

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

INTERNATIONAL BILL OF RIGHTS

FIRST SESSION

SUMMARY RECORD OF FOURTEENTH MEETING

Held at Lake Success, New York, Monday, 23 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)
	Prof. René Cassin	(France)
	Mr. Geoffrey Wilson	(United Kingdom)
	Prof. V. Koretsky	(Union of Soviet Socialist Republics)

Specialized Agencies:

Mr. J. Havet (UNESCO)

Non-Governmental Organizations:

Miss Toni Sender (American Federation of Labor)
Mrs. Helen Fuhrman (International Co-operative Alliance)

Secretariat: Prof. J. P. Humphrey (Secretary of the Committee)
Mr. Edward Lawson

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

Prof. KORETSKY (Union of Soviet Socialist Republics) stated that in the Summary Record of the sixth meeting the proposal to draft a Manifesto and a Convention had been incorrectly reported as a decision of the Committee.

/It was

It was his understanding that no definite decision had been taken, though the Committee had considered the possibility that the Commission on Human Rights might prepare two such documents. He requested that the record be corrected.

The CHAIRMAN stated that, in her understanding, no definite decision had been taken on any matter. In submitting its Report to the Commission on Human Rights, the Drafting Committee would present two documents, thereby endorsing the proposal to draft a Declaration and a Convention, but the Commission on Human Rights need not necessarily adopt this plan. With regard to the Summary Record of the sixth meeting, she requested the Secretariat to modify the wording.

Article 26

The CHAIRMAN read the text of Article 26. She explained that Articles 21-26 had been discussed at an informal meeting held at Hyde Park on 22 June. Some difficulty had been experienced in phrasing Article 26. The United States wished to suggest the alternative wording "Every one has the right to take an effective part, directly or through his representatives, in his Government".

Prof. CASSIN (France) said that the English text as it stood seemed satisfactory to him except for the last sentence relating to public expenses, which he felt imposed an obligation and was not a right. Mr. SANTA CRUZ (Chile) supported this view.

Mr. WILSON (United Kingdom) preferred the United States draft: he felt that if the functions of Government are specified, they must all be stated, and he preferred that they should not be enumerated.

Mr. HARRY (Australia) supported the United States text but suggested the alternative arrangement of words: "To take an effective part in his Government directly or through his representatives", which the Chairman accepted.

/Dr. CHANG (China)

Dr. CHANG (China) was in favour of the United States form, adding that Government included all forms of government, and not only State or territorial government as in the other text.

The CHAIRMAN said that there was general agreement on the elimination of the last sentence of the text before them. She suggested that both versions of the first sentence should be submitted in the Declaration together with an explanatory note. She added that the United States alternative "in his Government" applied to all persons in non-self-governing territories as well as to all other people.

Note on Article 23

Prof. CASSIN (France) pointed out that "freedom of peaceful assembly" had been omitted from the text of Article 23, and it was agreed that this should be inserted.

Miss SENDER (A.F. of L.) asked for an explanation of the suppression of the words "and other purposes compatible with this Declaration" which had existed in the original text.

Mr. HARRY (Australia) explained that some limitation of the right of assembly and of association was involved, but all the limitations which would inevitably have to be included would appear in a Convention: if the Convention did not appear simultaneously with the Declaration this would need further elaboration. The CHAIRMAN added that a note to this effect would be inserted.

Article 27

The CHAIRMAN read the text of Article 27 and proposed the addition of "and by secret ballot" which Prof. CASSIN (France) said already existed in the French text.

/Mr. HARRY

Mr. HARRY (Australia) proposed as a drafting change that the Article should form one complete sentence, omitting the words "these wishes are" from the second sentence.

Prof. CASSIN (France) stated that the division of the sentence was important, as elections were not the only means of manifesting the wishes of the people; the question of a referendum, as in Switzerland, must be borne in mind. The original text was intended to indicate that periodic free and fair elections are indispensable. He proposed the wording "These wishes are manifested particularly by democratic elections". Mr. HARRY accepted this.

Dr. MALIK (Lebanon) objected to the word "consent" in the first sentence. He said that this implied that the people are passive, whereas it is the intention of the Declaration that the people should take the initiative in determining the Government of the State. He proposed the substitution of the word "will" which was accepted.

The Article was thus amended to read "The State can derive its authority only from the will of the people and has a duty to conform thereto. This will is manifested particularly by democratic elections, which shall be periodic, free and fair, and by secret ballot".

Article 28

The CHAIRMAN read the text of Article 28 and drew the attention of the Committee to a previous discussion on the substance of this Article in which they had agreed to substitute "equal opportunity of engaging in all public employment, or offices of the State", in the place of "occupying all public functions of the State".

