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COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE THREE HUNDRED AND EIGHTY-SIXTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 13 May 1953, at 3 p.m.

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(19 p.)

Present:

Chairman: Mr. PEROTTI (Uruguay), Second Vice-Chairman

Rapporteur: Mr. KAECKENBEECK (Belgium)

Members:

Mr. WHITLAM	Australia
Mr. DIAZ-CASANUEVA	Chile
Mr. CHENG-PAONAN	China
Mr. ABDEL-GHANI	Egypt
Mr. JUVIGNY	France
Mrs. CHATTOPADHYAY	India
Mr. HARFOUCHE	Lebanon
Mr. INGLÉS	Philippines
Mr. DRUTO	Poland
Mrs. RÖSSEL	Sweden
Mr. KRIVEN	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. GREEN	United States of America
Mr. FORTEZA	Uruguay
Mr. MELOVSKI	Yugoslavia

Representatives of specialized agencies:

International Labour Organisation	Mr. BLAMONT
United Nations Educational, Scientific and Cultural Organization	Mr. BAMMATE

Representatives of non-governmental organizations:

Category B and Register

Catholic International Union for Social Service	Miss de ROMER
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Pax Romana	Miss ARCHINARD
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Miss RIEGNER
World Union of Catholic Women's Organizations	Miss de ROMER

Secretariat:

Mr. Humphrey	Representative of the Secretary-General
Mr. Das) Mrs. Bruce)	Secretaries to the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION (item 3 of the agenda) (continued)

Measures of implementation (E/2256) (continued):

Article 53 and Yugoslav, French, Belgian, joint Chinese/Egyptian and Chinese amendments thereto (E/CN.4/L.232, E/CN.4/L.235/Rev. 2, E/CN.4/L.245, E/CN.4/L.277, E/CN.4/L.278) (continued)

The CHAIRMAN drew attention to two further amendments which had just been circulated; both were to the Yugoslav proposal contained in document E/CN.4/L.232. The first (E/CN.4/L.277) had been submitted jointly by the Chinese and Egyptian delegations, and the second (E/CN.4/L.278) by the Chinese delegation alone.

Mr. JUVIGNY (France) said that, in view of the United Kingdom representative's remarks at the previous meeting, he would like to clarify what the French delegation had in mind. It was true that a future international instrument other than the covenant would be unable to confer powers on the Human Rights Committee; hence the French delegation was prepared to replace the words "empower the Committee", in the second of its amendments in document E/CN.4/L.235/Rev. 2, by the words "recognize the Committee's competence". In response to the same representative's warning about the legal problems which might arise from the co-existence of the covenant and other international instruments, the French delegation had also decided to replace the words "The Committee shall also deal" by the words "Nothing in the present covenant shall prevent the Committee from dealing".(1) The second French amendment, as revised, would therefore read as follows:

> "Nothing in the present covenant shall prevent the Committee from dealing with any matter concerning the alleged violation of human rights by a State whenever international instruments to which such State is a Party, other than the present covenant, recognize the Committee's competence to examine complaints from other States Parties to the said instruments or from sources other than States."

The Chinese representative would have to decide whether he could support the new text, since the Chinese amendment (E/CN.4/L.278) was to add to the Yugoslav proposal the second French amendment in its original form.

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(1) The two changes made by the French representative in the second French amendment were subsequently reproduced and circulated as document E/CN.4/L.235/Rev. 3.

Amplifying his remarks at the previous meeting on the subject of the various amendments to article 53, he said that the French delegation's first amendment in document E/CN.4/L.235/Rev. 2 was evidence of its desire to safeguard the competence of the specialized agencies and of organs established under the auspices of the United Nations, when their competence covered questions governed by the covenant. There appeared to be some divergence of interpretation in the matter, though the Belgian representative had shown that the objections of the Philippines delegation, for example, were not justified, and that the competence of the specialized agencies and of organs established under the auspices of the United Nations should be safeguarded inasmuch as action taken by such bodies could yield at least as good results as the Human Rights Committee would obtain.

