

**United Nations**  
**ECONOMIC**  
**AND**  
**SOCIAL COUNCIL**

**Nations Unies**  
**CONSEIL**  
**ECONOMIQUE**  
**ET SOCIAL**

UNRECORDED MASTER FILE

E/CN.4/AC.1/SR.41  
24 June 1948  
ENGLISH  
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

Second Session

SUMMARY RECORD OF THE FORTY-FIRST MEETING

Held at Lake Success, New York  
on Thursday, 20 May 1948 at 10.30 a.m.

Chairman: Mrs. Franklin D. ROOSEVELT (United States of America)

Vice Chairman and Rapporteur: Mr. AZKOUL (Lebanon)

Members:

Mr. HEYWOOD	Australia
Mr. SANTA-CRUZ	Chile
Mr. WU	China
Mr. CASSIN	France
Mr. WILSON	United Kingdom
Mr. PAVLOV	Union of Soviet Socialist Republics

Representative of Specialized Agency:

Mr. Rene LEBAR	United Nations Educational, Scientific and Cultural Organi- zation
----------------	--

Consultants of Non-Governmental Organizations:

Miss Tony SENDER	American Federation of Labor
Mr. Frederick NOLDE	World Federation of United Nations Associations
Mr. VANISTENDAEL	World Federation of Christian Trade Unions

Secretariat:

Mr. J. F. HUMPHREY  
Mr. LAWSON

Any corrections of this record should be submitted in writing, in either of the working languages (English or French), and within twenty-four hours, to Mr. E. Delavenay, Director, Official Records Division, Room CC-119, Lake Success. Corrections should be accompanied by or incorporated in a letter, on headed notepaper, bearing the appropriate symbol number and enclosed in an envelope marked "Urgent". Corrections can be dealt with more speedily by the services concerned if delegations will be good enough also to incorporate them in a mimeographed copy of the record.

DRAFT OF THE DECLARATION ON HUMAN RIGHTS (continuation of the discussion)

Article 19

The CHAIRMAN read Article 19.

She suggested, on behalf of the United States delegation, that the words: "political, economic, religious, social, cultural, trade unions or any other" be replaced by the words: "for the promotion, defence and protection of purposes."

Mr. CASSIN (France) saw no objection to deleting the mention of the objections of the associations, especially as the words "trade unions" had already appeared in the part dealing with economic questions.

That did not, however, apply to the words "not inconsistent with this Declaration" as was proposed in the United States text on page 8 of document E/CN.4/AC.2/20. The democracies had been in a tragic position during the years before the war. In the name of freedom they had given all the arms to those very people who had wished to destroy it. France wanted to remain liberal, but she could not on that account guarantee the right of association to persons who wished to organize fascism or massacre.

He thought that the Geneva text was still the best.

Mr. WU (China) supported the United States text contained in document E/CN.4/A.C.1/20.

Mr. SANTA-CRUZ (Chile) recalled the fairly recent campaigns by the trade unions for the recognition of the right of union association, and said that the Economic and Social Council and the General Assembly had instructed the Commission on Human Rights to examine all the comments on that matter made by the World Federation of Trade Unions, the American Federation of Labor etc., and to study how they could be written into the Declaration on Human Rights.

/Under those

Under those circumstances he thought it useful to retain in Article 19 the catalogue of the political, economic, religious, social and cultural rights long recognized by the Constitutions of almost all the nations of the world, and, more recently, the right of trade union association.

The CHAIRMAN wondered whether the addition of the words "association ...for the object of promotion, defence and protection of political aims..." would not answer the purpose.

Mr. WILSON (United Kingdom) thought that all the texts submitted had the same end in view, and he would, therefore, vote for them in the order in which they were presented.

Mr. AZKOUL (Lebanon) said that he would vote for the text which had just been submitted, although he would have preferred the words: "political, economic, religious, social, cultural, trade union or any other" to be deleted. Furthermore, he did not think the words "promotion, defence and protection" were necessary.

