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COMMISSION ON HUMAN RIGHTS

THIRD SESSION

SUMMARY RECORD OF THE FIFTIETH MEETING

Lake Success, New York
Thursday, 27 May 1948, at 2.30 p.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. LEBEAU	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. SANTA CRUZ	Chile
	Mr. CHANG	China
	Mr. CASSIN	France
	Mrs. MEHTA	India
	Mr. QUIJANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. MORA	Uruguay
	Mr. VILFAN	Yugoslavia

Also Present:

Mrs. LEDON	Representative of the Commission on the Status of Women
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Representatives of Specialized Agencies:

Mr. LEBAR	United Nations Educational, Scientific and Cultural Organization
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Observers from Inter-governmental Organizations:

Mr. STONE	Preparatory Commission of the International Refugee Organization
Mr. HOWELL	World Health Organization

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Consultants from Non-governmental Organizations:

Miss SENDER	American Federation of Labor
Mr. van ISTENDAHL	International Federation of Christian Trade Unions
Miss STUART	World Federation of United Nations Associations
Mr. GOLDSMITH	Agudas Israel World Organization
Mr. BROTMAN	Co-ordinating Board of Jewish Organizations
Miss STRAHLER	International Committee of the Red Cross
Miss BURGESS	International Federation of Business and Professional Women
Miss ROSE	Liaison Committee of Women's International Organizations
Mr. BIENENFELD	World Jewish Congress

Secretariat:

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

Mr. MALIK (Lebanon), on a point of order, asked whether copies of the statement made at the previous meeting by the USSR representative could be distributed.

Mr. PAVLOV (Union of Soviet Socialist Republics), after thanking the Lebanese representative for his interest, stated that he would be pleased to make the full text available for reproduction. He drew the attention of the Commission to document E/CN.4/AC.1/29, which contained the text of a statement he had made in the Drafting Committee on 4 May. Many of the arguments he had put forward in his speech at the previous meeting of the Commission were repetitions of the earlier statement.

CONTINUATION OF THE GENERAL DISCUSSION OF THE PURPOSE OF THE DECLARATION

Mr. MALIK (Lebanon) commended the sound procedure of the USSR representative in taking the Charter as the point of departure for his speech.

Human rights and fundamental freedoms were mentioned seven times in the Charter. The first mention was in the Preamble, where the determination to reaffirm faith in human rights was second only to the determination to avert future wars. Article 1 declared the promotion and encouragement of respect for human rights and fundamental freedoms to be one of the purposes of the United Nations, and placed it on an equal footing with the work of the Economic and Social Council. The structure of Article 13 should be especially noted, in that it emphasized the equal importance of the promotion of international activities in the economic and social field, and assistance in the realization of human rights and fundamental freedoms. Article 55, which dealt with the conditions of well-being necessary for peace and security, singled out the question of human rights for mention in a separate category. Here the mandatory character of the Article should be noted: States were obliged to

see that human rights were not only promoted but observed. In Article 62 the promotion of human rights was mentioned as one of the possible functions of the Economic and Social Council; therein lay the point of departure for the work of the Commission on Human Rights as a subsidiary body of the Economic and Social Council. Article 68 was among the most important in the field of human rights, since it expressly ordered the establishment of a commission for the promotion of human rights. Finally, Chapter XIII gave as one of the objectives of the trusteeship system the encouragement of respect for human rights and fundamental freedoms for all.

Four conclusions could be drawn from a study of the Charter: first, that the promotion of respect for human rights was second only to the maintenance of peace and security. The violation of human rights was one of the causes of war, and, if the first aim of the United Nations was to be attained, the observance of human rights must be guaranteed. Secondly, the Commission on Human Rights was in the unique position of being the only Commission mentioned by name in the Charter. Thirdly, the function of the Commission was the promotion of human rights, and since it could not promote what was still vague and undefined, the first task of the Commission must be a precise definition of those rights. It could be said that the Commission was called upon to finish the work initiated by the Charter, in giving content and meaning to the phrase "the dignity and worth of the human person". In the fourth place, since it had been decided at San Francisco that an elaboration of human rights, which had been urged by many delegations, was too large a task to be attempted at that time, the Commission was virtually a prolongation of the San Francisco Conference and its work a completion of the Charter itself. Those facts should be borne in mind, since the Commission was apt to be regarded as just another organ of the United Nations. It was, in fact, more fundamental than any other body of the Economic and Social Council, and almost as fundamental as any of the principal organs of the United Nations.

