

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

SECOND SESSION

SUMMARY RECORD OF THE TWENTIETH MEETING

Lake Success, New York

Monday, 3 May 1948 at 3.15 p.m.

Present:

Mr. Heywood	(Australia)
Mr. Santa-Cruz	(Chile)
Dr. Wu	(China)
Mr. Ordonneau	(France)
Mr. Malik	(Lebanon)
Mr. Fearnley	(United Kingdom)
Mrs. Roosevelt	(United States of America)
Mr. Pavlov	(Union of Soviet Socialist Republics)

Specialized Agencies:

M. René Lohar (UNESCO)

Non-Governmental Organizations:

Miss Tcni Sender (American Federation of Labor)

Secretariat: Dr. E. Schwelb

Mr. John Male

1. OPENING OF THE MEETING AND ADOPTION OF THE PROVISIONAL AGENDA

Mrs. ROOSEVELT (United States of America) opened the meeting and welcomed the members of the Committee. She urged that the Committee proceed with its work as quickly as possible, enumerated the items of the Draft Provisional Agenda, and asked for comments from members.

Mr. PAVLOV (Union of Soviet Socialist Republics) considered that with reference to Item 4 of the Draft Provisional Agenda, it would be more correct to hold a general debate on the basic questions concerning the Draft Declaration on Human Rights, the Draft Covenant on Human Rights and the Measures of Implementation than to discuss the drafts prepared by the

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Commission on Human Rights article by article. He pointed out that it was in this way that work on the Charter of the United Nations was carried on. He would be in a position, if Item 4 of the agenda were changed, to submit a draft outline of a Draft Covenant on Human Rights.

Mrs. ROOSEVELT (United States of America) understood the delegate of the Union of Soviet Socialist Republics to mean that if this new method of discussion were adopted, the Union of Soviet Socialist Republics would be ready to submit a draft document of a Covenant on Human Rights. Considering this, she felt that the Committee should first adopt the Provisional Agenda. After adoption of the agenda, the Committee could proceed, when Item 4 was under consideration, to a discussion of the method proposed by the delegate of the Union of Soviet Socialist Republics.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that approval of the agenda did not place the Union of Soviet Socialist Republics under an obligation to discuss article by article the provisions listed under Item 4. He felt that it would be more correct to word this item "to provide for a general discussion of the basic questions of the Declaration which could be the basis for fundamental provisions and which could be the foundation of the Draft International Declaration on Human Rights, and the Draft Covenant on Human Rights".

Mrs. ROOSEVELT (United States of America) pointed out that since much work had already been done with regard to the Declaration and Covenant and since some Governments had already submitted their comments, she felt that in this last stage of the work, it would be difficult to ignore the documents that had been prepared. She was under the impression that the reason the Government of the Union of Soviet Socialist Republics had not submitted comments was that the Union of Soviet Socialist Republics wanted to change the whole approach to the problem.

According to the Economic and Social Council resolution, the observations, suggestions and proposals of Governments were to be used as a basis for re-drafting, which might include preparation of a Draft Declaration, a Draft Covenant and Measures for Implementation. The task of the Drafting Committee, therefore, would be to produce documents on all three points, unless the question of Measures of Implementation were to be incorporated into the Covenant, in which case only two documents would be required. Ideally the Committee should base its new text on the comments on Governments accepting what was found to be valuable and rejecting what was disapproved by the Committee. She declared that little would be gained by a discussion of general principles, since this was not the time for theoretical conjecture.

/The representative

The representative of the Union of Soviet Socialist Republics, however, had suggested that the Committee proceed to a discussion of general principles. She considered that this would be contrary to the procedure envisaged by the Economic and Social Council and that the question should be postponed, in any case, until after the election of officers.

Mr. SANTA-CRUZ (Chile) stated the task of the Drafting Committee was quite clearly defined in the terms of reference established by the Economic and Social Council and the Commission on Human Rights. He pointed out that in the Fourth Session of the Economic and Social Council, it had been decided to establish the Drafting Committee of the Commission on Human Rights with a view to preliminary consideration of the problem, after which the Commission on Human Rights, at its Second Session, would prepare a draft document. This would be submitted to Governments for comment, after which it would be the task of the Drafting Committee to re-draft the document for submission to the Third Session of the Commission, which would refer the completed document to the Economic and Social Council.

