

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

FIRST SESSION

SUMMARY RECORD OF THE SIXTH MEETING

Held at Lake Success, New York, on Friday, 13 June 1947 at 10:30 a.m.

Present:

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| Chairman: | Mrs. Eleanor 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) |

Specialized Agencies:

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| Mr. J. Havet | UNESCO |
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Non-Governmental Organizations:

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| Miss Toni Sender | American Federation of Labor |
| Secretariat: Prof. J. P. Humphrey | Secretary of the Committee |
| Mr. Edward Lawson | |

1. Consideration of Procedure to be Followed in Preparing a Preliminary Draft of the International Bill of Human Rights

Prof. KORETSKY (Union of Soviet Socialist Republics) stated that he was not in a position at the moment to present a draft Bill or to make concrete detailed comments. However, his Government wished to reserve the right to do this later. He said that texts of the Bill should be acceptable to each and every government. It was therefore necessary for his Government to have detailed information regarding the basis of a draft Bill, and to know how other governments feel about it. The material already presented

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had been made available at rather a late stage, and his Government wished to study the documents with the care they deserved. It might later submit proposals of its own. Other representatives, he thought, might be in the same position. He suggested that the Chairman organize the work so as to give an opportunity to governments to acquaint themselves with the work of the Committee, even in unfinished form. The Committee, he said, should be able to consider the comments of all the governments. He proposed, therefore, that a small working group be created with a membership of, say, three, plus the Chairman. The task of this group would be to collate the various opinions which had been expressed. He suggested as members, Prof. Cassin (France), Dr. Malik (Lebanon), and Mr. Wilson (United Kingdom). This group could, in addition, prepare appropriate drafts for transmission to the governments for their comments. He agreed that this procedure went beyond the stages of drafting suggested by the Economic and Social Council. However, he felt that his suggestion would leave those stages untouched, and would have the effect of using the time between the end of the session of the Drafting Committee and the beginning of the second session of the Commission on Human Rights to speed the work of drafting. He further suggested that the Secretariat publish the results of the work of the working group, making it clear that its draft was still in a preliminary stage. This draft should be made widely accessible to interested individuals and organizations all over the world who would be invited to comment on it. The Secretary-General also could send it to governments for comments and suggestions. If this procedure produced satisfactory results, the Drafting Committee could be convened a few days before the beginning of the next full session of the Commission. It would then be able to prepare a draft Bill, corresponding closely to the wishes of governments, for presentation to the Commission.

Prof. Koretsky went on to say that he would like the Committee to consider the necessity of broadening certain points which had not been

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developed sufficiently in the drafts submitted. He maintained specifically that the ideas regarding discrimination as expressed in the various drafts had not been developed sufficiently. There was wide evidence of the existence of discrimination in the world; the General Assembly itself had discussed, for example, the treatment of Indians in South Africa. In his opinion it was not sufficient simply to proclaim the principle of equality or of non-discrimination; that idea must be implemented. Women were not yet treated with equality, neither in the economic field nor in the political field; nor were women elected in sufficient numbers to public office. He felt that it was insufficient to say that equality without regard to race, sex, language or religion should be proclaimed. Certain conditions, such as terrorism and certain forms of taxation, which had the effect of transforming equality into factual inequality, would have to be eliminated.

Next, he felt that the question of essential rights and freedoms needed to be stressed more than they were in any of the present drafts, and an acceptable and effective means of implementation would have to be devised. Such implementation, in his opinion, would not come through the creation of a Tribunal, an International Court or an international police force, because any such organ would be able to implement no more nor less than could be implemented by the separate governments.

Prof. Koretsky stressed his belief that the approach of the Bill should be such as would make its acceptance possible under any and all social systems. He cited Article 122 of the Soviet Constitution, regarding the rights of women, where not only was it stated that women had equal rights in all fields, but the specific fields were enumerated, together with various ways in which the ideal was to be put into effect. The Committee, he suggested, might travel further along this road. He cited Article 120 of the Soviet Constitution, relating to the right of citizens to be supported in their old age or when they had lost the ability to support themselves. This statement of a right, he pointed out, was then insured by a broad development of social insurance for workers and support

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of a broad network of rest homes. Whatever is put into an International Bill of Rights must be implemented, he added, and there should be no reservations.

