Bevin, who had said that national sovereignty would soon be replaced by the sovereignty of mankind as a whole.

The principle of national sovereignty was the sole protector of the smaller countries against the expansionist dreams of more powerful States; although in some cases it had been undermined by such measures as the Marshall Plan and the creation of the Western European political bloc, the principle of national sovereignty still retained its force.

Throughout the preparatory work on the declaration of human rights, the USSR delegation had done its utmost to ensure that the declaration should at least meet two basic requirements: it should guarantee respect of human rights and of fundamental freedoms for all, without discrimination as to race, nationality, class, religion, language and sex, in accordance with the principles of democracy, national sovereignty and the political independence of the State; and it should not only proclaim human rights but also ensure their observance, taking into account the economic, social and national conditions of each country.

The declaration ought not to limit itself at formally establishing the rights of citizens; it should not only proclaim the equality of human rights, but also guarantee their observance by definite concrete means. A document such as the declaration of human rights could not be expected to have the force of a national constitution; nevertheless, it should not remain within the narrow confines of abstract statements of principle. The draft declaration before the Assembly did not meet those requirements. It was for that reason that the USSR delegation had proposed at the 180th plenary meeting that the approval of the declaration of human rights, with all the resolutions appended to it, should be deferred until the following session. If, however, that proposition were rejected, the USSR delegation wished to propose a number of amendments which would improve the declaration to a considerable degree.

Mr. Vyshinsky recalled a statement made by Generalissimo Stalin to the effect that the Soviet Constitution was based on the equality of all nations and races and on the fact that differences in colour, language, cultural level or national development could not justify a lack of national equality. The constitutions of capitalist countries, on the other hand, were based on the assumption that races and nations did not have equal rights. It would be advisable to reconsider that statement in the light of the

draft declaration before the Assembly which was distinguished by the same characteristics as the constitutions of the capitalist countries. That was true in particular of article 2; while proclaiming equal rights without distinction as to race, nationality, language and so forth, that article confined itself to the general statement that everyone was entitled to all the rights and freedoms set forth in the declaration. That statement was entirely inadequate; article 3, which consisted in the statement that the rights set forth in the declaration applied equally to all inhabitants of Trust and Non-Self-Governing Territories, was still less satisfactory.

The USSR delegation wished to stress that the draft declaration contained no reference to the highly important question of the right of all nations to self-determination. The establishment of that right was one of the major achievements of the internal policy of the USSR. While the USSR delegation did not expect that right to be proclaimed in the declaration of human rights with the same forcefulness as in the Soviet Constitution, it believed that the example of the Soviet achievement should not be left out of account. It considered article 3 to be inadequate because it went no further than to proclaim the rights of inhabitants of Trust and Non-Self-Governing Territories; it therefore thought it necessary to replace article 3 by a new text contained in document A/784. In that connexion, Mr. Vyshinsky recalled that Mr. Molotov had described the solution of the question of nationalities in the Soviet Union as one of the most instructive facts of modern times.

The question of nationalities was still very far from a solution in a number of States which lacked the necessary economic, social and political conditions. In establishing a declaration of human rights on behalf of all the Members of the United Nations that fact could not be disregarded; on the other hand, it was wrong to overlook the [927] results achieved by other States in the struggle for human rights.

Instead of article 20 as drafted in the text, the USSR delegation proposed the insertion of another article which would declare the inalienable right of every person freely to express and disseminate democratic views. The representative of the United Kingdom had made comments, at the 181st plenary meeting, with regard to the defence of freedom without any limitations, even including freedom to indulge in fascist propaganda. Such remarks did not allow honest and honourable people to engage in controversy with the representative of the United Kingdom. He had argued that the Soviet amendments had been rejected because they limited freedom. The USSR delegation had clearly stated that the only limitation to freedom that it required was the limitation of fascist propaganda and fascist activities. It did not ask for the limitation of the propaganda and activities of any social organization save fascist ones. Fascist propaganda was a crime but to argue that the prevention of fascist propaganda was impossible from the point of view of the principles of complete freedom was tantamount to applying the same attitude to laws which

restrained the activities of various types of criminals, murderers, thieves, rogues, *etc.* Discussions carried on in that spirit were surely out of place in the Assembly.

The USSR delegation also proposed that certain changes should be made in article 22, replacing the text as given in the draft by a new text which would state that every citizen of any State without distinction as to race, colour, nationality, birth, property status, social origin, language, religion, or sex, should have the right to participate in the government of his country. It was not enough merely to refer to the right of everyone to take part in the government of his country. It was necessary to state that he also had the right to elect persons and be elected to all organs of authority and that, not only on the basis of universal, equal and secret suffrage but on the basis of direct suffrage which was the only democratic procedure. It was essential to state explicitly, that every citizen of any State must have the right, equally with other citizens, of access to any State or public office in his country. All those provisions were omitted in article 22. It was consequently impossible to expect that those who had taken up a different position in matters of principle would agree to an article so drafted.

