

COMMISSION ON HUMAN RIGHTS

SECOND SESSION

SUMMARY RECORD OF FORTIETH MEETING

Held at the Palais des Nations, Geneva
on Tuesday, 16 December 1947, at 9 a.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.)
	Dr. C.H. Wu (China)
	Mr. O. Loutfi (Egypt)
	Professor R. Cassin (France)
	Mrs. Hansa Mehta (India)
	Mr. A.G. Pourevaly (Iran)
	Mr. M. Amado (Panama)
	General M.C. Romulo (Philippine Republic)
	Mr. M. Klekovkin (Ukrainian S.S.R.)
	Mr. A.E. Bogomolov (Union of Soviet Socialist Republics)
	Lord Dukeston (United Kingdom)
	Mr. A.C. Victorica (Uruguay)
	Dr. V. Ribnikar (Yugoslavia)
Representative of the Commission on the Status of Women:	Mrs. E. Uralova

Secretariat: Professor J.P. Humphrey
Mr. E. Lawson

Specialized Agencies: Miss Barble (I.R.O.)
Mr. Weis (I.R.O.)
Mr. J. de Givry (I.L.O.)
Mr. J. Havet (UNESCO)

Non-Governmental Organizations:

Category A: Miss Toni Sender (American Federation
of Labor)
Mr. Robinet de Clery (Inter-
Parliamentary Union)
Mr. P.V.S. Serracens (International
Federation of Christian Trade
Unions)

Category B: Miss de Romer (International Union
of Catholic Women's Leagues)
Mrs. Duchesne (Women's International
Democratic Federation)
Mr. F. Nolde (Commission of the
Churches on International
Affairs)
Mr. de Felice (International Abolition-
ist Federation)
Mr. Biegner (World Jewish Congress)
Dr. Bienenfeld (World Jewish Congress)
Mrs. E. Weill
Mrs. Eder (International Council
of Women)

Article 25 of the Declaration

The CHAIRMAN stated that the present Article had been left aside by the Working Group on the Declaration for inclusion in the Preamble or in a Final Article. She proposed to postpone discussion of it until the Commission had discussed the whole document.

Articles 26 and 27 of the Declaration

The CHAIRMAN put the text of the above Articles to the vote.

Decision: The Commission adopted these Articles by 9 votes, with 4 abstentions.

Article 28 of the Declaration

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that there was no corresponding Article in the draft Convention. That omission appeared to him regrettable.

Dr. MALIK (Lebanon) said that the draft Convention was not exhaustive and remained open for any additions which representatives might propose.

The CHAIRMAN stated that the Soviet representative's observation might appear in the comment for the information of the Governments and the Drafting Committee.

Col. HODGSON (Australia) said that many laws limited the holding of public office to nationals. The text of Article 28 only mentioned citizens, who might not be nationals. He therefore proposed the addition of the words "or national" after the word "citizen". In Australia there were people who had the right of citizenship, although they were not yet nationals.

Lord DUKESTON (United Kingdom) said that in the United Kingdom the two grades, citizen and national, mentioned by the Australian representative did not exist. There were only aliens

or nationals. He was against the amendment put forward by the Australian representative because of the complications it would involve in a country like the United Kingdom.

Col. HODGSON (Australia) said that his amendment aimed at making the Article conform with the provisions of the legislation of the largest possible number of countries.

The CHAIRMAN said that the United States were in a similar position to the United Kingdom, but that she was prepared to transmit the text in the amended form proposed by the Australian representative to the Governments for their observations. A final text could not be adopted until Governments had stated their position. She put the Australian representative's amendment to the vote.

Decision: The amendment was adopted by 5 votes to 3, with 4 abstentions.

The CHAIRMAN put Article 28, with the adopted amendment, to the vote.

Decision: The Commission adopted the Article by 8 votes, with 6 abstentions.

Article 29 of the Declaration

The CHAIRMAN said the Commission had before it an amendment to this Article submitted by the Byelorussian representative (Document E/CN.4/67).

