

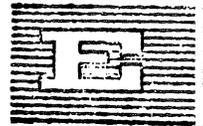
UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.564
17 June 1957

ENGLISH
Original: ENGLISH and FRENCH



COMMISSION ON HUMAN RIGHTS

Thirteenth Session

SUMMARY RECORD OF THE FIVE HUNDRED AND SIXTY-FOURTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 12 April 1957, at 3 p.m.

CONTENTS:

Page

1. Report of the ninth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (item 5 of the agenda) (E/CN.4/740) (continued) 4
 - Chapter X - Communications relating to prevention of discrimination and protection of minorities.
 - Chapter XI - Programme of future work and duration of the Sub-Commission's tenth session.
 - Chapter XII - Adoption of the report of the Sub-Commission to the Commission on Human Rights.
2. Freedom of information (item 7 of the agenda) (E/2844 (paragraph 163); E/CN.4/732) 4
3. Right of asylum (item 8 of the agenda) (E/2844 (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr.2; E/CN.4/NGO/69) 13

Present:

Chairman: Mr. SERRANO (Philippines)
Rapporteur: Mr. CALDERÓN PUIG (Mexico)

Members:

Mr. BERTOMEU	Argentina
Mr. GUNewardENE	Ceylon
Mr. TSING-CHANG LIU	China
Mr. CASSIN	France
Mr. DAYAL	India
Mr. ADAMIYAT	Iran
Mr. IBRAHIM	Iraq
Mr. COHN	Israel
Mr. DOMINEDO	Italy
Mr. RIZK	Lebanon
Mr. COLBAN	Norway
Mr. BRILLANTES	Philippines
Mrs. WASILKOWSKA	Poland
Mr. MIKHAILENKO	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. HEWITT	United States of America

Observers for the Governments of States Members of the United Nations:

Brazil	Mr. PATRIOTA
Bulgaria	Mr. STOYANOV
Czechoslovakia	Mr. PAVLIK
Dominican Republic	Mr. SAVINON
Netherlands	Miss LUNSINGH MEIJER
Syria	Mr. EL WAKIL
Turkey	Mr. CUHRUK

Representatives of specialized agencies:

International Labour Organisation	Mr. FANO
United Nations Educational, Scientific and Cultural Organization	Mr. BEHRSTOCK

Also present:

Mr. WEIS	Office of the United Nations High Commissioner for Refugees
----------	--

Representatives of non-governmental organizations:Category A

International Federation of Christian
Trade Unions

Mr. EGGERMANN

Category B and Register

Catholic International Union for
Social Service

Miss HERTOEGHE

Consultative Council of Jewish
Organizations

Mr. MOSKOWITZ

Co-ordinating Board of Jewish Organizations

Mr. WAREBURG

International Catholic Film Office

Mr. CHAMONIN

International Council of Women

Miss van EECHEM

International Criminal Law Association

Mrs. ROMNICIANO

International Federation of Business and
Professional Women

Mrs. WIBLE GAILLARD

International Federation of Women Lawyers

Mrs. ZAVATTIARO ARDIZZI

Women's International League for Peace
and Freedom

Mrs. BAER

World Jewish Congress

Mr. RIEGNER

World Movement of Mothers

Mrs. de VAUBLANC

World Women's Temperance Union

Mrs. CHAIX-CONSTANTIN

World Young Women's Christian Association

Miss ARNOLD

Secretariat:

Mr. Humphrey

Representative of the
Secretary-General

Mr. Male

Secretary to the Commission

RIGHT OF ASYLUM (E/2844 (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr.2;
E/CN.4/NGO/69)

Mr. CASSIN (France) said that the right of asylum was referred to in Article 14 of the Universal Declaration of Human Rights and that the right and obligation to grant asylum to the persecuted was recognized in the Constitutions of certain States. For example, the French Constitution specified that the Republic should grant asylum to all sufferers for freedom. Moreover, attempts had been made to give Article 14 of the Universal Declaration binding force by introducing it in the draft international covenants on human rights, but without success, so that those instruments were silent on the right of asylum. In the present state of affairs, therefore, there seemed no hope of an international convention on the subject.

Practical efforts should not however be abandoned, the more so as recent events had shown that international solidarity was something real. Between a legal agreement and makeshift arrangements there was room for such intermediate measures as the adoption of an international instrument stating the intentions of the signatory States in advance, and thus allowing for preliminary consultations. With that in mind, France had submitted a draft Declaration on the Right of Asylum which clothed that idea in concrete terms but did not demand immediate consideration. The text⁽¹⁾ had no legal pretensions and was in no way intended to force on States Members of the United Nations the obligation to grant asylum; in that field, as in the field of nationality, States were jealous of their sovereignty. On the other hand, the draft Declaration mentioned the international community represented by the United Nations, which clearly bore the ultimate responsibility. For States belonging to the United Nations could not conceivably ignore the fate of people who had had to leave their countries for a variety of good reasons. Besides, the States adjacent to the country of origin of the refugees could not be made solely responsible for receiving and absorbing them; nor could States acting independently impose the responsibility on other, more distant, States. France had therefore thought it necessary to recommend practical measures to ease the task of countries wishing to aid the persecuted, as it was essential in future to spare humanity the spectacle of hordes of human beings driven from their homes in complete destitution.

The late United Nations High Commissioner for Refugees, Mr. van Heuven Goedhart, had been among those who had most insistently urged that the problem should be dealt

(1) The text of the draft Declaration on the Right of Asylum was distributed only to participants in the session, as document E/CN.4/L.454, with "Limited" distribution. For the text of the Declaration as finally adopted, see the Commission's report on its thirteenth session to the Economic and Social Council (E/2970 - E/CN.4/753, paragraph 214.)

with realistically and on humanitarian lines, and that the right of asylum should not be left to the vagaries of chance. It was to meet such requirements and make a practical contribution that France had submitted its draft Declaration. His country did not ask the Commission to take an immediate decision, but hoped that members would express their views on the need for action by the Commission. Should support be forthcoming, the French delegation would submit a draft resolution proposing that the Commission take up the question and decide to send the draft Declaration to governments, with a view to examining it at an early future session.

Mr. WARBURG (Co-ordinating Board of Jewish Organizations), speaking at the invitation of the CHAIRMAN, referred to the statement by his organization which had been circulated as document E/CN.4/NGO/69. He would merely emphasize the crucial points, which he was glad to note were in complete harmony with the ideas put forward by the French delegation in its draft Declaration on the Right of Asylum. While he regretted that the Commission had found it impossible to include an article on the right of asylum in the draft international covenants, he had always realized the practical difficulties of framing a satisfactory text, and was in sympathy with a suggestion made by the Swedish representative at the time when the matter had been under discussion, namely, that a convention on the right of asylum should eventually be drafted. It would be unrealistic to ask the Commission to undertake that task at present, for much preparatory work would be needed before the time was ripe for a convention which would really help the victims of persecution.

He therefore asked the Commission to adopt at the present stage a brief statement of principles, to be adopted later by the General Assembly as principles of international law, or at least as a statement of the practice of the civilized world. The drafting of such a statement need not present any difficulty, because an international instrument containing a satisfactory text already existed. That was the Convention relating to the Status of Refugees of 28 July 1951, Article 33 of which provided that no Contracting State should expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. Unfortunately, that Convention was valid only for those States which had ratified it, and even in that limited area it protected only those refugees who fell within the definition used in the Convention. In 1954, those States which had drawn up the Convention relating to the Status of Stateless Persons had adopted unanimously a resolution in which it was stated that the text of Article 33 of the

1951 Convention was the expression of a generally accepted principle. That resolution however, had been adopted by only twenty-seven States, one third of the total membership of the United Nations. His delegation therefore hoped that the Commission would request the Economic and Social Council to invite the General Assembly to adopt a declaration on the lines of Article 33 of the Convention relating to the Status of Refugees.

Article 2 of the draft submitted by the French delegation contained a similar suggestion. It referred, however, in general terms to "violation of the principles of the Universal Declaration of Human Rights", whereas the 1951 Convention mentioned only people threatened on account of race, religion, nationality, membership of a particular group or political opinion. The French text seemed to go further, but he wondered whether the more concrete, if narrower, text of the 1951 Convention would not in practice prove more helpful to the victims of persecution. He particularly welcomed Article 5 of the French draft Declaration, which avoided the possibly ambiguous use of the word "return" in the text of the 1951 Convention. The more generous interpretation of Article 33 of the Convention on that point was already the practice of many States; and in that connexion he would refer to a recent statement made on behalf of the Government of his own country, the United Kingdom, that if there were reason to suppose that the return of a refugee would mean persecution, the refugee would normally be admitted (Hansard, 8 March 1957).