He associated himself with the United Kingdom representative's remarks concerning article 73 e of the Charter. Without wishing to re-open the discussion on the competence of the Committee on Information from Non-Self-Governing Territories, a question on which French delegations had repeatedly reaffirmed their views, the fact remained that in present circumstances, as the Philippines representative had admitted, that committee could not achieve results as effective as those which might be achieved by applying the existing provisions of the covenants on human rights. Hence, supposing that a question relating to human rights were to arise in connexion with Non-Self-Governing Territories, the body to deal with it would be the Committee set up under those covenants, since that Committee would be able to draw up a report including recommendations to a particular State, whereas the Committee on Information from Non-Self-Governing Territories would not.

On the other hand, there was no doubt that, as the Belgian representative had pointed out, the normal procedure of the specialized agencies could in some cases produce results that were better, in point of legal technique and conciliation, than those which the Human Rights Committee would be able to achieve. As an example, he cited the procedure of the International Labour Organisation by which, in the event of alleged violation of a convention and refusal by one of the parties to accept the recommendations made under the Organisation's Constitution, the case could be referred to the International Court of Justice. A decision by the Court would obviously be worth more than the results that could be achieved by the Human Rights Committee under the present provisions of the covenants. According to the present text, the

Committee could only attempt conciliation and, if it failed, transmit a report, for information only, to the higher organs of the United Nations.

In his opinion, the Yugoslav proposal contained in document E/CN.4/L.232, in spite of its excellent underlying intentions, was ambiguous, and might turn the Human Rights Committee into a veritable court of appeal from decisions of the specialized agencies and other competent organs of the United Nations. Such a provision would raise a host of fundamental problems and have repercussions on the very constitutions of the specialized agencies. It would also be dangerous to disturb the balance between the United Nations and the specialized agencies, through the bias given to the covenants on human rights.

Finally, the French delegation noted that the effect of the Yugoslav proposal would be to eliminate that part of article 53 which related to the jurisdiction of the International Court of Justice, whereas in the hierarchy of legal procedure recourse to the Court would be far above any action by the Human Rights Committee. Consequently, the French delegation would oppose the Yugoslav proposal, even if the majority of the Commission voted in favour of adding to it the paragraph taken up by the Chinese delegation (E/CN.4/L.278), which had first been submitted by his own.

Mr. WHITLAM (Australia) noted with interest from the explanation given by the Yugoslav representative at the previous meeting that the latter disclaimed any intention of encroaching upon the competence of other United Nations organs or specialized agencies or of raising the question of hierarchical order, the sole purpose of his proposal being to preclude duplication of activity. However, the Yugoslav proposal, in the English text at least, completely contradicted that declared aim. The wording of the first sentence made it mandatory on the Human Rights Committee to deal with every matter that might be referred to it; the second sentence did not reserve the competence of other United Nations organs or specialized agencies but, on the contrary, declared that the competence of the Committee should remain fully effective and undiminished by whatever competence those organs or agencies had; and the third sentence signified that, regardless of what findings the investigations of other bodies might have led them to, the Committee would enjoy freedom to make use of them or to ignore them as it chose. Thus, there was clearly a discrepancy between what he understood the intention of the Yugoslav delegation to be and the actual wording of its proposal, and in his view the text would require considerable modification.

Mr. MELOVSKI (Yugoslavia) thought that he had made himself sufficiently clear at the previous meeting to prevent any further misunderstanding about the last sentence of his delegation's proposal. In view of the comments made by the representative of the United Nations Educational, Scientific and Cultural Organization (UNESCO), however, the Yugoslav delegation was prepared to redraft that sentence to read:

"The Committee shall apply to such bodies for documents or technical data regarding the matter referred to it."

In reply to the French representative, he explained that it was certainly not his intention to make the Human Rights Committee into a court of appeal from decisions of the specialized agencies or other organs of the United Nations.

With regard to the Australian representative's comments about the place to be occupied by the Human Rights Committee in the hierarchy of United Nations organs, he wished to explain that his delegation had not wished to specify that place; however, it would perforce be the lowest. That being so, it would be impossible to ask the Committee to report to the General Assembly.

The Yugoslav delegation was prepared to accept the Chinese amendment (E/CN.4/L.278). which reproduced the text of the second French amendment in document E/CN.4/L.235/Rev.2; nor would it oppose the joint amendment submitted by the delegations of China and Egypt (E/CN.4/L.277).

