
COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE EIGHTEENTH MEETING

Held at Lake Success, New York
on Friday, 18 June 1948, at 10:45 a.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Reporteur:</u>	Mr. Charles MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. STEYAERT	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. IARRAIN	Chile
	Mr. CHENG	China
	Mr. LOJASTI	Egypt
	Mr. ORKONNEAU	France
	Mrs. MENSA	India
	Mr. QUILIANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FOMPAINA	Uruguay
	Mr. VILFAN	Yugoslavia

Consultants from Non-Governmental Organizations:

Miss SENDER	American Federation of Labor (AF of L)
Mr. VANISTANDAEL	International Federation of Christian Trade Unions
Mrs. DRENNAN	Catholic International Union for Social Service
Mr. NOLDE	Commission of the Churches on Inter- national Affairs
Mr. MOSKOWITZ	Consultative Council for Jewish Organizations
Mrs. van den BERG	International Alliance of Women
Miss SCHAEFER	International Union of Catholic Women's Leagues
Miss ROBB	Liaison Committee of Women's Inter- national Organizations
Mr. BIENENFELD	World Jewish Congress

Secretariat:

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

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CONSIDERATION OF THE DRAFT REPORT PRESENTED BY THE RAPPORTEUR (document E/CN.4/148)

The CHAIRMAN laid before the Commission the draft report presented by the Rapporteur.

Mr. MALIK (Lebanon), Rapporteur, said that there would be several annexes to the report; annex "A", the draft International Declaration, was being presented to the Commission with the draft report itself.

He proposed that the Commission should consider and adopt each paragraph separately, provided there were no objections to them. He would read out each paragraph and supply the necessary comments.

After the Commission had approved the proposed procedure, the first five paragraphs were adopted without any changes other than some alterations in the spelling of certain names.

Mr. MALIK (Lebanon), Rapporteur, read out paragraph 6 relating to the delayed arrival of the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics.

The CHAIRMAN, speaking as representative of the United States, proposed an amendment to that paragraph, calling for the deletion of the words "and in violation of the agreement adopted by the General Assembly on 31 October 1947". She felt that to accuse any Government of a violation of a treaty or an agreement was a very delicate matter. The Commission had come to the conclusion that the blame for their late arrival could not be attributed to the two representatives in question and that the matter should be brought to the attention of the Secretary-General; it had not said that there had been formal violation of the agreement in question. The summary record E/CN.4/SR.46 was wrong on that point. She pointed out that she had said that the incident was regrettable and that she hoped it would never happen again.

/Mr. VILFAN

Mr. VILEAN (Yugoslavia) felt that the text of paragraph 6 was not exact in so far as it was too general. At the first meeting of the present session, the Commission had examined the whole question at length and had come to the conclusion that the two representatives were late in arriving because they had not been granted visas in time. He, therefore, moved an amendment proposing to delete the words "for reasons independent of their will" and to replace them by the words "because the United States Embassy denied them visas".

He thought that the question was a very important one, the more so as a similar attitude had been adopted towards a representative of Yugoslavia: The United States Government was not entitled to take measures the result of which was to prevent certain representatives from attending meetings of United Nations institutions. He recalled that the Chairman had admitted the error committed by the United States Embassy in Moscow. In his view, that error was a violation of the agreement of 31 October 1947 and he thought that the Commission would be acting within its competence in stating that there had been in fact violation of that agreement.

He moved a second amendment proposing the addition of the words "between the Government of the United States of America and the United Nations" after the words "31 October 1947".

The CHAIRMAN fully agreed that there had been a delay in granting the visas, but she felt it was impossible to allege that they had been denied. She thought that the Commission was not qualified to pass judgment on the agreement approved by the Congress of the United States and the United Nations. The Commission had never had an opportunity to study that agreement. Furthermore, such a study would not be within its competence. She proposed that the report should state that "certain members felt that there was violation of the agreement..."