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) said he was prepared to accept the first paragraph of Article 29, but the second paragraph did not seem to him to be such as to guarantee the application of the principle laid down in the first part. He proposed that the following amendment be substituted:

"The State is bound to take all necessary steps to prevent unemployment."

The present text represented a slight modification of that appearing in Document E/CN.4/67; the modification did not affect the original Russian text but only the translation.

The CHAIRMAN recalled that the second paragraph of Article 29 was the result of a compromise reached during discussion of the Article by the Working Group on the Declaration after an amendment in the same sense had been rejected because of the compulsory nature of the measures it prescribed. The amendment submitted by the Byelorussian representative tended to re-establish the compulsory nature of the State action, which had been rejected by the Working Group.

Lord DUKESTON (United Kingdom) thought that the right to social security defined in the first paragraph of Article 34 should appear in Article 29. The right to work could not be separated from the right to social security.

Mr. VICTORICA (Uruguay) said that the term "its citizens" in the second paragraph of Article 29 appeared to be inaccurate. Work should be guaranteed to all human beings and not only to citizens. He proposed that the term "its citizens" be replaced by "persons".

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said that the amendment proposed by the Byelorussian representative seemed to him very important. The idea it embodied did not appear in the present text of Article 29. Under the Soviet economic and social system in which all industrial undertakings belonged to the State, it was normal for the latter to undertake to provide its citizens with work. The Declaration, however, was also intended for countries where private undertakings existed side by side with the State, and where the State could not accept

all the responsibilities connected with the work of its citizens. In such cases, it could, however, take effective action, by means of economic measures, to prevent unemployment. There was therefore a difference between the duty of providing work for citizens and that of taking steps to prevent unemployment.

Professor CASSIN (France) said that the text which had been adopted made it possible to attain both the objectives indicated by the Soviet representative, as it required the State not to provide work for its citizens, but to take all necessary steps to ensure that its citizens had an opportunity to work. The real difference between the text of the Byelorussian representative's amendment and the text of Article 29 of the draft Declaration lay in the fact that the former defined the duty of the State as absolute and the latter defined it as relative. It was not always possible for the State to undertake such an absolute and unconditional obligation. Moreover, the State was not the sole agency responsible for preventing unemployment. The international community of nations should also help to prevent it. Otherwise, unemployment might be abolished in one State and continue to exist in a neighbouring State. He proposed that the text of Article 29 be retained in its existing form. He agreed to the amendment proposed by the representative of Uruguay. As regards the amendment put forward by the representative of the United Kingdom, he pointed out that the provisions of Articles 29 and 30 related to people who worked, whereas those of Article 34 related to those who were not able to work. There was a difference between the right to work and the right to social security.

The CHAIRMAN informed the Commission that the representatives of the Ukraine and Byelorussia proposed the insertion of the amendment of the Byelorussian representative after the second paragraph of Article 29, instead of its substitution for that paragraph. She therefore called for a vote on the addition of that amendment to the present text of Article 29.

Decision: The Commission adopted the amendment by 7 votes to 4 with 5 abstentions.

The CHAIRMAN said that the amendment proposed by the representative of Uruguay had been modified as follows: the words "all its citizens" were to be replaced by the words "all persons ordinarily resident in its territory". She put this amendment to the vote.

Decision: The Commission adopted this amendment by 11 votes, with 3 abstentions.

The CHAIRMAN put the United Kingdom amendment to the vote. The first paragraph of Article 29 would then read "Everyone has the right to work or to social security" and paragraphs 2 and 3 would remain in the form in which they had been adopted. The first paragraph of Article 34 would become paragraph 4 of Article 29.

Lord DUKESSTON (United Kingdom) said that to prescribe the right to work whilst separating it from the right to social security would be tantamount to prescribing forced labour.

The provisions of Article 29 in fact implied the right of the State to direct skilled workers to unskilled jobs. To avoid any abuse, such transfers demanded the attention of qualified services and the existence of appropriate social security laws.

General ROMULO (Philippines) said that the order of the Articles of the Declaration followed a clearly defined plan and he was against the amendment proposed by the United Kingdom representative. The provisions of Articles 32 and 34 made it impossible to interpret Article 29 as applying to forced labour.