Mr. Malik urged the Commission to bear those facts in mind when preparing the Declaration and the Covenant of Human Rights. The Commission should moreover consider whether the resolution of the General Assembly giving effect to the Declaration and Covenant could be given greater weight and importance than ordinary General Assembly resolutions. The Bill of Rights might become a supplement to the Charter at the first international conference where the question of the revision of the Charter was considered. The Declaration was not a simple resolution of the General Assembly; but a continuation of the Charter and must have the dignity of the Charter.

Mr. Malik declared that he would not go into details on the substance of the draft Declaration, but would speak on various points as they arose in discussions at future meetings. He had, however, a few comments to make on the statement by the USSR representative at the previous meeting.

A study of Russian literature had shown him that the USSR had two positive messages for the world: hatred of inequality and discrimination on any ground whatever, and insistence on the importance of social and economic factors in human life. Although those two great challenges were real, and appreciated by the rest of the world, the Commission should take a more comprehensive outlook and should try to harmonize those ideas with some of the older elements in human culture. It was easy to fall into the error of over-simplification, and to consider that such things as non-discrimination and universal employment, guaranteed by the State, represented the most important factors in human life. For his part, Mr. Malik thought that the most fundamental human rights and freedoms were spiritual, intellectual and moral; he would not be satisfied with mere social security and lack of discrimination except as means to a higher end, namely, the freedom of spirit. The various contributions in the field of human rights made by the diverse cultures in the world must

be taken into account, and the crucial part of the Commission's task would be the determination of the hierarchy of values.

Mr. SANTA CRUZ (Chile) said that, with regard to the draft Declaration, the Chilean delegation had made certain reservations from time to time in the Drafting Committee, and would recall them as the items in question arose.

He shared the opinion of various delegations that the Declaration should as far as possible be brief, so as to be easily understandable to the common man. However, since the draft Covenant did not cover all phases of human rights, it was necessary to draw up a more comprehensive Declaration.

Mr. Santa Cruz urged that the Preamble must be studied before the concrete provisions could be considered. It was essential to define the relations of the individual to the State, for the conception of human rights was not the same in all States, and without such a definition misunderstandings were bound to occur.

The delegation of Chile believed that both the Declaration and the Covenant must be inspired by the principles of the Charter. It had been recognized at San Francisco, when the horrors of war and totalitarianism were still fresh in the memory of the world, that if the causes of war were to be eliminated, the sovereignty of States must be limited by considerations of international solidarity and co-operation, and the economic level of the peoples of the world must be raised. The Chilean delegation had made it clear in the Drafting Committee that it could not support a Declaration that did not embody those principles. Economic and social rights must find their place in the Declaration; the right to work, the right to an equitable salary, the right to health, education and social security, and to the benefits of culture and scientific progress must not be omitted. Mr. Santa Cruz urged the importance of taking into account ^{the} ideals which had inspired the French revolution.

Another point that had been upheld by the delegation of Chile was that the preservation of democracy was a fundamental duty in the organization of a peaceful world. Human rights and fundamental freedoms must be so defined as to make the rights of the individual compatible with the idea of democracy. Mr. Santa Cruz hoped that the Declaration would embody a conception of democracy based on respect for human rights and the dignity and worth of the human person, and that there would be provisions against the abuse of such rights.

CONSIDERATION OF DRAFT INTERNATIONAL DECLARATION ON HUMAN RIGHTS,
SUBMITTED BY THE DRAFTING COMMITTEE (Annex A of document E/CN.4/95)

The CHAIRMAN, speaking as the representative of the United States of America, stated that her delegation had examined the various amendments to the draft Declaration. The draft submitted jointly by the Indian and United Kingdom delegations (document E/CN.4/99) appeared to condense effectively the articles of the draft declaration while retaining the basic principles of the text adopted at the second session of the Commission. The United States delegation, therefore, associated itself with that draft, and recommended it for the consideration of other delegations.

Speaking as Chairman, she asked members to submit any amendments to articles 1 to 15 by the end of the day, and to the remainder of the articles not later than 1 June.