Mr. INGLÉS (Philippines) pointed out that not all the specialized agencies would be concerned with the implementation of the covenant on civil and political rights. The right to education, to which the representative of UNESCO had specifically alluded at the previous meeting, related to the covenant on economic, social and cultural rights rather than to the covenant at present being drafted, although there were probably matters of civil and political rights in which UNESCO was competent. Since its competence was limited however, to technical matters, he did not believe it was UNESCO's intention to take the place of the Human Rights Committee in resolving complaints of violation of the Covenant.

The concern of the International Labour Organisation with the present article was confined mainly to the implementation of the right to form trades unions. If the International Labour Conventions governing the formation of trades unions established procedure for the hearing and remedying of alleged cases of violation of

those rights, the Philippine delegation would see no objection to a delimitation of competence in that field as between the Human Rights Committee and the International Labour Organisation.

One of the arguments adduced by the United Kingdom representative in support of his contention that article 53 of the draft covenant would not cover the Committee on Information from Non-Self-Governing Territories was the provision in Article 73 e of the Charter that only social, economic and educational information need be transmitted by the authorities responsible for the administration of Non-Self-Governing Territories, the submission of political information being optional. However, since the General Assembly had subsequently ruled that information on human rights was not political, its submission was no longer optional but mandatory, and such information therefore came within the competence of the Committee on Information from Non-Self-Governing Territories. It might also be argued that that Committee was not covered by the expression "any organ or specialized agency of the United Nations" in article 53 of the draft covenant; but if the first French amendment were adopted, it would clearly be covered by the phrase "any organ established under the auspices of the United Nations." The possibility must be avoided of the body of lesser competence precluding the intervention of the body of greater competence. Were the first French amendment adopted, the fact that the Committee on Information from Non-Self-Governing Territories was competent in cases of violation of human rights in such territories, would, presumably, ipso facto exclude the Human Rights Committee from dealing with complaints originating there.

The United Kingdom representative had referred to the memorandum by the Secretary-General (E/CN.4/675). He would point out that two alternative texts were suggested in paragraph 10 of that memorandum. The first, taken by the Belgian delegation as the basis for its third amendment (E/CN.4/L.245, paragraph 2), made sub-paragraph (b) read: "with which the International Court of Justice is seized". The second made it read: "with which, having regard to the provisions of article 59 of the present covenant, the International Court of Justice is seized". He agreed that it would seem wise to provide that where a case being dealt with by the Human Rights Committee was subsequently brought before the International Court of Justice, the Committee should be precluded from further action by the fact that the International

ourt of Justice had been seized of the case; but as to the question raised in the ecretary-General's memorandum of a matter within the competence of the Human Rights mmittee forming part of a larger issue which was before the Court, he believed it ould be for the Committee itself to decide in that case whether or not to take the matter up. His delegation therefore preferred the second of the two texts suggested in the Secretary-General's memorandum.

For all those reasons, the Philippine delegation, while viewing with sympathy the second French amendment, could not support the first. It would vote in favour of the Yugoslav proposal, as amended by the joint Chinese/Egyptian proposal.

Mr. KAECKENBEECK (Belgium) said that, like the Australian representative, he had concluded from the statements of the Yugoslav and Philippines representatives at the previous meeting that the Commission ought to be able to agree on a compromise text based on what the Yugoslav delegation really had in mind.

The French text of the first sentence in the Yugoslav proposal, like the English, would oblige the Committee to deal with any matter referred to it under article 52. Any attempt to introduce a measure of flexibility elsewhere in the text was thus doomed in advance, unless the first sentence was made more flexible.

With regard to the second sentence of the Yugoslav proposal, he recalled that the Belgian delegation had proposed(1) that the words "shall have no power to deal with any matter", in the original text of article 53, be replaced by the words "shall not take action with regard to any matter." It was quite possible that two bodies might be competent in a matter, but in such cases it was necessary to find a modus vivendi that would avoid their both having to deal with it at the same time.

In the case of the International Court of Justice, the Belgian delegation had proposed that sub-paragraph (b) of article 53 be amended to read simply "with which the International Court of Justice is already seized", since it was not possible to deprive the Court of any part of its powers. He agreed with the Yugoslav representative that if the Court, despite its potential competence, was not in fact seized of a matter, the parties should be able to choose another course. But another problem remained, namely whether the Committee should not be prevented from

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1) As was pointed out by the Belgian representative at the preceding meeting, the Belgian amendment to article 53 was incorrectly reproduced in document E/CN.4/L.245 (see document E/CN.4/SR.385, page 9)

actually dealing with a matter within its competence if that matter was already actually being dealt with by some other body. The second sentence of the Yugoslav proposal failed to solve that problem.

