

**ECONOMIC
AND
SOCIAL COUNCIL**

**CONSEIL
ECONOMIQUE
ET SOCIAL**

E/CN.4/AC.1/SR.15
3 July 1947

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

INTERNATIONAL BILL OF RIGHTS

FIRST SESSION

SUMMARY RECORD OF THE FIFTEENTH MEETING

Held at Lake Success, New York, on Monday, 23 June 1947, at 2:30 p.m.

Present:

Chairman: Mrs. A. E. Roosevelt (United States)
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)

Representatives of Specialized Agencies:

Representatives of Non-Governmental Organizations:

Miss T. Sender (American Federation of Labor)

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

1. Consideration of Articles 35 to 42 of the 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)

Article 35

Mr. HARRY (Australia) read Article 35 as amended by him, taking as a basis the Chilean Draft and other suggestions which had been made:

"Every one has the right to education and is entitled to primary education at the expense of the State or community in which he resides. There must, in addition, be equal access for all on the

/basis of

basis of merits and without distinction as to race, sex, language or religion to such facilities for higher education as can be provided by the State or community within the limits of its resources."

The CHAIRMAN asked whether or not it was the consensus of opinion that any reference to private educational facilities and institutions should be omitted. Speaking as the Representative of the United States, she declared herself in favour of including a clause to this effect.

Mr. SANTA CRUZ (Chile) expressed his satisfaction with the new Draft, but suggested that the idea of considering education as an obligation should be incorporated in this Article.

Articles 36 and 37

While waiting for the written version of the amended text, the Chairman read Article 36.

Dr. CHANG (China) thought that the right to a fair share of rest and leisure might be separated from the right to the knowledge of the outside world which could be included in the subject of education.

Prof. CASSIN (France) maintained that it differed from education but felt that perhaps a better formula could be found to express this idea. He added that every one, not only labourers, should have the right to leisure.

Mr. WILSON (United Kingdom) suggested the omission of Article 36 entirely. He said that the substance of this Article might be covered by provisions on education and freedom of information, and that it would involve also the question of freedom of travel. If it was to be retained, it should be spelt out explicitly.

Prof. KORETSKY (Union of Soviet Socialist Republics) remarked that the right to rest and leisure should be treated in relation to working conditions and circumstances of social life, and that the right to the knowledge of the outside world was a matter of information. Referring to countries in which workers still do not enjoy the right to a vacation, he thought it would be better to place this Article near the Article dealing with the right to work.

/Prof. CASSIN (France)

Prof. CASSIN (France) accepted this suggestion.

The CHAIRMAN stated that it should be moved forward to become Article 32. She asked the Committee to decide whether the phrase "to the knowledge of the outside world" should be retained. She thought that it might be included as a footnote to the Article dealing with freedom of information.

Prof. CASSIN (France) felt that the advancement of culture was intended by this phrase and that it had no direct relation to freedom of information.

The CHAIRMAN wondered whether it could not be included in Article 37.

Prof. CASSIN (France) suggested this might be done by the insertion of the words "to broaden his knowledge and outlook through the knowledge of his fellow-men", preceding "to share in the benefits of science" in Article 37.

Mr. SANTA CRUZ (Chile) pointed out this Article was Article 44 of the Secretariat Draft. The idea that scientific inventions should be made available to every individual should be included in this Article.

Mr. WILSON (United Kingdom) said that while the rights set forth in Article 37 should not be denied to the individual, they were very different from the other Articles, and he felt it would be better to include them in the Preamble. Prof. CASSIN (France) agreed to the deletion of "to the knowledge of the outside world" as a result of the discussion.

The CHAIRMAN stated that Article 36 would now read: "Every one has the right to a fair share of rest and leisure". It was the general consensus of opinion that Article 37 be retained as it stood, with a footnote saying that the substance of the Article might be included in the Preamble instead of being spelt out in the Declaration. Dr. CHANG (China) asked for an explanation of the phrase "share in the benefits of science" in Article 37. Mr. SANTA CRUZ (Chile) said that in the Chilean Draft, it was stated that scientific inventions should belong to society and be enjoyed by all.

The CHAIRMAN said that Article 37, as amended, would read: "Every one has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific inventions and discoveries". She added that a footnote could be attached to this

/Article,

Article, stating that it might be proper to include the substance of this Article in the Preamble.

Article 35

Returning to Article 35, the CHAIRMAN, speaking as the Representative of the United States, proposed the addition of the following sentence: "This will not exclude private educational facilities and institutions".

Dr. CHANG (China) proposed that the Article should read:

"Every one has the right to education. Primary education shall be obligatory and shall be provided by the State or community in which he lives. There shall be equal access to technical, cultural and higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language or religion."

The CHAIRMAN proposed the deletion of the words "in which he lives" and Dr. CHANG accepted this amendment.

Prof. CASSIN (France) thought that as some States had not adopted the system of compulsory primary education, it would be unsuitable to introduce this idea in the Article.

Mr. HARRY (Australia) said that his draft did not imply compulsory education and did not exclude private educational facilities and institutions. He agreed that the words "Every one has the right to education" might form a separate sentence.