He was glad to see that his organization's second suggestion, namely, that States which had granted asylum to a considerable number of persons should be suitably assisted, was also included in the French delegation's draft Declaration. His organization had suggested the Economic and Social Council as the organ to undertake that task, but perhaps the Office of the United Nations High Commissioner for Refugees would be more appropriate. But the main thing was that the principle should be accepted. In January, 1957, he had attended on behalf of his organization the fourth session of the UNREF Executive Committee, which had surveyed the work done by the High Commissioner's Office. The meetings of that Committee had brought home to him most vividly that international solidarity in helping countries which were granting asylum to the victims of persecution was not merely a matter of theory. The Committee had heard calls for help from Austria and Yugoslavia which had together admitted nearly 200,000 refugees from Hungary. The High Commissioner had pointed out that up to 20,000 stateless persons (mostly Jews) had been expelled from Egypt and needed help. The Committee had discussed the plight of 700,000 Chinese refugees in Hong Kong. Those large numbers of refugees mentioned at a single meeting of the Executive Committee proved that the question of asylum required urgent international action, and his organization hoped that the Commission would initiate it.

Mr. RIEGNER (World Jewish Congress), speaking at the invitation of the CHAIRMAN, suggested that, in its discussion on the right of asylum, the first question the Commission would have to decide was whether it wished to confine itself to the "right of asylum", or to take in also the "right to asylum". The expression "right of asylum" meant merely that once a persecuted person had reached a place of refuge he was secure from persecution. That was the interpretation placed on "asylum" in Article 33 of the Convention relating to the Status of Refugees of 1951. The expression "right to asylum", on the other hand, implied not only that existing refuge should be secured, but also that a place where refuge might be sought should be provided. Article 3 (2) of the 1932 Convention relating to the International Status of Refugees went some way towards meeting that requirement by providing that the parties should not refuse entry to refugees at the frontiers of their country of origin. It was obvious that such a provision failed to solve the problem of refuge, not only because its application was restricted to countries bordering on the country of persecution, but also because it imposed what many countries regarded as a burden upon a few countries only, while others, frequently with better possibilities of absorbing the refugees, not only were not required to accept them, but were even exempted from bearing any part of the cost of maintaining and providing for them.

The drafters of the Convention relating to the Status of Stateless Persons had unanimously adopted a resolution expressing the view that Article 33 of the Convention relating to the Status of Refugees was a generally accepted principle of law. It was therefore the considered view of the World Jewish Congress that the main problem on which the Commission's discussion should be centred was that of securing the right to asylum as distinct from the right of asylum. A human right had two aspects: it benefited the individual and it imposed restrictions, or obligations, on society. To become really effective, a right must frequently not only be tolerated, or in other words not infringed, but also be supported. In other words, society must take active steps to secure its implementation. Article 14 of the Universal Declaration of Human Rights proclaimed that "everyone has the right to seek and to enjoy in other countries asylum from persecution". But the article did not impose on States any obligation to grant asylum to the persons whose right to seek asylum was thus proclaimed. Asylum had frequently been granted by many States to thousands of persecuted persons without formal obligation. The World Jewish Congress wished to pay a tribute to those States which, since the end of the first world war, had, on

humanitarian grounds and sometimes even in the face of pressure from the home country of the refugees, admitted large numbers of refugees with few or no formalities; but, unfortunately, that had not been the general attitude.

It was quite unrealistic, however, to expect that every State could assume an unlimited obligation in the matter of admitting refugees. In the view of the World Jewish Congress, the answer to the problem lay in the concept of asylum which the United Nations had accepted by creating the Office of the United Nations High Commissioner for Refugees. The United Nations had thus proclaimed that the problem of refugees was a problem, not for individual countries, but for the international community as a whole. If an international document establishing the right to asylum were adopted as a positive and effective guarantee on behalf of persons who had had to leave their home countries on account of, or for fear of, persecution, it would have to be based on provision for common action both by Members of the United Nations and by those States still outside the United Nations. Once the principle had been established, the form need present no serious difficulty. In the opinion of the World Jewish Congress, the speediest way of establishing appropriate machinery would be to follow the precedent of the High Commissioner's Office, which might be transformed into a permanent institution with such additional functions and funds as would enable it to fulfil its duties both towards refugees within the meaning of its present Statute and towards potential refugees, that was, towards persons seeking asylum. Such a permanent United Nations organ should be authorized to declare, when it regarded such declaration as justified, that a situation had arisen in which a considerable number of persons were seeking asylum and in which, therefore, machinery should be set in motion to implement the right to asylum of persons threatened with or in fear of persecution. By virtue of such a declaration, the permanent body or organ would be authorized to assist the potential refugees in finding asylum and to negotiate with governments for that purpose.

The World Jewish Congress was an organization which spoke for a people which, for centuries, had too often been driven from one country to another. For them, the right to asylum had not been a matter of theory but an everyday necessity. He himself had worked first on behalf of the Nansen refugees, then on behalf of the refugees from Nazi Germany and more recently on behalf of refugees from Hungary

and nearly 20,000 Jewish refugees from Egypt. That tragic experience, he believed, gave his organization the right to speak to the Commission. If persecution could not be prevented, precautions should at least be taken to ensure that relief could be provided when need arose. It was the duty of the international community to establish permanent machinery to deal with possible future catastrophes whenever they might occur.

Further consideration of item 8 of the agenda was deferred until a subsequent meeting.

The meeting rose at 6.10 p.m.

UN
EC
A
SC
—



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.572
18 June 1957

ENGLISH
Original: ENGLISH and
FRENCH

COMMISSION ON HUMAN RIGHTS

Thirteenth Session

SUMMARY RECORD OF THE FIVE HUNDRED AND SEVENTY-SECOND MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 23 April 1957, at 11 a.m.

CONTENTS:

Right of asylum (item 8 of the agenda) (E/2844 (paragraph 109);
E/CN.4/713, E/CN.4/738 and Corr. 1 and 2; E/CN.4/NGO/69,
E/CN.4/NGO/76) (resumed from the 564th meeting)

Present:Chairman: Mr. SERRANO (Philippines)Members:

Mr. BERTOMEU	Argentina
Mr. GUNAWARDENE	Ceylon
Mr. LIU	China
Mr. CASSIN	France
Mr. PADMANABHAN	India
Mr. ADAMIYAT	Iran
Mr. IBRAHIM	Iraq
Mr. COHN	Israel
Mr. BACCHETTI	Italy
Mr. COLBAN	Norway
Mr. BRILLANTES	Philippines
Mrs. WASILKOWSKA	Poland
Mr. MIKHAILENKO	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America

Observers for the Governments of States Members of the United Nations:

Brazil	Mr. PATRIOTA
Bulgaria	Mr. STOYANOV
Czechoslovakia	Mr. STERNAD
Dominican Republic	Mr. SAVINON
Egypt	Mr. SAFOUAT
Netherlands	Miss LUNSINGH MELJER
Syria	Mr. BALADI
Turkey	Mr. CUHRUK
Yugoslavia	Mr. TAPAVICKI

Also present:

Mrs. LEFAUCHEUX	Commission on the Status of Women
-----------------	-----------------------------------

Representative of a specialized agency:

International Labour
Organisation

Mr. BLAMONT

Representatives of non-governmental organizations:Category A

International Federation of Christian
Trade Unions

Mr. EGGERMANN

World Federation of Trade Unions

Mr. DRINKWATER

Category B and Register

Catholic International Union for
Social Service

Miss HERTOEGHE

Co-ordinating Board of Jewish
Organizations

Mr. WAREBURG

International Catholic Film Office

Mr. CHAMONIN

International Catholic Migration
Commission

Mrs. RANGEL de CARVALHO

International Federation of
University Women

Mrs. FIECHTER

International Federation of
Women Lawyers

Lady CHATTERJEE

Miss MIRAULO

International Movement for
Fraternal Union among Races
and Peoples

Miss DUVILLARD

Mrs. PIVOT

Women's International League for
Peace and Freedom

Mrs. BAER

World Association of Catholic
Young Women and Girls

Miss HERREN

World Jewish Congress

Mr. RIEGNER

World Union of Catholic Women's
Organizations

Miss de KALBERMATTEN

Secretariat:

Mr. Humphrey

Representative of the Secretary-
General

Mr. Male

Secretary to the Commission

RIGHT OF ASYLUM (item 8 of the agenda) (E/2844 (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr. 1 and 2; E/CN.4/NGO/69, E/CN.4/NGO/76) (resumed from 564th meeting)

The CHAIRMAN invited the Commission to resume its consideration of the right to asylum in the light of the French delegation's revised draft Declaration thereon, the Israeli amendments thereto and the French draft resolution⁽¹⁾.

The Commission's Rapporteur, Mr. Calderon Puig (Mexico) was indisposed, and he wished to convey to him the Commission's hopes for his speedy recovery.

Mr. ADAMIYAT (Iran) said that, although the traditional doctrine was that States were the sole subjects of international law, there was growing support for the view that the individual too was a subject of international law. No claim had been advanced that the individual had the same or equal rights and duties as States, but the obligation of the international community to protect the rights of individuals had become increasingly evident, and the right of asylum as an individual right had become essentially a matter of international law.