Mr. CHANG (China) drew attention to the shorter draft Declaration submitted by his delegation, and contained in Annex A of the report of the Drafting Committee. The Commission was dealing with one of the most serious questions before the United Nations and the whole world. The principal aim of the Declaration was to call the attention of the world to certain fundamental human rights, with a view to educational advancement. The term "education" was here used in the broad sense of how to improve the quality of life. The Declaration should be as simple as possible and in a form

which was easy to grasp. He urged those members of the Commission who had not served on the Drafting Committee to examine carefully the Chinese Draft.

Mrs. MEHTA (India), introducing the draft Declaration submitted jointly by her delegation and that of the United Kingdom (document E/CN.4/99), explained that the draft Declaration of the Drafting Committee had been criticized as being too long, and containing several irrelevant matters. The Declaration, which laid down general principles, must be as precise as possible if it was to be understood by the common man.

It had been decided at the second session of the Commission to draft both a Declaration and a Covenant. The Declaration was not a legal document, but one which would be effective through its moral force and the support of world opinion. If the Declaration was to reach and be understood by every member of the public, the shortcomings of the draft Declaration before the Commission, its length and its inclusion of various unnecessary details must be removed. The clauses of implementation would be more appropriate in the Covenant. The Declaration aimed at defining the rights of individuals, not the rights of States. It must have human appeal, and should not be too condensed or too terse. She thought the Chinese draft was too terse. The French draft, on the other hand, while having a human appeal, went into too many details.

Mr. WILSON (United Kingdom) associated himself wholeheartedly with the statement of the Indian representative. If the Declaration was to reach the greatest possible number of people, it was essential for it to be expressed in the simplest terms.

The members of the Drafting Committee had impressed him as being in substantial agreement on the general principles of the Declaration. The Chinese draft had had a good effect on the work of the Committee, by illustrating how concisely it was possible to enumerate principles upon which all were in fundamental agreement.

Mr. Wilson now asked the Commission to consider the draft submitted by the Indian and United Kingdom delegations as an attempt to find the middle road between the text adopted at the second session of the Commission and the very concise Chinese draft.

Article 1

Mrs. LEDON (Vice-Chairman of the Commission on the Status of Women) stated that at its session in January 1948, the Commission on the Status of Women had decided unanimously to request the Economic and Social Council to refer to the Commission on Human Rights the following amendments to Article 1 of the draft Declaration:

The words "all people" should be substituted for "all men", and "in a spirit of brotherhood" for "like brothers".

While her Commission realized that the term "all men" had a general sense, there was a certain ambiguity in it and it would be better to use the more precise term, which, moreover, figured in the Charter.

The CHAIRMAN speaking as the representative of the United States of America, supported the retention of the text as adopted at the second session of the Commission with the minor drafting changes in the India-United Kingdom text, namely "all people, men and women" in place of "all men", and "in the spirit of brotherhood" in place of "like brothers". In supporting those drafting changes, the United Kingdom delegation was expressing the principle of equality for men and women, and its conviction that discrimination against women had no place in the laws of any State. She wished to make it clear, however, that equality did not mean identical treatment for men and women in all matters; there were certain cases, as for example the case of maternity benefits, where differential treatment was essential.

Mr. SANTA CRUZ (Chile) supported the suggestion made by the representative of the Commission on the Status of Women.

He questioned the correctness of the conclusion drawn in Article 1, that men should act towards one another in a spirit of brotherhood because they were endowed by nature with reason and conscience, and thought the statement was open to controversy.

Mr. CASSIN (France) said that the French delegation had been conscious of the criticism which might be levelled at the words "all men" and had therefore used the expression "all members of the human family" in its draft of Article 1. That expression was all-inclusive and had the further advantage of stressing the inherent equality of human beings, a concept which had recently been attacked by Hitler and his ideological disciples.

The idea of the solidarity of men should be made explicit in the Article to convince the peoples of the world that the United Nations firmly believed in their essential brotherhood.

Although he could support the text prepared by the representatives of India and the United Kingdom which was, in his opinion, an improvement over the draft of Article 1 adopted at the second session of the Commission, he wished to have the French text of Article 1 put to the vote.

Mr. LEBEAU (Belgium) supported the French draft of Article 1, which, for reasons of common language and common juridical experience and tradition reflected his delegation's views better than either the Drafting Committee's text or that submitted by the United Kingdom and Indian representatives. Without wishing to minimize the effort expended in drafting them, he felt that those texts presented various difficulties; the expression "all people, men and women" used in the Indian-United Kingdom text would sound absurd if translated into French ("tous les hommes, hommes et femmes"); furthermore, he felt that in trying to stress the idea of equality, the result was quite the opposite and created the impression of discrimination. The words "all men" used in the Drafting Committee's text were preferable in his opinion, for that formula had been ^{used} in countless declarations (inst)

past. In the Charter, "human" rights, not rights of "men and women", was used. He thought that a compromise could be reached if Article 1 were to start with the words "all human beings".