/Mr. VILEAN

Mr. VILFAN (Yugoslavia) could not agree to the Chairman's proposal to say that there had merely been a delay in granting the visas; the visas had first been refused and had been granted only after a certain time and as a result of various interventions. The Chairman herself had said at the first meeting that the representatives of Byelorussia and Ukraine had been denied visas because they had refused to answer a questionnaire presented by the United States Embassy in Moscow. His opinion was that the United States Embassy was not entitled to require representatives to the United Nations to answer such questionnaires.

Mr. Vilfan said he would agree to change his amendment so that it should read as follows: "their visas having first been denied and then, after a delay, granted by the United States Embassy in Moscow."

The CHAIRMAN said that the opinion of the Yugoslav representative constituted the contentious point of the question. There had never been an interpretation of that part of the agreement of 31 October 1947, and it was not for the Commission to interpret it, for it had not the necessary competence. The Commission's report should confine itself to relating the facts as they actually happened.

She proposed that the Yugoslav amendment should be put to the vote, and said that she would vote against for reasons she had already outlined.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that there would have been no discussion on paragraph 6 of the draft report if the Chairman had not proposed an amendment to the Rapporteur's text. On the suggestion of the USSR representative, the Commission had, at its first meeting, decided to draw the Secretary-General's attention "to the fact that these representatives could not arrive in time for the beginning of the Third Session of the Commission, for reasons independent of their will and in violation of the agreement adopted by the General Assembly on 31 October 1947..." That resolution had not been

put to the vote because the Commission had reached unanimous agreement on that point. In his view, it was impossible, therefore, to allege now that the resolution had never been adopted.

He pointed out that his delegation had in its possession a note from the United States Embassy in Moscow dated 8 May stating that visas had been denied to Mr. Stepanenko and Mr. Klekovkin and that their passports had been returned to them. The representatives of the Byelorussian and of the Ukrainian Soviet Socialist Republics had not answered the questionnaire presented to them because of its discriminatory character. The visas had been granted two days before the opening of the session after representations by the USSR Ministry of Foreign Affairs and after the United Nations Secretary-General had intervened. The question was important for such an incident might arise with any delegation; the mistake made by the United States Embassy was, therefore, an incorrect act, not only towards the Byelorussian and Ukrainian Soviet Socialist Republics but also towards the United Nations.

If paragraph 6 of the draft report was to be amended, it should be so as to give it greater accuracy; the denial of visas was proved by documents.

Mrs. MEHTA (India) thought that the Commission's report should give an account of facts and decisions taken. She felt that the Commission had not decided during its first meeting that there had been violation of the agreement of 31 October 1947, and such a decision could not be taken now. It should only be said that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had not been able to arrive in time for the beginning of the session for reasons independent of their will.

She reminded the meeting that the Commission had not discussed the question in greater detail in view of the regrets expressed by the Chairman.

She would, therefore, vote against the Yugoslav amendment even if the facts stated by Mr. Vilfan were correct.

Mr. WILSON (United Kingdom) shared the opinion of the Indian representative; the Commission could not pass judgment on the question under discussion and had to confine itself to a statement of the facts. He felt that as the resolution proposed by the USSR representative during the first meeting had not been voted upon it could not be mentioned in the Commission's report.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that paragraph 6 as it stood was the least that should be said on the question; his delegation however, was prepared to accept it as it did not wish to return to a painful subject.

He made it clear that he had been denied a visa and that his passport had been sent back to him. It was granted, after representations made on 22 May, too late to obtain transport to arrive in time for the beginning of the session. Those facts had been disputed, but they were true and could be proved; the visas had first been denied and then granted after a certain delay and after the United Nations Secretary-General had intervened. He agreed with the USSR representative that such an incident could happen again with other delegations and that that should be avoided.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) could not accept the Indian proposal. To state merely that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had arrived late for reasons independent of their will might lead to the belief that their own Governments had been responsible for the delay, which obviously was not the case. He thought that the violation of the agreement was obvious since an intervention of the United Nations Secretary-General had been necessary in order to obtain visas.

