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COMMISSION ON HUMAN RIGHTS

THIRD SESSION

SUMMARY RECORD OF THE FIFTY-THIRD MEETING

Held at Lake Success, New York
on Thursday, ~~27 May~~ 1948, at 2.30 p.m.
1 June 1948 A.M.

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

Rapporteur: Mr. MALIK Lebanon

Members: Mr. HOOD Australia
Mr. LEBEAU Belgium
Mr. STEPANENKO Byelorussian Soviet Socialist Republic

Mr. CHANG China
Mr. LOUÏEÏ Egypt
Mr. CASSIN France
Mrs. MERTA India
Mr. CUIJANO Panama
Mr. LOPEZ Philippines
Mr. KLEKOVKIN Ukrainian Soviet Socialist Republic
Mr. PAVLOV Union of Soviet Socialist Republics
Mr. WILSON United Kingdom
Mr. FONTAINA Uruguay
Mr. VILFAN Yugoslavia

Also Present: Mrs. LEDON Representative of the Commission on the Status of Women

Specialized Agencies: Mr. COX International Labour Organization
Mr. LEBAR United Nations Educational Scientific and Cultural Organization

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Non-governmental Organizations:

Miss SENDER
Mr. VANISTENDAEL

American Federation of Labor
International Federation of Christian
Trade Unions

Secretariat:

Mr. J. HUMPHREY
Mr. E. LAWSON

Director, Division of Human Rights
Secretary of the Commission

Mr. QUIJANO (Panama) explained the reasons which had prevented him from taking a more active part in the debate. He had been informed of his assignment only on the very eve of the Commission's convening, and thought, therefore, that the observations of one who had not followed the work through its various stages could not be as effective as the opinions expressed by those members who were more familiar with the subject at hand.

Another obstacle was his lack of fluency in the two working languages and the scarcity of documents in Spanish. He had not requested more ample documentation in his language, keeping in mind the difficulties mentioned by the Director of the Division of Human Rights; and had used his vote trying to express his Government's wishes.

He did, however, regret not having intervened in the discussion of the second paragraph of article 3, when it was decided to delete the word "arbitrary", without which the paragraph lost much of its force for the reasons ably expressed by the French representative and the Chairman.

CONSIDERATION OF THE DRAFT DECLARATION OF HUMAN RIGHTS

Article 4

Mr. LEBEAU (Belgium) questioned the necessity of saying that every individual had the right to life, as in his opinion the Declaration applied only to those who were already alive.

In reply to Mr. CASSIN (France), who pointed out that at a time when millions of people had been deprived of their life it was important that the Commission should raise its voice in defence and emphasis of that right, Mr. Lebeau said that in that case the wording should be

/"has the right to

"has the right to protection of his life". If the article were to be put to the vote in its present form, he would have to abstain from voting.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought the remarks of the Belgian representative were logical, but since no other wording had been suggested, the article would have to remain in its present form. He recalled that during the discussion on this article in the Drafting Committee he had pointed out that it lacked concreteness and was divorced from actual realities since millions of people were still dying of starvation, succumbing to epidemics and being exterminated in wars.

Mr. LEBEAU (Belgium) requested that the article should be voted upon in sections.

The CHAIRMAN agreed and put to the vote the phrase: "Every one has the right to life".

It was adopted by fourteen votes to none, with one abstention.

The phrase "every one has the right to liberty and security of person" was adopted by fifteen votes to none.

Article 5

Mr. CHANG (China) drew attention to the Chinese draft for article 5, the first part of which was the same as that used in the United Kingdom and Indian draft. For the present, he thought discussion ought to be limited to article 5, leaving the question of merging articles 5 and 8 to a later stage.

Miss SENDER (American Federation of Labor) thought the text presented jointly by the representatives of United Kingdom and India, and the Chinese text, constituted an improvement over the Drafting Committee's text which excluded the notion of compulsory or forced labour. Both the concept of slavery and that of forced labour or involuntary servitude should be covered by the Declaration.

/The CHAIRMAN

The CHAIRMAN, speaking on behalf of the United States delegation, supported the joint United Kingdom and India text as it expressed the thought in terms of a right instead of a prohibition. She thought the expression "involuntary servitude" was appropriate; it expressed the idea of freedom from peonage or forced or compulsory labour.