The main sources from which the right of asylum flowed in international law were the Statute of the International Court of Justice, Article 14 of the Universal Declaration of Human Rights, the constitutional provisions relating to the right of asylum in the laws of many States, the Havana Convention on Asylum, adopted in 1928 by the Sixth International Conference of American States, and international treaties of extradition, which explicitly excluded political offenders. Article 33 of the Convention relating to the Status of Refugees of 28 July 1951 also contained provisions based on the concept of asylum, although the right thereto was not explicitly stated. The principle set forth was that no refugee should be sent to any country, whether his country of origin or another, where he might be in danger of persecution. That accumulated jurisprudence and the support of international jurists showed that the right of asylum was already part of international law. The reluctance of some States to recognize it as such was due to a reluctance to extend their international obligations, to undertake heavy financial burdens or to risk the effect on their relationships with other States, or to

(1) The texts of the French draft Declaration, the Israeli amendments and the French draft resolution were distributed only to participants in the session, as documents E/CN.4/L.454/Rev.1, E/CN.4/L.459 and E/CN.4/L.460, with "Limited" distribution, respectively. For the text of the draft resolution as finally adopted after amendment, see the Commission's report on its thirteenth session to the Economic and Social Council (E/2970 - E/CN.4/753), paragraph 214.

constitutional difficulties. If some way could be found of guaranteeing the individual's right of asylum through the United Nations, those difficulties would be overcome. The United Nations, which already had an honourable record in the matter, should assume the ultimate responsibility for enforcing the right.

The French delegation's draft Declaration represented the least that could be expected. It did not place upon governments the responsibility for granting asylum, but embodied existing practice with regard to refugees. States Members of the United Nations might therefore readily accept it. The French delegation was not pressing for an immediate decision, but in its draft resolution requested the Secretary-General to communicate the draft Declaration to governments with a request that they send him their comments thereon. That procedure should be followed.

If the Commission eventually agreed to the idea of drafting a declaration, the preamble should refer to Article 14 of the Universal Declaration of Human Rights, to the constitutions of States which recognized the right, to prevailing practice in connexion therewith and to the Conventions relating to the Status of Refugees and to the Status of Stateless Persons.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that the question of the right of asylum had already given rise to prolonged discussion in the United Nations. The first result had been the inclusion in the Universal Declaration of Human Rights of an article affirming the general principle. The Commission itself, when discussing the draft international covenant on civil and political rights, had also considered proposals from several delegations, including his own, for the insertion of an additional article by which States would accept a legal commitment to provide asylum in certain conditions. The Soviet Union delegation believed that the granting of asylum to persons persecuted for progressive activities was one of the most important democratic institutions.

The right of asylum had a long history in international law, but one document stood out: the Constitution of the French Republic of 24 June 1793, in which that right had been fully proclaimed for the first time. By Article 120 thereof, the French people undertook to grant asylum to foreigners exiled for their activities in the cause of freedom and to refuse asylum to tyrants. A similar provision had been incorporated in later constitutions, as witness Article 129 of the Constitution of the Soviet Union.

At the Commission's eighth session, the Soviet Union delegation had specifically proposed that an article be included in the draft international covenant on civil and political rights recognizing the right of asylum for all persons persecuted for their

activities in defence of democratic interests, for their scientific work or for their participation in the struggle for national liberation. Should the Commission now be willing to recommend that such an article be inserted in the draft international covenant, he would be prepared to make a formal proposal to that effect.

The only objection to recommending changes in the draft international covenants was that put forward during the discussion on discrimination in the field of education, namely, that the Commission and the General Assembly, having already done so much work on them, should not now recommend changes in their structure. But the inclusion of such an article would in no way disturb the general structure. The Soviet Union delegation would certainly revert to the matter in the Third Committee of the General Assembly when the draft covenant came up for discussion. The arguments in favour of including such an article would undoubtedly carry much more weight if the Commission as a whole had already endorsed the idea and had stated that it did not believe that a mere declaration of the right of asylum was sufficient, but considered that specific obligations should be laid on governments.

The French delegation's draft Declaration was a mere repetition of Article 14 of the Universal Declaration of Human Rights; but it was a great deal narrower than that Article, because of the reservation embodied in the second paragraph of Article 5, which would in fact nullify all that went before. There was no such reservation in the Universal Declaration. While the best course would obviously be to impose a specific legal commitment on States to recognize the right of asylum, there was certainly no need, even in the absence of such a provision for a new declaration on the same subject, especially one less broad and less progressive. Such repetition could only weaken the Universal Declaration as a whole.

Furthermore, Article 4 of the French draft introduced the question of refugees, which had nothing whatever to do with the right of asylum and had no place on the Commission's agenda at its present session since no proposal had been made at the outset to include it. That part of the French text could not, therefore, be profitably discussed at the present stage. He would accordingly vote against the French draft Declaration and, consequently, against the French draft resolution. The French proposals, far from leading to a solution of the question of the right of asylum, would only introduce totally irrelevant issues.

Mr. COHN (Israel) observed that he would be the first to welcome the inclusion of provisions on the right of asylum in the draft international covenants on human rights and to rejoice if its affirmation in a separate declaration were no longer necessary. But the draft international covenant on civil and political rights was unlikely to be completed in the reasonably near future. Furthermore, a clause such as that suggested by the Soviet Union representative would probably not serve the purpose, even if included in the draft covenant; it would certainly not do so so long as there was no international criminal jurisdiction or other measure of implementation accepted by all States. The Soviet Union proposal also narrowed the content of the right of asylum as proclaimed in article 14 of the Universal Declaration of Human Rights, since it would apply not to all persons persecuted or having grounds to expect persecution, but only to persons persecuted for particular reasons. Unless something stronger than the text of the Universal Declaration was proposed, a separate draft declaration such as that submitted by the French delegation was the best that could, and the least that should, be done.

Introducing the Israeli amendments to the French draft Declaration, he said that he entirely agreed with the suggestion implicit in the French draft resolution that the draft Declaration should not come into force until governments had studied and commented on it. If, however, the text were circulated to governments, it might be improved by the three amendments proposed by his delegation, two of which were substantive, and one consequential.

Israel, although a small country, had been second to none in admitting the persecuted, and could not therefore be suspected of any desire to whittle down the right of asylum. Hence the Israeli delegation could propose with a clear conscience the addition to Article 2 of the French text of a sub-article (b), the wording of which had been taken direct and unchanged from Article 14, (2), of the Universal Declaration. The French draft referred to "violation of the principles of the Universal Declaration of Human Rights", but the Universal Declaration contained articles unconnected with persecution as such, but dealing with criminal procedure, especially Articles 5, 9, 10 and 11. The freer a country was and the more firmly it was governed by the rule of law, the more frequent was recourse to the national courts against denials of the rights laid down in those articles, whereas no such recourse was reported from countries with a totalitarian system of government; that could readily be seen from any issue of the Yearbook on Human Rights. Article 14, (2), of the Universal Declaration must

therefore be reproduced in any declaration on the right of asylum, since it would not be reasonable for a person convicted of a serious crime to be able to claim asylum on the basis of some vice in procedure. Under the French draft Declaration, however, such a vice in procedure would entitle a claim to be made. Admittedly, the wording of Article 14, (2), of the Universal Declaration was not very felicitous, but he had purposely refrained from suggesting any change in it when making his amendment.

The French delegation had been well-advised, however, to substitute the phrase "any violation of the principles of the Universal Declaration" for the word "persecution" in its reference to Article 14, (1), of the Universal Declaration. Persecution was an unduly subjective term, and might well be invoked to cover what was in fact prosecution. The objective formulation was undoubtedly preferable, especially as it did not affect the substance. There might have been a case for keeping to the original text of the Universal Declaration, but he would not press for an amendment in that sense, since he agreed with the principle on which the French version was based.

In Article 4(b) of the French draft Declaration, the duty to lighten the burden assumed by countries of first asylum was, for some unexplained reason, taken out of the hands of the United Nations and passed to "other States". The Israeli amendment to that Article provided that the United Nations as a body, and in fulfilment of its duties, should consult with States, not only as to the most effective means of providing help for refugees, but also as to measures to be taken to lighten the burden assumed by States granting asylum. If the latter were left to the initiative of States alone, it would remain a dead letter. Only if the United Nations bound itself to take the initiative and to report on the steps taken, with international collaboration, to lighten the burden, would there be any prospect of effective action.

The French suggestion in Article 4(b) that one of the steps to lighten the burden of countries of first asylum included admission to the territory of other States of a certain number of persons first granted asylum in another State was certainly simple and reasonable, but was too obvious to require explicit mention. Such a statement might indeed prove detrimental to other measures. Any State prepared to take persons who had already been granted asylum would presumably be ready to grant asylum in the first place, and so would need no special incentive. The great majority of the States Members of the United Nations had not, however, so far shown a spirit of solidarity in lightening the burden on their fellow Members.

As the Soviet Union representative had said, the grant of asylum had long been recognized as an institution by the national legislation of many countries, but there was hardly any national or international issue on which the discrepancy between theory and practice was greater. He would welcome not only a declaration of the right of asylum, and not only the fact that some twenty States had opened their doors wide to refugees persecuted for reasons of race, colour or political opinion or activities, but also an attempt to make some sixty other States parties to the good work by soliciting their contribution to lightening the burden voluntarily assumed by a few countries.

