

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.424
11 February 1964
ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND TWENTY-FOURTH MEETING

Held at Headquarters, New York,
on Monday, 27 January 1964, at 10.10 a.m.

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Draft declaration and draft convention on the elimination of all forms of religious intolerance (E/CN.4/Sub.2/235 and Add.1; E/CN.4/Sub.2/L.312, L.315/Rev.1, L.316, L.336; E/CN.4/Sub.2/NGO/32, 34, 35, 37, 38) (continued)

PRESENT:

<u>Chairman:</u>	Mr. SANTA CRUZ	(Chile)
<u>Rapporteur:</u>	Mr. CAPOTORTI	(Italy)
<u>Members:</u>	Mr. ABRAM	(United States of America)
	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)
	Mr. SOLTYSIAK	(Poland)
<u>Also present:</u>	Mrs. LEFAUCHEUX	Commission on the Status of Women

Observers from Member States:

Mr. SAJJAD	India
Mr. BARROMI	Israel
Mr. SCHAAPVELD	Netherlands
Mr. QUTAMBAO	Philippines
Mr. MATSEIKO	Ukrainian Soviet Socialist Republic
Mrs. NASON	United States of America

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Miss BARRETT	United Nations Educational, Scientific and Cultural Organization
Mrs. MEAGHER	World Health Organization
<u>Secretariat:</u>	
Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Corr.1, L.309-L.311, L.314, L.320-L.323, L.324/Rev.1 and Add.1, L.325-L.329, L.333-L.335; E/CN.4/Sub.2/NGO/36) (continued)

Mr. FARMAN-FARMAIAN (International Labour Organisation), speaking at the invitation of the Chairman, said that he had followed the Sub-Commission's discussion with great interest and proposed to give the Commission an outline of recent developments in the action taken by the ILO in the matter of discrimination. Document E/CN.4/Sub.2/239, which briefly enumerated new developments in the field of discrimination since 1962, had been specially prepared by the ILO for the present session of the Sub-Commission; it was a session of decisive importance in that it was devoted to the elaboration of a draft convention which should result in the adoption of concrete measures designed to eradicate the practice of racial discrimination.

Ever since its inception, forty-five years earlier, the ILO had recognized the principle of equal rights for everyone, and the achievement of social justice - with the prevention of discrimination which that implied - had consistently been the principle underlying its activities. That principle had been proclaimed in the Philadelphia Declaration, an integral part of the ILO Constitution, which was the inspiration for the anti-discrimination clauses of many international conventions worked out by ILO and adopted by the International Labour Conference. In that connexion, he referred to a number of conventions, and particularly Convention No. 111 on discrimination in employment and occupation. That Convention had been adopted in 1958, and in 1963, after various intermediate stages, the Director-General of the ILO had decided to set up a Division on Discrimination within the ILO. The new Division had been asked to implement an educational project designed to spread information about and suggestions for national action to be taken against discrimination in employment and occupation, both in the States members of the ILO and among the various non-governmental organizations particularly concerned with the problem. It was also to act as a clearing-house for information on the subject, to carry out research on it and to undertake an analysis of legislation and practice. Lastly, it was to launch, execute, supervise and carry out technical assistance projects at the request of Governments under which advice could be provided on ways and means of eliminating discrimination in employment and occupation.

(Mr. Farman-Farmanian, ILO)

The Division would work in such a way as to complement the activities undertaken by other organizations of the United Nations family in the field of discrimination, in particular by the Economic and Social Council, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on the Status of Women, the Social Commission and UNESCO.

He thought it useful to point out that apart from the legislative or administrative measures which the ILO advocated for the prevention of discrimination in employment and occupation, it was convinced of the effectiveness of an educational programme, having learned from long experience of social problems that if the parties in conflict could be brought face to face, that made it much easier to find a viable solution in that it helped to bridge the gap between the conflicting opinions.