[928]

The USSR delegation furthermore proposed to add a new article to follow article 30 and reading as follows:

“The human and civic rights and fundamental freedoms enumerated in the present Declaration shall be guaranteed by national laws. Any violation or limitation of these rights, whether direct or indirect, shall be deemed to violate the present Declaration and to be incompatible with the high principles proclaimed in the United Nations Charter.”

Why should objections be raised when the USSR delegation requested the inclusion of such an article in the declaration? That proposed article was self-explanatory, it required that the fundamental rights and freedoms of the individual and citizen should be guaranteed by the laws of the State; it stated that any violation or limitation of those rights, whether direct or indirect, should be deemed to violate the present declaration and to be incompatible with the high principles proclaimed in the United Nations Charter. Such an article was wholly in harmony with the principles of the Charter.

Those were therefore the essential points of principle which ought to be included in the declaration of human rights in order that it might satisfy the desires of millions and millions of simple persons, the desires of all peace-loving peoples, to see fundamental freedoms established and made secure as well as the right of men to democracy and progress, to peace and security. The USSR delegation was convinced that without those amendments the draft declaration of human rights would remain incomplete and unsatisfactory and would therefore not attain that aim which it was called upon to serve in accordance with the standards applicable to a document issued on behalf of the United Nations.

There was one question which had been raised in the course of the debate and which did not seem to him to be a theoretical question, although it had been presented on that level. He referred to the tendency which, it was alleged, had prompted the USSR delegation to submit those proposals.

It had been stated that the USSR wished to subordinate the individual to the State, making of the individual some sort of cog in the powerful, indeed the all-powerful State on the lines of Hobbes' Leviathan. Those were hollow arguments which merely went to prove that those who used them did so with insufficient understanding and inadequate analysis of the real meaning of what they had allowed themselves to say about the Union of Soviet Socialist Republics. They had evidently forgotten that the contradiction between the State and the individual was a phenomenon which had occurred, in [929] history, when society had been divided into rival classes. Wherever society was so divided, the ruling class controlled the machinery of government. In such societies the State had become the tool of the ruling classes whose aims and interests were contrary to those of all the other classes. There the State did indeed seek to rule over the individual whose interests were in conflict with its own.

Circumstances were wholly different in a society where there were no rival classes. That was indeed natural, for in such a society, there could not be any contradiction between the government and the individual since the government was in fact the collective individual. That contradiction was eliminated when a society reached the stage when it was no longer divided into classes conflicting with each other, the class of the exploiter and the class of the exploited.

Therefore the problem of the State and the individual, in its historical sense, did not exist. History had already solved that problem in his country. The State and the individual were in harmony with each other; their interests coincided. That relationship was expressed in the formula of which all progressive persons were justly proud: "the Union of Soviet Socialist Republics is the socialist State of workers and peasants". That formula indicated that in their State, the problem of contradiction between the State and the individual did not exist in the form in which it had prevailed at all stages of society's historical development when it was divided into classes: feudal, bourgeois, capitalist and the contemporary socialist-capitalist State. They wished to see other States move closer to that noble ideal which had already been attained in one-sixth of the world.

Two opposing tendencies had certainly been rejected throughout the preparation of the draft declaration. The first tendency was that of the defence of the principle of democracy and the securing of peace. With that purpose in mind fascism and fascist racial activities had to be eliminated. The other tendency was that of reaction and aggression, supporting and using all reactionary forces, including even fascism and nazism. The conflict between those two tendencies had been reflected in the work of the Third Committee and was responsible for the opposition which had been shown,

in that Committee, to the proposals of those delegations which worked for democracy and progress and against reaction and aggression.

THE PRESIDENT stated that the discussion was closed and that the General Assembly would proceed to the vote.

He would first submit to the vote the USSR draft resolution (A/785/Rev.2). If that pro-[930]posal were rejected he would put each of the five amendments to the vote; four had been submitted by the Soviet Union and one by the United Kingdom delegation. Finally, he would put the text of the draft declaration to the vote either as it stood or in its amended form.

MR. VYSHINSKY (Union of Soviet Socialist Republics) stated that the USSR delegation had not requested that the resolution submitted by it should be put to the vote by roll-call.

The USSR resolution was rejected by 45 votes to 6, with 3 abstentions.

MR. KATZ-SUCHY (Poland) requested that the amendments be put to the vote by roll-call.

THE PRESIDENT put to the vote the first USSR amendment substituting a new text for the existing text of article 3 of the draft declaration (A/784).

A vote was taken by roll-call, as follows.

