

COMMISSION ON HUMAN RIGHTS

SECOND SESSION

SUMMARY RECORD OF THIRTY-SEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Saturday, 13 December, 1947, at 3 p.m.

Present:

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

Rapporteur: Dr. C. Malik (Lebanon)

Members: Col. W.R. Hodgson (Australia)

Prof. F. Dehousse (Belgium)

Mr. A.S. Stepanenko (Byelorussian S.S.R.)

Sen. E. Cruz Coke (Chile)

Dr. C.H. Wu (China)

Mr. O. Loutfi (Egypt)

Prof. R. Cassin (France)

Mrs. Hansa Mehta (India)

Mr. A.G. Pourevaly (Iran)

Mr. M. Amado (Panama)

Gen. C.P. Romulo (Philippine Republic)

Mr. M. Klekovkin (Ukrainian S.S.R.)

Mr. A.E. Bogomolov (U.S.S.R.)

Lord Dukeston (United Kingdom)

Mr. A.C. Victorica (Uruguay)

Dr. V. Ribnikar (Yugoslavia)

Representatives of
the Commission on
the Status of Women:

Mrs. B. Begtrup, Chairman

Mrs. E. Uralova, Rapporteur

Specialized Agencies: Mr. J. de Givry (I.L.O.)
Mr. J. Havet (UNESCO)
Mr. Weis (Preparatory Commission for
the International Refugee
Organization)

**Non-Governmental
Organizations:**

Category A: Miss Toni Sender (American Federation
of Labour)
Mr. P.V.S. Serrarens (International
Federation of Christian
Trade Unions)
Mr. Vanistendael (International
Federation of Christian
Trade Unions)
Mr. A.R. de Clery (Inter-parliamentary
Union)

**Non-Governmental
Organizations:**

Category B: Mr. O.F. Nolde (Commission of the
Churches on International
Affairs)
Mr. J.M.E. Duchosal (International
Red Cross Committee)
Mr. C. Pilloud (International
Red Cross Committee)
Dr. Bienenfeld) (World Jewish
Dr. Easterman) Congress)
Mr. A.E. Brotman (Co-ordinating
Board of Jewish Organizations)
Professor Bentwick (Consultative
Board of Jewish Organizations)
Mr. Milton Winn (Consultative Council
of Jewish Organizations)
Miss de Romar (International Union of
Catholic Women's Leagues)
Miss Van Eeghen) (International
Miss Eder) Council of Women)

Consideration of the Reports of the Working Groups on the
Declaration (Document E/CN.4/57) and the Convention
(Document E/CN.4/56)

Declaration Article 10 and Convention Article 13

The CHAIRMAN read the two amendments which had been proposed.

(1) The amendment proposed by the Chinese Delegation to add to both Articles: "Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which constitutes a grave crime against humanity according to the general principles of law recognized by civilized nations."

(2) The amendment proposed by the Representatives of Belgium and the Philippine Republic to insert the following text between paragraphs 1 and 2 of Article 10 of the Declaration: "This provision shall not, however, preclude the trial and conviction of persons who have committed acts which, at the time of their commission, were regarded as criminal by virtue of the general principles of law recognized by civilized nations."

Dr. WU (China) thought that his amendment would cover the case of the Nuremburg trials. He felt that the amendment proposed by the Representatives of Belgium and the Philippine Republic would be open to abuse.

Mr. DEHOUSSE (Belgium) said that he was opposed to Dr. WU's amendment for two reasons. First, because it seemed to speak of war criminals with compassion, and secondly, because it restricted the offence by using the term "grave crime against humanity". That was only one of the three categories of crime which had been defined and pronounced punishable according to international law.

The CHAIRMAN put Dr. WU's amendment to the vote. It was rejected by 6 votes to 4 with 7 abstentions.

Colonel HODGSON (Australia) supported the amendment submitted by the Representatives of Belgium and of the Philippine Republic. He mentioned the Special Report of the War Crimes

Commission in which the three categories of crime punishable under international law were clearly defined.

The CHAIRMAN said that she would prefer the amendment to be included in the form of a footnote rather than as part of an Article since the subject was very important and demanded careful study.

Dr. WU (China) opposed the amendment as he thought it would be open to abuse and should not be added simply to justify the Nuremburg trials.

The CHAIRMAN put to the vote the amendment submitted by the Representatives of Belgium and of the Philippine Republic. It was adopted by 8 votes to 1 with 8 abstentions.

The CHAIRMAN put to the vote the proposal that the same words be added as a second paragraph to Article 13 of the Convention. The proposal was adopted by 8 votes with 9 abstentions.