Mr. CASSIN (France) stressed the importance of the Chilean representative's statement. The old declarations on human rights in dealing with freedom of assembly had not had trade union organizations in view.

He wondered whether it would not be possible to leave out the catalogue, but to mention the right of trade union association. The text would then be as follows:

"Every one has the right to freedom of peaceful assembly and to participate in local, national and international associations and trade union organizations whose purposes are not inconsistent with this Declaration."

Mr. AZKOUL (Lebanon) and Mr. SANTA-CRUZ (Chile) accepted that wording.

/The CHAIRMAN

The CHAIRMAN asked for the words "for the promotion, defence and protection of legitimate interests" to be added.

Mr. CASSIN (France) approved of that idea.

Mr. AZKOUL (Lebanon) thought the word "legitimate" vague and liable to be misinterpreted. If occasion arose, the State would have to judge what aims were legitimate. The phrase; "not inconsistent with this declaration" seemed to him to cover the idea behind the word "legitimate".

After a remark by Mr. CASSIN (France), the CHAIRMAN said that the word "purposes" in the English text had not been translated into French but that the meaning of both texts was nevertheless the same.

Mr. PAVLOV (Union of Soviet Socialist Republics) would have preferred the aims to have been listed, the list not being exclusive.

Special reservation should, however, be made in regard to fascist and nazi gatherings.

The CHAIRMAN thought it would be difficult to insert the idea mentioned by the representative of the Soviet Union since it was unquestionably included in the declaration and therefore did not need special mention.

She repeated the reasons given by Mr. Cassin and Mr. Santa-Cruz, why the right of trade union association should be mentioned.

In answer to a question by the CHAIRMAN, Mr. PAVLOV (Union of Soviet Socialist Republics) asked for a vote on his amendment, which was to add to the proposed text a sentence to the following effect:

"Freedom of assembly or association should not be granted to fascists or nazis, or for any other propaganda based on racial or national hatred or religious enmity."

That text was rejected by 6 votes to 1, with 1 abstention.

/Mr. CASSIN

Mr. CASSIN (France) explained that he had voted against the addition proposed by the representative of the Soviet Union as he thought that the words "not inconsistent with this Declaration" specifically excluded recognition of the right of assembly for the purpose of hate propaganda, and that there was, therefore, no need to repeat them.

Mr. PAVLOV (Union of Soviet Socialist Republics) replied that his text was broader than Mr. Cassin's interpretation of it. It was not merely a question of right of assembly and freedom of association, but of forbidding fascists and nazis to carry on hate propaganda, for example, in democratic meetings.

The CHAIRMAN put to the vote the following wording of Article 19:

"Every one has the right to freedom of peaceful assembly and to participate in associations or organizations or local, national or international trade unions for the promotion, defence and protection of interests and aims not incompatible with this Declaration."

The text was adopted by 6 votes to 1, with 1 abstention.

#### Article 20

The CHAIRMAN read Article 20.

Mr. WILSON (United Kingdom) objected to the inclusion of "or with the United Nations" and referred the members of the Committee to document E/CN.4/82/Add.9 which raised important questions and to the remarks of the delegation of the Union of South Africa (document E/CN.4/85, page 36). He preferred the text suggested by the French delegation, namely, "and in respect of human rights, the relevant organs of the United Nations."

The question of petitions was closely linked with the implementation of the Declaration and that was why he suggested that no decision be taken until that problem had been solved.

/The CHAIRMAN

The CHAIRMAN supported that suggestion.

Mr. SANTA-CRUZ (Chile) pointed out that the right to petition dealt with in Article 20 did not only apply to human rights but to all rights, as was indicated in the comments by the Union of South Africa (document E/CN.4/85, page 36).

He then suggested adding at the end of Article 20 the following words taken from the Bogota text: "...and the right to obtain prompt action thereon."

The petitioner should know in fact that his request had been examined and be given a reply, whether favourable or not.

