

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



CENTRAL

E/CN.4/SR.161
28 April 1950

ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE ONE HUNDRED AND SIXTY FIRST MEETING

Held at Lake Success, New York,
on Wednesday, 19 April 1950, at 3 p.m.

CONTENTS:

Draft international covenant on human rights - Annexes I and II
of the Report of the Fifth Session of the Commission on Human Rights
(E/1371) (continued)

Article 16 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/358,
E/CN.4/382, E/CN.4/429);

Article 17 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/360,
E/CN.4/360/Corr.1, E/CN.4/415, E/CN.4/424 (continued))

Appointment of a style committee

<u>Chairman:</u>	Mrs. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALFENZUELA	Chile
	Mr. CHANG	China
	Mr. SORENSON	Denmark
	Mr. RAMADAN	Egypt

Members (continued):

Mr. LEROY-BEAULIEU	France
Mr. THEODOROPoulos	Greece
Mrs. MEETA	India
Mr. MALIK	Lebanon
Mr. MUÑEz	Philippines
Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Confederation of Free Trade Unions (IOFTU)
Miss LIcHT	World Federation of United Nations Associations (WFUNA)

Category B:

Mr. EASTMAN }	Commission of the Churches on International Affairs
Mr. NOLDE }	
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Mr. HUNTINGTON	Friends World Consultative Committee
Miss DINGMAN	International Union for Child Welfare
Miss SCHAEFFER	International Union of Catholic Women's Leagues
Mr. PERLZWEIG	World Jewish Congress

Secretariat:

Mr. HUMPHREY	Director of the Division of Human Rights
Mr. SCHWELB	Assistant Director of the Division of Human Rights
Mr. LIN MOUSHENG }	Secretaries of the Commission
Mr. DAS }	

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS -- ANNEXES I AND II OF THE REPORT OF
THE FIFTH SESSION OF THE COMMISSION ON HUMAN RIGHTS (E/1371) (Continued)

Article 16 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/358, E/CN.4/382, E/CN.4/429)

Paragraph 1

1. Mr. SORENSON (Denmark) recalled that the Committee set up to examine the Report of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities had examined that article and the other articles connected with the rights of minorities, and considered the text to be satisfactory. As Rapporteur of the said Committee, however, he did not think that the opinion of the Committee as a whole in any way impaired the right of its members to express their individual opinions in the Commission.

2. The CHAIRMAN reminded the Commission that the Egyptian representative had proposed an addition to paragraph 1 and invited him to introduce his amendment.

3. Mr. RAMADAN (Egypt) was afraid that the amendment he had proposed might be misinterpreted and he was anxious in consequence to state formally that his delegation had always been in favour of the adoption of the paragraph ensuring everyone the freedom to manifest his religion. That principle was in conformity with the provisions of the Egyptian Constitution, article 12 of which stated that freedom of conscience was absolute and article 13 of which provided that the State should protect the free exercise of all religions within the limitations of the law. Since time immemorial different religious communities had lived in perfect peace and harmony on Egyptian territory and he would certainly have voted in favour of paragraph 1 of Article 16, if the right specified therein had not raised a problem that was particularly complex not only in Egypt but in all the countries of the Middle East.

4. Paragraph 1 gave everyone the right to change his religion, but in Egypt as in other countries such freedom could involve abuses such as had frequently been committed in the past and would continue to be committed if that paragraph were to be adopted without the introduction of some kind of legal restrictions.

5. The communities of the different Christian sects as well as the other communities were governed by their own laws regarding personal status and the obligations of their members were determined according to the provisions of their
/religious laws.

religious laws. For example, those Christian nationals who were Roman Catholic could not be divorced because the canon law did not recognize divorce. To escape the provisions of the law, those who wished to divorce became converted to Islam which recognized divorce. Obviously there was nothing sincere in such conversions. In other cases the purpose of the conversion was to escape the irksome payment of alimony. There were always unprincipled persons who would take advantage of such a provision and thus harm the legitimate interests of persons entitled to the protection of the law and of society.

6. He was in no way opposed to the principle of the right to change one's religion so long as that change was based on genuine conviction, and his amendment concerned only a specific legal point. If his amendment was rejected, he would ask for a separate vote on the words "freedom to change his religion or belief", which he would be obliged to oppose.