The Ukrainian Soviet Socialist Republic, having been drawn by lot by the President, was called upon to vote first.

In favour: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, Pakistan, Poland.

Against: United Kingdom, United States of America, Uruguay, Venezuela, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Costa Rica, Denmark, Dominican Republic, France, Greece, Iceland, India, Iran, Lebanon, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey.

Abstaining: Union of South Africa, Afghanistan, Argentina, Burma, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Iraq, Liberia, Saudi Arabia.

The first USSR amendment was rejected by 34 votes to 8, with 14 abstentions.

The President put to the vote the second USSR amendment substituting a new text for the existing text of article 20.

A vote was taken by roll-call as follows.

Argentina, having been drawn by lot by the President, was called upon to vote first.

[931]

In favour: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, Egypt, El Salvador, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Venezuela.

Abstaining: Argentina, Burma, Costa Rica, Ecuador, Ethiopia, Saudi Arabia, Siam, Union of South Africa, Afghanistan.

The second USSR amendment was rejected by 41 votes to 6, with 9 abstentions.

The President put to the vote the third USSR amendment substituting a new text for the existing text of article 22.

A vote was taken by roll-call as follows.

Haiti, having been drawn by lot by the President was called upon to vote first.

In favour: Haiti, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Honduras.

Against: Iceland, India, Iran, Iraq, Lebanon, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Venezuela, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Denmark, Dominican Republic, El Salvador, Ethiopia, France, Greece, Guatemala.

Abstaining: Liberia, Saudi Arabia, Siam, Union of South Africa, Afghanistan, Argentina, Colombia, Costa Rica, Cuba, Ecuador, Egypt.

The third USSR amendment was rejected by 36 votes to 9, with 11 abstentions.

The President then put to the vote the fourth USSR amendment to insert a new article after article 30 of the draft declaration.

A vote was taken by roll-call as follows.

Iran, having been drawn by lot by the President, was called upon to vote first.

In favour: Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist [932] Republic, Colombia, Czechoslovakia, Haiti, India.

Against: Iran, Iraq, Lebanon, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, United Kingdom, United States of America, Venezuela, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Costa Rica, Denmark, Dominican Republic, Greece, Iceland.

Abstaining: Liberia, Saudi Arabia, Union of South Africa, Uruguay, Afghanistan, Argentina, Burma, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, France, Guatemala.

The fourth USSR amendment was rejected by 32 votes to 10, with 14 abstentions.

The President then put to the vote the United Kingdom amendment (A/778/Rev.1) to “delete article 3 and substitute the following text as paragraph 2 of article 2:

“Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, Trust, Non-Self-Governing or under any other limitation of sovereignty.”

The United Kingdom amendment was adopted by 29 votes to 17, with 10 abstentions.

THE PRESIDENT next asked the Assembly to vote on the text proposed by the Third Committee.

MR. KATZ-SUCHY (Poland) requested that the draft universal declaration of human rights be put to the vote article by article.

THE PRESIDENT recalled that it was only the United Kingdom amendment which had been adopted and that he would put the draft declaration to the vote including that amendment.

The draft universal declaration of human rights consisted of a preamble and 31 articles. He would put the declaration to the vote article by article. He wished to know whether the Assembly wished to vote on the preamble as a whole or to take a separate vote on each of the seven recitals of the preamble.

MR. KATZ-SUCHY (Poland) asked that a separate vote be taken on each recital of the preamble.

The first recital of the preamble was adopted, with 2 abstentions.

The second, third, fourth, fifth, sixth and seventh recitals of the preamble were adopted unanimously.

[933]

Article 1 was adopted by 45 votes, with 9 abstentions.

The first paragraph of article 2 was adopted unanimously.

The second paragraph of article 2 (United Kingdom amendment) was adopted by 36 votes to 1, with 8 abstentions.

Articles 4 to 13 were adopted unanimously.

Article 14 was adopted by 44 votes to 6, with 2 abstentions.

Articles 15 to 18 were adopted unanimously.

Article 19 was adopted by 45 votes, with 4 abstentions.

Article 20 was adopted by 44 votes to 7, with 2 abstentions.

Articles 21 to 26 were adopted unanimously.

Article 27 was adopted by 53 votes, with 3 abstentions.

Article 28 was adopted unanimously.

Article 29 was adopted by 47 votes, with 8 abstentions.

Articles 30 and 31 were adopted unanimously.

THE PRESIDENT stated that he would then put to the vote by roll-call the draft universal declaration of human rights as a whole including the United Kingdom amendment previously adopted. He added that, as a result of the deletion of article 3, the articles in the final text of the declaration would have to be renumbered.

A vote was taken by roll-call as follows.

Burma, having been drawn by lot by the President, was called upon to vote first.

