

## COMMISSION ON HUMAN RIGHTS

## Third Session

## SUMMARY RECORD OF THE SEVENTY-EIGHTH MEETING

Held at Lake Success, New York,  
on Thursday, 17 June 1948 at 2.30 p.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. MALIK	Lebanon
<u>Members:</u>	Mr. JOCKEL	Australia
	Mr. STEYAERT	Belgium
	Later Mr. LEBEAU	
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. CHANG	China
	Mr. LOUTFI	Egypt
	Mr. ORDONNEAU	France
	Mrs. MEHTA	India
	Mr. QUIJANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FONTAINA	Uruguay
	Mr. VILFAN	Yugoslavia

Consultants from Non-Governmental Organizations:

<u>Category A</u>	Mr. P. GARVAN	American Federation of Labor
<u>Category B</u>	Dr. I. LEWIN	Agudas Israel World Organization
	Mrs. DRENNAN	Catholic International Union for Social Service
	Mr. S. PRENTICE )	Commission of the Churches on
	Mr. NOLDE )	International Affairs
	Mr. MOSKOVITZ	Consultative Council of Jewish Organizations

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\* The 79th meeting of the Commission was held in closed session, and the summary record (document E/CN.4/SR.79) is distributed as a restricted document to members of the Commission only.

Consultants from Non-Governmental Organizations: (Continued)

<u>Category B</u>	Miss SCHAEFER	International Union of Catholic Women's Leagues
	Mr. S. WOLKOWICZ )	World Jewish Congress
	Mr. BIENENFELD )	
	Mrs. M. BAKER VANDEN BERG	International Alliance of Women

Secretariat:

Mr. HUMPHREY	Director of the Division of Human Rights
Mr. LAWSON	Secretary of the Commission

## CONTINUATION OF THE CONSIDERATION OF THE DRAFT INTERNATIONAL DECLARATION ON HUMAN RIGHTS (document E/CN.4/95)

Article 20

The CHAIRMAN recalled that the Drafting Committee had decided not to consider the text adopted at the second session of the Commission until the articles on implementation had been drafted. She asked the members of the Commission to decide whether or not the Commission could take any action in the matter until the Covenant had been drafted and the manner in which petitions should be dealt with had been settled. If the decision was a negative one the Commission could vote against the immediate inclusion of the article in the Declaration, and could take it up again at the proper time.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought consideration of article 20 should be postponed until implementation was considered. He pointed out that if the article were retained the Declaration could not be considered as complete. He did not wish to discuss the substance of the matter for the time being, but merely asked the Commission to remove the article from the Declaration, where he considered it was out of place.

Mr. WILSON (United Kingdom) said there were two alternatives before the Commission: either to delete the article from the Declaration, with a mental reservation that it might be considered again at a later

/stage,

stage, or else to leave it in the Declaration with a note to the effect that it should be reconsidered in the light of later decisions on implementation. He would prefer the second alternative.

The CHAIRMAN put to the vote the question whether to retain article 20 of the Draft Declaration

The Commission decided, by 7 votes to 5 with 1 abstention, to retain the article.

Mr. WILSON (United Kingdom) proposed the insertion of a note to the effect that "the Commission decided not to consider the following text, since measures on the implementation of the Bill of Rights had not been considered at its third session."

Mr. QUIJANO (Panama) considered that the article should be adopted at once. The Commission had included in the Declaration all the articles it considered necessary, with the sole exception of that one. The article was clear, and it was undeniable that everyone had the right to submit petitions to a competent public authority and to obtain a response; that right was provided for in the constitutions of all the American nations and in those of many others. The Commission could not be making a mistake in including such a provision in the Declaration.

Mr. PAVLOV (Union of Soviet Socialist Republics) contended that under the second part of the article the United Nations would have to constitute an organ to consider complaints of nationals against their own State. That was contrary to the Charter, which did not confer on the United Nations the right to interfere between a State and its nationals.

Secondly, such a provision would multiply the possible causes of international conflict, which were already sufficiently numerous.

He agreed with the United Kingdom representative that the article should be placed in brackets with a note to the effect that it had not

yet been considered, but thought it should be placed at the end of the Declaration as an addendum, without a number.

Mr. WILSON (United Kingdom) agreed.

The Commission decided, by 12 votes to 1 with 1 abstention, to retain the article and to place it, unnumbered, at the end of the Declaration, with a note as suggested by the United Kingdom representative.

Mr. MALIK (Lebanon), Rapporteur, submitted the following alternative text of paragraph 6 of the Preamble:

"WHEREAS a (definition) (common understanding) of these rights and freedoms is (necessary) (of the greatest importance) for the fulfilment of this pledge,"

Mr. CHANG (China) stated that he preferred "definition" to "common understanding" and "necessary" to "of the greatest importance".