7. Miss BOWIE (United Kingdom) suggested that the Egyptian representative's problem might be solved by replacing the first two words of paragraph 2 of article 16 by the words "these freedoms".

8. Mr. RAMADAN (Egypt) did not think that that amendment would solve the difficulty to which he had drawn attention, as the Christian communities in Egypt were governed by special laws and statutes and paragraph 2 was worded too vaguely to cover the point he had raised.

9. The CHAIRMAN, speaking as representative of the United States of America, observed that the alterations suggested by the United Kingdom representative would have the effect of suppressing all freedom of conscience.

10. On the other hand, she could not support the Egyptian amendment since it would always be possible for a State to adopt a law forbidding anyone to change his religion and thus annulling the effect of article 16.

11. Lastly, she proposed that the United States amendment, which was intended to make only a slight alteration in the wording of paragraph 1, should not be put to the vote.

It was so decided.

12. Mr. LEROY-BEAULIEU (France) warned members of the Commission not to take too lightly amendments which concerned only the form of the texts they adopted. He recalled in that connexion that the Secretariat had published a French text of the Universal Declaration of Human Rights the second paragraph of article 2 of which did not conform to the authentic text adopted by the Assembly.

13. Mr. SCHWELB (Secretariat) explained that the booklet giving the text of the Universal Declaration of Human Rights referred to by the French representative had been printed in New York on the basis of the text adopted by the General Assembly and had been cabled from Paris to New York before the official documents of the third session of the General Assembly had been received at Lake Success. It had not been noted, in that first edition, that the text of the second paragraph of article 2 of the Declaration had been altered at the last minute in a plenary meeting of the General Assembly. A new edition of the text of the Declaration had been published as soon as the final text adopted by the General Assembly had been received.

14. The CHAIRMAN said that every time the Commission decided on a change in the wording of an English text and the French representative stated that the corresponding French text was correct, the French text was not altered. She thought it might perhaps be advisable to appoint forthwith a "Style Committee" to study the texts adopted on the first reading.

15. Mr. MALIK (Lebanon) believed that the concordance of the English and French texts of the Universal Declaration of Human Rights raised serious problems. He accepted the Secretariat's explanation with regard to the wording of the second paragraph of article 2. He had, however, already had occasion to study the concordance of the English and French texts of the Declaration very closely, and had found some twenty instances of differences between the English and French texts, nearly half of which were differences of substance.

16. The two texts were, however, equally authentic, and the Universal Declaration was a document of very great importance which would go down in history. The day was bound to come when the question of the discrepancies between the two texts would be raised, and give rise to serious difficulties.

17. He thought that before the end of its sixth session the Commission might well recommend to the Economic and Social Council to request the Assembly to correct those discrepancies in order to bring two texts into line.

18. Mr. LEROY-BEAULIEU (France) felt he must support the Lebanese representative's suggestion. There was a substantial reason for so doing, in that serious differences between the English and French texts of the Declaration might be prejudicial to the human rights they were intended to establish. If there were discrepancies of substance, and Mr. Malik's fears might be well founded, it seemed that only the General Assembly could be competent to decide how they should be settled, and that might mean that large parts of the Declaration would have to be taken up anew. With regard to errors of style, he recalled that on several occasions he had asked the Secretariat to make certain corrections of detail which would in no way have altered the meaning of the text. The Secretariat had always recognized the validity of his corrections, but it had never accepted them.

19. In its desire to give such an important historical document as the Universal Declaration of Human Rights the widest possible publicity and being particularly anxious to use it for commentary in the schools, the French Government had been faced with a dilemma: either disseminate the authentic text which was not drafted in absolutely correct French, or prepare a new edition differing in some respects in its drafting from the text of the General Assembly and no longer strictly authentic. It had adopted the second solution.

20. He was afraid that in spite of the Chairman's assurances, there was some risk of the same difficulty arising in the future in the case of the covenant.

21. Mr. SORINSON (Denmark) asked the Commission to postpone the examination of the Lebanese representative's suggestion regarding a possible revision of the text of the Universal Declaration of Human Rights to a later date and to resume the study of the items on its agenda.

