

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

INTERNATIONAL BILL OF RIGHTS

FIRST SESSION

SUMMARY RECORD OF THE EIGHTEENTH MEETING

Held at Lake Success, New York, on Wednesday, 25 June 1947, at 10:30 a.m.

Present:

Chairman:	Mrs. Eleanor Roosevelt	(United States of America)
Vice-Chairman:	Dr. P. C. Chang	(China)
Rapporteur:	Dr. Charles Malik	(Lebanon)
	Mr. Ralph L. Harry	(Australia)
	Mr. H. Santa Cruz	(Chile)
	Mr. Pierre Ordonneau	(France)
	Prof. V. Koretsky	(Union of Soviet Socialist Republics)
	Mr. Geoffrey Wilson	(United Kingdom)

Non-Governmental Organizations:

	Miss Toni Sender	(American Federation of Labor)
	Mrs. H. Fuhrman	(International Co-operative Alliance)
Secretariat:	Prof. J. P. Humphrey	(Secretary of the Committee)
	Mr. Edward Lawson	

1. Consideration of Chapter III of Draft Report of the Drafting Committee to the Commission on Human Rights (Document E/CN.4/AC.1/14)

The CHAIRMAN invited the Rapporteur to present the text of Chapter III as revised by him and the Representative of Australia.

The RAPPORTEUR read the following text:

/ "CHAPTER III

"CHAPTER III

"The Question of Implementation of an International
Bill of Human Rights

"20. The Drafting Committee found it necessary from time to time to take into account possible methods of enforcement, particularly when considering the problem of a Draft Convention and the United Kingdom proposals. It devoted one session specifically to the question of implementation taking as a basis for discussion a paper prepared by the Secretariat (Annex F).

"The consensus of opinion of the Committee was that the international community must ensure the observance of the rights to be included in the International Bill of Human Rights. However, a wide range of views was expressed as to the precise manner in which this objective could be achieved.

"The following is a summary of the principle observations made during the discussion:

- (a) that a Declaration of Human Rights and Fundamental Freedoms in a resolution of the General Assembly would in itself have considerable moral weight; but
- (b) that a more effective method for establishing human rights would be to embody them in a Convention in which the signatories would recognize them as international law;
- (c) that the signatories of such a Convention should also accept the obligation to ensure that these rights be enforceable by domestic laws in domestic courts; (it was clear from the discussion that in this connection the position of federal States, of States without written constitutions and of States where law has not been codified, would require special study);
- (d) that among possible deterrents against violation of a Convention are publicity and international censure which

/might be

might be achieved by

- (i) petitions by individuals and groups to the United Nations,
- (ii) extension of the powers of the Human Rights Commission or creation of new machinery within the framework of the United Nations to receive, sift, examine and deal with communications alleging the violation of human rights,
- (iii) requests by the Secretary-General to Member Nations for reports on their observance of human rights,
- (iv) discussion in the General Assembly;
- (e) that an International Court of Human Rights, along the lines of the Australian proposal, be established for the adjudication of cases of alleged violation of human rights;
- (f) that any State persistently violating human rights should be expelled from the United Nations.

"None of the above suggestions was approved by the Committee as such; indeed strong objections were voiced against many of them. The Committee merely transmits them to the Commission on Human Rights for its information.

"21. The Committee considered that in addition to enforcement measures the United Nations should promote through education the widest possible respect for human rights. It was suggested that a special international organ might be required for this purpose. The Committee also recognized that observance of human rights could not be completely ensured unless conditions of social progress and better standards of life were established in larger freedom."

Professor KORETSKY (Union of Soviet Socialist Republics) pointed out that the observations cited in Paragraph 20 were made by individual Members and that they should not be regarded as the opinion of the whole Committee.

/With regard

With regard to Section 21 he suggested either deleting the last two sentences or removing them to Section 20, since the Committee as a whole had not agreed on the contents of any document.

Mr. HARRY (Australia) suggested amending the third paragraph of Paragraph 20 to read: "The following is a summary of the principal observations made by one or more Members of the Committee."

Mr. WILSON (United Kingdom) suggested the insertion of the idea of using the existing organs of the United Nations in the first sentence of Paragraph 21.

Professor KORETSKY (Union of Soviet Socialist Republics) disagreed with Mr. Wilson's view and suggested the retention of the first sentence and the insertion of "by individual Members" after "It was suggested" in the second sentence.

Mr. HARRY (Australia) proposed the following wording: "It was suggested by individual Members of the Committee that such education should be carried out through the existing organs of the United Nations or a possible international organ."