Prof. Koretsky then referred to the new Japanese Constitution which had been drafted in consultation with General MacArthur, and which indicated, he said, that there had been no modification of the old Japanese feudal system or dissolution of monopolistic concerns despite the proclamation of formal rights and freedoms. In Japan such concerns had been the tools of those who had fomented the recent war. Any declaration, he went on, must stipulate the elimination of Fascism wherever it might exist. The Committee should not adopt a position which would not be politically significant.

Referring to the question of language and style, Prof. Koretsky maintained that conciseness and clarity were particularly important, and that the final declaration of Human Rights should be easily understandable by the masses of people. It should imitate the style and manner of the old laws, especially their conciseness and clarity. It should have emotional appeal, conviction, and provocative language. He recalled the clear, fighting spirit of the United States' Declaration of Independence and of the French Declaration of the Rights of Man, both of which reflected periods of freedom and elevation. The Declaration of Human Rights should sound a bugle call, he said, and should state principles for which any man would be ready to stake his life. The Government of the Union of Soviet Socialist Republics considered this Declaration of great importance, and in view of the need to study the documents closely, reserved the right to submit concrete proposals later.

The CHAIRMAN drew Prof. Koretsky's attention to the opinion expressed by the Soviet delegate to the Economic and Social Council. This delegate had opposed entrusting the drafting of the Bill of Rights to a small group. There was no reason why the Committee should not ask a small group to undertake certain tasks, she felt, but this work would finally have to be

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passed upon by the Committee itself.

Mr. SANTA CRUZ (Chile) also recalled the stand taken by the Soviet representative at the Fourth Session of the Economic and Social Council regarding the recommendation of the Commission on Human Rights that its three officers prepare a preliminary draft of the Bill of Rights. He said that his Government considered that the collaboration of the Union of Soviet Socialist Republics was of fundamental importance in view of the special contribution that might be made by States with new forms of law. There were various concepts, for instance in the Union of Soviet Socialist Republics, in the United States of America and in his own country, of the rights of property and of the relationship between the individual and the State. It had been hoped that a common equation could be found despite these differing concepts. Unfortunately that equation had not yet been found, but he believed that eventually it would be. He trusted that the representative of the Union of Soviet Socialist Republics would continue to collaborate and to help the Committee in its search for agreement.

The CHAIRMAN asked the members whether they wished to vote on the Soviet proposal that a working group of three be established, or whether they wished first to discuss in detail the duties of the proposed group. Mr. HARRY (Australia) said the Soviet proposal was very useful, but possibly should not be voted upon until a later stage had been reached, after the Committee had further considered the various drafts which had been submitted. He considered it especially important that the views of the representative of the Union of Soviet Socialist Republics relating to the substantive contents of the Bill of Rights should be heard before any preliminary draft Bill was drawn up. Mr. WILSON (United Kingdom) said that he gathered the Soviet representative had been speaking only of the proposed Manifesto. The language of any document outlining proposed legislation would, of course, be different. He agreed with the representative of the Union of Soviet Socialist Republics on the outline he had suggested for a Manifesto. He felt that the United Kingdom draft

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could be used as a basis for discussing a Convention, but that the Committee needed another document to use as a basis for discussing a Manifesto. He thought that the Secretariat document fell between the two ideas; it was too detailed for a manifesto, and not detailed enough for a convention. He thought that the Manifesto should be drafted, in the first place, by an individual. He also felt that it would be important for the Soviet representative to serve on the working group, and offered to resign in his favour.

Prof. KORETSKY (Union of Soviet Socialist Republics) said he could not make a useful contribution to the work of the small group, as he was not yet in a position to state his Government's views in detail. He proposed that as much drafting be done as was possible on the basis of suggestions already made. As regards language, he suggested that the section of the Soviet Constitution dealing with the rights and duties of citizens be taken as a model of clarity and conciseness.