The task, therefore, of the Drafting Committee was to revise the document already prepared by the Second Session of the Commission, on the basis of comments of governments. The Committee could, of course, discuss general principles under Item 4 of the Provisional Agenda and he felt that comments received from the Governments would provide a good field for such discussion. Should any member of the Committee decide to propose a new draft, this procedure would be entirely acceptable.

Mrs. ROOSEVELT (United States of America) stated that full opportunity will be given to the delegate of the Union of Soviet Socialist Republics to present his views when Item 4 of the Provisional Agenda was being discussed.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that the problem before the Committee was carefully to prepare the basis of its work, in order that a solid foundation be established. Therefore, he felt that before taking up any Draft Declaration, Draft Covenant or Measures for Implementation, a general discussion under Item 4 of the Provisional Agenda should be held. He disagreed with the statement of the Chairman that discussion could be based only on the draft document prepared by the Commission on Human Rights at its second session.

Mrs. ROOSEVELT (United States of America) explained that the Economic and Social Council's recommendation would not prevent the Committee from changing anything in the documents already presented, nor would it prevent a member of the Committee from presenting a new draft document if he so desired. However, the documents which were already before the Committee

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would have to be considered as the basis of discussion. She felt that too much consideration had been given to these documents for them to be ignored.

She would put the Provisional Agenda to a vote with the understanding that under Item 4 new suggestions and procedures would be presented for consideration but that the Committee should take as a basis for discussion the documents which had already been presented to it together with the comments from Governments.

Mr. SANTA-CRUZ (Chile) quoted part of Resolution 46 (IV) of the Economic and Social Council concerning the work of the Commission and its Drafting Committee. According to this Resolution, a preliminary draft document was to have been prepared in the first instance by the Drafting Committee. The draft as developed by the Commission on Human Rights was to be submitted to all States Members of the United Nations for their observations, suggestions and proposals which then were to be considered as a basis for a redraft, if necessary, by the Drafting Committee. The resulting document was to be submitted to the Commission on Human Rights for final consideration.

Consequently, he pointed out that the final stage of the work had arrived for the Committee. He felt that it was within the power of any delegate to say that he did not agree with the comments of governments or the draft document itself and thus could present an entirely new draft if he chose to do so.

The Provisional Agenda was adopted by 6 votes for, to none against with one abstention.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that he had abstained from voting on the Provisional Agenda because he did not feel that the wording and substance of Item 4 of the Provisional Agenda should be binding on his views. He considered that the item might have been more appropriately worded.

2. ELECTION OF CHAIRMAN

Mrs. ROOSEVELT (United States of America) asked the Committee to proceed with the Election of officers.

Mr. HEYWOOD (Australia) proposed that the officers of the Commission on Human Rights be maintained. He then proposed Mrs. ROOSEVELT (United States of America) for Chairman.

M. ORDONNEAU (France) supported the nomination.

Mrs. ROOSEVELT (United States of America) then asked Dr. SCHWELB, of the Secretariat, to take the chair while the vote was being taken.

Mrs. ROOSEVELT (United States of America) was unanimously elected Chairman and took the chair.

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3. ELECTION OF VICE-CHAIRMAN AND RAPPORTEUR

The CHAIRMAN asked for nominations for the Vice-Chairmanship of the Committee.

Mr. SANTA-CRUZ (Chile) stated that he supported the representative of Australia in his proposal that the same officers be maintained for the Drafting Committee. However, since Dr. CHANG (China) would be unable to be present, he considered that the functions of the Vice-Chairman and Rapporteur could be combined under one office. He then nominated Dr. Charles MALIK (Lebanon).

M. ORDONNEAU (France) supported the nomination.

Dr. MALIK (Lebanon) was elected Vice-Chairman and Rapporteur.

The CHAIRMAN asked the Committee to decide upon its hours of work.