Mr. WILSON (United Kingdom) was not in favour of including the idea of obligatory education here as work had not been regarded as compulsory in this Declaration. He was not in favour of any reference to private educational facilities and institutions.

Mr. SANTA CRUZ (Chile) thought that if the right to primary education were included it would not be necessary to refer to private educational facilities and institutions.

Mr. HARRY (Australia) proposed as the second sentence of his amended

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text: "Primary education should be free and compulsory", which would incorporate the idea of obligation suggested by the Representative of Chile.

The CHAIRMAN, speaking as the Representative of the United States, said that obligatory education differed from obligatory work. As the child is too young to defend his rights, his right to education should be protected for him. She felt that private institutions of learning should be recognized.

The CHAIRMAN read the amended text:

"Every one has the right to education. Primary education shall be free and compulsory. There shall be equal access for all to technical, cultural and higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language or religion."

Prof. CASSIN (France) said that "social conditions and standing" should be added to the clause on discrimination.

Dr. CHANG (China) stated that he had no objection to the inclusion of reference to social standing or political belief.

Article 38

The CHAIRMAN said that Article 38 referred to special groups and not to individual rights. She felt it was therefore out of place and should be omitted.

Mr. WILSON (United Kingdom) shared this view, but asked Prof. CASSIN what was intended by this Article. Prof. CASSIN (France) said it was intended to protect not only the pecuniary rights of the artist but also his spiritual or moral rights to what he has created.

Mr. WILSON (United Kingdom) believed that some of the items mentioned in this Article belonged to the domain of copyrights. Prof. CASSIN (France) said that he would agree to a footnote to this Article, saying that it might be implemented by a Convention. The CHAIRMAN stated that a footnote would be added to the Article saying that, while this idea might not be included in the Declaration, it should receive consideration for treatment on an international basis.

Articles 39, 40, 41, 42

The CHAIRMAN remarked that Articles 40, 41 and 42, which dealt with the question of implementation, should be considered as suggestions for the Commission on Human Rights but should not be included in the Declaration.

Prof. CASSIN (France) considered that Article 39 was one of the most important Articles as the prevention of discrimination should be emphasized in the Declaration. However, the language in this Article should be appropriate for situations existing all over the world, and suggested that the word "conglomeration" might be better than the word "persons". He proposed that this provision be referred for further study to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The CHAIRMAN said that this Article, as it stood, might give rise to difficult problems and that it should be referred to the Sub-Commission for careful study before any pronouncement on it could be made.

Mr. SANTA CRUZ (Chile) remarked that many countries of America had been created by immigration of people from other countries and that the form and substance of this Article called for most careful consideration.

Dr. MALIK (Lebanon) said that the substance of this Article seemed to be what divided the New World from the Old. In the Old World, there were wide divisions of ethnic groups. In the New World, there was assimilation. He did not object to referring this Article to the Sub-Commission for further study, but insisted that the idea should be included in the Declaration.

Mr. WILSON (United Kingdom) believed that when the time was ripe, something along the lines of the draft Article should be included in the Declaration. However, he deemed it unwise to refer the text of this Article to the Sub-Commission as it would then carry the endorsement of the Drafting Committee. He felt the Secretariat should bring this Article to the Sub-Commission's attention.

The CHAIRMAN thought that a footnote might be attached to the Article saying that this was a draft based on the Secretariat Draft. Mr. WILSON (United Kingdom) opposed the idea of presenting any draft, either to the

/Sub-Commission or

Sub-Commission or to the Commission on Human Rights. The CHAIRMAN stated that the substance, not the wording, was important. Mr. SANTA CRUZ (Chile) agreed with her, and said that he would like to reserve his right to state his position on this question, which he felt was very important, at a later stage. Dr. MALIK (Lebanon) maintained that the question did not necessarily refer to "minority" groups but was concerned rather with rights of ethnical groups in a body politic.

The CHAIRMAN thought that the Committee might decide to refer the substance of Article 39 of the Commission on Human Rights for its consideration as to whether or not it should be referred to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

Dr. MALIK (Lebanon) said that it would be better to state that there had been discussion of Article 39 in the Drafting Committee but the Committee did not take any action and decided to refer the matter to the Commission on Human Rights for possible reference to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The CHAIRMAN, commenting on Articles 40, 41 and 42, said that these Articles might go into a Convention with the exception of the last paragraph of Article 42 which might be included in the Declaration. Mr. WILSON (United Kingdom) thought that the idea contained in the last paragraph of Article 42 was already included in Point 5 of the Preamble, and that it was therefore unessential to have it as an Article. The CHAIRMAN supported him.

Prof. CASSIN (France) maintained that Article 42 dealt more with the internal affairs of the State, and that it might be better to include it in a Convention. He felt that provisions should be made to deal with the violation of human rights by public authorities.

The CHAIRMAN thought the Committee might suggest that Article 41 should be the subject for a Convention and the second paragraph of Article 42 might be suitable for the Declaration.

The meeting adjourned at 5:00 p.m.