22. The CHAIRMAN said that the Commission would study the Lebanese representative's suggestion at a later date.

23. Mr. THEODOROPoulos (Greece) did not think that any of the rights mentioned in the covenant could be exercised in fraude legis. However, he understood the gravity of the problem with which the Egyptian representative was faced and consequently suggested the following text: "The right to change one's religion shall however not be exercised in fraude legis".

24. Mr. RAMADAN (Egypt) suggested the following text: "Nevertheless, any change of religion made for purposes of fraud in order to evade obligations under the law governing personal status shall be declared null and void". *

25. Mr. JEVREMOVIC (Yugoslavia) said that a very important problem was involved. There were different religions in Yugoslavia too, and contrary to what had happened in Egypt, those differences had led to conflicts. The situation had been dealt with by the enforcement of laws prohibiting all religious disputes and all propaganda directed against any religion whatever, on pain of punishment.

26. The Yugoslav Government regarded freedom of religious conviction as very important, and he did not think that certain consequences of a change of religion could be taken into account. He regarded the Egyptian amendment as being too restrictive in character, since it would limit the right to change one's religion. If all citizens were equal before the law, regardless of their religion, he failed to see what difficulties a change of religion could involve. He could not therefore vote for the Egyptian amendment.

27. Speaking as the representative of the United States, the CHAIRMAN thought it would be dangerous to introduce a limitation of the right to change one's religion into the Covenant. In her view, the general limitation in paragraph 2 of article 16 was quite sufficient.

28. Mr. RAMADAN (Egypt) pointed out, in reply to the representative of Yugoslavia, that in his country there existed, on the one hand, the general civil legislation, and on the other hand, legislation concerning personal status under which the various religious communities were governed by their respective religious laws.

29. Mr. MENDEZ (Philippines) imagined the case of a country of which the inhabitants were chiefly Christians, but which had allowed a religion which countenanced polygamy to survive in one part of its territory. In such circumstances, if a Christian elected to reside in that part of the country where polygamy was permitted, there would be nothing to prevent him from becoming a polygamist himself.

30. Mr. SORENSON (Denmark) remarked that the question of alteration of personal status within the framework of civil legislation arose not only in cases of a change of religion, but also in cases of a change of domicile or of nationality. Therefore, the problem raised by the representative of Egypt went beyond the bounds of the question of change of religion, and Mr. Sorenson considered it undesirable to create confusion between the civil status of an individual and his religious convictions. The former question was a legal one, while the latter was spiritual in character.

31. The Egyptian Government might well take the view that a change of religion for fraudulent purposes did not affect the personal status of the person concerned. That would be a purely juridical matter, and such an interpretation on the part of the Egyptian Government would be in no way inconsistent with the existing text of article 16.

32. Mr. MALIK (Lebanon) agreed with the representatives of Yugoslavia, the United Kingdom and Denmark. His country's situation was similar to that of Yugoslavia; it formally rejected any idea of discrimination and affirmed the complete and absolute freedom of a person to change his religion. The existing text of article 16 was that of the corresponding article of the Declaration of Human Rights, and he considered it impossible to modify the article without altering its meaning. The right affirmed in that article was a fundamental one; it was inconceivable that any restriction whatever should be placed upon the right to change one's religion.

33. As regards the question of polygamy mentioned by the representative of the Philippines, Mr. Malik doubted whether polygamy was permissible according to the provisions of the Charter on the equality of rights of the two sexes. He feared that not all Member States might as yet have fully understood the scope of the Charter's provisions.

34. It was impossible to envisage the nullification of a true change of religion, and for that reason Mr. Malik hoped that the representative of Egypt would not insist upon maintaining his amendment.

35. Mr. RAMADAN (Egypt) feared that the remarks of the representative of Lebanon might be interpreted as indicating that Egypt was opposed to the freedom to change one's religion. The principle of absolute freedom of conscience was observed in Egypt, and he would repeat that the problem he had raised concerned a juridical restriction only.