The Soviet Union representative had argued that the question of refugees was not on the Commission's agenda and was totally irrelevant to the question of the right of asylum. Lightening the burden on countries of first asylum was, however, a part of the right of asylum itself. Any country knowing beforehand that its burden would be lightened, on the initiative of the United Nations, by contributions from other countries would undoubtedly grant asylum much more readily.

Sir Samuel HOARE (United Kingdom) congratulated the French delegation on its initiative; it reflected credit on France, which had a fine tradition of generosity towards refugees.

The representative of Iran had argued that the individual was now becoming, if he had not already become, a subject of international law, and that international opinion now held that the individual had a right to asylum. His own view, however, was that the right to grant or withhold asylum still rested with the State. If asylum was granted by a State, the person granted asylum was protected from the danger of persecution, and no other State had any right to question such grant of asylum. That aspect of the matter should be borne in mind, because that was certainly the position in international law, even though it might be true that international practice was changing. If his view was correct, then the whole question of the grant of asylum seemed to turn on the question how States could be induced to display generosity in exercising their right to grant asylum. The difficulty seemed to reside in the establishment of a standard of such generosity.

The suggestion made by the Soviet Union representative was, in his view, unsatisfactory, because it employed terms that eluded exact definition. Mr. Morosov had spoken of the grant of the right of asylum to persons engaged in a "struggle for freedom" or in a "struggle for national liberation"; the interpretation of those terms was left to the State, but every State interpreted them in its own way.

Two conventions relevant to the subject of the right of asylum already existed: the Convention relating to the Status of Refugees, of 28 July 1951, and the Convention relating to the Status of Stateless persons, of 28 September 1954. Only 26 States had so far ratified the former, and it might well be that ratification of that Convention by a larger number of States would benefit the refugee more than the adoption of a new declaration on the right of asylum. It was true, however, that not all cases in need of assistance would be covered, because the definition of a refugee was limited, under the 1951 Convention, to persons persecuted or fearing persecution as a result of events which had occurred before 1 January 1951.

The statement submitted by the Co-ordinating Board of Jewish Organizations in document E/CN.4/NGO/69 contained a careful and well-expressed exposition of the whole question. It suggested the acceptance as general principles of provisions which had already been formulated in the more limited field of the Convention relating to the Status of Refugees, and made the point that those principles could be applied only within the limits of the absorptive capacity, both economic and social, of a State, and that where those limits were exceeded it was for the international community to deal with the problem. To some extent, the draft Declaration proposed by the French delegation followed those lines. He wished, however, to reserve his Government's position on the question of the adoption of a declaration. It felt that there was a vast difference between the adoption of a generous practice in regard to the grant of asylum and the assumption of a declaration translating that practice into specific terms. It was not at all certain that a declaration acceptable to all Members of the United Nations could be agreed upon, or that any declaration that might emerge would be of real assistance to the persecuted and conform to its own generous practice. Nevertheless, he could assure the Commission that, if a majority of States Members took the view that such a declaration should be adopted, his Government would co-operate to the greatest possible extent.

Turning to the draft Declaration proposed by the French delegation, he doubted whether it was desirable to assert the entirely novel principle embodied in Article 1. A declaration on the right of asylum should embody the best existing practices of States, and not attempt to bring about an advance by proposing new principles in a matter which was still at the experimental and exploratory stage; it should adhere to the principle that the State was the final arbiter in the grant of asylum.

With regard to Article 2, under which "every person whose life, physical i. or liberty is threatened, in violation of the principles of the Universal Declaration of Human Rights, shall be regarded as entitled to seek asylum", the reference to the principles of the Universal Declaration involved an undesirable limitation. Not only cases of mass persecution, but also individual cases of political asylum should be borne in mind. It might well be that an individual accused of crimes against the State in his own country would be eligible for asylum elsewhere, even though it could not be established that there had been any violation of human rights. It was impossible to find an objective definition which embraced all persons who might be eligible for asylum and if a State decided, from its subjective point of view, that a person should be granted asylum the declaration should not deny that State its complete and inalienable right to grant it, notwithstanding the protests of any other State. Article 2, accordingly, should be expressed in more general terms.

He had no objection to Article 3; but in the case of Article 4, he felt that the text proposed by the Israeli delegation was preferable, though it, too, could be improved upon; it was not desirable at the present stage to do more than state general principles and assign general responsibilities. It would be most inadvisable for a declaration to seek to establish some form of United Nations machinery which did not at present exist.

Article 5 seemed to be designed to meet the case of a person crossing the frontier between a country of persecution and one of first asylum, and embodied the principle that such a person should not be sent back to a country in which he had suffered or feared persecution. It should be made clearer that the obligation did not apply to countries other than those of first asylum, unless the refugee was being returned direct to the country of persecution. In all other cases countries not those of first asylum must have full latitude to decide their attitude on the merits of each case. But the grant of such latitude would make even more necessary the need for action by the international community to lighten the burden on countries of first asylum. He wondered whether the third amendment proposed by the Israeli delegation was really effective, since any person was entitled to seek asylum.

Turning to the French draft resolution, he doubted the advisability of including the sentence "it has not yet proved possible to give effect to this right in a convention". If that meant that it had not as yet proved possible to agree on an article for inclusion in the draft international covenant on civil and political rights, he agreed that that was so; but if it meant that it had not yet proved possible to prepare a convention on the right of asylum, then it would, in his view, be premature to make such a reference, as such a convention was not even in process of preparation.

He assumed that the phrase "third countries" in the third paragraph simply meant "other countries"; if that were so, it would be better to use the latter expression. The paragraph went on to say that "the disadvantages of improvisation in this field have more than once been manifest". While it was true that the disadvantages of improvisation were manifest, he felt that that process could never be entirely excluded. It did not seem to him that the United Nations should be committed to the establishment of such machinery as would eliminate improvisation. He would therefore prefer that passage to be deleted. That, in turn, would necessitate deleting the words "avoiding these disadvantages as far as possible by" from the fourth paragraph.

The fifth paragraph seemed premature. Governments should first express their views on the desirability of preparing a special United Nations Declaration, and the Commission should limit itself to an expression of its desire to receive such views from governments.

Mrs. LORD (United States of America) observed that her country had played an active part in the grant of asylum to victims of persecution, and it therefore regarded with the utmost sympathy the motives that had inspired the French delegation in preparing its draft Declaration. Her delegation welcomed the procedural proposal put forward in the French draft resolution; she was sure that if that procedure were adopted, all Governments would give the draft Declaration the serious study it merited. Her Government would have an opportunity of commenting on the draft Declaration, and she would therefore confine herself at the present stage to the observation that it contained a number of ambiguities that needed clarification, and that its scope would have to be more carefully defined.

Her Government was prepared to co-operate closely if the Commission decided to take action on the lines proposed in the French draft resolution. She agreed, however, with most of the criticisms put forward by the United Kingdom representative concerning the preamble, and, like him, would prefer a simpler resolution limited to a request to Governments for their comments and proposals.

Mr. COLBAN (Norway) said that it was sad to reflect that the Commission should still, in the middle of the twentieth century, be compelled to go into the question of the right of asylum so thoroughly. If the principles embodied in the Universal Declaration of Human Rights were universally applied, the problem of asylum would automatically be solved.

His country was a party to the Convention relating to the Status of Refugees and to the Convention relating to the Status of Stateless Persons; it had also recently passed a law providing that political refugees who sought asylum in Norway should be granted asylum except when there were special grounds for refusing it. It could not be said, therefore, that nothing had been done so far to alleviate the plight of refugees. He agreed with the suggestion by the United Kingdom representative that an attempt should be made to persuade more States to ratify those Conventions.

The draft Declaration should, however, be submitted to Governments for their comments and suggestions; it was unnecessary for the Commission to strive to perfect it at the present stage.

His delegation was prepared to support the French draft resolution, but felt that it should be amended on the lines proposed by the United Kingdom representative.

Mr. IBRAHIM (Iraq) said that the modern age was marked by frequent ideological struggles between mutually antagonistic political regimes or economic systems. That was why the right of asylum, although a relatively new one, was of such importance. The constitutions of some States solemnly proclaimed the fundamental freedoms of citizens, but those very States made it a principle to deny them to certain classes of citizens adjudged to be unworthy of them. Such an attitude amounted in practice to guaranteeing constitutional liberties only to the supporters of the regime, and denying them to its opponents, who were then reduced for their own safety to seeking asylum in other countries. Thus the right of asylum was closely related to the right to life itself; that was why it must be safeguarded.

The Commission would also have to consider who should enjoy that right. While any person persecuted because of his activity in the cause of freedom should be guaranteed asylum, it was a matter for determination in each individual case whether a State granting asylum was thereby promoting the cause of liberty or democracy.

The question was of importance because the terms liberty and democracy were open to conflicting interpretations. The Commission should not be disheartened by the difficulty of the problem, for all rights and freedoms, even the very term "democracy", were susceptible of varying interpretations.