He further suggested replacing "fulfilment" by "full realization".

The Commission decided, by 9 votes to 1 with 4 abstentions, in favour of the words "common understanding".

The Commission decided, by 6 votes to 4 with 4 abstentions, in favour of the words "of the greatest importance".

The Commission decided, by 8 votes to 2 with 4 abstentions, in favour of the words "full realization".

The Commission adopted the amended text by 13 votes to none, with 1 abstention.

The CHAIRMAN read the following draft text which the USSR representative had proposed should be added at the end of the Preamble:

"...and recommends it to the States Members of the United Nations for use at their discretion, both in taking the appropriate legislative and other measures and for the dissemination of the provisions contained in this Declaration among the population of the Member States themselves and among the populations

/of such

of such territories in regard to which these States are carrying out the functions of the Administering Authority, and populations of territories under Trusteeship and the populations of Non-Self-Governing Territories."

Mr. PAVLOV (Union of Soviet Socialist Republics) preferred the following wording:

"...recommends to all States Members of the United Nations the following Declaration for use at their discretion both in taking the appropriate legislative as well as other measures, and equally for the dissemination of the provisions contained in this Declaration..."

The phrase "recommends to all States Members ... for use at their discretion" was equivalent to a statement that the States themselves would decide what legislative or other measures they would take.

He pointed out that the word "colonial" was not used in the proposed text, which however emphasized the principle of equality between all peoples, an idea which appeared nowhere else in the Declaration. He did not agree with the suggestion which had been put forward that it was covered by the general nature of the Declaration; it should be stated in concrete terms.

He thought the text should be voted upon in two parts: first up to and including the words "...among the populations" and second from the words "of the Member States themselves..."

Mr. CHANG (China) concurred in the idea behind the USSR proposal, i.e. there should be no doubt that peoples who did not at present enjoy self-government should be included in the Declaration. He thought, however, that the addition of the words "and peoples" after "all nations" would remove any possibility of misunderstanding.

Mr. FONTAINA (Uruguay) suggested that the last paragraph of the Preamble should begin: "Proclaims this Declaration of Human Rights

as a common standard of achievement for all nations, independent or non-self-governing, to the end..." He thought that would meet Mr. Pavlov's contention, while avoiding any direct reference to Trust Territories or Non-Self-Governing Territories.

Mr. LOUTFI (Egypt) considered the idea embodied in the USSR proposal to be extremely important. It was essential that the Declaration should state that it was applicable to nations or peoples that were not autonomous or were under Trusteeship, and if the USSR proposal were not adopted he reserved the right to make another proposal on the same lines. He proposed the phrase: "...both among the populations of Member States themselves as well as among the populations of territories under their jurisdiction."

Mr. WILSON (United Kingdom) would vote for the proposal of the Chinese representative, which appeared to him the simplest way of making even clearer that the Declaration applied to all peoples, whatever their status. With regard to the USSR proposal, he considered it took the Commission outside the scope of the Preamble and into the sphere of implementation.

Mr. MALIK (Lebanon) pointed out that the phrase "human rights and fundamental freedoms" occurred in a number of places in the Charter, including Article 76 (c). He therefore thought some mention of the absolute universality of the Declaration would be in harmony with the Charter.

Of the three amendments which had been proposed, he would vote for the Egyptian one, which he thought expressed in the happiest manner the idea common to them all. He would also be prepared to vote for the Chinese proposal, but would abstain from voting on the USSR proposal, which went into more detail than was appropriate in a Preamble.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) opposed the Chinese amendment, which he considered too indefinite. The question of the populations of non-self-governing territories should be faced squarely and not evaded by vague general statements.

Mr. CHANG (China) agreed with the USSR representative that the problem should be faced, but thought the Preamble was not the place to deal with it. If the USSR would propose the adoption of such a clause at the General Assembly, after the adoption of the Declaration, he would support it.

With regard to the USSR proposal, he pointed out that there were many more independent peoples than non-self-governing peoples in the world today. From a purely drafting point of view, therefore, the two phrases did not balance. Furthermore, the addition of the sentence proposed by the USSR made the paragraph unduly long.

The CHAIRMAN, speaking as representative of the United States of America, considered both the Egyptian and the Uruguayan amendments to be acceptable, but thought the Chinese amendment expressed the same idea in fewer words. She would therefore take a vote first on the Chinese amendment.

With regard to the USSR proposal, she felt the Preamble was not the right place for it. Moreover, it might be argued that a document such as the Declaration should not recognize the status of Non-Self-Governing Territories as a permanent one; it would therefore be preferable to speak of "all peoples".

Mr. LOPEZ (Philippines) recognized the validity of the point raised by the USSR representative.