The CHAIRMAN put the United Kingdom amendment to the vote.

Decision: The amendment was rejected by 5 votes to 3 with 7 abstentions.

Article 30 of the Declaration

Mrs. DUCHESNE (Women's International Democratic Federation) said she would prefer a more forceful draft, such as the following:-

"Women should work under the same conditions as men and receive equal pay for equal work".

She pointed out that in the 5th line of the first paragraph of the French text of Article 30, the words "pour lui" should be changed to "pour elle". She would like to see the comment made more precise. The present text might serve as a pretext for keeping women away from work they were able to perform on the grounds of so-called protection of female labour. In point of fact, women often did work which was very harmful although poorly paid. It would thus be merely theoretical to forbid them to undertake certain types of work regarded as too harmful. The Women's International Democratic Federation was particularly anxious that the Commission should stress the following points in connection with the equality of men and women:

1. Equality in the legal as well as in the social sphere;
2. The universal grant of the vote to women;
3. Application of the equal pay for equal work rule in all industries;
4. Equal rights of the mother and the father in respect of their children;
5. Full civil status to be granted to women.

She would like the above statement to be inserted, if possible, as a note in the Minutes.

Lord DUKESTON (United Kingdom) said he could not agree to the phrase "under the same conditions as men" which appeared in the second paragraph of Article 30. If those words meant ~~under~~ the same conditions of employment as men, that Article nullified all the legislation for the protection of female labour, built up over half a century. All industrial legislation had to provide for different working conditions for women as compared with those applicable to men. That difference did not mean inequality of pay. It was idle to quote war-time measures as an example, as many of them had been harmful to female health and would never have been taken in time of peace. He therefore proposed that the words "under the same conditions as men" be deleted.

The CHAIRMAN proposed to take a separate vote on each paragraph of Article 30. She put the first paragraph to the vote.

Decision: The Commission adopted this paragraph by 16 votes.

General ROMULO (Philippines) pointed out that when the present Articles were discussed in the Working Group on the Declaration, the representatives of the Commission on the Status of Women had agreed to the present text.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) observed that women worked, not only under the same conditions as men, but under more difficult conditions, because of their family responsibilities. As regards harmful work, women could either avoid it, or accept it if their physical strength allowed. In such cases the State should adopt the necessary measures to facilitate their work. He therefore supported the view of the representative of the Women's International Democratic Federation that difficult working conditions should not serve as a pretext for exercising discrimination against women.

The CHAIRMAN said that the representatives of the Commission on the Status of Women and the representative of the American Federation of Labor had not agreed to the present wording of Article 30, but had agreed to the comment accompanying the Article.

Professor DEHOUSSE (Belgium) recalled that many States were parties to international labour conventions which prescribed conditions for women similar to those outlined by the United Kingdom representative. Those conventions were in force. If the amendment submitted by the United Kingdom representative were not adopted, those States would find themselves in a difficult position.

Decision: The Commission rejected the United Kingdom amendment by 8 votes to 6 with 2 abstentions.

Mr. VICTORICA (Uruguay) proposed as a compromise the following amendment: "Women shall work with the same advantages as men and receive equal pay for equal work".

The CHAIRMAN put this amendment to the vote.

Decision: The Commission adopted the amendment submitted by the representative of Uruguay by 8 votes with 7 abstentions.

The Comment was retained without change.

Article 31 of the Declaration

The CHAIRMAN said that in the case of the present Article the Commission had before it a United Kingdom amendment proposing the insertion at the end of the second sentence of the following words: "to the greatest extent permitted by the resources of the State or Community" (E/CN.4/65).

Lord DUKESTON (United Kingdom) said the amendment was necessary in view of existing differences in the state of economic and social progress throughout the world.

Mr. VICTORICA (Uruguay) said he could accept neither the amendment proposed by the United Kingdom, nor the text submitted by the Working Group. The Constitution of Uruguay recognised the social value of primary and higher education being free. The least that could be stipulated in the present Article was that, so far as the resources of the State allowed, public education and, in particular, secondary and higher education, should be free.

Secondary education should be compulsory.