Mr. CASSIN (France) observed that the French text was much wider in scope than the others, for in saying that "slavery in all its forms" would be prohibited all the possible manifestations of slavery would have been covered; whereas forced labour was only one form of slavery, and the article would not be effective against traffic in women and children.

It was better not to attempt to enumerate the various forms of slavery for in mentioning some there was danger of forgetting others.

Mr. PAVLOV (Union of Soviet Socialist Republics) recalled that during the deliberations in the Drafting Committee he had proposed two amendments: The inclusion of the words "and slave trade" after the word "slavery", and the addition of a second sentence reading "All attempts at the establishment or retention of slavery or slave trade should be prohibited under threat of punishment by law".

The CHAIRMAN and the representative of India believed the addition of the words "and slave trade" to be unnecessary as in their opinion the word slavery included slave trade. They felt that the sentence proposed by the USSR representative would be inappropriate in the Declaration, which was a statement of human rights, but could perhaps be considered for inclusion in the Covenant.

Mr. CASSIN (France) supported the first amendment proposed by the USSR representative and said that if it were adopted he would not ask for a vote on the first sentence of the French text.

/Although he

Although he agreed that slavery and slave trade should be prohibited, he considered the inclusion of the clause on punishment inappropriate in the Declaration for then similar penal clauses would have to be included in every article to cover cases of violation.

The first USSR amendment was rejected by nine votes to six.

The second USSR amendment was rejected by ten votes to four.

The joint United Kingdom and Indian text was adopted by nine votes to three with three abstentions.

Mr. CASSIN (France) expressed his Government's desire to see a particularly strong condemnation of slavery included in the Declaration and requested that the last sentence of the French text should be put to the vote.

Mr. FONTAINA (Uruguay) stated that he agreed on the substance of the French text but felt that juridical considerations should be left out of the Declaration as they merely served to limit the principles to which they applied.

The CHAIRMAN agreed with the views expressed by the representative of Uruguay.

The last sentence of the French text, "Their practice is a challenge to the conscience of the world", was rejected by seven votes to two, with six abstentions.

Article 3, paragraph 2

The CHAIRMAN drew the attention of the Commission to the following new draft of article 3, paragraph 2, which had been prepared by the small drafting group set up for that purpose at the previous meeting:

"All are equal before the law and are entitled to equal protection of the law without any discrimination, and against any discrimination in violation of this Declaration or incitement to such discrimination."

/Mr. HOOD

Mr. HOOD (Australia) objected that there was over-elaboration of the wording at the expense of clarity, and that the word "discrimination" had been used with two different shades of meaning. He proposed that the word "distinction" should be substituted for the first use of the word "discrimination", so that the wording would then be "...without distinction," against any discrimination..."

Mr. CHANG (China) explained that the small drafting group had not been particularly satisfied with the final wording; the text had, however, the advantage of being in conformity with the decisions taken by the Commission at the previous meeting, and could therefore be adopted without the Commission reconsidering the votes already taken.

Mr. WILSON (United Kingdom) stated that he, as a member of the drafting group, was bound by the text it had produced. He reminded the Commission that he had opposed the inclusion of the clause "against discrimination and against incitement", since, however, the Commission had decided in favour of its inclusion, the present draft represented the most satisfactory one within that decision. He proposed therefore, that the second part of the paragraph should be put to the vote first.

He was willing to accept the Australian amendment.

Mr. CASSIN (France) also declared his readiness to accept the Australian amendment, provided the Chinese representative had no objection to it. From the point of view of style, he found it an improvement.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) averred that, in spite of the long discussion of article 3 at the previous meeting, when decisions had been taken concerning its contents, the text now proposed represented something quite different. In his opinion it would be incorrect to reconsider the decisions already taken, and therefore the only part of the draft open to discussion was the phrase "in violation of this Declaration", which had not been agreed upon at the earlier meeting.

Mr. WILSON (United Kingdom) assured the Byelorussian representative that he was not proposing the reconsideration of the paragraph; he had merely suggested that a vote should be taken first upon that part of the paragraph which had not been decided upon earlier.

The CHAIRMAN stated that, as the Australian amendment was only a minor drafting change, it could be accepted without reconsidering earlier votes.