Prof. Koretsky also clarified the position taken by the Soviet representative on the Economic and Social Council when the question of the procedure to be used in drafting the Bill was being discussed. He said that the impression might have been given that the Soviet representative had disagreed with the recommendation of the Commission on Human Rights that a Bill of Human Rights be drafted. This was not the case at all; the Soviet delegate had only insisted that such a draft could best be drawn up by representatives of Governments of divergent social and legal outlooks, and had therefore pressed for a broadening of the Drafting Committee. His thought was that the small group now proposed could systematize the work of the Committee and make it possible to receive comments on it from Governments.

The CHAIRMAN pointed out that members of the Drafting Committee had agreed that (1) a manifesto and (2) a more detailed Convention should be written. She suggested voting first of all as to whether the Committee should set up a working group of three members, with the Chairman as an

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ex-officio member; then as to whether one representative might be asked to produce a working paper for discussion. Finally, the Committee should consider how it should function with relation to the working group from that point on.

Mr. WILSON (United Kingdom) suggested splitting the Committee into two groups of four members, each group charged with the preparation of one document. He thought it would be too much of a burden for one representative to be called upon to produce the Manifesto.

Prof. CASSIN (France) observed that either one group could undertake the writing of the Manifesto and one group the writing of the Convention, or alternatively each group could take responsibility for certain parts of each document. He thought the suggestion of the United Kingdom was a practical one. Dr. CHANG (China) remarked that the United Kingdom proposal involved every member of the Committee. He thought the suggestion was not impractical, but that it should be made clear that these were not drafting committees but small working groups, each undertaking a part of the preliminary work of the Drafting Committee. He also thought that the division of groups should not be such that the Drafting Committee would be divided permanently.

The CHAIRMAN pointed out that there had been no formal vote on the agreement to write two documents, a Manifesto and a Convention, and suggested taking a vote. Members had also to consider the point raised by the representative of China that the groups should not be "frozen." She said that the Drafting Committee might meet during mornings divided into working groups and during afternoons as a whole.

Mr. WILSON (United Kingdom) said he doubted whether the Committee should take a formal vote regarding the writing of two documents. The Committee had been asked to prepare a Bill of Human Rights. There was a volume of opinion that a Manifesto was necessary, and also a volume of opinion that a Convention or Conventions might be required. Since both views were held, he thought, it would be wiser to prepare both documents.

/Prof. KORETSKY

Prof. KORETSKY (Union of Soviet Socialist Republics) said that even if two documents were to be drafted, there was no need for two groups. There would have to be a logical connection between the statement of general principles and the more concrete expression of the same principles.

Dr. CHANG (China) suggested that the Committee instruct the working group to go over the material which had been discussed up to that point and to report back to the Committee as a whole. He thought that the group need do no more than summarize the discussions and perhaps produce some concrete suggestions. Mr. WILSON (United Kingdom) said it was not very difficult to understand exactly what the working group was to do. The Committee had (1) discussed the Secretariat draft; (2) agreed in substance regarding matters which should find a place in the document; and (3) expressed the opinion that two documents should be prepared. He thought the members of the Committee should now set about drafting the documents themselves, and added that confusion might result if there was a horizontal division of work between the two documents. Dr. CHANG (China) said he would like to have the small group undertake (1) a logical rearrangement of the Secretariat draft, (2) a rough redrafting of the various articles on the basis of discussions which had taken place in the Committee, and (3) a division of the work indicating which articles would require international conventions and which would not.

DECISION: The Committee decided to appoint a Temporary Working Group consisting of the representatives of France, the Lebanon and the United Kingdom, the functions of the Group to be

1. To suggest a logical rearrangement of the articles of the Draft Outline supplied by the Secretariat;
2. To suggest a redraft of the various articles in the light of the discussions of the Drafting Committee;
3. To recommend to the Drafting Committee the division of the substance of the articles between a Manifesto and a Convention.

The meeting adjourned at 1:00 p.m.