Dr. CHANG (China) pointed out that the idea of using existing organs had not been clarified during the previous meetings and that therefore he felt it might not be included here.

The CHAIRMAN thought that it might be well to keep the original text of Section 21 with the insertion of "by individual Members" after "It was suggested". Mrs. ROOSEVELT (United States of America) then suggested substituting "there should be some form of implementation with respect to human rights" for "the international community must ensure the observance of ..." in the second part of Paragraph 20.

Dr. CHANG (China) referring to the same paragraph, pointed out that there was no expression of the consensus of opinion of the Committee regarding these principles. Therefore he suggested the deletion of the first sentence. With regard to the word "session" in the first paragraph of Paragraph 20, he thought that the word "meeting" should be substituted.

/Mr. HARRY

Mr. HARRY (Australia) proposed the following change: "The Committee acted on the assumption that the international community ..." in order to meet the objections expressed. This was accepted.

Chapter III was accepted with the following alterations:

(a) substituting "meeting" for "session" in the first paragraph of Section 20;

(b) deleting "consensus of opinion of the" and inserting "acted on the assumption" after "The Committee" in the second paragraph;

(c) substituting "by one or more Members of the Committee" for "during the discussion" in the third paragraph; and

(d) inserting "by individual Members" after "It was suggested" in Section 21.

2. Consideration of Articles 12 to 40 in Annex F of the Draft Report

Article 12

Mr. WILSON (United Kingdom) suggested deleting the words "Alternative Text (Australia)", since the Committee had accepted this text as its own; and deleting entirely the United Kingdom alternative.

Mr. ORDONNEAU (France) pointed out that Professor CASSIN had insisted on the use of the word "inviolability" in this Article.

The CHAIRMAN, recalling the joint French and Chilean text, stated that Article 12 then should read as follows:

"The privacy of the home and of correspondence and respect for reputation shall be protected by law.

Alternative Text (Chile and France)

"The right to inviolability of privacy, of the home and of correspondence, and respect for reputation, shall be protected by law."

Article 13

Professor KORETSKY (Union of Soviet Socialist Republics) thought that the wording of Article 13 should be more conditional.

/Mr. WILSON

Mr. WILSON (United Kingdom) suggested the division of this Article into two paragraphs by making the last part of the first sentence an independent paragraph.

The RAPPORTEUR said that if this suggestion were accepted the footnote should apply to both paragraphs. He pointed out that the words "should not be a final one, but should ...," in the footnote, should be deleted.

The CHAIRMAN said that Article 13 could be so revised.

Article 14

As there were no comments on Article 14, it was accepted without change.

Article 15

Mrs. ROOSEVELT stated that the United States suggested that the phrase "he shall have the right to consult with and to be represented by counsel" should not be a footnote but should be included in the Article.

The RAPPORTEUR explained that because of the lack of clear agreement between the Chairman and Professor CASSIN on this point this phrase had been put into a footnote. Dr. CHANG (China) suggested putting it at the end of the Article. The RAPPORTEUR accepted the change. Mr. ORDONNEAU (France) suggested the following text, in French, to replace the second sentence of the second paragraph of the Article:

"Il aura le droit d'être assisté et, toutes les fois que sa comparution personnelle ne sera pas exigée par la loi, représenté par un conseil."

The RAPPORTEUR accepted these suggestions.

Article 16

The CHAIRMAN said that since there were no comments on Article 16, it should be accepted as it stood.

Article 17

Mr. WILSON (United Kingdom) suggested deleting the first footnote and inserting "and of the United Kingdom" after "Australia" in the following footnote.

/The CHAIRMAN

The CHAIRMAN stated that the United States objected to the use of the word "personal" as qualifying "property" because of its technical meaning in English and American law.

Mr. SANTA CRUZ (Chile) wished to have the concept of the right to property, as stated in the Chilean Draft, included in the footnote.

The RAPPORTEUR accepted these suggestions.

Articles 18 and 19

The CHAIRMAN, after reading Articles 18 and 19, stated that they were acceptable as they stood.

Article 20

Mr. WILSON (United Kingdom) thought the whole of Article 13 of the United Kingdom Draft should be included as the United Kingdom alternative text for Article 20.

Mr. HARRY (Australia) felt there was little difference between the joint alternative text of Australia and Lebanon, and that of France.

The RAPPORTEUR pointed out that the only difference between the original draft of Professor CASSIN and the alternative text of Lebanon was the inclusion of the idea of change of beliefs; Professor CASSIN had accepted this idea.