36. In conclusion, he read the final text of his amendment, which was as follows: "Nevertheless, the authorities shall not be bound to recognize, in so far as the personal status of individuals is concerned, changes of religion which the latter may have made in fraude legis and with the sole intention of evading the legal obligations deriving from that status." *

37. Mr. MENDEZ (Philippines) suggested that a way of dealing with the problem raised by the representative of Egypt might be to add the words "and change" after the phrase "Freedom to manifest..." in paragraph 2 of the original text.

38. Mr. ORIBE (Uruguay) pointed out that the result of the modification suggested by the representative of the Philippines would be to limit the right to change one's religion, whereas the Egyptian amendment was intended only to prohibit a change of personal status.

39. Mr. MENDEZ (Philippines) withdrew his suggestion.

40. Mrs. MEHTA (India) understood the problem raised by the Egyptian representative, for a similar situation existed in India; but she would rather witness the disappearance of the system of personal laws in her country than restrict a person's right to change his religion.

41. Mr. CHANG (China) pointed out that if a change of religion was made with fraudulent intent, it would obviously not be recognized by the civil authorities. In general, any act committed with fraudulent intent was not recognized; that was a general principle of civil codes. In any case fraud was covered by the paragraph which dealt with general limitations. The Egyptian amendment therefore seemed unnecessary.

42. The CHAIRMAN, speaking as the representative of the United States of America, agreed with the Chinese representative; she felt that no useful purpose would be served by adding the provision proposed by the Egyptian representative to article 16.

The Egyptian amendment was rejected by 8 votes to 3, with 2 abstentions.

43. Mr. JEVREMOVIC (Yugoslavia) said he had voted against the Egyptian amendment. He fully understood the difficulty Egypt was faced with. Nevertheless, he thought the only solution lay in complete freedom of worship and of religion, with absolute right to change one's religion. That seemed to him the only way in which normal relations could be preserved between citizens of different beliefs.

44. Mr. MENDEZ (Philippines) had abstained because in his opinion paragraph 2 of article 16 met the Egyptian representative's objections.

45. The CHAIRMAN put to the vote the first sentence of paragraph 1:
"Everyone has the right to freedom of thought, conscience and religion..."

The first sentence was adopted unanimously.

46. The CHAIRMAN then put to the vote the first part of the second sentence,
"...this right includes freedom to change his religion or belief..."

The first part of the second sentence was adopted by 13 votes to 1.

47. The CHAIRMAN then put to the vote the remainder of paragraph 1.

The remainder of paragraph 1 was adopted unanimously.

Paragraph 1 as a whole was adopted by 13 votes to none, with 1 abstention.

Paragraph 2

48. The CHAIRMAN put to the vote the Philippine proposal for the deletion of paragraph 2 (E/CN.4/365, page 43).

The Philippine proposal was rejected by 9 votes to 2, with 3 abstentions.

/Additional

Additional paragraph proposed by the Philippine delegation

49. Mr. MENDEZ (Philippines) submitted to the Commission his Government's proposal for the addition of a paragraph to article 16 to read as follows:
"Persons who conscientiously object to war as being contrary to their religion shall be exempt from military service."

50. That text was self-explanatory and he hoped that it would be carefully examined by the Commission.

51. Mr. VALENZUELA (Chile) appreciated the respectful sentiments for freedom of conscience which had prompted the Philippine Government to propose that amendment. The Chilean delegation, however, found it impossible to accept it for the following reasons. In the first place, the amendment concerned conscientious objectors who were opposed to war on religious ground; war, however, was equally hated by all and there was no doubt that it also violated the collective conscience of all the citizens of a country. The amendment specifically provided for the exemption of conscientious objectors from military service. Military service, however, was not exclusively a preparation for war; it was also designed to prepare youth for any other disaster which might befall a country. The modern tendency was to lay stress on the idea of rational discipline and it was inadmissible that anyone, albeit with the highest intentions, should fail to participate in the duties to be performed for the community.

52. The CHAIRMAN, speaking as United States representative, expressed the complete sympathy of her delegation with the Philippine amendment. The question of military service was nevertheless outside the scope of article 16; it was also questionable whether a specific provision of that nature should be included in a general convention on fundamental human rights.

53. Miss BOWIE (United Kingdom) speaking on behalf of a country which recognized conscientious objection, nevertheless regretted that she was unable to vote in favour of the Philippine proposal, which she did not consider should be included in article 16.