Miss SENDER (American Federation of Labor) thought especially that as the Declaration constituted an ideal, there was no need to fear providing for the right to petition, even if it was not yet applicable. Furthermore, the document under consideration included a recognition of other rights also not yet applied in some countries. Moreover, a certain number of communications, some of which were virtually petitions, had already been received by the United Nations.

Mr. CASSIN (France) said that the observations of some Governments, particularly that of the United Kingdom, coincided with those of his Government. A distinction should be made between the right of petition within the domestic jurisdiction of a country and the right of petition to the United Nations. The Constitutions of almost every country in the world recognized the domestic right of petition unconditionally and without restrictions. But as far as the United Nations was concerned, as there was no question of sanctioning an ancient right, it should be clearly realized that a petition could only be serious in so far as the Organization was competent to deal with it.

/The CHAIRMAN

The CHAIRMAN, speaking as the United States representative, suggested that the words: "communicate with the United Nations" be used since the word "petition" might lead to misunderstandings.

The right to communicate with Governments should also be limited, and she proposed the following wording: "To petition the public authorities for redress of grievances." Governments would be inclined to refuse to receive certain petitions, for example, from aliens in regard to elections.

Mr. HEYWOOD (Australia) supported the French proposal and the Australian suggestion to reserve decision on that Article until the question of implementation was considered. Moreover, he preferred the word "petition" which was more precise to the expression "communicate with".

Mr. WU (China) approved of the Australian proposal. A very unfavourable impression would be created were the United Nations to decide that petitions could be sent to it without being in a position to take action on them.

It was decided by 6 votes to 1, with 1 abstention not to redraft Article 20 in final form until the Drafting Committee had considered the question of the implementation of the Declaration.

Articles 21 and 22

The CHAIRMAN read Articles 21 and 22 as follows:

"Article 21.

"Every one, without discrimination, has the right to take an effective part in the Government of his country. The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot."

"Article 22.

"1. Every one shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.

"2. Access to public employment shall not be a matter of privilege or favour."

/She suggested

She suggested considering the two texts together. The United States delegation had suggested combining them (document E/CN.4/AC.1/20).

After a somewhat prolonged discussion, the Committee approved Articles 21 and 22 by 2 votes to none, with 5 abstentions.

The CHAIRMAN read the text proposed by the United States delegation (document E/CN.4/AC.1/20, pages 8 and 9) and added that the words: "without discrimination" had only been deleted because that idea was already included in Article 3. The same consideration prompted the deletion of paragraph 2 of Article 22 which stated:

"Access to public employment shall not be a matter of privilege or favour."

Mr. SANTA-CRUZ (Chile) read the Bogota text: "Every person having legal capacity is entitled to participate in the government of his country, directly or through his representative, and to take part in popular elections, which shall be by secret ballot, and shall be genuine, periodic, and free."

Mr. CASSIN (France) wished the new text to include the idea that a Government of a country must express the will of the people to which the State shall conform,

The CHAIRMAN thought sub-paragraph (b) of her delegation's text answered that proposal.

Mr. WILSON (United Kingdom) preferred Article 21 of the Geneva text to sub-paragraph (b) of the United States text. It should be possible to incorporate it. If that were not done, he would vote against the United States text.

Mr. WU (China) thought that the second sentence of Article 21 (text adopted at the second session of the Commission) was undesirable and should not be included. He suggested the following text:

/"Every one



"Every one has the right to take an active part in the Government of his country, either directly or through representatives."

Mr. WILSON (United Kingdom) supported that proposal. He would vote for it but, if it was rejected, he would propose that the second sentence of Article 21 be retained. Moreover, the first paragraph of Article 22 should become the second sub-paragraph of Article 21.

Mr. SANTA-CRUZ (Chile) was in favour of retaining the text adopted at the second session of the Commission for the same reason as was Mr. Cassin. He suggested redrafting the first sentence of the article as follows:

"Every one, without discrimination, has the right to take an effective part, either personally or through his representative, in the Government of his country."

The second sentence would not be changed, while the first sub-paragraph of Article 22 would be deleted. He did not mind whether paragraph 2 of Article 22 were deleted or not.