The alternative text agreed to by the Representatives of France, Lebanon and Australia was accepted as Article 20. The United Kingdom text was inserted as an alternative.

Article 21

Mr. HARRY (Australia) suggested the deletion of the footnote of Article 21, and some change of the word "molested" in the Article.

Mr. SANTA CRUZ (Chile) thought that the first sentence of Article 21 should be kept as the alternative text of France and Chile. He agreed with the suggestion of deleting the footnote.

Mr. ORDONNEAU (France) suggested the following French alternative text:

/"Personne

"Personne ne peut être inquiété en raison de ses opinions.

"Chacun est libre de soutenir ou d'exprimer son opinion, de connaître celle des autres, de recevoir ou de rechercher des informations à toutes les sources possibles."

The RAPPORTEUR accepted these suggestions.

Article 22

Mr. WILSON (United Kingdom) suggested deleting the word "free" in Article 22.

The CHAIRMAN thought that "equal" might be used instead.

Mr. HARRY (Australia) suggested changing the words "must be" in the footnote to "would need to be..."

These changes were accepted.

Articles 23, 24 and 25

The CHAIRMAN, after reading Articles 23, 24 and 25 said that since there were no comments they were accepted as they stood.

Article 26

With regard to Article 26, the CHAIRMAN recalled that Professor CASSIN had accepted the Alternative Text. Mr. WILSON (United Kingdom) recalled that the United States text had been accepted by the Committee. Mr. HARRY (Australia) said that was also his recollection. He suggested using the United States text as Article 26, and using the wording suggested by the Representatives of Chile, France and Lebanon as the alternative text. This suggestion was accepted.

Article 27

Mr. WILSON (United Kingdom) suggested the deletion of the word "fair" in Article 27. The CHAIRMAN agreed to this change and recalled that the Committee had accepted the wording "to conform to wishes of the people". The second sentence of Article 27 then would begin: "These wishes shall be ..." Mr. HARRY (Australia) remarked that was also his recollection. The RAPPORTEUR accepted these changes.

/Article 28

Article 28

The CHAIRMAN suggested inserting the words "to hold public office" after "public employment". Dr. CHANG (China) suggested adding the following sentence to Article 28: "Access to examinations for public employment shall not be a matter of privilege or favour".

The RAPPORTEUR said the acceptance of this suggestion called for the deletion of the first footnote.

Article 29

The CHAIRMAN suggested the deletion of the words "and the duty" and the words "and to the full development of his personality" in Article 29. This was accepted.

Article 30

There were no comments on Article 30.

Article 31

Dr. CHANG (China) thought the word "and" in Article 31 might better be changed to "or". The RAPPORTEUR accepted this suggestion and suggested the substitution of "shall" for "should" in this Article.

Article 32

There were no comments on Article 32.

Article 33

Mr. WILSON (United Kingdom) called the attention of the Committee to the typing error of the word "official" for "social". With regard to the footnote of this Article he felt that the words "the Representative of the United Kingdom" should be changed to "the Drafting Committee".

Article 34

Referring to Article 34, the CHAIRMAN recalled that the Committee had accepted the United States Text. The RAPPORTEUR said that her recollection was correct.

Article 35

After a number of comments, Article 35 was accepted as it stood.

/Article 36

Article 36

The CHAIRMAN stated that Article 36 should be deleted and attached to the working paper as a footnote.

Article 37

The RAPPORTEUR read the original Article 37 as Article 36.

The CHAIRMAN remarked that the subject matter of this Article was so important that it should have the most careful consideration of the Commission on Human Rights. Mr. ORDONNEAU (France), referring to different ethnic groups in Switzerland, emphasized that the Article dealt with more than the question of minorities.

Mr. HARRY (Australia) suggested the following footnote:

"In view of the supreme importance of this Article to many countries, the Drafting Committee felt that it could not prepare a draft Article without thorough pre-examination by the Commission on Human Rights and suggested that it might **if** necessary be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for examination of the minority aspects."

The CHAIRMAN said this suggestion should cover the opinions expressed regarding this Article.

Articles 38, 39 and 40

The CHAIRMAN pointed out that Articles 38, 39 and 40 should be deleted, as they dealt with implementation, which was to be considered at a later stage. She suggested that these three Articles should be included in the Secretariat document on implementation, that the substance of the last paragraph of Article 40 should be included in the Preamble, and that the consensus of opinion of the Committee was that the Report should be approved.

The meeting adjourned at 1:30 p.m.