There was a third aspect of the question which was rather a matter of international law. By international custom a State was at liberty either to admit or to exclude aliens; it could therefore exclude certain classes of refugees. But there should be no absolute ban, and there must always be reasonable grounds for such exclusion. Conventions on the subject already existed, but did not amount to general rules of positive law. It therefore seemed that in the existing state of international law a declaration of principle which would not be binding on States might well be the most suitable instrument. A special declaration might have gratifying results, since it would create an atmosphere favourable to the right of asylum. However, since the exercise of that right imposed very heavy burdens on the country offering asylum, any draft on the subject should first be submitted to governments for comment. The Iraqi Government would be in favour of a declaration. The French delegation's draft might need amendment in certain particulars, but his own view was that it should be submitted to governments as it stood.

Further discussion of item 8 of the agenda was deferred.

The meeting rose at 12.50 p.m.

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.573
19 June 1957

ENGLISH
Original: ENGLISH and
FRENCH

COMMISSION ON HUMAN RIGHTS

Thirteenth Session

SUMMARY RECORD OF THE FIVE HUNDRED AND SEVENTY-THIRD MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 23 April 1957, at 3 p.m.

CONTENTS:

	<u>Page</u>
1. Right of asylum (item 8 of the agenda) (E/2844 (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr.1 and 2; E/CN.4/NGO/69, E/CN.4/NGO/76) (continued)	4
2. Yearbook on Human Rights (item 9 of the agenda) (E/2731 (paragraphs 28 and 85); Economic and Social Council resolution 630 D (XXII); E/CN.4/737 and Add.1, E/CN.4/742 (paragraphs 3 to 6))	9
3. Advisory services in the field of human rights (item 10 of the agenda) (General Assembly resolution 926 (X); Economic and Social Council resolution 605 (XXI); E/2844 (paragraph 87); E/CN.4/736 and Add.1)	12

Present:

Chairman: Mr. SERRANO (Philippines)

Members:

Mr. BERTOMEU	Argentina
Mr. GUNAWARDENE	Ceylon
Mr. TSING-CHANG LIU	China
Mr. CASSIN	France
Mr. JUVIGNY	
Mr. PADMANABHAN	India
Mr. ADAMIYAT	Iran
Mr. IBRAHIM	Iraq
Mr. COHN	Israel
Mr. BACCHETTI	Italy
Mr. RIZK	Lebanon
Mr. COLBAN	Norway
Mr. BRILLANTES	Philippines
Mrs. WASILKOWSKA	Poland
Mr. MIKHAILENKO	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. HEWITT	United States of America

Observers for the Governments of States Members of the United Nations:

Brazil	Mr. PATRIOTA
Bulgaria	Mr. STOYANOV
Chile	Miss KRACHT
Dominican Republic	Mr. SAVINON
Egypt	Mr. SAFOUAT
Netherlands	Miss LUNSINGH MEIJER
Syria	Mr. El WAKIL
Turkey	Mr. CUHRUK
Yugoslavia	Mr. TAPAVICKI

Also present:

Mr WEIS
Office of the United Nations High
Commissioner for Refugees

Representatives of non-governmental organizations:

Category B and Register

Catholic International Union for Social Service	Miss HERTOGHE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Catholic Child Bureau	Miss de LUCY-FOSSARIEU
International Catholic Migration Commission	Mrs. RANGEL de CARVALHO
International Federation of University Women	Mrs. FIECHTER
International Federation of Women Lawyers	Lady CHATTERJEE Miss MIRAULO
International League for the Rights of Man	Mr. de MADAY
International Movement for Fraternal Union among Races and Peoples	Mrs. PIVOT
Liaison Committee of Women's International Organizations	Mrs. PRINCE
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER
World Union of Catholic Women's Organizations	Miss de KALBERMATTEN Miss de LUCY-FOSSARIEU

Secretariat:

Mr. Humphrey

Representative of the
Secretary-General

Mr. Male

Secretary to the Commission

RIGHT OF ASYLUM (item 8 of the agenda) (E/2844 (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr.1 and 2; E/CN.4/NGO/69, E/CN.4/NGO/76) (continued)

Mr. PADMANABHAN (India) said that the discussion had shown that the Commission was dealing with a complex problem involving fundamental issues affecting both international relations and the domestic jurisdiction of States. It was its aim to establish on a sound basis the rights to which the individual was entitled. It must act in such a way as to assert those rights without causing friction between States.

The question of the right of asylum was so complex and important that the Indian delegation was doubtful whether the matter had been considered sufficiently thoroughly to justify the drafting of a declaration. The Commission should proceed more cautiously.

Many States recognized the right of asylum in practice, and did in fact grant asylum; his own country, for example, had received millions of refugees. To elevate that right into a duty, however, would be to strike at the very roots of State sovereignty.

Perhaps it might be expedient to ask the International Law Commission to continue its examination of the subject; there would be no practical difficulty in awaiting its decisions, and the Commission should certainly avoid prejudicing those decisions by drafting a declaration of its own at the present stage. Again, the International Law Commission might later be asked to send an observer to help the Commission on Human Rights in dealing with the item.

Mr. BRILLANTES (Philippines) said that, notwithstanding the prevalent view that the individual had now become the subject of international law, and that the right of asylum had consequently become an individual right, the weight of authority seemed to favour the thesis that the grant of asylum was the prerogative of States. The exercise of the right of asylum by an individual depended upon his being granted asylum by a State other than his own; and in granting asylum that State would obviously be moved by its own policy, which involved political and economic considerations.

He supported the Indian representative's suggestion that further consideration of the right of asylum, which had already been on the agenda of the International Law Commission for some time as part of its general study of the rights, duties and responsibilities of States, should be left to that body for the time being. It would be remembered that that particular aspect of the study had been left in abeyance

pending adjudication in the asylum case between Colombia and Peru. Now that that case had been settled, the International Law Commission was free to resume its consideration of the matter, and since its field of activity covered the codification of international law and its progressive development, it would seem desirable that any declaration on the right of asylum should be referred not only to governments, but also to the Commission.

With reference to the draft declaration on the right of asylum submitted by the delegation of France,⁽¹⁾ he noted that, according to Article 1, responsibility for granting asylum would in future lie not with individual States, but with the international community represented by the United Nations. That was a new development. Nothing had been said, however, about the authority which would have to be set up to discharge that responsibility, and, in the absence of a clear idea of its nature, it was difficult to define the responsibility itself.

Article 2 of the draft Declaration, which defined the circumstances in which a person would be entitled to seek asylum, seemed to have been taken from Articles 3 and 14 of the Universal Declaration of Human Rights. But whereas the Universal Declaration spoke of "security of person", Article 2 of the draft spoke of "physical integrity". He would like to know the reason, if any, for that change.

With reference to the draft resolution submitted by the French delegation⁽¹⁾, he said that the Philippines delegation was not prepared to share the responsibility for a decision which might give the impression that the Commission had adopted the draft Declaration as the sole basis for study, as the first operative paragraph implied. His delegation therefore proposed that the word "preliminary" be inserted before the word "basis" in that paragraph.

The first paragraph of the preamble implied that the Commission was in favour of a convention to give effect to the right of asylum. His delegation was not prepared to commit itself to the formulation or adoption of a convention. The paragraph might be made more acceptable by replacing the words "in a convention" by some such phrase as "in an appropriate international instrument". The Commission would thus avoid prejudging the nature of the instrument to be adopted.

(1) The texts of the French draft Declaration on the Right of Asylum and of the French draft resolution were distributed only to participants in the session, as documents E/CN.4/L.454/Rev.1 and E/CN.4/L.460 respectively, with "Limited" distribution. For the text of the draft resolution as adopted after amendment, see the Commission's report on its thirteenth session to the Economic and Social Council (E/2970 - E/CN.4/753), paragraph 214.

His delegation associated itself with the United Kingdom representative's comments at the previous meeting on the fourth paragraph of the preamble. In particular, it agreed that the words "avoiding these disadvantages as far as possible by" ought to be deleted.

He emphasized that his remarks were of a preliminary nature, and reserved his delegation's right to intervene at any subsequent stage of the debate.

Mr. GUNewardene (Ceylon) congratulated the French delegation on its initiative in submitting the draft Declaration on the Right of Asylum. He had no objection to the Declaration in principle, but would not comment on it in detail, since the accompanying draft resolution merely required the Commission to take note of it as a basis for study and discussion. The amendments submitted by the delegation of Israel would, he thought, considerably improve the draft Declaration. He also hoped the French representative would be able to accept some of the suggestions made by the United Kingdom representative.

It would perhaps be premature to refer the subject to the International Law Commission. That Commission would certainly be dealing with the legal aspects of the subject, but the principles would have to be established first.

He thought that governments should be provided with a summary of the discussions in the Commission on Human Rights to accompany the text of the draft Declaration.

It would be unrealistic at the present stage to think of drafting a convention. It would also be difficult for the time being to adopt the Soviet Union representative's suggestion that provisions regarding the right of asylum should be included in the draft international covenant on civil and political rights. The only course, therefore, was to fall back on a declaration of the right.

In view of the vital importance of the subject, there was no reason why the principles should not be established at an early date; but the views of governments, particularly those which had taken a prominent part in the discussions on the subject, should first be ascertained. He hoped the Commission would then be able to reach a solution acceptable to all.