Dr. CHANG (China) proposed the addition of the sentence "There shall be free access to public examinations for public employment". He was in favour of the rest of the Article but suggested that the word "offices" might give rise to misunderstanding as some offices are elective.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) said that to include this sentence would indicate that the Committee was of the opinion that public offices should be filled by competitive examination. He pointed out that in Chile public offices are attained by examination up to a certain point only; the highest appointments are made through the will of the Executive or after consultation with the Legislative power. He felt that this meant too detailed specifications. Dr. CHANG (China) felt there would be no objection to his wording if "offices" were omitted. Mr. WILSON (United Kingdom) had no objection to Dr. Chang's proposal but he pointed out that, as the Article aimed at the prevention of discrimination in public office, it should be referred to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

Prof. CASSIN (France) felt that the text should be left as it stood. The purpose was to prevent discrimination in the selection of officials and to guard against the abuse of power by them. He pointed out that in his original text he had indicated that recruitment should be on the basis of merit, by competitive examination or by consideration of the qualifications of the candidate: it had been suggested that reference should be made to Article 101 of the Charter. Prof. Cassin felt that this was becoming too detailed and belonged to a commentary rather than the Article. If reference is made to examinations, a more general wording must be adopted.

The CHAIRMAN suggested the alternative wording for the second sentence "Access to examination for public employment shall not be a matter of privilege or favour".

Prof. KORETSKY (Union of Soviet Socialist Republics) considered that the Chinese suggestion represented an internal matter for each Government. Examinations do not necessarily ensure democratization of the governmental system, nor are they always carried out in complete objectivity. He felt that if the Government trusted the scientific institutions responsible for the education of prospective officials, examinations would be unnecessary. He was against the inclusion of such a detailed provision in Article 28.

/The CHAIRMAN

The CHAIRMAN suggested that the Article should be submitted with the two alternatives, reading: "Every one shall have equal opportunity of engaging in all public employment of the State of which he is a citizen". A note would then be inserted stating that some members wished the insertion of: "Access to examination for public employment shall not be a matter of privilege or favour". A further note would be inserted indicating the difference of opinion, and the suggestion that the Article be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, after which it might be elaborated further.

Article 29

The CHAIRMAN read the text of the Article and suggested the alternative wording "Every one has the right to a fair and equal opportunity to perform socially useful work ...". As this was the beginning of the section on economic and social rights, the Chairman drew the attention of the Committee to the United States proposals on page 43 of document E/CN.4/AC.1/11, which, it was felt, covered the substance of Articles 29, 31 and 34 of the text before the Committee.

Mr. WILSON (United Kingdom) suggested the suppression of the last sentence "Full development of his personality" as this was covered by Article 2.

Mr. SANTA CRUZ (Chile) supported the United Kingdom proposal. He compared the United States proposal with the text put forward by Prof. CASSIN (France) and declared himself in favour of the latter: Here the right to work is established, and in the United States proposal it is the right to equal opportunity of employment. In modern conditions, he felt it was essential to establish the right to employment. Mr. SANTA CRUZ (Chile) referred to a speech made by President Roosevelt in 1943 concerning the need for a new United States Bill of Rights which would establish the right to useful and remunerative work, and added that this right has been unanimously adopted by meetings of the International Labour Organization and the Conferences on Social Security.

/Prof. CASSIN (France)

Prof. CASSIN (France) explained the purpose and importance of this Article. In two wars, the State had demanded the maximum from millions of men and in these crises had taken over the control of the entire economy of the country. Unfortunately, it was a fact that after the crises it had not been possible to find employment for all these men. He admitted that unemployment cannot be overcome immediately but he felt that the Declaration should establish fundamental rights, such as the right to work, for the future.

The CHAIRMAN stated that the United States had no real objection to this Article except to the idea of "duty to work" which implied an obligation. She wished to point out that, as it is not possible to do more than give fair and equal opportunity to work, the United States had felt that their alternative expressed more accurately what they were trying to achieve at this time.

Mr. SANTA CRUZ (Chile) admitted that realization of the right to work in all countries was for the future but if the Declaration were to be adjusted only to existing conditions it would not achieve a very useful purpose. He felt that the Bill should establish fundamental rights, and that countries should try to find means to adjust their legislation accordingly.

Prof. KORETSKY (Union of Soviet Socialist Republics) stated that the right to work should be placed next to the right to **live**. He referred to Article 118 of the Union of Soviet Socialist Republics Constitution, and stated that Governments which had not yet implemented this right would do so eventually. He felt it was essential that it should appear in the Declaration.

The Article was adopted to read: "Every one has the right to perform socially useful work".

Article 30

The CHAIRMAN read the text of Article 30 and referred to previous discussion by the Drafting Committee on slavery, in which it had been suggested that this Article be omitted. It was agreed to eliminate the Article.

/Article 31

Article 31

The CHAIRMAN read the text of Article 31. There were no comments.

Article 32

The CHAIRMAN read the text of Article 32. Mr. WILSON (United Kingdom) pointed out that the substance of this Article was included in the establishment of the right of association. It was agreed to omit this Article.

Miss SENDER (A.F. of L.) agreed to its omission but said that if it were retained the right of the individual to be represented through free organization should be stated.

Article 33

The CHAIRMAN read the text of Article 33 and stated that the United States supported the substance of the Article but preferred the wording which it had submitted on page 40 of document E/CN.4/AC.1/11, as this was an adaptation of the Constitution of the World Health Organization.

