

COMMISSION ON HUMAN RIGHTS
DRAFTING COMMITTEE
INTERNATIONAL BILL OF RIGHTS
FIRST SESSION

SUMMARY RECORD OF THE TWELFTH MEETING

Held at Lake Success, New York, on Friday, 20 June at 11 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)
Prof. Rene Cassin (France)
Prof. V. Koretsky (Union of Soviet Socialist Republics)
Mr. Geoffrey Wilson (United Kingdom)

Non-Governmental Organizations:

Miss Toni Sender American Federation of Labor

Secretariat:

Prof. J. P. Humphrey Secretary of the Committee
Mr. Edward Lawson

1. Consideration of Revised Suggestions Submitted by the Representative of France for Articles of the International Declaration of Rights (document E/CN.4/AC.1/W.2/Rev.2)

The CHAIRMAN explained that Prof. CASSIN (France) had attempted to abbreviate and combine the thoughts and comments expressed during the discussions of the Drafting Committee. She asked that each Representative try, as far as possible, to limit his comments on each individual point to three minutes in the interest of terminating their work. She suggested that, should the wording of an Article not be exactly as desired,
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any required redrafting might be worked out informally.

As far as the United States was concerned, the CHAIRMAN noted that there might be some reservations which would be brought up at the session of the Commission on Human Rights. It was understood to be the right of every Representative to modify his position on any item at the session of the Commission. She suggested that the Preamble be considered at a later stage, after all the Articles had been examined.

Prof. CASSIN (France) said he recognized the imperfection of the document under consideration. He agreed to the method of procedure suggested by the Chairman.

Article 1

The CHAIRMAN read Article 1. As a general remark, Dr. MALIK (Lebanon) emphasized the fact that the document before them was strictly provisional. He, therefore, reserved the right to suggest alterations in both substance and form in the plenary session of the Human Rights Commission.

The CHAIRMAN made it clear again that it was understood that all delegates reserved the right to modify their position.

Mr. WILSON (United Kingdom) speaking personally, and not as his Government's Representative, said he had several specific reservations. He pointed out that in the present document items appeared which might also be included in a Convention. There was a grave danger in having two documents containing clauses covering the same subject matter in different words. He suggested that those points covered by the suggested Articles for a Convention be omitted from the suggested Articles for a Declaration. He was not opposed to the formulation of a Declaration, but said he believed a Declaration unaccompanied by a Convention would not be useful.

The CHAIRMAN reminded the Committee that the Human Rights Commission

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would have to decide upon the form of the International Bill of Human Rights. The Committee would only present it with one or more working papers. She thought that several Members had expressed the feeling that the Declaration should cover the subject generally, and should be a complete document in itself.

Mr. SANTA CRUZ (Chile) reaffirmed the statement of the Chairman that the Drafting Committee's work was in no way definitive. The Commission on Human Rights itself would decide upon the items to be covered by a Convention and those to be covered by a Declaration.

Dr. MALIK (Lebanon) stated that he had always been in favour of submitting two documents to the Commission on Human Rights. He thought of the Declaration as being an all-inclusive document, embodying the basic principles from which positive law could be extracted. He had never thought of the Declaration as embodying only residual material remaining from the Convention. In his opinion the two documents should not oppose one another, but should supplement each other.

Prof. CASSIN (France) reminded the Committee that the paper was only a working document which was not binding upon the members. He thought that explanatory foot-notes might be used wherever necessary.

Mr. HARRY (Australia) disagreed with Mr. WILSON (United Kingdom) and said that in his view the Declaration must be a comprehensive document covering all rights; it should not, even if a Convention is to be drafted simultaneously, omit reference to matters covered by the Convention. This method would use the Convention as a preamble to the Declaration whereas the Declaration should lead into the preamble of the Convention. He strongly recommended the formulation of a complete Declaration, and agreed that explanatory foot-notes might be helpful.

Articles 1 to 4

The CHAIRMAN said that the United States had considered combining Articles 1 to 4.