The CHAIRMAN put to the vote the first paragraph of Article 13 of the Convention. "No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed."

The paragraph was adopted by 11 votes with 5 abstentions.

Declaration Article 10 Paragraph 3 and Convention Article 6

The CHAIRMAN put paragraph 3 of Article 10 of the Declaration to the vote: "No one shall be subjected to torture, or to cruel or inhuman punishment or indignity." The paragraph was adopted by 12 votes with 5 abstentions.

The CHAIRMAN proposed substituting those words for Article 6 of the Convention. She thought it was essential to mention punishment to take care of criminal cases.

Lord DUKESTON (United Kingdom) thought that if the word "punishment" were included in the Convention it would mean that all forms of physical punishment would have to be abolished. His Government had abolished physical punishment except in the case of prison mutinies when violent prisoners attacked their guards. He thought that physical punishment was necessary in that case and he therefore opposed the CHAIRMAN's motion.

Professor CASSIN (France) supported the CHAIRMAN's motion. He said that the case mentioned by the United Kingdom Representative was covered by the words "cruel or inhuman punishment".

Colonel HODGSON (Australia) thought that the words "cruel or inhuman" should be repeated before the word "indignity".

The CHAIRMAN accepted Colonel HODGSON's suggestion. She put to the vote the proposal that Article 6 of the Convention should read: "No one shall be subjected to torture or to cruel or inhuman punishment or to cruel or inhuman indignity." The proposal was adopted by 8 votes to 2, with 5 abstentions.

Declaration Article 11 and Convention Article 7

The CHAIRMAN read the amendment submitted by the United Kingdom Representative to Article 11 of the Declaration to the effect that the comment be deleted and the following text added as a second paragraph to the Article: "Compulsory labour is obnoxious to the dignity of man and should not be resorted to except in the case of war or other emergency threatening the life or well-being of the community or in the case of punishment of persons sentenced by a competent court in due process of law."

Lord DUKESTON (United Kingdom) said that he had submitted his amendment because he objected to the wording of the comment which he considered implied an attack on the administration of Trust and Non-Self-Governing Territories. He suggested that the comment,

together with the last clause of Article 7 of the Convention, be referred to the International Labour Office.

The CHAIRMAN said that any specialized agencies or organizations would have the right to comment on any of the Articles when the Commission's Report was sent to Member-Governments.

She put Lord DUKESTON's amendment to the vote. It was rejected by 7 votes to 4 with 5 abstentions.

Dr. MALIK (Lebanon) asked for specific instructions with regard to the comments which were to be included in the final Report.

The CHAIRMAN said that the comments which had been adopted by the Commission should be included in the Report and that a vote would have to be taken on the others, when the discussion of the Articles had been completed.

She read the amendment submitted by the Lebanon Representative that the following words should be added at the end of paragraph 3(a) of Article 7 of the Convention: "provided that the civilian service of conscientious objectors be compensated with adequate maintenance and pay".

Dr. MALIK (Lebanon) explained that his amendment was intended to apply only to those countries which recognized conscientious objectors. He wished to ensure a genuine respect for conscientious objectors in the countries where they were recognized so that they would not be subjected to conditions comparable to those in concentration camps.

Professor CASSIN (France) pointed out that no provisions for maintenance and pay had been made for any other category of person. He suggested that the amendment should be worded in such a way as to ensure that conscientious objectors would not be treated worse than soldiers, but he felt that any provision which gave better treatment to conscientious objectors than to soldiers would arouse opposition.

Dr. MALIK (Lebanon) did not accept Professor CASSIN's suggestion to change the wording of his amendment, as he did not wish to enter into any details connected with military regulations in countries where conscription was enforced.

The CHAIRMAN put Dr. MALIK's amendment to the vote. It was rejected by 6 votes to 4 with 7 abstentions.

Lord DUKESTON (United Kingdom) proposed changing the words "life and well-being" to "life or well-being" in paragraph 3(b) of Article 7 of the Convention.

The proposal was accepted without a vote.

The CHAIRMAN put the whole of Article 7 of the Convention to the vote. The Article was adopted by 12 votes, with 5 abstentions.

Declaration Article 12

The CHAIRMAN put the Article to the vote; it was adopted by 14 votes, with 2 abstentions.

Declaration Article 13 and Convention Article 10

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) proposed that the second paragraph of Article 13 of the Declaration be deleted, since he thought that it would encourage emigration.

Colonel HODGSON (Australia) wished to retain the first half of the paragraph. He thought that the second half should be deleted since the right to acquire nationality could not be guaranteed.