Before concluding, he wished to point out that in the special report it had submitted to the forty-seventh session of the International Labour Conference, in 1963, the Committee of experts on the application of international labour conventions and recommendations had stated that it was encouraging to note that only a few years after the adoption by the Conference of the Convention on discrimination in employment and occupation, thirty-nine countries had formally undertaken as an international obligation to promote equality of opportunity and treatment in that field.

In conclusion, he pointed out that although in the area of its competence the ILO had laid a sound legal foundation through its convention, it considered it equally essential to study the conditions prevailing in each country in order to be able to select the appropriate method for the application of the measures which were in keeping with a wider expression of human rights.

He assured the Sub-Commission that it could always count upon the full co-operation of the ILO.

The CHAIRMAN said that all the members of the Sub-Commission were convinced of the importance of the work being done by the International Labour Organisation in the field of discrimination in employment and occupation. He thanked the ILO representative for his offer of co-operation and pointed out that all United Nations organs had a vital role to play in preventing discrimination.

He invited the Sub-Commission to continue its discussion of item 4 of the agenda. The Sub-Commission now had before it the text of article VI submitted by

the Working Group (E/CN.4/Sub.2/L.334) and an amendment to that text submitted by Mr. Ivanov (E/CN.4/Sub.2/L.335). As the Sub-Commission had reached agreement on the wording of the article and had very little time left, he asked it not to reopen the debate on that article.

Mr. SAARIO said that he would like the words "granted to any person" in sub-paragraph (c) of article IV to be deleted.

Mr. CAPOTORTI pointed out that, if Mr. Saario's amendment were accepted, the words "by any person" would have to be inserted in the opening sentence of the article, between the words "enjoyment" and "of the following rights".

Mr. AWAD thought that the word "everyone" would be preferable to "any person" because it was less ambiguous.

The CHAIRMAN recalled that the matter had been discussed at length in the Working Group and that the difficulty arose from the fact that political rights, unlike other rights, were guaranteed only to the nationals of a country. In any event, the word "granted" was not satisfactory because it seemed to imply that rights which were in fact acquired rights had to be granted.

Mr. MUDAWI agreed with the Chairman. He pointed out that the provision in sub-paragraph (c) would make it necessary to have a limiting clause specifying that aliens, in the host country, could not take advantage of the provisions in question.

Mr. BOUQUIN said that he himself had no objection to the text of sub-paragraph (c). If only for stylistic reasons, the amendment proposed by Mr. Saario was not satisfactory because, with the deletion of the expression "granted to any person", the words "in his own country" were not related to anything.

With regard to the amendment proposed by Mr. Ivanov to article IV, sub-paragraph (c) in particular the second part of the amendment concerning the right of groups to take part on a real footing of equality in the work of legislative and executive organs, he said that for reasons which had been debated at length in the Sub-Commission in connexion with the possibility of allowing groups, as such, to have access to public service and to take part in the work of legislative and executive organs, he was opposed to the inclusion of a provision of that nature in the text of the convention.

(Mr. Bouquin)

From the point of view of style, he would like the article "the" to be deleted at the beginning of each item in the list of rights, in the text submitted by the Working Group. In sub-paragraph (e) (ii), the words "of his choice" should be added after the words "trade unions". In sub-paragraph (f), the French word "spectacles" would seem to be a more accurate translation of the English word "theatres".

The CHAIRMAN, speaking in his personal capacity, pointed out, in connexion with Mr. Saario's oral amendment, that it would be sufficient, in sub-paragraph (c), to say "Political rights, in particular the rights to ...".

Mr. IVANOV said that, while he appreciated the reasons which had led Mr. Saario to make his proposal, he had no objection to the text being retained as it stood.

With regard to the amendment he himself had proposed, he thought it would have the advantage of emphasizing the inalienable character of political rights. In any event, since the majority of the experts had stated their opposition to a reference in the article to racial, national and ethnic groups, he would withdraw his amendment, although he considered that those groups had the right to take part in the work of legislative and executive organs. He would, however, like the text to be reproduced in the report of the Sub-Commission.