Mrs. WASILKOWSKA (Poland) said that her delegation considered the right of asylum to be one of the fundamental human rights, a right whose establishment was one of the democratic and progressive achievements of international law.

She would mention three facts to illustrate Poland's position on the right of asylum.

In the first place, Poland was one of the countries in which the right of asylum was guaranteed constitutionally. Article 75 of the Constitution, in the chapter dealing with the fundamental rights of man, was the relevant provision.

In the second place, the Polish delegation had supported the idea that specific provisions relating to the right of asylum should be included in the draft international covenant on civil and political rights. Unfortunately, that idea had not won acceptance, and her delegation would therefore support the Soviet Union proposal that a further recommendation be addressed to the General Assembly to that end.

Thirdly, at the Commission's twelfth session, her delegation had supported the French proposal that the item be placed on the agenda for the present session.

Of course, when voting for the French proposal on that occasion, her delegation had been aware of the difficulties of the problem, both theoretical and practical. The concept of asylum had originated in the ideas which had provided the driving force of the French Revolution, ideas which had made an outstanding contribution to human thought. Recently, however, the principle had been subjected to interpretations and practices which were sometimes contrary to the basic concept. Further consideration by the Commission might bring the conflicting points of view closer together.

Her delegation had doubts, however, about the advisability of submitting the draft Declaration to governments for their comments, as suggested in the first paragraph of the operative part of the French draft resolution. It was true that a similar course had been adopted in the case of the draft Declaration of the Rights of the Child and in that of discrimination in education, but in both cases the procedural situation had been quite different, the relevant decisions having been preceded by a thorough discussion of the substance. The draft Declaration on the Right of Asylum, however, had been submitted only a few days previously. There had been very little time for exchanging views, though the problem deserved thorough study. The Commission should not act as a mere post office for transmitting proposals to other addresses.

Consequently, she thought the French delegation's proposal was still somewhat premature. It would be better to keep the subject on the agenda for the next session, when there would be more time for discussing it.

Her delegation also had serious objections to some of the paragraphs of the preamble to the draft resolution, and to the first paragraph of the operative part, all of which contained value judgments on matters which should be taken up only at a later stage of the work.

Her delegation reserved its right to state its position on the substantive issue at a later stage; in the meantime, it must express its inability to vote for the French draft resolution.

Mr. BERTOMEU (Argentina) regretted that, having no instructions, he could express no opinion on the substance. But he welcomed the French draft resolution, which provided for the transmittal of the draft declaration to governments while at the same time setting forth the reasons why practical action was needed in respect of the right of asylum, and would accordingly support it.

Mr. CASSIN (France) was grateful to all the delegations which had expressed their views for or against the French proposals and those which had been good enough to submit amendments to them; those comments would enable him to submit his draft resolution in revised form at the next meeting.

He was glad that no one had impugned the motives by which the French delegation had been actuated; in fact, its proposals had not been inspired by recent events, but were designed to meet a constant need which would no doubt persist for many years to come.

Neither had the procedure advocated by the French delegation given rise to serious criticism; France had merely submitted a draft declaration - which was capable of improvement - and, realizing that the question was not yet ripe for a final decision, had suggested that governments should be consulted and that the United Nations, governments, and even public opinion, should be made aware of the need to solve that over-present problem. That was a wise procedure, and no one could tax the French delegation with having sought to induce the Commission to act too hastily.

However, the French delegation felt that it must remove any misunderstanding about the nature of its draft Declaration; it therefore accepted the Philippine representative's suggestion that the word "preliminary" should be inserted before the word "basis" in the first operative paragraph of its draft resolution. He must, however, point out that that paragraph provided for the Commission to take note of the preliminary draft declaration "as a basis for study and discussion", not to accept it as it stood.

He did not think it necessary to wait for all the competent authorities to pronounce upon the theoretical issues involved before exploring practical measures to relieve the plight of the hundreds of thousands of people who might be obliged to seek asylum. France would have favoured a blunter affirmation of the principles of the Universal Declaration of Human Rights, or the inclusion of some provisions in the draft international covenant on civil and political rights, and regretted that past efforts in that direction had not been successful. It was very far from

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.574
19 June 1957

ENGLISH

Original: ENGLISH and
FRENCH



COMMISSION ON HUMAN RIGHTS

Thirteenth Session

SUMMARY RECORD OF THE FIVE HUNDRED AND SEVENTY-FOURTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 24 April 1957, at 11 a.m.

CONTENTS:

Page

1. Advisory services in the field of human rights (item 10 of the agenda) (General Assembly resolution 926 (X); Economic and Social Council resolution 605 (XXI); E/2844, (paragraph 87); E/CN.4/736 and Add.1) (concluded) 4
2. Right of asylum (item 8 of the agenda) (E/2844, (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr. 1 and 2; E/CN.4/NGO/69, E/CN.4/NGO/76) (resumed from the previous meeting) 7

Present:

Chairman: Mr. SERRANO (Philippines)

Members:

Mr. BERTOMEU	Argentina
Mr. GUNAWARDENE	Ceylon
Mr. LIU	China
Mr. CASSIN	France
Mr. PADMANABHAN	India
Mr. ADAMIYAT	Iran
Mr. IBRAHIM	Iraq
Mr. COHN	Israel
Mr. DOMINEDO	Italy
Mr. COLBAN	Norway
Mr. BRILLANTES	Philippines
Mrs. WASILKOWSKA	Poland
Mr. MIKHAILENKO	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America

Observers for the Governments of States Members of the United Nations:

Czechoslovakia	Mr. STRNAD
Dominican Republic	Mr. SAVINÓN
Egypt	Mr. SAFOUAT
Netherlands	Miss LUNSINGH MEIJER
Syria	Mr. EL WAKIL
Yugoslavia	Mr. TAPAVICKI

Representatives of non-governmental organizations:Category A

International Federation of Christian
Trade Unions

Mr. EGGERMANN

Category B and Register

Catholic International Union for Social
Service

Miss HERTOGHE

Commission of the Churches on International
Affairs

Mr. REES

Consultative Council of Jewish Organizations

Mr. MOSKOWITZ

Co-ordinating Board of Jewish Organizations

Mr. WARBURG

International Catholic Child Bureau

Mrs. de LUCY-FOSSARIEU

International Catholic Migration Commission

Mrs. RANGEL de CARVALHO

International Federation of Business and
Professional Women

Miss HARRIS

International Federation of University
Women

Mrs. FIECHTER

International Federation of Women
Lawyers

Lady CHATTERJEE
Mrs. MIRAULO

International Movement for Fraternal
Union among Races and Peoples

Mrs. PIVOT

Women's International League for Peace
and Freedom

Mrs. BAER

World Jewish Congress

Mr. RIEGNER

World Union of Catholic Women's
Organizations

Miss de KALBERMATTEN
Miss de LUCY-FOSSARIEU

Secretariat:

Mr. Humphrey

Representative of the Secretary-General

Mr. Male

Secretary to the Commission

Mr. HUMPHREY (Secretariat), referring to a point raised by the United Kingdom representative at the previous meeting regarding payment of the expenses of participants in seminars organized under United Nations auspices, said that he had cabled to Headquarters and had received the reply that, while there were no set rules governing payment for seminars, the established technical assistance practice was to invite governments to share in the cost. Provision was, however, normally made in the budget for the payment by the United Nations, as part of the technical assistance granted, of the costs of a minimum group of participants.

Mrs. LORD (United States of America) expressed her delegation's satisfaction at that reply. Her country had had a great deal of experience in the organization of regional, national and international seminars, and had found that success largely depended on the payment of the expenses of the leading participants by the organizing body - in the present case the United Nations.

Sir Samuel HOARE (United Kingdom) expressed his thanks for the information contained in the reply from Headquarters. Since raising the question at the previous meeting, he had himself made some enquiries as a result of which he was satisfied that the principle that some contribution could be made by the United Nations towards the travel and living expenses of participants in seminars had been accepted by governments, including his own.

The CHAIRMAN declared the discussion on item 10 of the agenda closed.

2. RIGHT OF ASYLUM (item 8 of the agenda) (E/2344 (paragraph 109); E/CN.4/713, E/CN.4/738 and Corr. 1 and 2; E/CN.4/NGO/69, E/CN.4/NGO/76) (resumed from the previous meeting)

The CHAIRMAN invited the Commission to resume its discussion of the right of asylum and drew attention to the revised text of the French draft resolution on the subject. (1)

Mr. DOMINEDO (Italy) said that the right of asylum was officially recognized in the Italian Constitution, under the terms of which political refugees were not liable to extradition, and that the Italian Government was prepared to support any

(1) The revised text of the French draft resolution on the right of asylum was distributed only to participants in the session, as document E/CN.4/L.460/Rev.1, with "Limited" distributed. For the text of the resolution as adopted after amendment, see the Commission's report on its thirteenth session to the Economic and Social Council (E/2970 - E/CN.4/753), paragraph 214.

initiative to incorporate the right of asylum in a solemn declaration. The French delegation's draft was both realistic and well-balanced. He did not share the fears entertained by some delegations about the first paragraph of the preamble to the revised French draft resolution, but thought that both proposals merited support on the ground that they met a need and represented a step forward towards respect for human rights and the fundamental freedoms. For the Italian delegation, the only criteria were freedom and humanity; and, judging the matter by those standards, he would support the revised draft resolution.