Mr. CASSIN (France) pointed out that, in France, taking part in public affairs did not mean the same as holding public office. If it was desired to incorporate this latter idea, it would have to be stated specifically.

He pointed out, in regard to the words "every one, without discrimination," that both the right to vote and the right to hold public office presupposed legal capacity. The expression: "Every person having legal capacity" used at Bogota should be employed.

The CHAIRMAN asked Mr. Cassin and Mr. Santa-Cruz to confer, as rapidly as possible, with a view to preparing a text to be voted on.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) stressed the unsatisfactory character of Articles 21 and 22 of the draft adopted at the second session of the Commission. It was not sufficient to ask the French and Chilean representatives to submit a fresh text, if one remembered the comments on those two articles made by some countries such as the Union of South Africa, which wished some types of discrimination to be maintained by preventing certain categories of persons (illiterates) from taking part in elections, by excluding the coloured populations, as far as possible, from taking part in public affairs, or by making the access of public office conditional on ownership of a certain amount of property.

In order to ensure that suffrage should be universal, articles 21 and 22 should be redrafted so as to satisfy the following four democratic requirements:

- (1) The right to vote should not be conditional on the possession of property, residence, social origin, religion, race or political beliefs.
- (2) All electors to vote on an equal footing. No elector should have more or fewer votes than others.
- (3) An extremely important democratic principle. Suffrage should be direct. Every citizen should vote in person.
- (4) The fourth requirement, that of secret ballot, was already provided for in the draft under discussion.

Finally, rather than entrust the French and Chilean representatives with the preparation of a text which would not guarantee essential democratic requirements, it would be better to instruct a sub-committee to improve articles 21 and 22 radically.

The CHAIRMAN said that she had simply asked Mr. Cassin and Mr. Santa-Cruz, who had drawn up similar forms of words, to confer with the view to submitting one amendment. The appointment of a sub-committee for the sole purpose of redrafting articles 21 and 22 seemed useless.

/Mr. SANTA-CRUZ

Mr. SANTA-CRUZ (Chile) saw certain gaps in the present draft of the articles; other factors should be considered and the members should state their views before a new draft was made. Some representatives had pointed out that every Constitution laid down some limitations (age, convictions by the ordinary courts, criminal records, etc.). Moreover, Mr. Pavlov desired to include a provision prohibiting distinction on the ground of sex, race, social status, ownership of property, etc. Those two points should be allowed for and should be suitably incorporated in the text. Care should be taken to be sure that wording such as "having legal capacity" should not have the effect of sanctioning discrimination in the law.

Two concepts should be merged and clearly expressed, if necessary by an ad hoc sub-committee: (1) the first should have the effect of the words "everyone without discrimination as to race, sex, wealth, language, social origin etc. provided he is recognized as capable in law etc;" (2) as the members were defining the essential elements of electoral law (free and fair elections by secret ballot etc.), the equality of suffrage stressed by the representative of the Soviet Union was not mentioned anywhere; that important point could be covered by the form: "everyone ... has the right to take an effective part, on an equal footing in public affairs".

Mr. WILSON (United Kingdom) said that, with the exception of the representative of the Soviet Union, no one had raised any serious objection to the text adopted at the second session of the Commission. The only suggestion made had aimed at improving the form and not the substance. The wisest course would be to retain that text without trying to attain the highest degree of perfection, but to rely on the fact that articles 21 and 22 in their present wording had met with a great measure of agreement.

Every one of the articles of the declaration contained limitations but it was useless to catalogue them in the present document, the purpose of which was to establish principles.

/Mr. WILSON

Mr. Wilson agreed with his colleagues on the principle underlying the formula against discrimination on the grounds of sex, race etc; if, however, that was stated in the articles under discussion it would have to be repeated in all the other articles. It would be more satisfactory to agree upon a general introductory article which would provide that such rights belong to everyone without distinction as to race, sex, etc.

The CHAIRMAN proposed to put to the vote the question of whether the Committee wished to keep the text adopted at the second session of the Commission dividing the new article (as it had already agreed to combine articles 21 and 22) into paragraphs 1, 2 and 3.