The third sentence of the Yugoslav proposal by implication would allow the Committee to decide not to make use of the findings of investigations carried out by United Nations bodies or by the specialized agencies. The Belgian delegation was therefore unable to accept it.

However, what the Yugoslav representative had said in the discussion suggested that an understanding might be arrived at; in that case, as the Australian representative had pointed out, the Yugoslav proposal would have to be recast so as to reflect the real intentions of the Yugoslav delegation.

Replying to the Philippines representative's comments on the respective merits of the alternative texts for sub-paragraph (b) that were suggested in the Secretary-General's memorandum (E/CN.4/675, paragraph 10), he pointed out, first, that by introducing the word "already" in sub-paragraph (b) the Belgian delegation had wished to specify that the Committee would be free to deal with any matter with which the Court was not actually already dealing. Consequently, if the Court were subsequently seized of a matter submitted to the Committee, the Committee would be able to go on dealing with it. Organs of the United Nations ought to keep the powers initially conferred on them.

Secondly, the second alternative suggested by the Secretary-General for sub-paragraph (b) referred to article 59, and rested on the assumption that that article would be retained. He (Mr. Kaeckenbeeck) had already stated that in his view article 59 should either be redrafted in a negative form or deleted. The reason was, as he had pointed out at the previous meeting, that it was a legal impossibility to deprive a body of powers already conferred on it by international instruments in force. The International Court of Justice could be seized of a matter either by virtue of special treaties or of special declarations of compulsory jurisdiction which had the force of ratified conventions or of contracts. Consequently, when two States had made a declaration recognizing the Court's compulsory jurisdiction, they were obliged to accept that jurisdiction in the event of unilateral recourse to it. His delegation felt, therefore, that article 59 could not be retained and that the reference to it in article 53 must therefore be deleted.

Speaking at the invitation of the CHAIRMAN, Mr. BAMMATE (United Nations Educational, Scientific and Cultural Organization) thanked the Yugoslav representative for his clarification of the final sentence of his proposal. There was now no ambiguity, although the misgivings of the specialized agencies would, perhaps, still not be entirely overcome. He wondered whether the fact that the Committee would have access to the findings of investigations carried out by the specialized agencies would satisfy the Executive Board of UNESCO. If real collaboration could be established between the specialized agencies and the Human Rights Committee - the latter being, for example, entitled to ask the agencies to undertake investigations - satisfactory technical safeguards would thus be provided. If that was the intention, it would be well to try to find more suitable wording to express it.

Neither the special Human Rights Committee set up by UNESCO nor the Executive Board nor the General Conference itself had claimed exclusive jurisdiction in violations of human rights. The important point in their opinion was that those rights should be safeguarded by one organ or another. UNESCO had no intention of claiming any wide range of legal competence in matters of human rights. All it wanted was to ensure that collaboration by UNESCO experts in matters directly within its competence should not be ruled out.

In his opinion it was for the Economic and Social Council to decide as to the competence of the Human Rights Committee, whereas, according to the present text, the Committee itself would so decide.

Subject to clarification of the drafting, the Yugoslav proposal might meet the criticisms of the UNESCO special Human Rights Committee, though there would still be some difficulties. The French amendment, on the other hand, struck him as a model of clarity.

Mr. FORTEZA (Uruguay) considered that the competence of the Human Rights Committee ought not to be unduly restricted but should be as wide in scope as possible. He welcomed the French proposal to add a paragraph authorizing the Committee to deal with complaints of violations of human rights brought in virtue of international instruments other than the present covenant. That would leave the way open for the Committee to deal with complaints coming from sources other than States.