/Mr. HARRY (Australia)

Mr. HARRY (Australia) suggested a wording that combined the four Articles into one.

Prof. CASSIN (France) pointed out that three ideas were expressed in the four Articles: (1) the condition of man; (2) the duty of society to man; and (3) what man owes to society. He felt that these would require at least three Articles.

The CHAIRMAN asked the Representative of Australia to draft a somewhat shortened version of Articles 1 to 4, taking her own and Prof. CASSIN's views into consideration.

Dr. CHANG (China) pointed out that the time at the disposal of the Committee was limited and that if redrafts were made of each Article, the work of the Committee would not progress.

Prof. CASSIN (France) stated that he himself reserved the right to make changes in the Articles he had suggested, as he recognized their imperfection.

Dr. CHANG (China) agreed with the suggestion of the United States, that the first four Articles might be merged in some way. He wished, however, to retain the first four words of Article 1, "All men are brothers."

Mr. WILSON (United Kingdom) said that the first three Articles might be considered in the nature of a Preamble. To assure personal rights, however, it would be necessary to include in this Preamble the idea of social and economic rights.

Prof. CASSIN (France) agreed with Mr. WILSON as to the importance of making early reference to social and economic rights. He envisaged Articles 1 to 6 as embodying the general principles of the Declaration of Human Rights. He suggested as a title for the document "Revised Suggestions Submitted as Working Document for Articles of the International Declaration of Human Rights."

Article 5

The CHAIRMAN read Article 5. She said that the United States would prefer deleting the last sentence and would suggest that the Article be

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altered to read:

"All are equal before the law and entitled to equal protection of the law. The law applies to public authorities and judges as well as to individuals."

Dr. CHANG (China) and Prof. CASSIN (France) were in favour of the United States revision. Mr. WILSON (United Kingdom) supported the United States suggestion but preferred that the second sentence read "Public authorities and judges, as well as individuals, are subject to the rule of law."

Article 6

The CHAIRMAN read Article 6. She stated that the United States suggested that "hereunder declared" be replaced by "set forth in this Declaration." Dr. CHANG (China) was in favour of this change. He thought the general principle might be **included** in the Preamble rather than drafted as a separate Article. Dr. MALIK (Lebanon) shared the viewpoint of Dr. CHANG. The CHAIRMAN suggested a foot-note to the effect that if this thought was embodied in the Preamble, it might be deleted in the Declaration.

Prof. CASSIN (France) remarked that Article 6 concluded the General Section of his suggested Articles. He was of the opinion that it could not be absorbed, but should have a place in the body of the Declaration or should be stated very strongly in the Preamble.

The CHAIRMAN suggested that the word "political" be deleted as the word "belief" would cover all types and not be limited to the one specified.

In reply to Prof. KORETSKY (Union of Soviet Socialist Republics), the CHAIRMAN noted that political belief was only one of many types of beliefs and that elimination of the word "political" broadened the Article. Prof. CASSIN (France) pointed out that his original French text did not

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contain the word "political."

Dr. MALIK (Lebanon) said that politics was one of the fundamental activities of man in which discrimination existed. He felt that the Commission on Human Rights should decide whether or not discrimination was allowable on the basis of political belief. There were excesses in some of these practices, he said, and there was no harm in stating that man is free to hold political convictions without danger of discrimination and persecution.

The CHAIRMAN felt it wiser to stick to the wording of the Charter until recommendations on this Article had been received from the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

Prof. CASSIN (France) agreed that the Article should be referred to the Sub-Commission for consideration.

The CHAIRMAN clarified the position of the United States by saying that her Government would agree to the words of the Charter being retained, and a foot-note suggesting referral of the matter to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities being inserted.

Articles 7 and 8

The CHAIRMAN read Article 7. She said that the United States would prefer to merge Articles 7 and 8 to read:

"Everyone has the right to life, liberty and the security of his person. He shall not be deprived of his rights without due process of law in cases prescribed by law. Everyone placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject."