Mrs. MEHTA (India) pointed out that the text as presented by her delegation and that of the United Kingdom was essentially the same as that transmitted by the Economic and Social Council. She wished, however, to hear the opinion of the representative of the Commission on the Status of Women.

Mrs. LEDON (Vice-Chairman of the Commission on the Status of Women) thought that the terminology suggested by the Belgian representative covered the idea which the Commission on the Status of Women was anxious to see expressed in Article 1 of the Declaration.

Mr. LOUFI (Egypt) said that he would support the French text of Article 1, but wondered whether the French representative would agree to the deletion of the sentence "They remain so by virtue of the laws".

Mr. CASSIN (France) agreed to this deletion.

Mr. CHANG (China) amended the text submitted by the representatives of the United Kingdom and India by deleting the full stop after the first sentence and the words "They are endowed by nature with reason and conscience".

The import of that sentence was controversial and its deletion would clarify and shorten the text.

Mrs. MEHTA (India) and Mr. WILSON (United Kingdom) agreed to the deletion proposed by the Chinese representative.

Mr. SANTA CRUZ (Chile) said that he favoured the text proposed by the French representative. It omitted the controversial statements to which he had expressed objection, it appealed to the

more concrete principle of the brotherhood of men, and it fulfilled the wishes of the Commission on the Status of Women, with which he fully sympathized. Should the French text be rejected, he would then vote for the text as amended by the Chinese representative, but he pointed out that Professor Cassin himself had originally drafted Article 1, and since he had deemed it necessary to improve upon that draft, he should receive the support of the Commission.

Mr. MALIK (Lebanon) expressed surprise at the proposal to delete "nature, conscience and reason". He deplored the tendency to disregard such important concepts, which had originally appeared in both the French and United Kingdom texts.

The first Article of the Declaration on Human Rights should state those characteristics of human beings which distinguished them from animals, that is, reason and conscience. Without reason, the very work they were engaged in would be impossible; what, then, more "reasonable" than the explicit mention of the factor which constituted the basis of their work, in the very first article?

He would plead with the members of the Commission to reconsider the matter, and, if necessary, he would even propose the postponement of the consideration of this all-important article until such time as their respective Governments had sent fresh instructions.

Mr. WILSON (United Kingdom) agreed that men were endowed by nature with reason and conscience, but thought that it was self-evident. Nevertheless, some people seemed to doubt the truth of that statement and, since in his opinion it was not a matter that could be decided by a vote, he was prepared to accept its deletion.

Mr. LEEBEAU (Belgium) stated, in reply to the representative of Lebanon, that a Declaration on Human Rights need not begin with a definition of what constituted human beings.

Mr. SANTA CRUZ (Chile) denied ever having doubted the fact that human beings were endowed with reason and conscience, but thought

that the feeling of brotherhood was not necessarily connected with either.

Mrs. MEHTA (India) declared that she had agreed to the deletion proposed by the representative of China for the same reasons as the United Kingdom representative and agreed with the representative of Belgium that the statement was not really essential in a document such as the Declaration.

Mr. MALIK (Lebanon) said that he respected the points of view of the representatives of the United Kingdom, India and Belgium who did not object to the deletion of the statement because, in their opinion, its truth was so self-evident that it did not need to be emphasized.

However, he felt that the Commission should mention somewhere in the Declaration, perhaps in the Preamble, the qualities which essentially characterized man, since man and his rights were the Commission's main concern.

The representatives of France, the United Kingdom, the United States of America and China agreed with the suggestion of Mr. Malik concerning the inclusion of those concepts in the Preamble. The representative of Belgium stated that he agreed in principle, but would wish to be able to see the text before giving his final opinion.

Mr. LOPEZ (Philippines) was strongly opposed to the deletion of the sentence "They are endowed by nature with reason and conscience" from the text submitted by the representatives of India and the United Kingdom, and proposed that the text originally drafted should be put to the vote.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that there would be difficulties in translating the expression "all people, men and women" into Russian, as in that language women were automatically included in the notion of "people".