Mr. KLEKOVKIN (Ukraine) said he was against the United Kingdom amendment.

The CHAIRMAN put the amendment to the vote.

Decision: The Commission rejected the amendment by 11 votes to 5.

The CHAIRMAN put Article 31 as proposed by the Working Group to the vote.

Decision: The Commission adopted the Article by 15 votes.

Article 31A of the Declaration

The CHAIRMAN said that the Commission had before it an amendment to the Article submitted by the representative of the Lebanon.

Dr. MALIK (Lebanon) said that his proposed amendment was for the insertion of the word "intellectual" in the English text and the word "spirituel" in the French text. He indicated that his original proposal related to the English text, and suggested that the French representative be left to produce the French translation.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) asked for an explanation of the difference between the terms "spirituel" and "intellectual".

Dr. MALIK (Lebanon) said that the aim of education was to develop not only the spirit, but also the intellect, and that there was a great difference both in English and Arabic between the two terms.

Professor DEHOUSSE (Belgium) thought it preferable to reverse the order of the terms "physical, spiritual and moral" as the primary aim of education should be the full moral, intellectual and-finally-physical development of the personality. He was opposed to the inclusion of the term "spirituel" which was already covered by the term "moral".

The CHAIRMAN said that it was a question of translation; the word "spiritual" in English could include the sense of the word "intellectual". She proposed that the settlement of the question be left to the representatives of the Lebanon and France.

Dr. MALIK (Lebanon) asked for a vote on the principle of including in the English text the term "intellectual".

The CHAIRMAN put that proposal to the vote.

Decision: The Commission adopted the proposal by 9 votes to 3, with 4 abstentions.

The CHAIRMAN put Article 31A to the vote.

Decision: The Commission adopted the Article by 11 votes with 4 abstentions.

Mr. HAVET (UNESCO) said he wished the following comment on Articles 31 and 31A to be included in the Report:

"The United Nations Educational, Scientific and Cultural Organization expresses its approval of the principles laid down in Articles 31 and 31A of Document E/CN.4/57 (Report of the Working Group on the Declaration to the Commission on Human Rights), which correspond to those governing its own action in the two fields of Fundamental Education (Education de Base), the campaign against illiteracy and ignorance, and Education for International Understanding (Education pour la Comprehension Internationale). However, it wishes to draw attention to the fact that the application of the principles expressed in Article 31 entails not only the outlay of a certain sum, but also the training of a sufficient number of qualified teachers. The ideal represented by the text of Article 31 should therefore be related to the need for international action by the United Nations and the competent Specialized Agencies directed towards assuring equal educational opportunities for all. The resources of the United Nations Educational, Scientific and Cultural Organization are at the disposal of the United Nations for any action on those lines."

General ROMULO (Philippines) pointed out that when Article 31A had been discussed by the Working Group, it had been decided that the Article would be followed by a Comment to the effect that religious establishments would have full freedom.

The CHAIRMAN said that the Working Group had agreed upon the following formula: "The right of private education shall be respected".

She pointed out that this Comment, which appeared in the English text, had been omitted by error from the French text.

Article 32 of the Declaration

The CHAIRMAN said that in the case of the present Article the Commission had before it an amendment submitted by the representative of Yugoslavia, proposing the insertion of the words "with pay" after the word "rest".

Dr. RIBNIKAR (Yugoslavia) said that the words "periodic vacations with pay" which appeared in the Comment should be included in the Article itself. The right to rest without pay meant nothing.

Lord DUKESTON (United Kingdom) emphasized that the text should explicitly mention that rest with pay was granted to employees.

The CHAIRMAN said that the Comment had been drafted to that end. It showed that all had a right to rest and leisure, and that the workers' contracts entitled them to vacations with pay.

Mr. VICTORICA (Uruguay) proposed the following amendment:

"Employees and workers have the right to periodic vacations with pay".

Professor DEHOUSSE (Belgium) proposed that the present text of Article 32 be retained with the addition, as a second paragraph, of the text which appeared in the Comment.

Mr. VICTORICA (Uruguay) agreed to that proposal.