Mr. BRILLANTES (Philippines) recalled that at the previous meeting he had mentioned the difficulties which the use of the word "convention" in the French draft resolution created for his delegation. Such specific wording suggested that the Commission would prefer a convention to any other form of international instrument. He accordingly hoped that the French delegation would be prepared to delete the words "in a convention" from the first paragraph, and the words "in the absence of a convention" from the fifth paragraph, of the preamble. Otherwise his delegation would be compelled to ask that those phrases be put to the vote separately.

Mr. PADMANABHAN (India) observed that the proposal he had put forward at the previous meeting, that the entire subject be first referred to the International Law Commission, evidently did not find favour with the majority of members, so he would not press it. His delegation noted with pleasure that the French delegation had materially revised its draft resolution, but felt that yet further amendment was desirable.

The third paragraph of the preamble might well be deleted; it seemed that the intention was to bring the whole problem to the attention of Governments, with the object of obtaining their views, in which case it would be advisable not to overload the text with unnecessary matter.

The word "therefore" might be deleted from the fourth paragraph; its retention would be particularly inappropriate if, as he had proposed, the third paragraph were deleted.

The words "as a preliminary basis for study and discussion" should be deleted from the first operative paragraph; the draft Declaration submitted by the French delegation was only one of a number of proposals relating to the right of asylum, and it was desirable that all such proposals, and not merely that submitted by France, should be considered by Governments.

Reference should also be made in the draft resolution, most appropriately in the second operative paragraph, to the idea that the matter might also be referred to the International Law Commission.

Mr. TSING-CHANG LIU (China) said that his country had always been ready to grant asylum. Although his delegation was as yet unable to state its final views on the draft Declaration proposed by the French delegation, it was anxious to see progress made in the matter of the right of asylum, and therefore wished to propose certain amendments to the revised draft resolution, with which it was in general agreement.

His delegation felt that the word "persecuted" in the fourth paragraph of the preamble introduced an undesirable limitation and should be replaced by a term of wider scope; persons to whom asylum was granted were generally not already being persecuted, but in imminent danger of persecution.

The adjective "inestimable" in the fifth paragraph of the preamble was inappropriate; it was for the governments and other bodies to whom the document was to be submitted in accordance with the second operative paragraph to express an opinion on the value of a United Nations declaration, and the Commission should not seek to anticipate their verdict by using such an adjective in its resolution.

Lastly, the word "preliminary" was used twice in the English version of the first operative paragraph; it might well be omitted before the words "draft Declaration".

Sir Samuel HOARE (United Kingdom) agreed with the Chinese representative that the adjective "persecuted" in the fourth paragraph introduced an undesirable restriction. The simplest way out of the difficulty would be to delete the remainder of the paragraph after the words "actual grant of asylum"; it suggested that "all persecuted human beings who ask for it" were entitled to be given asylum by each State which accepted the declaration; the Commission should not seek to impose such an obligation on States.

Mr. CASSIN (France) was happy to note that the Commission's attitude to the revised text of the French draft resolution was generally favourable, despite some divergences on points of detail.

To meet the fears expressed by the Philippine representative regarding the first paragraph of the preamble, he would propose a form of words such as that which had already been unanimously approved at the twelfth session, stating that the Commission on Human Rights had not been able to incorporate the right of asylum in the draft

international covenants on human rights; the first paragraph would then read:

"Considering that, in the period that has elapsed since the adoption of the Universal Declaration of Human Rights, Article 14 of which proclaims the right of asylum, the Commission has not been able to incorporate this right in the draft covenants on human rights"....

He hoped that solution would be acceptable.

With regard to the third paragraph of the preamble, he proposed to meet the Indian representative's wishes by deleting the words "that during recent years and by international bodies". The paragraph would then read:

"Observing that the practical implementation of the right of asylum still remains a pressing necessity,".....

With regard to the fourth paragraph, he was prepared to meet the wishes of the Chinese and United Kingdom representatives by deleting the words "to all persecuted human beings who ask for it". But he could not agree to the Indian representative's suggestion that the word "therefore" be deleted, since it provided a necessary link with the preceding paragraph.

With reference to the Philippine representative's comments on the fifth paragraph of the preamble, he was sorry he could not agree to the deletion of the words "in the absence of a convention", as governments ought not to be too tied, but left free to decide whether or not a convention should be concluded. On the other hand, he could agree to the deletion of the word "inestimable".

In response to the Indian representative's comments on the first operative paragraph, he was prepared to delete the words "as a preliminary basis for study and discussion", since it was true that the French delegation's right to submit a preliminary draft Declaration was not a monopoly and that other delegations might wish to submit other proposals.

Lastly, he saw no need to include in the draft resolution a reference to the International Law Commission, since the Commission on Human Rights could not refer matters to that body. Certain governments might wish to submit the question to the International Law Commission, but the Commission on Human Rights was not entitled to do so.

Mr. MOROSOV (Union of Soviet Socialist Republics) still found the French draft resolution unacceptable, despite the changes made to it, because it still dealt with matters irrelevant to the right of asylum. A draft declaration unacceptable to the Commission as a whole should not be submitted to governments for comment. If a

majority favoured the inclusion in the draft international covenant on civil and political rights of a provision on the right of asylum, he would formally move its inclusion. If not, he could agree that the Commission should attempt to work out principles - which might eventually become legally binding provisions - governing the right of asylum, and consider the matter further at its next session.

The CHAIRMAN observed that any request to the International Law Commission should properly be transmitted through the Economic and Social Council. In any event, that Commission would hardly have time enough to transmit its comments by 31 December 1957.

Mr. PADMANABHAN (India) withdrew his suggestion that the word "therefore" be deleted from the fourth paragraph of the preamble, since a link was undoubtedly needed with the part of the third paragraph that had been retained. He inquired how far the Commission was competent to refer questions direct to the International Law Commission.

Mr. HUMPHREY (Secretariat) confirmed the Chairman's statement on that matter. Since the International Law Commission was a subordinate organ of the General Assembly, any such request should properly be sent through the Economic and Social Council. No proposal had been made to that Commission, so that Article 17 of its Statutes would not apply. By analogy, however, it would apply to the Council, as a principal organ of the United Nations, but not to the Commission on Human Rights. There had been a precedent: when the Commission on the Status of Women had wished to ask the International Law Commission for advice on the proposed convention on the nationality of married women, the request had been sent through the Council. He also agreed with the Chairman that the International Law Commission might find it difficult to transmit its comments to the Commission on Human Rights by 31 December 1957. He would again draw attention to the Secretary-General's memorandum on activities of various organs of the United Nations in connexion with the right of asylum, especially paragraph 18 thereof which related the history of the subject before the International Law Commission. The position had not changed since.

Mr. BRILLANTES (Philippines) welcomed the French representative's amendment of the first paragraph of the preamble, but felt that the fifth paragraph should be more closely linked with it. A compromise might be reached by using a similar formula, or, in other words, by substituting for the words "in the absence of a convention" the phrase "in the absence of a provision on the right of asylum in the draft international covenants on human rights".

Mr. PADMANABHAN (India) said that, in view of the explanation given by the representative of the Secretary-General, he would not press his amendment to the second operative paragraph. The Philippine amendment to the fifth paragraph of the preamble might be better phrased: "in view of the consideration mentioned in the first paragraph above."

Mr. CASSIN (France), while gratified that most of his suggestions had been accepted, regretted that unanimity had not yet been reached.

With regard to the objections to the fifth paragraph of the preamble, he must point out that the Commission had no right to restrict the freedom of governments or to determine their attitude to the choice between a convention and a declaration. That was why he thought that his wording should be retained.

Mr. BRILLANTES (Philippines) replied that, if the French representative expected the majority of governments to favour a convention, but argued that the Commission had no right to limit their choice of instrument, there was even more reason to delete the phrase "in the absence of a convention", since it would draw more attention to the method of a convention than to any other. A wording similar to that suggested by the French representative for the first paragraph of the preamble would leave it open to governments to decide whether they wanted a convention, a provision in the draft international covenants, a General Assembly resolution or a United Nations declaration.

Mr. PADMANABHAN (India) said that he had made his suggestion about the fifth paragraph only as a drafting point and would accept the Philippine wording.

Mr. TSING-CHANG LIU (China) said that he would not press his suggestion for the deletion of the word "preliminary" before "draft Declaration" in the first operative paragraph.

Mr. CASSIN (France) gathered that the Philippine representative wanted to bring the first and fifth paragraphs of the preamble into line. But the former related to the past and the latter to the future, so that there was no absolute correlation between them such as the Philippine representative wished to bring out.

Mr. BRILLANTES (Philippines) objected that the statement of future intention in the fifth paragraph of the preamble was in fact based on the past, in other words, on the content of the draft international covenants.