Mr. SANTA CRUZ (Chile) pointed out that both the United States text and the text drafted by Prof. CASSIN referred first to the rights to life,

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liberty and security and then to personal liberty. He called attention to the need at this point to affirm the economic and social rights of the individual and suggested that an Article be added, to read:

"Every person has a right to enjoy conditions of life that enable him to support himself and his family and to develop his personality."

He pointed out that Article 1 of the Chilean draft included the right to sustenance and support in the case of those unable to support themselves by their own efforts. The International Labour Organization had also made provision that all human beings, without distinction as to sex, race or religion, have the right to earn their own livelihood. If such important rights were not mentioned, the International Bill of Human Rights would not be in harmony with the present world.

Prof. CASSIN (France) explained that, in his opinion, Article 7 was a chapter heading which implied all economic rights. Economic rights were stated in greater detail towards the end of the Declaration. Article 7 introduced a whole order of ideas, of which the following Articles were applications.

Mr. WILSON (United Kingdom) felt that, for purposes of a Declaration, Articles 8, 9 and 10 were adequately covered by Article 7, and suggested that the foot-note read: "Articles 7, 8, 9 and 10 will have to be considered in the light of any convention that may be recommended for adoption." He proposed that the word "Everyone" be replaced by the phrase "all men."

Dr. MALIK (Lebanon) agreed with the Representative of Chile as to the necessity of modifying Article 7. He did not feel that Articles 8, 9 and 10 needed to be tied irrevocably to Article 7. He recommended that the clause "right to life and bodily integrity, from the moment of conception, regardless of mental and physical condition" be added.

Dr. CHANG (China) thought it important to take note of the cultural
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development of man, to include "the better development of life itself," inasmuch as mere physical existence was not sufficient.

Mr. SANTA CRUZ (Chile) said that he was aware that Prof. CASSIN had not overlooked the importance of economic and social rights. He felt, however, that they should be mentioned in the first Articles.

The CHAIRMAN summarized the general feeling of the Committee, that Articles 7, 8 and 9 should stand as separate Articles. Two Representatives had expressed the view that the meaning of "right to life" should be expanded. The United States was willing to accept the Articles, together with a foot-note summarizing the suggestions made by various Members.

Mr. WILSON (United Kingdom) conceded that Article 7 stated general principles whereas Articles 8, 9 and 10 embodied methods. He withdrew his suggestion that Article 7 be grouped with 8, 9 and 10 and included in the foot-note.

Article 9

The CHAIRMAN read Article 9. She said that the United States would suggest the addition of the phrase "or punished for crime" after the word "convicted", and the elimination of the phrase "or has been legally summoned." Her Government also wished to add "including the right to be confronted with the witnesses against him, the right of compulsory process for obtaining witnesses in his favour, and the right to consult with and be represented by counsel."

Prof. CASSIN (France) agreed that "or punished for crime" should be added. Although he had no objection to the right of obtaining witnesses and counsel, he felt that specification of one such item would necessitate citation of many others.

Dr. CHANG (China) pointed out that Article 7 was a statement of general principle while Article 8 dealt with a process of law. He thought that the "due process of law" could not be spelled out. He believed that

Article 8 should remain but that Articles 9 and 10 might be relegated to a foot-note or commentary.

Mr. WILSON (United Kingdom) thought that his suggested wording of a foot-note would cover Dr. Chang's point inasmuch as "considered" was a broader term than "shortened".

The CHAIRMAN stated that the general feeling of the Committee was that Article 8 should be retained. Although Articles 9 and 10 contained important points, they should be included in a subsidiary position to Articles 7 and 8.

Dr. CHANG (China) suggested that the first sentences of Articles 8, 9 and 10 might form a new Article 8, as they enunciated ideas of a general character. The remaining sentences of the Articles were qualifications and might be added as foot-notes or commentaries.

The CHAIRMAN requested Dr. CHANG to redraft the Articles and foot-note for consideration at the afternoon meeting.

The meeting adjourned at 1:00 p.m.