/54. Mr. ORIBE

54. Mr. ORIBE (Uruguay) thought that article 16 in its original form adequately protected freedom of conscience. He reminded the Commission that military service was mentioned in article 8, where provision had already been made for the exemption of conscientious objectors under paragraph 4, subparagraph (b). The Uruguayan delegation would therefore abstain from voting on the Philippine amendment which was a duplication.

55. Mr. WHITIAM (Australia) said that although Australia exempted all conscientious objectors from military service, it would vote against the amendment, which seemed to be out of place in article 16.

56. Mrs. MEHTA (India) observed that those who were opposed to war on religious grounds constituted only one category of conscientious objectors; there were others which should also be mentioned if the Commission were to decide to consider those questions in detail. The Indian delegation did not think it would be advisable to do so, however, and would therefore vote against the Philippine amendment.

57. Mr. MENDEZ (Philippines) withdrew his amendment but reserved his right to submit it again to the Commission when proposals for additional articles were considered.

Additional paragraph proposed by the Lebanese delegation

58. Mr. MALIK (Lebanon) pointed out that the religious education of children was a question which concerned essentially the family and should not be exposed to outside influences. The aim of the Lebanese amendment (E/CN.4/429) was to ensure that faith would be handed down through the education of children within the family, in accordance with custom. That was an important principle for religious liberty which article 16 was intended to protect. Under the terms of the original text, however, that liberty was in fact guaranteed to one generation only; it would become illusory if parents were denied the right to bring up their children in their own faith.

59. Miss BOWIE (United Kingdom) observed that article 16 had already been the subject of long and intricate discussions and, as the Lebanese representative had himself pointed out, it seemed preferable not to amend the article. Furthermore, paragraph 1 dealt with the freedom to manifest religion in teaching, which should allay the misgivings of the Lebanese delegation.

60. The Lebanese amendment might also have dangerous consequences. At the previous meeting the Commission had heard a statement by a non-governmental organization in defence of the principle that the presumed desire of deceased parents could justify the transfer of orphans. From the point of view of human rights, however, the primary consideration when dealing with the question of children must be their well-being and security; they should not be taken away from the environment to which they had become happily adapted on the pretext that they had to be brought up in the faith of their deceased parents.

61. The United Kingdom delegation would therefore vote against the Lebanese amendment, fearing that it might in future be utilized for the wrong ends.

62. The CHAIRMAN, speaking as representative of the United States of America, observed that it was not the first time that the question of religious education of children had been raised in the Commission. The Commission had given its attention to two provisions in particular. The first was intended to give expressly to parents of minors the right to choose in full freedom the religion in which their children would be brought up; the second supported the principle of priority of the presumed desire of deceased parents. Those two provisions had been rejected at the previous session, the first by nine votes to five with two abstentions; the second by twelve votes to four with one abstention. The main reason for those rejections was the anxiety of the Commission not to consider in detail the numerous aspects of religious freedom.

63. With regard to the statement of the non-governmental organization which the United Kingdom representative had just mentioned, Mrs. Roosevelt pointed out that the case in point was not one of orphans happily resettled

/in families,

in families, but of children living in institutions; their problem was assured of the complete sympathy of the United States delegation. She recognized, however, the ground for the fears expressed by Miss Bowie, as well as all the delicate aspects of the question. The Lebanese amendment also involved many other consequences; if it were adopted, it would be necessary to determine, inter alia, the age at which children could use their judgment in matters of religion and the circumstances in which they would be authorized so to do. That being so, it would seem advisable to keep to the general formula of the first paragraph, which included all the guarantees necessary.

64. The United States delegation would, for those reasons, vote against the Lebanese amendment.

65. Mr. WHITLAM (Australia) said that his delegation was entirely in favour of the principle of the Lebanese amendment. At the present time, when so many forces were aligned against the family and went to create such an ominous atmosphere for the education of children, religious education was of particular importance.

66. The Lebanese text, however, was not entirely satisfactory, particularly if it were borne in mind that it was to form part of an international convention. The Australian delegation would nevertheless support it in the first reading, with the reservation that it should be improved before its final adoption.