Dr. SCHWELB (Secretariat) said that the Secretariat was at the disposal of the Committee but that he would like to point out that due to the fact that a meeting of the Ad Hoc Committee on Genocide was scheduled for the following afternoon, and since several members of the Drafting Committee were also members of the Committee on Genocide, he would ask the Drafting Committee to hold a morning session only on that day. Due to budgetary limitations, it might be advisable for the Committee to refrain from evening or Saturday sessions.

It was agreed that the Drafting Committee would meet on Tuesday morning, 4 May 1948 at 10.30 a.m.

The Committee decided by a vote of 6 for, with 1 against, its working hours would be daily from 10.30 to 1.00 and from 2.30 to 5.30, exclusive of week ends.

Before proceeding to a general discussion, the CHAIRMAN asked those members of the Committee who had not yet sent in written comments, as well as those who wished to make additional comments, to present them to the Secretariat as soon as possible. She recommended to the Secretariat that all comments from governments be assembled in one document and grouped according to subject matter without acknowledgement of authorship.

Dr. SCHWELB (Secretariat) stated that a document of this nature was being prepared, and would shortly be available.

Mr. PAVLOV (Union of Soviet Socialist Republics) wondered whether, under a grouping of material, such as suggested by the Chairman, it would be possible to become familiar with all the comments of any one government, or even any one given point as set out by a Government in its comments.

Mr. SANTA-CRUZ (Chile) supported the representative of the Union of Soviet Socialist Republics and felt that the comments of governments should be circulated separately. He further wished to know whether it would be possible to have a verbatim record of the proceedings of the Drafting
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Committee. If this was not possible, at least it would be desirable that the summary records be as complete as possible.

Dr. SCHWELB (Secretariat) stated in answer to the first point of the representative of Chile that the Secretariat had prepared a comprehensive document arranging the written comments received from governments according to subject matter under the following main headings:

General Comments, Comments on the Draft Declaration, Comments on the Draft Covenant and Problems of Implementation.

He explained that the delay in presenting the document to the Committee resulted from the tardy arrival of the comments from the Governments. He considered that this document would be satisfactory to the representative of the Union of Soviet Socialist Republics since it embodied comments from eleven Governments now before the Committee in separate documents.

In answer to the second point raised by the representative of Chile, Dr. SCHWELB stated that the provisions laid down by the General Assembly did not permit verbatim reports.

4. GENERAL DISCUSSION

Dr. WU (China) wished to make a few general observations on the Draft Declaration, the Draft Covenant and the question of implementation. In the view of his delegation, the Draft Declaration as contained in the Report of the Second Session of the Commission on Human Rights was too lengthy, too technical and sometimes disorganized in ideas and in form. Some articles were in a declaratory, and some in a mandatory form. Some of the articles implied and demanded obligations on the part of governments. He considered that to be of value, in affecting and influencing public opinion and sentiment, the Declaration should be short, simple and appealing. He maintained that the Declaration could only serve as a moral standard towards which mankind should aspire.

He considered that the same applied to the Covenant, which is also too lengthy, and contained too many detailed limitations which might hinder its acceptance by governments. At this stage of the work, the Covenant should be more concise, with one overall clause of limitation which might be empowered in the future to include the economic and social rights which were so important today.

With regard to the question of implementation, he understood its necessity and importance. The International Bill of Human Rights would be quite meaningless without a provision on implementation. It was his opinion that at this stage of political and social development of human society, the creation of a World Court, either independently or as an adjunct to the present International Court of Justice, could not solve the

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problem of implementation. Implementation should be provided for not by immediate creation of international machinery of a radical nature, but through gradual processes of education.

He hoped that the Committee would avoid singling out the state as the arch-enemy of men; and that the document it forwarded to the Commission would not set the individual, directly or indirectly, at odds with the community in which he resided. It is better, he added, to start with a modest beginning and achieve some success, than to start on an ambitious scale, with probable disappointments.

Mr. PAVLOV (Union of Soviet Socialist Republics) reserved his right to make general comments at a later meeting.

Mr. SANTA-CRUZ (Chile) considered that the Committee was not prepared to present its views before considering the Secretariat's document.

Dr. SCHEWELB (Secretariat) stated every endeavour was being made to have the document ready for the following meeting of the Committee.

The CHAIRMAN pointed out that the separate comments from Governments were in the hands of the Committee.

The meeting rose at 4.35 p.m.