In favour: Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Venezuela, Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil.

Abstaining: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, Yugoslavia.

The Universal Declaration of Human Rights was adopted by 48 votes, with 8 abstentions.

[934]

The President said that the adoption of that very important Declaration by a big majority without any direct opposition was a remarkable achievement. The General Assembly and the Security Council had both been subjected to a great deal of criticism which was mainly due to the fact that far more attention was being paid to the political activities of the United Nations in the Security Council and the Assembly than to the field of social, humanitarian and cultural activities to which the present achievement belonged. As had been pointed out, however, the Declaration only marked a first step since it was not a convention by which States would be bound to carry out and give effect to the fundamental human rights; nor would it provide for enforcement; yet it was a step forward in a great evolutionary process. It was the first occasion on which the organized community of nations had made a declaration of human rights and fundamental freedoms. That document was backed by the authority of the body of opinion of the United Nations as a whole and millions of people, men, women and children all over the world, would turn to it for help, guidance and inspiration.

He wished to congratulate those who had worked so zealously and so long to achieve that result. It was particularly fitting that there should be present, on that occasion, the person who, with the assistance of many others, had played a leading role in that work, the person who had raised to even greater heights even so great a name: Mrs. Roosevelt, the representative of the United States of America. He did not wish to mention everyone by name: Dr. Malik, representative of Lebanon, the Vice-Chairman and all the other members of the Committee who had laboured incessantly in a domain to which practically no attention was being paid by those who criticized the United Nations.

In the political field, in the committees concerned with political work, disputes and troubles occurred, but, as the vote just recorded had shown, there was a wide

area of agreement in the social field. If that work were carried through progressively it would gradually result in bringing to an end many of the political differences which divided the Members of the United Nations. He felt it to be a great honour to have been present when that vote had been recorded and congratulated all those concerned in the result.

[935]

He would now put to the vote resolution B relating to the right of petition (A/777).

The resolution was adopted by 40 votes, with 8 abstentions.

The President then put to the vote resolution C relating to the fate of minorities.

The resolution was adopted by 46 votes to 6, with 2 abstentions.

The President then put to the vote resolution D relating to the dissemination and publication of the Universal Declaration of Human Rights.

The resolution was adopted by 41 votes, with 9 abstentions.

The President then put to the vote resolution E relating to the preparation of a draft covenant and draft measures of implementation.

The resolution was adopted by 44 votes, with 8 abstentions.

The meeting rose at 12:10 a.m.

A/RES/217(III)

10 December 1948

International Bill of Human Rights

A

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind and the advent of a world in which

human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

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

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

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

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international

law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

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

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

B***Right of Petition****The General Assembly*

Considering that the right of petition is an essential human right, as is recognized in the Constitutions of a great number of countries,

Having considered the draft article on petitions in document A/C.3/306 and the amendments offered thereto by Cuba and France,

Decides not to take any action on this matter at the present session;

Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the draft covenant on human rights and measures of implementation, in order to enable the General Assembly to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions.

C***Fate of Minorities****The General Assembly,*

Considering that the United Nations cannot remain indifferent to the fate of minorities,

Considering that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises,

Considering the universal character of the Declaration of Human Rights,

Decides not to deal in a specific provision with a question of minorities in the text of this Declaration;

Refers to the Economic and Social Council the texts submitted by the delegations of the Union of Soviet Socialist Republics, Yugoslavia and Denmark on this subject contained in document A/C.3/307/Rev.2, and requests the Council to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities.

D

Publicity to be Given to the Universal Declaration of Human Rights

The General Assembly,

Considering that the adopting of the Universal Declaration of Human Rights is an historic act, destined to consolidate world peace through the contribution of the United Nations towards the liberation of individuals from the unjustified oppression and constraint to which they are too often subjected,

Considering that the text of the Declaration should be disseminated among all peoples throughout the world,

1. *Recommends* Governments of Member States to show their adherence to Article 56 of the Charter by using every means within their power solemnly to publicize the text of the Declaration and to cause it to be disseminated, displayed, read and expounded principally in schools and other education institutions, without distinction based on the political status of countries or territories;

2. *Requests* the Secretary-General to have this Declaration widely disseminated and, to that end, to publish and distribute texts, not only in the official languages, but also, using every means at his disposal, in all languages possible;

3. *Invites* the specialized agencies and non-governmental organizations of the world to do their utmost to bring this Declaration to the attention of their members.

E***Preparation of a Draft Covenant on Human Rights and Draft Measures of Implementation***

The General Assembly,

Considering that the plan of work of the Commission on Human Rights provides for an International Bill of Human Rights, to include a Declaration, a Covenant on Human Rights and measures of implementation,

Requests the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft Covenant on Human Rights and draft measures of implementation.

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