Mr. PAVLOV (Union of Soviet Socialist Republics) protested that the drafting group had gone beyond its terms of reference, which had been to decide where the phrase "in violation of this Declaration" was to appear in the paragraph.

The Australian amendment only made the position more complicated, since the Commission had decided upon the word "discrimination".

The CHAIRMAN pointed out that the drafting group had not exceeded its mandate, since the new draft contained no substantive changes from the decisions which had been taken at the previous meeting.

Mr. CHANG (China) recalled that by the two votes taken at the previous meeting, the Commission had decided that the phrase "without and against any discrimination" was to be included, and that mention was to be made of incitement to discrimination. The only question not decided had been the position of the phrase concerning the principles of the Declaration, the inclusion of which had been suggested by the representative of France. The drafting group had decided, with the agreement of the French representative, that the phrase "in violation of this Declaration" should qualify the phrase "against any discrimination" and not the phrase "without any discrimination".

/Mr. Chang

Mr. Chang contended that in making that decision, the drafting group had in no way overstepped its terms of reference. If, however, any members felt that an unwarranted liberty had been taken with the wording, the Commission could revert to the original text, in which case the Chinese delegation would abandon the compromise text and urge, as before, a shorter paragraph, ending with the words "and against any discrimination".

With regard to the Australian amendment, its acceptance would necessitate a reconsideration of the votes taken at the previous meeting.

Mr. CASSIN (France) confirmed the statement of the Chinese representative. The drafting group had carried out its mandate in strict observance of the instructions of the Commission, and had unanimously decided that the qualifications "in violation of this Declaration" could only be placed after the phrase "against any discrimination".

The Australian amendment seemed to him to be chiefly a question of style, to avoid the repetition of the word "discrimination".

The CHAIRMAN ruled that the text submitted by the drafting group embodied the meaning of the votes taken previously, and that the Australian proposal was simply an amendment to the wording of the text of the drafting group, the acceptance of which would not necessitate any reconsideration of those votes.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) objected to that ruling as incorrect. The Chairman declared herself willing to have the ruling put to a vote.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) could not agree that the Australian amendment was merely a question of form; as far as the Russian translation was concerned, it certainly changed the substance of the article.

He was opposed to any reconsideration of the votes already taken, and thought a vote should be taken upon the text prepared by the drafting group.

The CHAIRMAN proposed that since it was obvious that there would be no agreement at the present stage, the only procedure was for the drafting group, together with the representatives of Australia and the Byelorussian Soviet Socialist Republic, to discuss the text again, and present alternative formulas for the Commission to vote upon.

Mr. CHANG (China) supported that proposal.

Mr. WILSON (United Kingdom), while not opposing the suggestion, asked whether the drafting group was to consider itself bound by the actual words decided in the votes at the earlier meeting. He had thought the group was well within its mandate if it changed certain words or expressions merely as a matter of style.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) could not agree with the United Kingdom representative that style only was involved. The Australian amendment of "distinction" for "discrimination" was an alteration of substance. The word "discrimination" had already been adopted at the previous meeting, and must be retained.

/Mr. LOPEZ

Mr. LOPEZ (Philippines) considered the text produced by the drafting group was in conformity with the votes taken at the previous meeting. The Australian amendment, however, was an amendment of substance, and could not be accepted unless the Commission decided to reconsider the votes.

If the article were to be returned to the drafting group, however, he would ask them to consider the omission of the clause "in violation of this Declaration". There might be certain rights protected by national laws which found no place in the Declaration, and the clause in question would have the effect of limiting the scope of the principle embodied in the article.

Mr. CASSIN (France) stated that there was no difference of substance between the words "distinction" and "discrimination" in French. For his part, he preferred the word "discrimination", but he had used the word "distinction" in his translation of the text submitted by the drafting group because that word was found in all the official translations of "discrimination".

Mr. HOOD (Australia) declared that in the circumstances he was willing to withdraw his amendment, which he had put forward only in the interest of clarity.

The CHAIRMAN asked the drafting group to take into account the fact that the word "distinction" was used throughout the Charter, and that the use of the word "discrimination" would constitute an important change.

Since the Australian representative had withdrawn his amendment, he would not need to take part in the discussions of the drafting group which would now be composed of the representatives of China, France, the United Kingdom, the Byelorussian Soviet Socialist Republic and the Philippines.

The meeting rose at 1 p.m.