Lord DUKESTON (United Kingdom) drew attention to the words "to change their nationality to that of any country willing to accept them" which he felt should cover Colonel HODGSON's point. He thought that the facilities for acquiring a new nationality should be made as easy as possible in view of the large number of displaced persons in the world. He therefore opposed the notion that the paragraph be deleted.

The CHAIRMAN put to the vote the proposal that the second paragraph of Article 13 of the Declaration be deleted. The proposal was rejected by 11 votes to 4, with 3 abstentions.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) objected to the method of work which had been adopted at the morning meeting. He proposed that each Representative should be allowed to express his opinion on each Article, even if he had no amendment to propose.

After some discussion the CHAIRMAN called for a vote on the ruling which had been adopted at the morning meeting that one representative should speak in favour and one against each amendment and that any member could state his opinion in writing for inclusion in the report. The CHAIRMAN's ruling was sustained by 9 votes to 5, with 3 abstentions.

Mr. AMADO (Panama) asked for a vote to be taken on his earlier proposal that the Report of the Working Group on the Declaration be adopted without further discussion and that Representatives should hand in their opinions on the Declaration in writing, so that the Commission could proceed to the study of the Convention immediately.

The CHAIRMAN put the proposal to the vote; it was rejected by 5 votes to 4, with 7 abstentions.

Colonel HODGSON (Australia) proposed an alteration to the United Kingdom amendment to Article 13: "to acquire the nationality of any country willing to grant it", which was accepted by the United Kingdom Representative. The amendment, as altered, was accepted by 11 votes, with 7 abstentions.

The CHAIRMAN then put to the vote Article 13 as amended; it was adopted by 12 votes to 4, with 1 abstention.

Mrs. MEHTA (India) pointed out that Article 10 of the Convention contained no provision for freedom of movement within a State. She therefore proposed that paragraph 1 of Article 13 of the Declaration should be inserted at the beginning of Article 10. She asked that the vote should be taken on the substance of the proposal;

the wording could be modified later if necessary.

The amendment was carried by 11 votes to 2, with 2 abstentions.

The CHAIRMAN then put to the vote Article 10 of the Convention; it was adopted by 12 votes to 2, with 2 abstentions.

Declaration Article 14 and Recommendation 4 of the Convention
Report (page 15)

Mr. KLEKOVKIN (Ukrainian S.S.R.) felt that Article 14 of the Declaration was not sufficiently clear and precise. In his opinion, the text might allow several interpretations and might even be used to afford protection to anti-democratic elements. He therefore proposed the following substitute text: "Any individuals persecuted on account of their democratic convictions, of their defence of democracy and of the interests of the workers, or on account of their fight for national freedom, of their scientific activity, or any individuals persecuted for racial and religious reasons have the right of asylum outside the territory of the country where such individuals are submitted to such persecution".

The amendment was rejected by 6 votes to 4, with six abstentions.

Lord DUKESTON (United Kingdom) pointed out that some countries might be incapable of absorbing large numbers of refugees and, in his opinion, the State should have the right, for any reason considered right and proper, to refuse to grant asylum. He therefore proposed that the original text of the Drafting Committee should be restored: "Everyone has the right to escape persecution on grounds of political or other beliefs or on grounds of racial prejudice, by taking refuge on the territory of any State willing to grant asylum."

Mr. CASSIN (France) felt that it was a humanitarian duty for a State to grant asylum to refugees; in his opinion, it was for the Members of the Commission to give an example in that respect to the rest of the world.

The United Kingdom amendment was rejected by 11 votes to 4, with 2 abstentions.

The CHAIRMAN put to the vote Article 14 of the Declaration; it was adopted by 11 votes to 1, with 5 abstentions.

Dr. MALIK (Lebanon), with regard to Recommendation No.4 on page 15 of the Convention Report, proposed the insertion of the words "the Commission on Human Rights resolves to" in place of the words "this Working Party recommends that the Commission on Human Rights should," at the beginning of the Recommendation, in order to give it proper form.

Recommendation No.4 on page 15 of the Convention Report, as amended by Dr. MALIK, was adopted by 11 votes to 1, with 6 abstentions.

Declaration Article 15 and Convention Article 14

The CHAIRMAN put to the vote Article 15 of the Declaration; it was adopted by 15 votes, with three abstentions.

Lord DUKESTON (United Kingdom) proposed that paragraph 2 of Article 14 of the Convention should be deleted on the grounds that it was impracticable and incomplete. In his opinion, several categories in addition to those enumerated ought to have been included.