In view of the short time still available, he did not intend at that stage to press for a full discussion of his delegation's proposal - made at the Commission's seventh session - for the establishment of an Office of United Nations High Commissioner (Attorney-General) for Human Rights. However, as that proposal had been referred to the Commission by the General Assembly and was reproduced in Annex III, Part B of the report of the eighth session (E/2256), he thought some attention should be given to it. When the draft covenant finally came before the General Assembly the difficulties encountered in drafting article 52 would have to be taken into consideration and it would be essential that that article be amended so as not to reserve exclusively to States the possibility of invoking the covenant in defence of human rights. The right of the international community and of the individual to a proper status in international law had to be affirmed. That principle had found its place in the Belgian and joint Chilean/Indian amendments to article 52. Those amendments had been rejected. His delegation was convinced that articles 52 and 53 of the draft Covenant, as they stood, did not establish a satisfactory procedure for the effective protection of human rights and that the General Assembly would have to reconsider them. The proposal for the establishment of an Office of United Nations High Commissioner was intended as a contribution to the solution of that problem and he believed that that, or some similar institution would be found necessary.

Like the representatives of the Philippines, China and Egypt, he was interested in the Yugoslav proposal because its effect was to broaden the Committee's competence. He did not agree that the Committee would thereby be obliged to deal with every case referred to it, it merely made plain that the Committee was not excluded from dealing with a case because it fell within the competence of another agency.

His delegation would therefore support the Yugoslav proposal with the amendments proposed by the Chinese representative, and by the Chinese and Egyptian representatives jointly.

Mr. JUVIGNY (France) explained that the French delegation, far from wishing to limit the Committee's competence, had submitted an amendment leading ultimately to its enlargement. He still believed that the reservations of many delegations, including that of the Philippines, regarding the interpretation of the present text of article 53 were unjustified.

Comparison of article 53 with the other provisions of the covenant showed that the Committee could only be denied jurisdiction when the United Nations or the specialized agencies had a procedure yielding results at least equal to those that could be obtained by procedure before the Human Rights Committee. The United Nations organs and specialized agencies might have long experience in the investigation and application of the rights within their competence, and they might also have experts on that subject. Hence it was reasonable to let them settle cases within their jurisdiction, when they were able to achieve the same or better results than the Human Rights Committee and in such cases he thought it would be a retrograde step to vest powers in the Committee. For example, under the procedure established by the International Labour Organisation a case concerning a State which had ratified a particular convention could be submitted to the International Court of Justice. Such a result was clearly superior to any obtainable through the Human Rights Committee, a conciliation body which could only make recommendations, whereas the International Court's decisions were binding under its Statute.

Replying to one point raised by the Yugoslav representative, he saw no reason for supposing that the procedure laid down in article 53 might detract from the prestige of the General Assembly. The Committee would report to the Economic and Social Council, which would itself transmit the report to the Assembly. The other United Nations organs and the specialized agencies would do the same, either in their annual report or in special reports. Thus, in the French delegation's opinion there was no question of sanctioning a tendency to autonomy or any narrow interpretation of the role of the specialized agencies. It was simply necessary to avoid duplication and anomalies, and at the same time undue expenditure.

Lastly, the scope of the provision contained in article 53, sub-paragraph (a), must not be exaggerated. The civil and political rights covered by organs or specialized agencies of the United Nations were very few in number. Should States avail themselves of the complaints system established by the covenant, the Committee would therefore be left with a tremendous task which did not fall to any specialized agency.

Mr. HOARE (United Kingdom) said that the Yugoslav representative had no doubt been perfectly sincere in claiming that his proposal did not interfere with the competence of the specialized agencies. The Australian representative had

however been right in saying that the terms of the proposal were entirely incompati with its author's intentions, since the text as it stood would confer upon the Huma Rights Committee complete authority over matters which might be within the field of work of the specialized agencies and full discretion to decide whether or not any action in those matters by the specialized agencies should be taken into account. The Yugoslav representative appeared to think that instances of duplication would be rare; it would be interesting to know whether he was proposing that in, say, cases of violation of trade-union rights, the Committee would act as a fact-finding and conciliation body parallel to the commission set up for that purpose by the International Labour Organisation. It should be remembered that article 53 represent the Commission's considered opinion and had been discussed at least twice with the benefit of the advice and suggestions of the specialized agencies. It had been drafted in its present form precisely in order to prevent the kind of duplication of work and effort of which he had given an illustration. Of course, it was arguable that the line of demarcation between the fields of activity of the Committee and the specialized agencies or other United Nations bodies had not been drawn clearly enough but that was another question. The issue was whether duplication of functions was or was not to be avoided. He assured the Yugoslav representative that the effort to avoid duplication of function had not been inspired by any sinister desire to diminish or detract from the Committee's competence.