Sir Samuel HOARE (United Kingdom) wondered whether the phrase "in the absence of a convention" was really necessary for the simple purpose of inviting governments to

state whether they thought a United Nations declaration on the right of asylum would be of use. The Philippine representative's suggestion was no more felicitous, since it expounded the proposition that a declaration should be drafted because there was not as yet any corresponding article in the draft international covenants. Even if there were such an article, there might, in view of the slow progress those instruments were making, be a case for a declaration.

Mr. CASSIN (France) submitted that States had obligations towards political refugees seeking asylum, and that the fifth paragraph accordingly represented the minimum that was capable of satisfying public opinion. Hence, it would be dangerous to take anything away from it.

Mr. DOMINEDO (Italy) proposed the substitution of the words "pending a convention" for the words "in the absence of a convention".

Mr. BERTOMEU (Argentina) supported that proposal.

Mr. CASSIN (France) was unable to accept that proposal, for the reasons which had impelled him to reject the Philippines proposals. To mention the possibility of a convention would be anticipating the conclusion of a convention, whereas it was essential to respect governments' freedom of choice.

The CHAIRMAN suggested, as a compromise, that the words "in the absence of a convention" be deleted and the words "pending some other form of international action" added at the end of the paragraph.

Mr. CASSIN (France) felt that the Chairman's proposal came fairly close to his own line of thought. He doubted, however, whether he could accept it, for he saw no reason why the Commission should blink the facts.

Mr. MOROSOV (Union of Soviet Socialist Republics) remarked that, if there had been any doubts about the measure of support for the idea that legal obligations should be imposed on governments in the matter of the right of asylum, the latest exchange of views showed beyond question that he had been right in pressing it. A mere declaration could only lead to complications. Furthermore, the new wording proposed by the French representative for the first paragraph of the preamble sounded like self-criticism, since the body responsible for the failure to include a provision on the right of asylum in the draft international covenants must obviously be the Commission itself. He would not submit any amendments, in view of his position of principle, but he could not accept the implication that the Commission necessarily expected a convention to be drafted, when its members were quite unprepared to set to work on drafting one. If the Commission really favoured a convention, the debate should be re-opened, in which case he would submit a proposal on the lines he had previously suggested.

As a compromise, it might be possible to secure unanimity by adopting only the fourth paragraph of the preamble, as amended by the French representative, and the third operative paragraph. In any case, the Commission would find it easier to take a decision if it had before it a final amended text of the French revised draft resolution in at least one of the working languages.

Mr. CASSIN (France) agreed that it would be helpful for the Commission to have before it a new text incorporating the amendments he had already accepted. But he felt that the Commission was already sufficiently well informed to take a decision on the substance of his proposal.

Mr. COHN (Israel) pointed out that if the Soviet Union representative's suggestion were adopted, that would bring the discussion to an end; the vote should accordingly be taken immediately. If that suggestion were not adopted, further consideration could be given to the revised French draft resolution.

Mr. GUNAWARDENE (Ceylon) thought that the Commission had before it everything it required, and could vote forthwith.

Mr. MOROSOV (Union of Soviet Socialist Republics) explained that he had made no formal proposal; he had merely suggested a procedure likely to command unanimous acceptance. There were apparently two questions. Should the draft Declaration, unacceptable as it was to some delegations, be sent to governments as a basis for study? Or should the draft Declaration not be sent as it stood, but the question of the right of asylum kept on the agenda for further consideration at the Commission's next session?

Sir Samuel HOARE (United Kingdom) observed that the only outstanding issue was the phrase "in the absence of a convention", in the fifth paragraph of the preamble, which the French representative wished to be retained. A separate vote might be taken on that phrase, followed by a vote on the remainder of the draft resolution.

Mr. TSING-CHANG LIU (China) said that in that event his delegation would sponsor the Chairman's suggestion that the phrase "in the absence of a convention" be deleted and the phrase "pending some other form of international action" added at the end of the paragraph.

Mr. CASSIN (France) was sorry he was unable to accept the Chinese proposal, which he considered to be far too vague.

Mr. DOMINEDO (Italy) said that he would not press his last proposal, which in any case had not been intended as a formal amendment. He moved that the various proposals before the Commission be put to the vote.

Mr. MOROSOV (Union of Soviet Socialist Republics) proposed that the Commission adjourn to enable the French representative and the Secretariat to prepare a revised text incorporating the amendments already accepted and noting any outstanding alternatives.

The Soviet Union proposal was adopted.

The meeting rose at 1.10 p.m.



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.575
20 June 1957

ENGLISH
Original: ENGLISH and FRENCH

COMMISSION ON HUMAN RIGHTS

Thirteenth Session

SUMMARY RECORD OF THE FIVE HUNDRED AND SEVENTY-FIFTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 24 April 1957, at 3 p.m.

CONTENTS:

	<u>Page</u>
1. Right of asylum (item 8 of the agenda) (concluded)	4
2. Yearbook on Human Rights (item 9 of the agenda) (resumed from the 573rd meeting and concluded)	4
3. Review of programme and establishment of priorities (item 12 of the agenda) (Economic and Social Council resolution 630 A (XXII); E/CN.4/734, E/CN.4/741, E/CN.4/742)	5
4. Communications (item 11 of the agenda) (Economic and Social Council resolutions 75(V), 192 A (VIII), 275(X) and 454(XIV))	17

Present:

Chairman:

Mr. SERRANO (Philippines)

Members:

Mr. BERTOMEU	Argentina
Mr. GUNAWARDENE	Ceylon
Mr. SING-CHANG LIU	China
Mr. CASSIN	France
Mr. DAYAL	India
Mr. ADAMIYAT	Iran
Mr. IBRAHIM	Iraq
Mr. COHN	Israel
Mr. DOMINEDO	Italy
Mr. RIZK	Lebanon
Mr. COLBAN	Norway
Mr. BRILLANTES	Philippines
Mrs. WASILKOWSKA	Poland
Mr. MIKHAILENKO	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America

Also present (during the discussion on items 8, 9 and 12 of the agenda only):

Observers for the Governments of States Members of the United Nations:

Czechoslovakia	Mr. PAVLIK
Dominican Republic	Mr. SAVINON
Egypt	Mr. SAFOUAT
Netherlands	Miss LUNSINGH MEIJER
Yugoslavia	Mr. TAPAVICKI

Representative of a specialized agency:

International Labour Organisation	Mr. BLAMONT
--------------------------------------	-------------

Representatives of non-governmental organizations:

Category B and Register

Catholic International Union for Social Service	Miss HERTOEGHE
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Catholic Migration Commission	Mrs. RANGEL de CARVALHO
International Federation of Women Lawyers	Lady CHATTERJEE Mrs. MIRAULO
International Movement for Fraternal Union among Races and Peoples	Mrs. PIVOT
Liaison Committee of Women's International Organizations	Mrs. PRINCE
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER
World Union of Catholic Women's Organizations	Miss de KALBERMATTEN

Secretariat (present for the whole of the meeting):

Mr. Humphrey	Representative of the Secretary-General
Mr. Male	Secretary to the Commission

1. RIGHT OF ASYLUM (item 8 of the agenda) (concluded)

The CHAIRMAN invited comments on the final version of the French draft resolution on the right of asylum⁽¹⁾. Did the Chinese representative still wish his amendment to be put to the vote?⁽²⁾

Mr. TSING-CHANG LIU (China) replied that, after consultation with a number of representatives, he had decided to withdraw his amendment, in the hope that he would thereby contribute to the adoption of the draft resolution by a large majority.

Sir Samuel HOARE (United Kingdom) requested that a separate vote be taken on the words "in the absence of a convention" in the fifth paragraph of the preamble.

Those words were rejected by 7 votes to 4, with 4 abstentions.

Mr. BRILLANTES (Philippines) said that, in the light of that decision, he would withdraw the amendment to the fifth paragraph which he had proposed at the previous meeting⁽³⁾.

The French draft resolution on the right of asylum as amended, was adopted by 12 votes to 2, with 1 abstention.

The CHAIRMAN declared that the Commission had completed its work on item 8 of the agenda for the session.

2. YEARBOOK ON HUMAN RIGHTS (item 9 of the agenda) (resumed from the 573rd meeting and concluded)

The CHAIRMAN invited comments on the draft resolution on the Yearbook on Human Rights, submitted jointly by the delegations of France, Israel and the United Kingdom in pursuance of the agreement reached at the 573rd meeting.

-
- (1) The final text of the French draft resolution on the right of asylum was distributed only to participants in the session, as document E/CN.4/L.460/Rev.2, with "Limited" distribution. For the text of the resolution as adopted, see the Commission's report on its thirteenth session to the Economic and Social Council (E/2970 - E/CN.4/753), paragraph 214.
- (2) See the summary record of the 574th meeting (E/CN.4/SR.574), page 14.
- (3) See the summary record of the 574th meeting, page 11.
- (4) The text of the joint draft resolution on the Yearbook on Human Rights was distributed only to participants in the session, as document E/CN.4/L.461, with "Limited" distribution. For the text of the resolution as adopted, see the Commission's report on its thirteenth session to the Economic and Social Council, paragraph 223.