Dr. MALIK (Lebanon), speaking as Rapporteur of the Working Group on the Convention, pointed out that the consensus of opinion there had been against the inclusion of the 2nd paragraph of Article 14. However, in deference to the views expressed by Mr. CASSIN in the Drafting Committee meetings, it

had been decided to retain the text in order to allow discussion in the Plenary Meeting.

Mr. CASSIN (France) stated that he agreed with the observations of the United Kingdom representative and he would not therefore oppose the amendment.

The United Kingdom amendment was carried by 12 votes, with 4 abstentions.

The CHAIRMAN then put to the vote Article 14 of the Convention as amended; it was adopted by 11 votes to 1, with 3 abstentions.

Declaration Article 15A.

Dr MALIK (Lebanon) proposed the following substitute text for the second sentence of Article 15A:

"The family deriving from marriage is the natural and fundamental group unit of society.

It is endowed by the Creator with inalienable rights antecedent to all positive law and as

such shall be protected by the State and Society."

He pointed out that the word "family" was mentioned for the first and only time in the Declaration. He maintained that society was not composed of individuals, but of groups, of which the family was the first and most important unit; in the family circle the fundamental human freedoms and rights were originally nurtured. It therefore deserved greater prominence, he thought, than that given to it in the original text. Regarding the second sentence of his amendment, he said that he had used the word "Creator" because he believed that the family did not create itself. That word might give rise to objections, but he would very much like to have it

retained. He also contended that the family was endowed with inalienable rights, rights which had not been conferred upon it by the caprice of man, and he cited the use of the phrase "endowed by nature" in Article 1 as a precedent for the wording.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) opposed Dr. MALIK's amendment; the definition of "family", as given in it, was not acceptable to the Soviet Delegation. He pointed out that varied forms of marriage and family life existed in the world, each form corresponding to the special economic conditions of the people concerned. Different religions had different ideas regarding the position of woman in the family; some religions allowed polygamous families and some did not accord an equal status to men and women. He also reminded the Representatives that many people did not believe in God, and that the Declaration was meant for mankind as a whole, whether believers or unbelievers.

Mr. DEHOUSSE (Belgium) asked for the vote on Dr. MALIK's amendment to be taken in two parts, and Dr. MALIK requested that it should be taken by roll call.

The CHAIRMAN put to the vote the first sentence of Dr. MALIK's amendment; it was carried by 9 votes to 5, with 4 abstentions. The second sentence was rejected by 9 votes to 6, with 3 abstentions.

The CHAIRMAN then put to the vote Article 15A as amended; it was adopted by 15 votes.

Declaration Article 17.

Article 17 was adopted by 13 votes, with 4 abstentions.

Declaration Article 18 and Resolution 2 of the Convention
Report (page 15)

Mr. DEHOUSSE (Belgium) proposed the following alternative text for Article 18: "Everyone has the right to a nationality. All persons who do not enjoy the protection of any Government shall be placed under the protection of the United Nations. This protection shall not be accorded to criminals, nor to those whose acts are contrary to the principles and aims of the United Nations." He pointed out the tragic situation of stateless persons who had no diplomatic protection. The purpose of his amendment was to give such people the protection of the United Nations. From that protection were excluded persons who had committed criminal offences according to the common Criminal Law.

Lord DUKESTON (United Kingdom) opposed Mr. DEHOUSSE's amendment on the grounds that it might place a heavy burden and one impossible to fulfil upon the United Nations. He also felt it was a proposal which might raise false hopes.

The CHAIRMAN put to the vote Mr. DEHOUSSE's amendment; it was carried by 12 votes to 6.

Mr. DEHOUSSE (Belgium) proposed the following amended text for the draft Resolution 2 on page 15 of the Convention Report:

"The Commission on Human Rights recommends that early consideration be given by the United Nations to the legal status of persons who do not enjoy the protection of any Government, in particular, pending the acquisition of nationality, as regards their legal and social protection and their documentation.

It is recommended that such work should be undertaken in consultation with specialised agencies at present assuming the protection of some categories of persons not enjoying the protection of any Government and that due regard should be paid to relevant International Agreements and Conventions."

He pointed out that the word "persons" on the third line of his amendment included not only adults but children, as he wished to see ameliorated the tragic fate of stateless children. He also drew attention to the phrase "pending the acquisition of nationality"; that would obviously take some time and he considered it would be inhuman to leave people unprotected during that period. Regarding documentation, he felt that information should be available to the stateless persons regarding the opportunities for work and the living conditions of any country willing to accept them. He did not feel that the acceptance of his amendment would place an impossible burden upon the United Nations, and in support of that contention he cited the Nansen Organization which had functioned under the League of Nations.