The CHAIRMAN thanked Mr. Ivanov for not pressing his amendment and assured him that it would be reproduced in the report.

Mr. CAPOTORTI said that he was glad that Mr. Ivanov had withdrawn his amendment because he would have been unable to vote in favour of it. By mentioning the right of people to take part in determining the nature of the country's social and political structure, that amendment departed from the text of the Universal Declaration of Human Rights, on which the authors had based article IV; in addition, it was clearly understood that the convention referred to individuals only and not to groups.

Mr. CALVOCORESSI pointed out that the words "not to permit" in the English text had not been replaced by the word "prohibit", as had been decided.

The CHAIRMAN recapitulated the changes agreed upon by the members of the Sub-Commission: deletion of the expression "granted" to any person in his own

(The Chairman)

country" and, in the English text, replacement of the word "eliminate" by the word "prohibit".

Article IV, as amended, was adopted unanimously.

DRAFT DECLARATION AND DRAFT CONVENTION ON THE ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (E/CN.4/Sub.2/235 and Add.1; E/CN.4/Sub.2/L.321, L.315/Rev.1, L.316, L.336; E/CN.4/Sub.2/NGO/32, 34, 35, 37, 38) (continued)

The CHAIRMAN, speaking on behalf of the Sub-Commission, welcomed Mr. Soltysiak, who was replacing Mr. Ketrzynski. In connexion with the item under consideration, the Sub-Commission had before it document E/CN.4/Sub.2/L.315/Rev.1, which was a revised draft declaration submitted by Mr. Krishnaswami. He wished to congratulate Mr. Krishnaswami on the efforts he had made to reconcile the views of the members of the Sub-Commission. A second document (E/CN.4/Sub.2/L.336) contained Mr. Titov's suggestions on the same question.

Mr. KRISHNASWAMI said that he had tried as far as possible to take into account the remarks made by the members of the Sub-Commission during the debate. In particular, the fourth preambular paragraph of the new draft was based on those remarks.

In article I he had mentioned only discrimination on the grounds of religion or belief, in order to meet the desire expressed by some members for a narrower definition. The same phraseology was used in the principles on freedom and non-discrimination in the matter of religious rights and practices which he had drafted and which the Sub-Commission had already accepted.

In article II, the word "their" had been added before the words "religion" and "belief" in order to meet the wish expressed by Mr. Bouquin.

In article III, he had taken into account the text proposed by Mr. Abram (E/CN.4/Sub.2/L.312). It might perhaps be considered that, because of their vagueness, the words "Particular efforts" might weaken the scope of that article, which some members, in particular Mr. Saario, had wanted to be drafted in forceful terms; in that case, the article could perhaps start with the words "The States shall make every effort". The second part of article III took into consideration the text proposed by Mr. Calvocoressi.

Article IV had been reworded to include the points covered in article 18 of the Universal Declaration of Human Rights. In order to take into account Mr. Mudawi's remarks, he had added the phrase "and to change".

In article V, the words "ancestral heritage or historical tradition" had been deleted at the request of Mr. Calvocoressi.

(Mr. Krishnaswami)

The different paragraphs in article VI of the original text had been criticized for not following a logical order. He had tried to simplify the article and make it more forceful. Among the actual additions, he pointed out that, in the opening lines of the article, he had introduced the idea of belief; he had also added paragraph 7 to take into account the suggestions made by some members who had wanted some legal protection of forms of worship and religious institutions. Apart from that, the principal change was in paragraph 5 (ii), which, in its original form, might, according to certain experts, have been construed as interference in the internal policy of States. He had also reworded paragraph 8, in accordance with the experts' wish that greater latitude should be given to States and to the organs of society. The word "congregation", which had been used in the original paragraph 7, had been replaced, in the new paragraph 2 (ii), by the words "religious community and institution". In addition, he had omitted the statement, included in the original paragraph 9, that no limitations should be placed upon travel abroad for the purpose of maintaining contacts with communities belonging to the same religion.