Mr. MELOVSKI (Yugoslavia), replying to the Belgian representative, said that the Yugoslav delegation had already made concessions by accepting the Chinese amendment and by stating that it would also vote for the joint Chinese/Egyptian amendment. But the Belgian and French delegations had not budged an inch. The French delegation's amendment to the first paragraph of article 53 limited the Committee's powers still more than the original text, and was therefore unacceptable to the Yugoslav delegation.

He did not see how the Belgian representative could claim that he concurred in the views defended by the Yugoslav delegation, since the latter was proposing that the Human Rights Committee should have power to deal with matters within the purview of the specialized agencies, provided overlapping was avoided. That was the explanation of the third sentence of the Yugoslav proposal.

The United Kingdom representative was apparently suggesting that the Yugoslav roposal might be amended, but he had not made a definite proposal.

Mr. KAECKENBEECK (Belgium) said that his disagreement with the Yugoslav epresentative was due to the discrepancy between the latter's declared intentions and the text which he had submitted. For instance, the Yugoslav proposal deleted all the restrictions on the Committee's powers from the first part of article 53, although the Yugoslav representative had said he wished to avoid overlapping.

The Belgian delegation had no more intention than the Yugoslav of depriving the Committee of its powers; it merely wished to refer to the exercise of powers, rather than to the powers themselves. He was sure the Yugoslav delegation shared his view that although two organs might have equal competence to deal with a matter, they could not both be allowed actually to deal with it. He wondered therefore whether the Yugoslav delegation could not accept the Belgian amendment to the introductory part of article 53.

The Yugoslav representative had so far shown no disposition to amend the text of his proposal and had merely stated that the Belgian delegation had misunderstood it. He would therefore repeat that he could not accept the Yugoslav proposal in its present form.

Mr. MELOVSKI (Yugoslavia) could not understand the Belgian representative's interpretation of the Yugoslav proposal. While he could not change the substance of his proposal, he would be prepared to change its form. He was, however, unable to accept the limitations on the Committee's powers proposed in the original text of article 53.

Mr. WHITLAM (Australia) observed that there seemed to be a large measure of agreement between the views of the Belgian and Yugoslav representatives. It should surely not be impossible for them to devise a common text.

Mr. CHENG PAONAN (China) asked what was the precise significance of the verbal changes made by the French representative to the paragraph which he proposed be added to article 53.

Mr. JUVIGNY (France) said that the new text of the French amendment, though couched in negative form, sacrificed none of the ideas contained in the original text. The change had been prompted by legal considerations, with the object of encouraging

States to recognize the Committee's competence by way of a protocol. The words "empower the Committee" had been replaced by the words "recognize the Committee's competence" because States not parties to the covenant, under which the Committee would be set up, could not vest any powers in the Committee.

Mr. HOARE (United Kingdom) said that the verbal changes which the French representative had made in his amendment entirely met the United Kingdom delegation's objections to it. The competence of the Human Rights Committee to receive complaint might be recognized in future international instruments, and under the amended French text the Committee would not be precluded from undertaking that function.

Mr. CHENG PAONAN (China) agreed to substitute the new wording proposed by the French representative for the text (E/CN.4/L.278) which the Chinese delegatic proposed be added to the Yugoslav proposal.

Mr. DIAZ-CASANUEVA (Chile) shared the Yugoslav representative's concern that the Committee should possess the widest powers. He was unable, however, to grasp the precise scope of the Yugoslav proposal, or what competence it would confer upon the Committee, since no other provisions on that subject were contained in the preceding articles.

He agreed with the Yugoslav representative that the Committee should be kept informed of any case under consideration by a specialized agency or any United Nations organ.

Mr. MELOVSKI (Yugoslavia) explained that the purpose of his proposal was to ensure that the Committee's competence would not be affected by that of a specialized agency.

Mr. DIAZ-CASANUEVA (Chile) said that he was satisfied with the Yugoslav representative's explanation.

The CHAIRMAN put to the vote the joint Chinese/Egyptian amendment (E/CN.4/L.277), for the addition of the words: "with the exception of the International Court of Justice when it is already seized with the matter", at the end of the second sentence in the Yugoslav proposal.

The joint Chinese/Egyptian amendment was adopted by 12 votes to 3, with 1 abstention.