Mr. ORDONNEAU (France) associated himself with the Indian proposal. All the members of the Commission deeply regretted the incident but there was no need to pass judgment in the matter. As the United States Embassy had rectified the mistake, the agreement of 31 October 1947 had been respected.

Mr. CHANG (China) recalled that he had been absent from the first meeting but that his alternate, Mr. Wu, had proposed the postponement of the second meeting until 26 May. The aim of that proposal had not been to await the arrival of the Byelorussian and Ukrainian representatives but to enable the members of the Commission to consider the various documents submitted to them.

Mr. PAVLOV (Union of Soviet Socialist Republics) wished to point out once more that the resolution he had proposed at the first meeting had been adopted without a vote, but that he had forwarded it to the Chairman in writing. His proposal had not met with any objections and it had been decided to ask the Chairman to draw the attention of the Secretary-General to the fact that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had not arrived in time for reasons independent of their will and in violation of the agreement adopted by the General Assembly on 31 October 1947. The Commission had begun by entrusting this task to the Chairman, but at the latter's request it had decided that the Commission as a whole should draw the Secretary-General's attention to the above-mentioned facts. The opinion of the members of the Commission had been unanimous at the time. He felt that the correct facts should be mentioned for therein lay a question of principle.

The CHAIRMAN put to the vote the amendments proposed by the representative of Yugoslavia.

The first amendment proposed to delete the words "for reasons independent of their will" and to replace them by the words "and visas having first been denied and then, after a delay, granted by the United States Embassy in Moscow".

The amendment was rejected by 11 votes to 3.

The second amendment proposed the addition of the words "between the Government of the United States of America and the United Nations" after the words "31 October 1947".

The second amendment was not adopted, 5 votes being in favour and 5 against with 5 abstentions.

Mr. FONTAINA (Uruguay) thought that an agreement could be reached. It was right to state that certain members of the Commission felt that there had been a delay in granting visas to the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics. Consequently, the Commission could adopt the USSR proposal to mention in the report that there had been a delay in granting the visas, while pointing out that certain members felt that there had been violation of the agreement of 31 October 1947.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that he would withdraw his amendment if the United States representative withdrew hers; that would lead to a retention of the text as drawn up by the Rapporteur.

The CHAIRMAN could not agree to that suggestion of the USSR representative. The report should indicate that the belief that there had been violation of the agreement was held by certain members and not by the Commission as a whole.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that by acting in that way some members of the Commission were going back on the position they had taken up during the first meeting. In point of fact, it had been decided to state that the Commission as a whole, and not certain members, wished to draw the Secretary-General's attention to the facts now under discussion.

Mr. ORDONNEAU (France) said that the Commission should verify whether such a decision had been taken at the meeting mentioned by the USSR representative and he proposed that the Secretary of the Commission should be asked to read out the summary record.

Mr. MALIK (Lebanon), Rapporteur, said that he had used the wording of the summary record of the first meeting (document E/CN.4/SR.46) in paragraph 6 of his draft report. He read out the final part of that summary record: E/CN.4/SR.46 pages 15 and 16 - statements by Mr. Pavlov, the Chairman and Mr. Pavlov.

Mr. ORDONNEAU (France) considered, in view of the explanations given by the Rapporteur, that no formal decision had been taken.

The CHAIRMAN said that the last paragraph of the summary record was wrong: The USSR proposal had not been adopted as a formal motion.

Mr. WILSON (United Kingdom) said that members of the Commission had agreed to draw the Secretary-General's attention to the fact that the representatives of the Byelorussian and Ukrainian Soviet Socialist Republics had not been able to arrive in time for reasons independent of their will, but they had not stated that there had been violation of the agreement of 31 October 1947.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) thought it incorrect to reverse a decision which had already been adopted and was embodied in the summary record of the forty-sixth meeting. If the Commission wished to reopen discussion on that point, it should take a preliminary vote. Mr. Pavlov repeated that no formal vote had been taken on the USSR proposal only because voting had appeared superfluous at that stage of the debate.