The representative of France had stated that there was no difference in the observance and recognition of rights and freedoms as between independent /and non-self-governing

and non-self-governing countries; but the representative of France was a national of a metropolitan Power and was perhaps not in a position to know all the facts. The Philippines had enjoyed the widest political and civil freedom during the period when it was not self-governing, but their case had been exceptional. He would therefore vote in favour of including in the Preamble a reference to the inhabitants of non-self-governing territories. He would vote for the Chinese proposal, which added something to the operative clause, though he did not agree that it stated the point exactly as it should be stated. He would also vote for the Egyptian proposal if none other was put forward to embody the idea. He could not vote for the USSR proposal, since he did not consider the idea should be embodied in a separate paragraph. Like Dr. Chang, he would be prepared to support a proposal for a separate resolution containing the same idea for submission to the General Assembly at its forthcoming session or during the session at which the Declaration was adopted.

Mr. STEYAERT (Belgium), while not having the right to vote, stated that the Belgian delegation supported the Chinese amendment

Mr. ORDONNEAU (France) supported the Egyptian amendment.

The CHAIRMAN said she would put to the vote, first the first and second parts of the USSR proposal, secondly the Egyptian proposal, thirdly the Uruguayan proposal and fourthly the Chinese proposal.

The first part of the USSR proposal was rejected by 9 votes to 4 with 1 abstention.

The second part of the USSR proposal was rejected by 6 votes to 5 with 3 abstentions.

The Egyptian proposal was adopted by 9 votes to 3 with 2 abstentions.

The Chinese proposal was adopted by 8 votes to none with 5 abstentions.

/The CHAIRMAN

The CHAIRMAN turned to consideration of an article originally suggested by the Lebanese representative and subsequently proposed by the Drafting Sub-Committee in the following form:

"Every one has the right to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized."

Mr. MALIK (Lebanon), pointed out that the idea contained in the proposed article was to some extent expressed in the preamble just adopted. He nevertheless felt that the Declaration should clearly set forth the right of mankind to have a United Nations a world organization, as well as a social order, in which the rights and freedoms could be realized.

Mr. WILSON (United Kingdom), a member of the Drafting Sub-Committee, observed that the article had originally been proposed in connexion with a heading for economic and social rights. However, in view of the fact that another heading had been adopted and of the further fact that the preamble contained much of what the proposed article would include, he no longer favoured its adoption.

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed that the word "such" should be substituted for "good" before "social and international order", as a "good" social order could not be achieved except through a socialistic society in which there was real equality. Even the enjoyment of the rights and freedoms set forth in the Declaration would not be sufficient to ensure a "good" social order; that could be brought about only if the interests of all were identical with the interests of each individual, as had been proved in practice during the last third of a century.

Mr. CHANG (China) drew attention to two drafting points. Firstly, he questioned the juxtaposition of "social" and "international", which were not contrasting terms. "Social order, national and international" might be preferable. Secondly, he raised the point that "is entitled" might be substituted in the first line for "has the right" since the word "rights" was used further on in the article.

Mr. FONTAINE (Uruguay), stressing the duty of each individual to co-operate in achieving a society in which the rights and freedoms could be enjoyed, suggested that the words "and the duty to co-operate in the fulfilment of" should be inserted between "international order" and "rights and freedoms".

The CHAIRMAN, speaking as the United States representative, supported the proposed article, with the drafting changes mentioned by the Chinese representative.

Reverting to her position as Chairman, she put to the vote the USSR proposal to substitute "such" for "good".

The USSR proposal was rejected by six votes to four with three abstentions.

Mr. MALIK (Lebanon), referred to the drafting point raised in connexion with "social and international". Those two words were intended to express two different ideas, and in order not to change the meaning of the article, the drafting change would have to be: "social - national and international - and international order."

After a short discussion of drafting in which the representatives of the Philippines, China and Lebanon took part, the CHAIRMAN put to the vote the first part of the article in the following form: "Every one is entitled to a good social and international order...".

The text was adopted by seven votes to none, with six abstentions.

The CHAIRMAN put to the vote the article as a whole.

The article was adopted by six votes to three with six abstentions.

The CHAIRMAN drew attention to the article proposed by the French delegation and contained in document E/CN.4/82/Add.8 as article 28.

Mr. ORDONNEAU (France) explained that the purpose of the proposed article was to serve as a transition between the Declaration and the Covenant and to make clear in the Declaration that the United Nations recognized the necessity for further provisions such as the Covenant was to contain. For that reason, the French delegation considered that the article should be the last one in the Declaration.

The wording of the article was not necessarily final.

Mr. CHANG (China) pointed out that the proposed article belonged more properly with measures for implementation.