Regarding the concern felt by the representative of Lebanon lest the Declaration remain without "reason" and without "a conscience", he thought that a solution could be found in the formula "They are endowed with reason and conscience", without mentioning the agent, with respect to which legitimate doubts had been expressed.

However, viewed in the light of present realities, the text of Article 1 appeared wholly misleading. Events happening every day served to convince one that there were people who had neither conscience nor reason, and who were acting towards one another not in a human fashion, let alone in a spirit of brotherhood.

He did not object to general statements, but he thought they were deceptive and could only cause false illusions; the ideal of brotherhood was very praiseworthy, but it was not a legal concept, and no one would ever be liable to prosecution for failure to act "in a spirit of brotherhood."

The French text, in his opinion, contained even more faults and he would find himself obliged to abstain from voting on Article 1.

The French text for Article 1, as amended by the Egyptian representative, was rejected by seven votes to five, with three abstentions.

After a brief procedural discussion, it was decided to put the Chinese representative's amendment of the text submitted by the delegations of India and the United Kingdom to the vote in separate parts.

The first sentence was adopted by eleven votes to none, with four abstentions.

/The deletion

The deletion of the first full stop and of the subsequent words up to and including the word "conscience" was rejected by six votes to five, with six abstentions.

The last sentence was adopted by thirteen votes to none, with three abstentions.

The article as a whole was adopted by eleven votes to none, with six abstentions.

Article 2

The CHAIRMAN, speaking on behalf of the United States delegation, expressed support for the draft submitted by the United Kingdom and India in preference to the draft adopted at the Second Session of the Commission. It was not desirable, in her opinion, to refer to duties which man owed to society if those duties were left undefined, and it would be more precise to mention restrictions arising from the necessity of achieving the welfare and security of all.

She objected to the French text on the same grounds.

Mr. CASSIN (France) suggested reversing the order of the two sentences in the text presented by the Drafting Committee. He urged the retention of the words "just laws" in preference to "just requirements" and thought that the reference to the democratic State was also of great importance.

Mr. SANTA CRUZ (Chile) thought both the Drafting Committee's text and that of France were unacceptable because of the difficulty of determining exactly what were the just laws or just requirements of a democratic State. He recalled the remarks he had made previously concerning the necessity of defining the relations between the individual and the State, and the worth of the former in relationship to the latter. Until a definition on which all could agree could be arrived at, it was dangerous to use words which meant completely different things to the representatives present, and which could lead to the severest restrictions on the rights of the individual on the part of some States.

He supported the text submitted by the United Kingdom and Indian representatives because it defined the restrictions of the rights of the individual in terms of the welfare and security of all. It also avoided the philosophic consideration which claimed that society enabled the individual to develop his spirit, mind and body in wider freedom; this, in his view, was a highly controversial statement.

Mr. CHANG (China) drew the Commission's attention to the Chinese draft of Article 2, which condensed Articles 2 and 3 of the Drafting Committee's text in one paragraph. If the Commission desired to arrive at a brief text for the Declaration, he would suggest using the second sentence of that paragraph for Article 2. However, in his opinion, it would be preferable to place the Article on the restrictions of the rights of the individual at the very end of the Declaration, for it was not logical to proclaim the restrictions before the rights themselves had not been stated.

Mr. WILSON (United Kingdom) agreed with the representative of Chile and with the Chinese representative's plea for brevity. However, the Chinese draft had the disadvantage of being insufficiently specific and he would prefer the phrase "restrictions...necessary to secure due regard, etc." to "recognition of the rights of others".

Mr. PAVLOV (Union of Soviet Socialist Republics) requested further time to enable members of the Commission to give due consideration to all the drafts submitted to them. He also felt in sympathy with the French representative's wish to see a reference to the "democratic State" in the article.

Mr. CHANG (China) once more stressed the fact that the Declaration which the Commission was drafting was intended to be read and understood by large masses of people, and should therefore be as brief and intelligible as possible. He urged the members of the Commission to give consideration to the draft submitted by his delegation, appearing on pages 14 and 15 of document E/CN.4/95.

Mrs. LEDON (Commission on the Status of Women) thanked the Commission for the amendment it had adopted to Article 1, which, although slightly different from the one proposed by the Commission on the Status of Women, was in conformity with its wishes.

The meeting rose at 5.50 p.m.