The new text of article VI was less cumbersome and more precise than the original text.

Many criticisms of article VII of the original draft had been voiced by various experts. He had borne those criticisms in mind in his revised version, particularly with regard to the formalities laid down by the law regarding marriage and the dissolution of marriages.

In the revised article VIII, he had taken into account Mr. Bouquin's remark that the wishes expressed by the family of the deceased should be followed in all matters affecting burial customs; the revised text, however, reflected the fact that, in some cases, the family did not share the views of the deceased in that matter.

The use of the word "solicit" in article XI of the original version had given rise to objections from Mr. Capotorti. That word had therefore been replaced by the word "receive" in the new article X. He had placed the text of article X between brackets, because he did not attach overwhelming importance to it.

In the revised article XII, he had mentioned the fact that the State should be able to levy taxes for the preservation of religious structures recognized as monuments of historic or artistic value. There were already laws to that effect in countries such as India, as also in France, although in that country the Church was separate from the State.

(Mr. Krishnaswami)

In his article XIII, he had drawn a clear distinction between the freedoms and rights which could be subject to restrictions and those which could not. In article XIV, he had followed very closely the corresponding provisions of the Declaration and draft Convention on the elimination of all forms of racial discrimination. In accordance with the suggestion made by Mr. Bouquin, he had deleted the reference to publications from paragraph 1.

In concluding the presentation of his revised text, he wished to say that he had taken Mr. Abram's draft (E/CN.4/Sub.2/L.312) very much into account, particularly in article IV.

With regard to the suggestions put forward by Mr. Titov (E/CN.4/Sub.2/L.336), he thought that he had expressed in his own draft most of the main ideas contained in that document but had gone even further than Mr. Titov in guaranteeing freedom of conscience and condemning discrimination on the grounds of religion. On the other hand, one point on which he was quite unable to agree with Mr. Titov was the latter's contention that complete freedom of conscience could be ensured only when religion was separated from the State and the School was separated from the Church. There were countries, such as the United Kingdom, where the existence of a State religion went hand in hand with very great religious freedom; moreover, Mr. Titov's contention was not borne out by history. It would, furthermore, be unthinkable to try to make countries where the State was linked with the Church accept the idea that such a link was to be condemned; in his view, the important thing was to induce those countries to agree that the existence of such a link must not result in the suppression of certain freedoms. He felt that the ideas expressed in paragraph 1 of Mr. Titov's text were presented satisfactorily in the preamble and in articles I-III of his own draft, as were the ideas expressed in paragraph 2. The second part of the latter paragraph did not add anything to his own article VI. As far as paragraph 3 was concerned, he wished to point out that a State Church automatically enjoyed a privileged position, and that if that privilege was to be abolished, so should the privileges enjoyed in certain countries by official ideologies. Paragraphs 5 and 6 of Mr. Titov's text were similar in content to article XIII, paragraph 2, of his own draft Declaration.

(Mr. Krishnaswami)

In conclusion, he wished to thank the experts for the help they had given him and to say that all his efforts had been directed towards formulating a text which conformed as closely as possible to the spirit of the United Nations Charter and of the Universal Declaration of Human Rights.

Mr. IVANOV said that while Mr. Krishnaswami was to be commended for preparing a revised draft Declaration, the revised text unfortunately still contained certain gaps which deprived it of any claim to universality. In particular, it did not take sufficient account of the fundamental idea that religion was only one type of conviction and that non-religious convictions were entitled to the same recognition and protection as others. The words "religious and non-religious convictions" should therefore be substituted for the words "religion or belief", and the draft Convention as a whole should be worded in such a way as to make it unmistakably clear that no religion must be allowed to enjoy supremacy. Recent events in Viet-Nam had shown how dangerous it was for a State to grant privileges to a religion or a section of the population; moreover, there were countries where persons who did not hold religious convictions were denied access to the public service and to political life.