67. Mr. JEVREMOVIC (Yugoslavia) also agreed with the Lebanese proposal; he approved the amendment in principle and would vote for it if Mr. Malik thought it necessary to retain it. He agreed with the previous speakers, however, that the text of the first paragraph seemed adequate to guarantee the right in question. Religious education was, in fact, an essential part of religious freedom; recognition of the latter would guarantee the former.

68. Mr. VALENZUELA (Chile) said that his delegation appreciated and respected the motives of the Lebanese representative; in particular, it approved the spirit of tolerance and understanding he had shown in adopting a formula which recognized the absolute equality of all religions.

69. The problem

69. The problem which the Lebanese representative raised was nevertheless extremely delicate. The statement made in the Commission by a non-governmental organization had induced the Chilean delegation to reflect upon the question as a whole; he wished to ascertain the position of his Government on the principle concerned.

70. In the first place, the Chilean Government strongly supported the separation of the Church from the State, which it considered the best solution for both parties.

71. Secondly, the Chilean Government thought that everything related to the education of the child was the concern of the family, the rights of which were fully guaranteed in the matter by the whole of the provisions of the covenant and by the very purport of the Universal Declaration of Human Rights.

72. Religious problems did not occur in genuinely democratic countries where there was absolute freedom of faith. In Chile, therefore, where the population included a large number of immigrants, there were very many religions; there were even cases where members of a family belonged to different religions. The Chilean Government considered that those problems must be solved by the parties concerned without any intervention by the State. The situation was not the same in totalitarian countries which tended to assume the right to bring up children according to the ideas of the State, either without any faith whatsoever or by inculcating in them one single religion.

73. The Chilean delegation feared that for those reasons the Lebanese amendment was not strong enough to achieve the results it desired, and therefore regretted that it could not vote in its favour.

74. Mrs. MEHTA (India) thought the Lebanese amendment superfluous, as no State which guaranteed freedom of conscience and religion would think of interfering in the family to deprive parents of their right to choose freely the religion in which their children were to be brought up. She thought that the question was of real importance only in the case of minorities; it would therefore be more appropriate to include a provision of that kind in the resolutions on minorities which the Commission proposed to adopt.

75. Mr. NISOT (Belgium) thought the text of article 16 as it stood should meet the Lebanese representative's requirements. The Lebanese amendment might defeat its own purpose as, apart from the unfortunate consequences that amendment might have, to which the United Kingdom and United States representatives had already drawn attention, it had the serious disadvantage that it might be interpreted as infringing the religious freedom of the children themselves. He would therefore ask the Lebanese representative not to press his amendment.

76. Mr. MENDEZ (Philippines) said that most legislations, including that of the Philippines, recognized the right of parents to bring up their children in the religion of their choice as well as the right of children to be brought up in a healthy moral atmosphere.

77. He thought that the Lebanese amendment would be more in place in the declaration of the rights of the child; at least it should be the subject of a separate additional article.

78. Mr. MALIK (Lebanon) understood the point of view of the representatives who feared the possible consequences of his amendment. Since the majority of the members of the Commission appeared to oppose the insertion of that amendment in article 16, he would not care to risk a vote which might be interpreted by public opinion as indicating that the Commission attached no importance to the principles contained in the amendment, an interpretation which would be incorrect.

79. He would therefore withdraw his amendment and on the understanding that paragraph 1 of article 16 would be interpreted as a guarantee that parents would have the right to raise their children in the religion of their choice.

80. The CHAIRMAN put to the vote article 16 as a whole.

Article 16 was adopted by 13 votes to none, with 1 abstention.

81. Explaining his vote, Mr. ORIBE (Uruguay) said the interpretations of article 16 by the various representatives were binding only upon their authors and could not be considered as an official interpretation by the Commission as a whole.

Article 17 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/360, E/CN.4/360/Corr.1, E/CN.4/415, E/CN.4/424) (continued)

The CHAIRMAN invited the Commission to continue the general discussion of article 17, begun at the preceding meeting.