As regards the observations made earlier by the United States representative, Mr. Pavlov stated that, contrary to the information which she had received, all her speeches had been faithfully reproduced in the USSR press. That fact was easily confirmed by a perusal of the USSR newspapers.

The CHAIRMAN stated that she was glad to hear that her speeches had been accurately reproduced in the USSR press.

As regards the USSR representative's suggestion that a vote should be taken on reopening the discussion, it was not possible to do so, as the summary record concerned had not yet been formally approved by the Commission and could not, therefore, be regarded as a document of incontestable authenticity.

Mr. CHANG (China) pointed out that it appeared from the speech made by Mr. WU as recorded in the summary record of the forty-sixth meeting that the Commission had postponed its work until 26 May following a proposal of the Chinese representative, not because the representatives of the Ukrainian and Byelorussian Soviet Socialist Republics had not yet arrived, but because members had not had sufficient time to examine the necessary documents.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that under the rules of procedure the delegations were required to submit corrections to summary records within twenty-four hours. If no corrections were sent in within that period, the summary records were taken to be objective accounts of the debates.

Mr. CHANG (China) quoted a passage of the summary record concerned, according to which the Chairman had expressed her willingness that the Secretary-General should be informed of the sense of the meeting and of the substance of the discussion. Apart from that, only one formal decision -- that relating to the Chinese proposal -- had been recorded.

Mr. Chang proposed that the Rapporteur should proceed to re-draft paragraph 6 of the report.

There being no objection, that proposal was accepted.

Mr. KLEIMOVAN (Ukrainian Soviet Socialist Republic), replying to Mr. Chang's statement to the effect that the meeting had been postponed to 26 May in order to enable members to study the documents, quoted a letter sent to him by the Secretary General, according to which the Commission had decided to postpone the discussion on the agenda until 26 May pending the arrival of the two delegations.

The CHAIRMAN read out paragraphs 7, 8, 9 and 10 of the draft report.

Those paragraphs were accepted without objection.

A decision on paragraph 11 was deferred until later, owing to the fact that the United States delegation felt that one of the summary records, namely that of the forty-sixth meeting contained inaccuracies.

Mr. PAVLOV (Union of Soviet Socialist Republics) asked whether an attempt was being made to question the exactitude of the summary records, contrary to the provisions of the rules of procedure.

The CHAIRMAN replied that it was not stated anywhere in the rules of procedure that the accuracy of summary records could not be questioned.

Discussion of paragraph 12 of the plan of work in regard to the
International Charter on Human Rights.

Mr. CHANG (China) wondered whether it would not be better to include in that paragraph some explanation on the stage of the Commission's work on the Covenant and the measures to implement it.

Mr. ORDONNEAU (France) was of the same opinion.

Mr. MALIK (Lebanon) recalled that the Commission had decided, at the end of its second session at Geneva, to append to its report to the Economic and Social Council drafts of the Declaration, the Covenant and the measures for their implementation.

In its present report the Commission would submit to the Council only the text of the Declaration. It was highly desirable to append to the report both the Draft Covenant prepared by the Drafting Subcommittee, accompanied by an explanatory note, and the old report on the measures of implementation which the Council had not yet considered, as the Council had referred it back to the Commission without comment.

The CHAIRMAN said that the United States and French proposals on measures for implementation should also be attached to the report.

Mr. CHANG (China) accepted the Rapporteur's proposal

He went on to ask whether there was any special reason why certain members of the Commission did not wish a decision to be taken on the Declaration by the General Assembly at its next session, or whether the reason was that they preferred to present the drafts of the Covenant and the measures of implementation at the same time as the Declaration, so that they could be considered together. On the other hand, some members favoured the idea of submitting the Declaration to the Assembly at once. He was of the opinion that the Declaration should be proclaimed without delay.