Mr. ORDONNEAU (France) was willing to have the article included tentatively, with a footnote such as had been agreed to in connexion with article 20.

Mr. WILSON (United Kingdom) did not think the article could be treated in the same way as article 20. In the latter case, no decision was at all practicable until measures of implementation had been decided upon. The article under discussion however dealt solely with implementation; and the Commission should follow the principle agreed to at its second session, namely, that measures of implementation should not be included in the Declaration.

The CHAIRMAN, speaking as the United States representative, thought that the first paragraph of the proposed article went too far.

Some of the principles stated in the Declaration for example, the right to health could not be realized immediately. What would be the good of passing laws to punish countries for failing to supply what they did not have and could not get?

Furthermore, the Declaration was not intended to state exactly what the States should do to ensure the rights to their citizens. If such provisions were included, interest in the Covenant might be markedly lessened; yet the Covenant was of very great importance.

The second paragraph of the proposed article clearly dealt with implementation. Moreover the world was not yet ready for the international court it envisaged. She would therefore vote against the paragraph.

Mr. ORDONNEAU (France) pointed out that the French proposal did not give detailed recommendations for implementation but stressed primarily the need for implementation.

Mr. PAVLOV (Union of Soviet Socialist Republics) was opposed to the French draft. A USSR proposal to mention in the preamble legislative measures to ensure the rights and freedoms stated in the Declaration had been criticized as too concrete; yet the French proposal which spoke of judicial and administrative measures was far more concrete, and its specific recommendations for implementation were not appropriate for the Declaration.

The second part of the proposed article, in suggesting the adoption of international conventions to ensure the full realization of the provisions of the Charter, went beyond the Commission's competence.

The CHAIRMAN put to the vote the question of whether or not the proposed article should be inserted in the Declaration.

It was decided not to insert the article eight votes to three, with two abstentions.

Mr. PAVLOV (Union of Soviet Socialist Republics) raised the point of the order of the articles at the end of the Declaration.

The Commission decided that the article dealing with a "good social and international order" should be third from the last; the article covering the duties of the individual, adopted at its previous meeting, should be next to the last; and the article beginning "Nothing in this Declaration shall be considered to recognize the right..." should be the last.

#### DISCUSSION OF PROCEDURE FOR CONSIDERING THE RAPPORTEUR'S REPORT

After a short discussion, the CHAIRMAN stated that the Rapporteur's report would include the Declaration in the form proposed by the Style Committee, but any changes the Committee had made in the original texts voted by the Commission might be put to the vote as amendments.

In reply to a point raised by Mr. PAVLOV (Union of Soviet Socialist Republics), Mr. MALIK (Lebanon), explained that the report would include a statement to the effect that the views of the various delegations could be found in summary records of the meetings of the Commission.

#### FRENCH-UNITED STATES PROPOSAL FOR STATEMENT TO ACCOMPANY THE COMMISSION'S REPORT

The CHAIRMAN asked for consideration of the French-United States proposal to transmit the Commission's report to the Council with the following statement:

"The Commission recognizes that in approving this Declaration it has not completed its task of preparing a Bill of Human Rights. The Bill consists of a Declaration, a Covenant and measures of implementation.

"The Declaration forms part only of the Bill of Rights. Completion of a Covenant including measures of implementation is essential.

/"The Commission recommends

"The Commission recommends to the Economic and Social Council that a meeting of the Commission be held immediately after the eighth session of the Council in 1949 for the completion of the Covenant and the measures of implementation."

Mr. MALIK (Lebanon) thought the statement should include a reference to the work on the Covenant done by the Drafting Committee; the statement by the French representative, Mr. Cassin, on implementation; and the work on implementation done by a Sub-Committee at the Commission's second session.

Mr. CHANG (China) considered the first two paragraphs of the French-United States proposal unnecessary.

He further suggested an amendment to the third paragraph so that "after the eighth session of the Council in 1949" would be changed to "early in 1949". The date of the Council's eighth session was not as yet fixed.

The CHAIRMAN explained that the first two paragraphs of the proposal were designed to ensure that there should be no doubt of the fact that the Commission did not consider the Declaration a complete Bill of human rights.

Mr. CHANG (China) thought that idea might be included in the Rapporteur's report.

Mr. WILSON (United Kingdom) said he intended to propose at a later time that a conference similar to the Conference on Freedom of Information and the Press should be held to consider the Bill of Rights before it was presented to the General Assembly,

/as otherwise

as otherwise some thirty Governments would have had no opportunity to make oral statements on the Bill prior to its consideration by the Assembly.

He hoped that the members of the Commission would bear in mind the possibility that such a conference might be held in making recommendations concerning the date of the next session.

The meeting rose at 6.25 p.m.