Mr. SANTA-CRUZ (Chile) preferred the text adopted at the second session of the Commission to the other texts and merely wished to include two slight drafting amendments as follows:

(1) "Everyone, without discrimination as to race, sex, language, creed or social class, possessing legal capacity..." It was necessary to set out the different forms of discrimination before mentioning legal capacity, in order to prevent the law itself from making some of those discriminations.

(2) After the words: "to take an effective part" add: "on an equal footing."

Mr. WILSON (United Kingdom) put forward an amendment to leave out from the text adopted at the second session of the Commission the words "without discrimination".

The CHAIRMAN proposed that the second part of article 21 of the text adopted at the second session of the Commission should be amended as follows: "a Government conforming to the will of the people as manifested by elections which shall be free, fair and by secret ballot."

Mr. AZKOUL (Lebanon) supported the amendment submitted by Mr. Wilson. He proposed as an amendment to Mr. Santa-Cruz' second amendment a further amendment which he thought would express better what Mr. Santa-Cruz probably wished to say. The text would read as follows: "Everyone has the right to take an effective part in the Government of his country and to participate on an equal footing in elections which shall be fair, universal, etc."

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that the United Kingdom amendment, which was farthest from the text and which proposed the redrafting of article 21 in a way which would not directly and unreservedly eliminate all discrimination, would allow the retention of dangerous discriminations, which were practiced in certain countries, in the form in which they had been openly upheld by the Governments of those countries.

As advocated by Mr. Santa-Cruz, the text should read as follows: "everyone without discrimination as to sex, race, nationality, creed, education, residence, social class or extent of wealth has a right to take an effective part in the Government of his country."

Mr. CASSIN (France) recalled that the French Government in its written comments, had proposed the following text, which was very close to that of the text adopted at the second session of the Commission (document E/CN.4/82/Add.8, page 5, article 19):'

"Every citizen, without discrimination, has the right either personally or through his representative, to take part in the management of public affairs in his country."

That formula was repeated in Mr. Wu's proposal.

In regard to Mr. Wilson's observations, he was inclined to leave out mention of legal capacity, which belonged to detailed regulation.

/He could

He could not, however, support the United Kingdom amendment, which :  
the omission of the words "without discrimination."

He was willing to keep the text adopted at the second session  
the Commission and to omit any catalogue qualifying the discriminati  
A few points of detail might, however, be amended.

To facilitate the discussion, the CHAIRMAN and Mr. WILSON  
(United Kingdom) withdrew their respective amendments.

Mr. SANTA-CRUZ (Chile), while seeing no objection to the  
French proposal, remarked that the Constitution of Chile laid down a  
minimum age for eligibility to vote, and also for registration in the  
voting lists. The word "citizen" had a restricted meaning which would  
not extend to everybody.

It would be desirable to take into consideration the limitation  
imposed by the words "legal capacity," which it was understood would  
no discrimination, a word which would itself have to be defined by a  
suitable enumerative specification.

The CHAIRMAN considered that the two proposals should be  
to the vote: first, the Chinese amendment, to the following effect:  
"Every one has the right to take an effective part in the Government  
his country, either personally or through his representative"; second  
the Lebanese amendment to one of the two Chilean amendments; and last  
the two Chilean amendments.

Mr. PAVLOV (Union of Soviet Socialist Republics) recalled  
his own amendment, which he said partly corresponded to Mr. Santa-Cruz  
draft and would list more causes for discrimination.

He proposed adding to the second sentence of article 21 (text adopted  
at the second session of the Commission) after the words: "by election  
which shall", the words: "be universal, equal, direct, periodic, free,  
fair, and by secret ballot."

/Mr. SANTA

Mr. SANTA-CRUZ (Chile) withdrew his second amendment, which proposed adding the words: "and on an equal footing."

He accepted the introduction of the word "universal" qualifying the suffrage.