Mr. WILSON (United Kingdom) said that this entire section, which established economic and social rights, should be referred to the appropriate Specialized Agencies for their consideration and comment.

Prof. CASSIN (France) recognized the value of the United States suggestion but he wished to have a separate Article referring to Social Security.

Dr. MALIK (Lebanon) proposed the addition in paragraph 2 of the word "community".

The Article was adopted to read: "Every one, without distinction of economic and social condition, has the right to the highest attainable standard of health. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures".

Article 34

The CHAIRMAN read the text of Article 34, together with the United States alternative proposal, which was accepted by Prof. CASSIN (France).

Mr. SANTA CRUZ (Chile) stressed the importance of social security. He drew attention to a Chilean proposal based on a Conference on Social Security

/held in Chile

held in Chile in 1942, for a provision on these lines to be included in the Preamble. Prof. CASSIN's text provided for Social Security measures, as the only means of protecting an individual against social insecurity and he preferred the wider implication of the United States text. He felt that if the United States text and the Chilean proposal for the Preamble were adopted, the problem would have been adequately covered.

The CHAIRMAN pointed out that all suggestions for the Preamble would go forward to the Commission on Human Rights in the form in which they were made.

Article 34 was adopted in the form put forward by the United States.

Article 35

The CHAIRMAN read the text of the Article, and proposed the addition of the words "without exclusion of private educational facilities or institutions", indicating the importance of these facilities in the United States. She suggested further the omission of the words "access to" in paragraph 2 and the phrase referring to discrimination, as this was already frequently stated.

Dr. MALIK (Lebanon) suggested that either "entitled to learning" or "right to education" might be omitted as both seemed to mean the same thing. He objected that this Article made no reference to the content of education and he felt that this should be stressed by stating the principles of the Charter; otherwise, there was possibility of abuse.

He supported the United States proposal to protect private institutions.

Prof. CASSIN (France) appreciated Dr. Malik's proposal but stated that, if the principle of the right of association were not elaborated as had been agreed, then the right to education should not be elaborated either.

Concerning private institutions, he proposed that this should not be mentioned specifically but that a commentary be added to line 1 which would leave Nations free to establish educational institutions in accordance with their respective systems: the present wording of line 1 left the question open.

/Prof. CASSIN

Prof. CASSIN (France) indicated the importance of retaining the provision concerning discrimination on the grounds of social standing or financial means.

Prof. KORETSKY (Union of Soviet Socialist Republics) was not in favour of the additional provision relating to private institutions. He felt that education should be free, and referred to the provisions in the Constitution of the Union of Soviet Socialist Republics. He was strongly in favour of retaining the entire clause relating to discrimination.

The CHAIRMAN said that she had no objection to retaining the entire clause on discrimination.

Mr. WILSON (United Kingdom) declared himself in agreement in principle with the Representatives from France and the Union of Soviet Socialist Republics. He proposed the omission of the words "youths and adults" in paragraph 2, and of the word "beneficiaries". He suggested that the whole of paragraph 2 required rewording to state more accurately what was intended; it should say that technical, professional and higher education shall be available to all without distinction as to race, sex, language or religion, and access to these facilities shall be on the basis of merit alone. This would cover the point about social standing and financial means, which need not then be mentioned.

Concerning the provision relating to private institutions, he felt it might be covered if the wording were changed in paragraph 1 to read: "Primary education is obligatory for all children and adequate facilities free of charge shall be provided by the State", thus leaving the establishment of private institutions an open question.

The CHAIRMAN said she would accept this alternative wording, but indicated the reason for the inclusion of the word "adults": it was generally recognized that educational facilities should be afforded the young but it was only gradually being recognized that older people also might have the right to educational opportunities.

/Mr. HARRY

Mr. HARRY (Australia) said that the distinction between the rights and duties of States should be maintained: compulsory education was not on the same footing as the right to education. He suggested the alternative wording "Primary education must be available free of charge". He considered that the question of private educational facilities was a separate question but was perhaps not excluded under this alternative wording.

Mr. HARRY felt that no obligation should be laid down for a State to maintain a particular type or particular degree of education; this must vary according to the resources of the country and the type of community. There must be equal opportunity of access to all institutions of higher learning which are maintained by the State or community.

Miss SENDER (A.F. of L.) requested that in the sentence relating to discrimination the word "beliefs", that is, political beliefs, should be inserted after "religion".

Mr. SANTA CRUZ (Chile) was in agreement with the provisions to recognize the right to education and the obligation to provide free primary education and equal access to higher education, which should be limited by the resources of the State and the capacity of the beneficiary. He felt that the suggestions were best covered by the draft of the Inter-American Juridical Committee, reading:

"The State has the right to assist the individual in the exercise of the right to education, higher and professional, in accordance with the resources of the State. The opportunities of education must be open to all on equal terms in accordance with their natural capacities and their desires to take advantage of the facilities available."

The CHAIRMAN requested Mr. HARRY to examine the Inter-American Juridical Committee's draft and, on the basis of that and the observations of members of the Committee, to redraft Article 35, to be considered further at the next meeting.

The meeting adjourned at 1:10 p.m.