The CHAIRMAN put the amendment submitted by the representative of Yugoslavia to the vote.

Decision: The Commission rejected the amendment.

The CHAIRMAN put the amendment submitted by the representatives of Uruguay and Belgium to the vote.

Decision: This amendment was adopted by 11 votes, with 2 abstentions.

Article 33 of the Declaration

The CHAIRMAN said that in the case of the present Article the Commission had before it an amendment submitted by the United Kingdom, proposing that the words "by means of adequate food and medical care" be replaced by the words "through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide."

Lord DUKESTON (United Kingdom) emphasized that it was a mistake to proclaim rights without mentioning the duties of the beneficiaries. The terminology used should not lead to misunderstanding of the part to be played by the State. The services the latter provided were governed by the resources it had available.

Mr. VICTORICA (Uruguay) said he was opposed to the amendment submitted by the United Kingdom and to the text of Article 33.

He thought it would be preferable to state that everybody had a duty to look after his health, and when he had not the means to do so, it became the State's responsibility.

The CHAIRMAN put the United Kingdom amendment to the vote.

Decision: The Commission adopted the amendment by 8 votes to 2 with 5 abstentions.

The CHAIRMAN put to the vote the amendment submitted by the representative of Uruguay, proposing the insertion of the words "Everybody has a duty to look after his health" in paragraph 1 of Article 33.

Decision: The Commission rejected the above amendment by 8 votes to 4 with 5 abstentions.

The CHAIRMAN put the whole of Article 33 as amended to the vote. She pointed out that the following slight drafting change, which did not affect the French text, was desirable in the English text: replace "can be only" by "can only be".

Mr. VICTORICA (Uruguay) said that in the second sentence of the French text the word "citoyens" should be changed to "habitants".

The CHAIRMAN said that this was a matter of translation which could be left to the French representative. She put the Article to the vote.

Decision: The Commission adopted the Article by 11 votes to 1 with 4 abstentions.

Article 34 of the Declaration

The CHAIRMAN put the Article to the vote.

Decision: The Commission adopted this Article by 14 votes, with 2 abstentions.

Mr. LOUTFI (Egypt) proposed that the order of Articles 30 to 34 be changed by the insertion of Articles 33 and 34 between Articles 30 and 31.

Dr. MALIK (Lebanon) supported that proposal.

Decision: The Commission adopted this proposal by 14 votes.

Article 35 of the Declaration

The CHAIRMAN put the Article to the vote.

Decision: The Commission adopted this Article by 14 votes, with 2 abstentions.

Articles 35A, 36, 37 and 38

The CHAIRMAN said that Article 35A had not been approved by the Working Group and should therefore be left aside. Articles 36 and 37 had not been voted on by the Working Group and therefore should also be left aside.

Mr. STEPANENKO (Byelorussian S.S.R.) drew the Commission's attention to a faulty translation of the Byelorussian amendment to Article 36. He asked the Secretariat to have a new translation of that amendment made for insertion in the Report.

The CHAIRMAN said the Commission had before it an amendment to Article 38. As the latter had not been voted on by the Working Group, the amendment could not be considered unless a member of the Commission asked for discussion of Article 38.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) pointed out that in the document sent to the Governments Articles 37 and 38 should appear not as Articles of the "Declaration" but as the comments of certain members of the Commission.

The CHAIRMAN stated that those Articles would be attached to the "Declaration" in the form of notes.

Professor CASSIN (France) called attention to the fact that the principle of Article 37 had been recognized at the outset of the Working Group's discussion, and if that Article were not inserted in the Declaration, a serious omission would result.

The limitations connected with public order and morality had been omitted from the body of the Articles as it had been understood that they would be inserted in a special Article. He therefore moved that Article 37 be inserted in the Declaration.

Dr. MALIK (Lebanon) said he was against that insertion. The substance of the Article was already embodied in Article 2 which had been adopted. Further, the text opened the door to all kinds of abuse by unscrupulous States.

The CHAIRMAN called for a vote on the insertion of Article 37 in the "Declaration".

Decision: This proposal was rejected by 10 votes to 4 with 2 abstentions.