Mr. CASSIN (France), while supporting the Belgian amendment, proposed the insertion of the words "expresses the wish first that the United Nations make recommendations to Member States with a view to concluding a Convention on Nationality; second" in line 1 after the word "Rights".

Mr. DEHOUSSE (Belgium) accepted the French amendment.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said his Delegation opposed the Belgian amendment. He pointed out that no agreement had been reached between countries interested in stateless persons. He therefore considered it unwise to include in the Declaration an article dealing with the subject, and felt that the Belgian amendment should be rejected.

The CHAIRMAN put to the vote the Belgian amendment, as altered by Mr. Cassin; it was carried by 13 votes to 2, with 3 abstentions.

Convention Article 11

The CHAIRMAN pointed out that the corresponding Article in the Declaration, Article 19, had not been adopted by the Working Group. She put to the vote Article 11; it was carried by 12 votes to 2, with 1 abstention.

Declaration Article 20 and Convention Article 15

The CHAIRMAN put to the vote paragraph 1 of Article 20; it was adopted by 13 votes, with 4 abstentions.

General ROMULO (Philippine Republic) proposed the following substitute text for paragraph 2 of Article 20:

"Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in worship, observance, teaching and practice."

He felt that the original text was redundant and that it was desirable to keep a logical pattern for Articles dealing with principles; in his opinion the first paragraph should state the general principle, and the second paragraph the practical application.

Mr. AMADO (Panama) opposed the Philippine amendment. He reminded the Representatives that the Article in question was of a controversial nature, and the text agreed upon by the Working Group had been a compromise one. He also pointed out that the text had been incorporated in Article 15 of the Convention. He therefore felt it should be retained.

The CHAIRMAN put the Philippine amendment to the vote; it was carried by 6 votes to 5, with 6 abstentions.

Mr. LOUTFI (Egypt) proposed that the words "and endeavour to persuade other persons of full age and sound mind of the truth of

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his beliefs" should be deleted from paragraph 2 of Article 15 of the Convention. He pointed out that freedom of religion was already assured by Article 11 of the Convention, and, in his opinion, the original text of Article 15 might raise difficulties in regard to ratification.

Dr. WU (China) opposed the Egyptian amendment on the grounds that the freedom in question was only part of the freedom of speech. He pointed out that beliefs are not necessarily religious beliefs and therefore Article 11 of the Convention did not cover the point.

The CHAIRMAN put to the vote the Egyptian amendment; it was carried by 4 votes to 3, with 9 abstentions.

Mr. CRUZ COKE (Chile) proposed that paragraph 3 of Article 15 should be deleted. He felt that the Commission was endeavouring to establish a standard for national laws. By adopting paragraph 3 they were opening the door to abuses which might exist in present national laws.

Lord DUKESTON (United Kingdom) opposed the Chilean amendment on the grounds that it would place religious bodies above the law. The conditions imposed by paragraph 3 were, in his opinion, absolutely necessary. He directed attention to paragraph (b) of Article 2, which stated that national laws were required to conform with the general principles prescribed by the United Nations.

The CHAIRMAN put to the vote the Chilean amendment to Article 15 of the Convention; it was rejected by 7 votes to 4, with 6 abstentions.

A vote was then taken on Article 15 of the Convention; it was adopted by 9 votes, with 7 abstentions.

Declaration Articles 21 and 22 and Resolution 1 of the Convention Report (page 14)

The CHAIRMAN pointed out that Articles 21 and 22 of the Declaration and Article 16 of the Convention dealt with freedom of

information. The Working Group had decided that no action could be taken on the Articles until the report of the Commission on Freedom of Information was received. She proposed that the draft resolution on page 14 of the Convention report should be accepted.

Lord DUKESTON (United Kingdom) moved the deletion of paragraph 5 of the resolution on the grounds that freedom of information should not be dependent on social, economic and political conditions.

Dr. MALIK (Lebanon) said that paragraph 5 had been incorporated in the resolution with a view to obtaining the expert opinions of the Commission on Freedom of Information on the point.

Mr. VICTORICA (Uruguay) felt that it was unwise to wait for the opinions of the Commission on the Freedom of Information. In his opinion the problem should be dealt with immediately and he emphasised the necessity for not only safeguarding freedom of information but also for safeguarding the right of access to source of information.

The CHAIRMAN put to the vote the United Kingdom amendment to delete paragraph 5; it was rejected by 9 votes to 4, with 3 abstentions.

A vote was then taken on the draft Resolution on Freedom of Information contained in pages 14 and 15 of the Convention report; it was adopted by 11 votes, with 6 abstentions.

The meeting rose at 9 p.m.