The Commission should at least recommend that the Declaration should come before the General Assembly this year.

The CHAIRMAN thought the Declaration should be submitted both to the Economic and Social Council and to the General Assembly, but it was for the latter to decide what it wished to do. The Assembly should, in any event, consider it this year.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) said that they had already had a disappointing experience in that respect. They all knew that the Economic and Social Council had returned to the Commission, without comment, the two annexes to the Covenant and the measures of implementation which had been communicated to the Council at the end of the Commission's last session. It was senseless to risk making the Commission ridiculous in the eyes of the Council by repeating the same procedure. He was not averse to telling in the report what had already been done in those two matters, without however attaching drafts which were incomplete and had not been considered by the Commission.

Mr. HOOD (Australia) recalled the existence of an Australian proposal which should also be annexed to the report together with the other documents.

Mr. MALIK (Lebanon), Rapporteur, explained that by appending to the report the Draft Covenant, prepared by the Drafting Committee, no dangerous precedent would be established. They would merely be doing what had been done at Geneva in connection with the draft on the measures of implementation. The Council had only referred those questions back to the Commission so as to enable it to carry on its work according to the plan drawn up by the Council itself, and not out of a spirit of contempt, as the Ukrainian representative thought. It was quite logical to submit to

/the Council

the Council the work achieved on the Covenant, as had been done, during the last session, with the draft on the measures of implementation.

Mr. WILSON (United Kingdom) agreed with the Rapporteur. It was only natural that in submitting its report to the Council the Commission should say how far it had got in regard to the three parts of the International Charter on Human Rights.

As to the Assembly's adoption of the Declaration, he hoped that the Chinese representative would submit a resolution to that effect. That was a new idea, as the Declaration was only part of the Charter, all parts of which were supposed to be considered and proclaimed at the same time.

The CHAIRMAN agreed with the Rapporteur.

Mrs. MEHTA (India) thought that the three documents should be submitted at the same time, thus leaving the Council to decide what it wanted to do with them.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the Declaration should clearly be submitted to the Council which would decide whether to transmit it to the Assembly. On the other hand, there were many gaps in the Covenant, notably the absence of any provision for the implementation of economic rights, and it was far from ready for submission to the Council. The substance of the draft measures of implementation had not been discussed at all and had already been referred back by the Council to the Commission. The Commission as such was only entitled to transmit documents, the preparation of which had been completed.

He thought that the Australian proposal was most unjust and was categorically opposed to its submission to the Council.

If, however, the Commission wished to submit all three documents to the Council at the same time, it would have to prolong its session in order to complete the work.

Miss SKUDER (American Federation of Labor) thought that world public opinion would fail to understand why all three parts of the Charter had not been considered together. It was, therefore, important that the Commission should inform the Council of the state of its work on each part of the Charter.

Mr. FONTAINE (Uruguay) also thought that the three documents should be submitted to the Council which would decide whether there was any need for another session of the Commission, or whether to refer the work to a different commission.

Mr. MALIK (Lebanon) proposed appending to the report in addition to the Declaration:

- (1) Annex B of Document E/CN.4/95 on the International Covenant on Human Rights, together with an explanatory note;
- (2) A reference to the third part of the report on the Commission's second session, and an Annex C containing Professor Cassin's statement, as well as the Chinese, United States and Australian proposals.

Mr. IEBEAU (Belgium) also said that the Commission should, of necessity, indicate the state of the work on each part of the International Charter on Human Rights. He would, therefore, vote for the Rapporteur's proposal.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) again reminded the Commission that during its last session the Council had refused to consider the draft proposal on measures of implementation, as it was still incomplete; why, therefore, should the Commission wish to submit that document again?

He asked that the Rapporteur's proposal should be submitted in writing.

The meeting rose at 1.20 p.m.