With regard to discrimination, he requested a vote first of all on the principle of no discrimination and then on each of the suggested grounds for discrimination in the list.

Mr. AZKOUL (Lebanon) observed that his amendment on participation in elections on an equal footing was covered by Mr. Pavlov's amendment and asked Mr. Pavlov whether he would accept a slightly different form, making no difference to the meaning, which would join the first sentence in article 21 to the second by the words: "... to take an effective part in the Government of his country and to participate in elections ..." which would be followed by the list proposed by Mr. Pavlov.

Mr. CASSIN (France) thought the difficulties could be met by voting first either on the deletion of the words "without discrimination" requested by Mr. Wilson, or on the addition of the qualifications suggested by Mr. Santa-Cruz. If both amendments were rejected the text adopted at the second session of the Commission could be left.

Mr. Wu's amendment to include the words: "personally or by his representative" could also be voted upon.

Mr. AZKOUL (Lebanon) did not press his suggestion.

The CHAIRMAN put to the vote Mr. Wu's amendment, by which the first sentence would be made to read: "Everyone has the right to take an effective part in the Government of his country, personally or through his representative."

The amendment was rejected by 4 votes to 3.

/The CHAIRMAN

The CHAIRMAN put to the vote Mr. Pavlov's amendment to Mr. Santa-Cruz' amendment, which would have made it read: "Everyone, without discrimination as to sex, race, nationality, creed, education, residence, social class, or extent of wealth, has a right to take an effective part in the Government of his country."

The amendment was rejected by 4 votes to 1 with 2 abstentions.

The CHAIRMAN put to the vote Mr. Santa-Cruz' amendment as follows: "Everyone, without discrimination on the grounds of sex, race, nationality, creed, education, residence or social class, enjoying legal capacity, has a right to take an effective part in the government of his country."

Mr. SANTA-CRUZ (Chile) pointed out the desirability of finding a satisfactory English translation of the French expression "capacite legale".

Mr. Santa-Cruz' amendment was adopted by 4 votes to 3.

The CHAIRMAN put to the vote Mr. Pavlov's amendment to the second sentence of article 21 (text adopted at the second session of the Commission), namely, the addition after the words: "... by elections which shall ..." of the following phrase: "be universal, equal, direct, periodic, free, fair and by secret ballot".

Mr. Pavlov's amendment was rejected by 5 votes to 1.

Mr. CASSIN (France) said that he had been unable to vote for the amendment because of the one word "direct", and asked for Mr. Pavlov's amendment, as rejected, to be put to the vote again but without the word "direct".

The amendment was rejected by 4 votes to 3.

The whole of paragraph 1 of the new Article 21, as amended by the various votes, was adopted by 3 votes to 2, with 2 abstentions.

/Paragraphs 2 and



Paragraphs 2 and 3 of Article 21 (Article 22 of the text adopted at the second session of the Commission).

At the request of Mr. PAVLOV (Union of Soviet Socialist Republics), a discussion was opened on the meaning of the expression "of which he is a citizen or a national".

Mr. SANTA-CRUZ (Chile) recalled that that point had been discussed at length by the Drafting Committee the previous year, and that the wording in question had been decided upon so as to take into consideration the position of federal republics.

Mr. PAVLOV (Union of Soviet Socialist Republics) could not quite understand the meaning of a wording which would enable non-nationals of a country to hold important government posts. He would abstain from voting on that paragraph.

The CHAIRMAN put to the vote paragraph 2 of Article 21 as it appeared in paragraph 1 of Article 22 of the text adopted at the second session of the Commission: "Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national."

The paragraph was adopted by 5 votes to none, with 2 abstentions.

The CHAIRMAN put to the vote paragraph 3 of Article 21 (Article 22, paragraph 2 of the text adopted at the second session of the Commission as follows: "Access to public employment shall not be a matter of privilege or favour."

The paragraph was adopted.

The CHAIRMAN saw no need to take a vote on Article 21 as a whole. She suggested submitting the text proposed by the United States delegation to the Commission for its information.

The meeting rose at 1.15 p.m.