Several articles in Mr. Krishnaswami's draft tended to give persons who adhered to a religion priority over those who did not. In article IV, for example, Mr. Krishnaswami seemed to be passing a moral judgement on the influence - which he called undue - of atheists; however, the latter could not be denied the right to try to convert others.

In his opinion, article V deprived the child of the right to choose its own beliefs; moreover, he would like to know what age group the word "child" was intended to cover. It was common knowledge that the younger generation tended increasingly to rebel against the religious beliefs which their families sought to impose on them; that was an important trend which no attempt should be made to check.

He was also unable to subscribe to the terms of article VI, paragraph 5, which required the State to help to provide certain religious communities with materials and objects of a religious nature. Such a provision would be particularly unacceptable to countries where the Church was separate from the State. In his

(Mr. Ivanov)

view, all that the State could be asked to do was not to hinder the purchase of religious materials and objects by religious communities. He also felt that article X was drafted in vague terms and should be recast.

In conclusion, he wholeheartedly supported the ideas expressed in paragraph 1 of Mr. Titov's suggestions (E/CN.4/Sub.2/L.336) and hoped that they would be reflected in the draft Declaration to be submitted to the higher organs of the United Nations. He was convinced that only the separation of church and State and of State and school could ensure genuine and complete freedom of conscience for everyone. The two great principles which should underlie the draft Declaration were that all convictions must enjoy equality and that there must be no discrimination in favour of any particular conviction.

Mr. AWAD MOHAMMED said that Mr. Krishnaswami was to be commended for the spirit of co-operation he had shown in not only taking account of the remarks made during the general debate but also privately consulting the experts with a view to formulating a text which could receive the virtually unanimous approval of the Sub-Commission. He, for his part, would have no hesitation in voting for the revised text.

In his opinion, the question of discrimination resulting from religious intolerance was an extremely delicate one and should be approached with the utmost care. Above all, it was essential to take a humanitarian point of view and to aim at bringing about peaceful coexistence between the various religious communities. Since some of those communities had extremely firm views concerning the religion which they professed, there was no possibility of their accepting the principle of the freedom of anti-religious propaganda which Mr. Titov wished to proclaim. He also wished to point out that the separation of Church and State was the result of a voluntary act by a country and had nothing to do with human rights; hence, a State could not be prevented from adopting an official religion if it wished. It should be noted that in some countries, such as the United Kingdom, there was very great religious freedom despite the existence of a State religion. It was regrettable that atheist movements often seemed to aim at the harassment or destruction of religion, whereas their objective should be the triumph of tolerance and the creation of a harmonious, peaceful society.

(Mr. Awad Mohammed)

While several of Mr. Titov's suggestions were interesting and valuable, they were already substantially embodied in Mr. Krishnaswami's text, which displayed all the requisite objectivity and breadth of vision.

Mr. ABRAM observed that he had submitted a draft Declaration on the elimination of all forms of religious intolerance (E/CN.4/Sub.2/L.312) but had withdrawn it in order to facilitate the Sub-Commission's work. He expressed appreciation to Mr. Krishnaswami for preparing a revised text which in large measure took account of the suggestions and remarks made by the experts. As far as the substance of the text was concerned, he had nothing to say; however, he would have liked to see some reference to the facilities required for worship & in article VI, paragraph 5. If a few minor drafting changes were made, he would be fully prepared to accept document E/CN.4/Sub.2/L.315/Rev.1, which in his opinion reflected the views of a majority of the Sub-Commission's members.

Mr. MUDAWI associated himself with the appreciation expressed to Mr. Krishnaswami for his efforts directed at speedily preparing a text which reflected the views of most of the members of the Sub-Commission.