The CHAIRMAN recalled that the Yugoslav representative had already accepted e Chinese amendment for the addition of a second paragraph (E/CN.4/L.278). In its nal form, that amendment read: "Nothing in the present covenant shall prevent che Committee from dealing with any matter concerning the alleged violation of human rights by a State whenever international instruments to which such State is a Party, other than the present covenant, recognize the Committee's competence to examine complaints from other States Parties to the said instruments or from sources other than States".

He put the Yugoslav proposal to the vote, with that amendment and with the amendment just adopted.

The Yugoslav proposal as amended was rejected by 9 votes to 7.

The CHAIRMAN put to the vote the first Belgian amendment, for the substitution of the words "save that it shall not take action with regard to any matter" for the words: "save that it shall have no power to deal with any matter" in the opening phrase of article 53.

That amendment was adopted by 7 votes to 3, with 6 abstentions.

The CHAIRMAN put to the vote the French amendment to sub-paragraph (a) for the insertion of the words "or any organ established under the auspices of the United Nations or of one of its specialized agencies and" after the words "United Nations".

6 votes being cast in favour and 6 against, with 4 abstentions, that amendment was rejected.

The CHAIRMAN put to the vote the Belgian amendment for the deletion of the word "or" at the end of sub-paragraph (a).

That amendment was adopted by 3 votes to none, with 8 abstentions.

The CHAIRMAN put to the vote the Belgian amendment for the substitution of the words "with which the International Court of Justice is already seized" for the present text of sub-paragraph (b).

That amendment was adopted by 11 votes to none, with 5 abstentions.

The CHAIRMAN put to the vote as amended the original text of article 53 contained in document E/2256.

That text was rejected by 9 votes to 6, with 1 abstention.

The CHAIRMAN said that the Commission had next to vote on the French proposal for an additional paragraph.

Mr. JUVIGNY (France) said that the French proposal to add a paragraph to article 53 was subordinate to the main question and had lost most of its point after the rejection by a majority vote of the first part of article 53. He accordingly withdrew the proposal.

Mr. CHENG PAONAN (China) drew attention to the unfortunate implications of the Commission's failure to reach agreement upon such an important provision as article 53; he considered that it would be unwise to leave it to the Economic and Social Council or the General Assembly to fill the gap. Another attempt must be made to formulate a clause on the Committee's competence. He therefore suggested that a sub-committee consisting of the Chairman, the two Vice-Chairmen, the Rapporteur and the Yugoslav representative be set up to draft a new text of article 53.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that, unless a preliminary decision were taken to re-open consideration of article 53, the Commission could not set up a sub-committee to deal with it without establishing an undesirable precedent.

The CHAIRMAN concurred.

Mr. INGLÉS (Philippines) said it was not the first time that by failing to reach agreement the Commission had rejected an article in toto. The same had, for example, occurred in the case of article 43. If consideration of article 53 were to be re-opened, the same procedure might be applied to other articles similarly rejected.

Mr. FORTEZA (Uruguay) said that the Commission found itself in a very grave situation, and he wondered whether, given its terms of reference, it would be appropriate to submit a text to the General Assembly providing for the establishment of a Human Rights Committee without specifying its competence. It was, however, important to be clear as to what had in fact occurred. The Commission had not decided to exclude an article on the Committee's competence, but had rejected a specific text. He therefore felt that the solution offered by the Chinese representative was worthy of support.

Mr. INGLÉS (Philippines) pointed out that article 53 had not defined the Committee's competence, but had simply limited the competence conferred by article 52 and subsequent articles. The question at issue therefore was whether or not the Commission wished to reconsider a provision restricting the Committee's competence.

The Uruguayan representative's remarks had more pertinence to the French proposal, which, he pointed out, could, under rule 53 of the rules of procedure, be reintroduced by another delegation.

Mr. ABDEL-GHANI (Egypt) said that the decision to reconsider article 53 was implicit in the Chinese proposal which, in his opinion, could be put to the vote immediately. He personally was opposed to the proposal for the reason that article 53 detracted from the competence of the Human Rights Committee. The French proposal on the other hand - provided the words "other than the present Covenant" were deleted - would enlarge its competence.

The CHAIRMAN put to the vote the motion for re-opening the discussion on article 53.

The motion was rejected, 6 votes being cast in favour and 6 against, with 3 abstentions.

The meeting rose at 6.25 p.m.