82. Mr. MALIK (Lebanon) stated that his delegation desired earnestly the insertion in the draft covenant of a general provision concerning freedom of expression and of information, as well as the preparation of a separate covenant on the same subject. He regretted that the efforts made thus far in that direction had been fruitless, and felt that the General Assembly should be asked to renew its efforts. Subject to certain minor modifications, he preferred the text proposed by the United Kingdom for article 17 (E/CN.4/365, page 50).

83. Mr. WHITLAM (Australia) said that his delegation considered that a concise article, based upon the three texts proposed by the United States, France and the United Kingdom respectively, should be inserted in the draft convention.

84. He analysed briefly each of the three texts, indicating the parts which his delegation would wish to see retained or deleted. Thus, in the text proposed by France, he would prefer to delete, in paragraph 2, the sentence beginning with the words "Measures shall be taken...". In point of fact, such measures were entirely natural, subject to the restrictions enumerated in paragraph 3.

85. As regards the United Kingdom text, he objected to the phrase "or by duly licensed visual or auditory devices" in paragraph 1; he felt that details of that type were matters for legislation in the various countries and that the draft covenant should contain only provisions of a general nature.

87 With regard to the United States text, he thought that paragraph 2 of that text might be retained, with some additions drawn from paragraph 2 of the United Kingdom text. He did not, however, favour retention of the expression "governmental interference", which appeared in both the United States and United Kingdom proposals.

88 In conclusion, he proposed that the representatives of the United States, the United Kingdom and France should meet and agree upon a single text, taking into consideration the observations of other members of the Commission.

89 Mr. LEROY-BEAULIEU (France) pointed out that the basic difference between the text proposed by his delegation and those of the United Kingdom and the United States lay in the suppression of any reference to "governmental interference". The State had a double responsibility: to respect and to guarantee freedom of expression. By emphasizing the first duty only, the Commission would be neglecting the second, which was, nevertheless, the purpose of all legislation on the freedom of the press.

90 In the interests of unanimity, his delegation could agree to deletion of the sentence beginning "Measures shall be taken..." in paragraph 2 of its text. Finally, he explained that the words "oral instruction" had been deleted because the French delegation felt that a reference to instruction had no place in an article dealing with freedom of information and of the press.

91 Mr. JEVREMOVIC (Yugoslavia) said that his delegation recognized the necessity for including in the draft covenant an article dealing with freedom of information, independently of the preparation of a special convention on the subject.

92 The texts proposed for article 17 had the serious disadvantage of leaving Governments free to restrict at will the freedom of the press. Expressions such as "for the protection of public safety, health or morals..." etc. were vague and flexible, and might give rise to differing interpretations.

93 The proposed Yugoslav amendment was based on the principle that any article dealing with freedom of information should be so conceived as to ensure that that freedom should be utilized for the benefit of democracy and human progress. The Yugoslav delegation/that the State must intervene to check abuses of

/that freedom,

that freedom, but in its opinion, it would be advisable to state specifically the circumstances in which a government might so intervene.

98 The Yugoslav delegation hoped that the Commission would accept its amendment, which was based upon democratic principles and clearly specified the circumstances in which freedom of expression must be restricted in the interests of democracy.

99 Mrs. MEHTA (India) felt that the best solution would be to adopt an article comprising article 19 of the Universal Declaration of Human Rights and paragraph 2 of the text proposed by the United Kingdom.

100 The CHAIRMAN, speaking as the representative of the United States of America, stated that until recently her delegation had considered the position of the French delegation essentially similar to its own, except as regards one important point, namely, the reference to governmental interference. The new text submitted by the French delegation, however, contained in its second paragraph, certain new elements which the United States delegation could not accept. Moreover, the representative of France had upheld the necessity of guaranteeing freedom of information, not against governmental interference, but against private interference. Did that mean that editors should be forced to publish everything submitted to them, regardless of the opinions expressed? Such a principle would be at variance with the very principle of freedom of individual thought.

101 She added that she would explain the views of her delegation on that subject in greater detail at the end of the general discussion.

APPOINTMENT OF A STYLE COMMITTEE

102 The CHAIRMAN appointed a committee, composed of the representatives of Belgium, France, the United Kingdom and the United States, to revise the style of the various articles adopted by the Commission.

The meeting rose at 5:20 p.m.