The suggestions which he himself proposed to make were in no sense intended to minimize the value of the document under consideration. As far as the substance of the draft was concerned, he found it rather difficult to accept article XIII, since he felt that the absence of any restrictions might lead to acts detrimental to human rights. In his opinion, it should be provided that the rights and freedoms set out in the Declaration could be subject to the limitations referred to in article 29, paragraph 2, of the Universal Declaration of Human Rights. In particular, he felt that it was dangerous to permit no restrictions on the right set out in article IV, since certain beliefs could be contrary to law and order or to public health and morality, in which case they could not be professed without restriction. He considered that article X restricted the right of religious communities to collect the funds they needed in order to carry on their activities, and would therefore like to see the word "collect" substituted for the word "receive".

He had three drafting suggestions to make. He would like to see the words "Particulae efforts" in article III replaced by "All efforts" and the words "such as" replaced by the word "including". In article IV, he was in favour of

(Mr. Mudawi)

inserting the words "such religion or belief" after the words "to change" in the English text, which was ambiguous at the beginning of that article. Finally, he felt that the words "and formalities" could be deleted from article VII, since the word "requirements" was broad enough to cover both ideas.

Mr. BCUQUIN observed that Mr. Titov's text (E/CN.4/Sub.2/L.336) did not deal with "religion" but with "religious convictions", which except in the last sentence of paragraph 3 - which suggested the formal and de facto elimination of domination by a particular "faith or religion" - were placed on the same footing as atheistic convictions. However, while an atheist might regard religion as a set of religious convictions, that definition could not satisfy those who adhered to certain religions. Moreover, in referring to atheists, Mr. Titov did not take account of the existence of agnostics. He himself thought that the expression "free thought" would be more appropriate. A clear distinction must be drawn between religion, beliefs and convictions. He noted that in paragraph 1 Mr. Titov also placed freedom of religious worship on the same footing as freedom of anti-religious propaganda. With regard to that paragraph, it was his opinion that the separation of church and State - which was a historical fact in France - could not be an essential condition adequate to guarantee freedom of conscience. The essential point was that the principle of secularity should be established and that of non-interference respected. Certain countries in which there was separation of church and State discriminated against persons who professed a religion, while other countries which had a State religion respected freedom of religion or conviction. That was one of the reasons why he was opposed to the inclusion of such a provision in the text of the draft Convention under consideration.

With regard to the problem of education, account should be taken of article 26, paragraph 3, of the Universal Declaration of Human Rights, which stated that "parents have a prior right to choose the kind of education that shall be given to their children". Freedom of education implied the freedom of private institutions to teach. The important thing was that the State should exercise control over such institutions in order to ensure, in the interests of the children, that a satisfactory level of education was maintained.

(Mr. Bouquin)

Freedom of anti-religious propaganda was a vague concept. If scientific or literary works were involved, it was a question of freedom of opinion and expression. It was for that reason that he had urged the deletion of the word "All" at the beginning of article XIV of the draft Declaration submitted by Mr. Krishnaswami (E/CN.4/Sub.2/L.315). Anti-religious propaganda should not however prejudice freedom of religion in the full sense of the word. He recalled in that connexion that French law provided for the same penalties for defamation or insult directed against persons belonging to a specific race or religion for the purpose of inciting to hatred. His position had not changed since the debate on the draft Convention on the elimination of all forms of racial discrimination and the views expressed by Mr. Awad Mohammed had strengthened it further. Reverting to the draft Declaration on the elimination of all forms of religious intolerance (E/CN.4/Sub.2/L.315/Rev.1), he wished to thank Mr. Krishnaswami for taking account of his observations; although he would have liked to see article VI made even shorter and that the clauses belonging to a convention rather than a declaration be eliminated, he felt that the draft Declaration could provide a good basis for discussion in the Commission on Human Rights. The draft would therefore receive his vote.

Mr. CALVOCORESSI associated himself with the previous speakers in commending Mr. Krishnaswami for taking account in the revised text of the draft Declaration (E/CN.4/Sub.2/L.315/Rev.1) of the various observations made in the course of the debate. With regard to the suggestions put forward by Mr. Titov (E/CN.4/Sub.2/L.336), he shared Mr. Bouquin's views concerning paragraph 1. Mr. Titov's emphasis on the rights of atheists weakened his point by undue reiteration. He found Mr. Krishnaswami's text unexceptionable in general. He only regretted that the idea borrowed from paragraph 4 of his own text (E/CN.4/Sub.2/L.316) was not given more prominence instead of being appended to article VI, paragraph 3. It should be affirmed that the State had an obligation to eradicate prejudices by means of education and to rescind laws which had the effect of creating or perpetuating prejudices. The insertion of such a clause might go some way to meet Mr. Titov's doubts. He would vote in favour of Mr. Krishnaswami's revised draft Declaration (E/CN.4/Sub.2/L.315/Rev.1).

Mr. SAARIO associated himself with Mr. Mudawi's remarks concerning article XIII.

In keeping with the observation he had made during the debate on article III of the draft Convention on the elimination of all forms of racial discrimination to the effect that bodies corporate, i.e. organizations, could not be condemned or prosecuted, he proposed that in article XIV the last clause of paragraph 2 should be added to paragraph 1, which would then read as follows: "All acts directed or intended to prevent or to restrict the freedom of religion or cult shall be prohibited, and all propaganda designed to foster or justify such incitements shall be condemned."

For the same reason, he proposed that in paragraph 2 the words "whether by individuals or organizations" should be deleted and a full stop placed after the words "and punishable by law"; lastly, he proposed that in paragraph 3 the words "prosecute and/or" should be deleted and the words "or prohibit" inserted after the words "declare illegal".

Mr. CUEVAS CANCINO said that he wished to join the previous speakers in congratulating Mr. Krishnaswami on having successfully carried out a difficult task. Several observations were called for, however. He could not but regret the fact that the wording of the sixth preambular paragraph gave the impression that the problem of religious intolerance existed in all countries.

He had pointed out, in connexion with article II, that legislation existed in some countries where there was, however, no discrimination and that in Mexico religious laws continued to be applied with due regard for the requirements of social coexistence. His reference to the need for restricting the authority of the clergy so that it could not be used for political purposes had, moreover, not been taken into consideration in article III.

With regard to article VI, he had said that public religious observances should be subject to regulation so that they did not disturb public order. Paragraphs 6 and 8 of article VI were an improvement over the original texts. While he recognized the legitimacy of the rights set out in paragraphs 3 and 4, he wished to call attention to the danger that powerful States would use religion as a pretext for interfering in the affairs of other States. He thought, moreover,

(Mr. Cuevas Cancino)

that absolute freedom to form religious communities abroad, as provided in paragraph 2, could constitute a danger for the same reasons. Accordingly, he could not support those paragraphs.

The revised version of article VII was also an improvement over the previous text, although it did not entirely meet the requirements of a secular State. In his opinion, religious marriage was secondary to civil marriage. The formula "no one shall be compelled to undergo a religious marriage ceremony not in conformity with his convictions" did not seem satisfactory to him, since in mixed marriages one spouse might be compelled to accept certain conditions dictated by the other's religion.

Article X did not take account of the observations he had made at the 421st meeting. The Church must not be permitted to become a powerful economic force once again.

It was regrettable that article XIII had not been altered. In a declaration of the kind before the Sub-Commission, it was not sufficient merely to reproduce the relevant articles of the Universal Declaration of Human Rights.

Moreover, as Mr. Mudawi and Mr. Saario had observed, the freedom provided in paragraph 1 for the exercise of the rights referred to in that paragraph was too absolute. He therefore had certain misgivings with regard to article XIII.

The meeting rose at 1.10 p.m.