

At the previous meeting, the Committee had merely decided not to refer article 10 to the Sixth Committee without previous discussion. If, during the discussion of the article in question, any legal difficulties arose which the Third Committee was not competent to solve, it was free to consult the Sixth Committee on the matter, in accordance with the decision it had taken previously.

67. Mr. HESSEL (Secretary of the Committee) confirmed the validity of the Greek representative's remark. The Committee had decided not to refer article 10 to the Sixth Committee without previous discussion, on the understanding that the Committee would be free to decide, by a simple majority, to consult the Sixth Committee on legal difficulties which might emerge during the discussion on the article in question.

68. The CHAIRMAN put to the vote the Pakistan proposal, as worded by the Secretariat.

*The proposal was adopted by 33 votes to none, with 13 abstentions.*

69. The CHAIRMAN noted that discussion on article 10 would have to be suspended until the opinion of the Sixth Committee had been received. She accordingly requested the Committee to begin the discussion on article 11.

70. Mrs. ROOSEVELT (United States of America) pointed out that the Committee could hardly study article 11 until a reply had been received and a decision taken on article 10.

71. The CHAIRMAN recognized the validity of the objection raised by the United States representative. Recalling that it had already been decided to refer article 12 to the Sixth Committee, she suggested that the Committee should consider article 13.

72. Mrs. ROOSEVELT (United States of America), supported by Mr. ALLEN (United Kingdom), stated that, if the Committee proceeded immediately to discuss article 13 without awaiting the opinion of the Sixth Committee on the articles already referred to it, members would have to take up a definite position and by so doing would prejudice the attitude still to be adopted by their respective delegations in the Sixth Committee in regard to article 4. Both articles raised the question of domestic jurisdiction.

73. The CHAIRMAN suggested that consideration of articles 11 and 13 should be postponed and that discussion on article 14 should be opened at the beginning of the following meeting.

*It was so decided.*

The meeting rose at 12.45 p.m.

## TWO HUNDRED AND FORTY-FOURTH MEETING

*Held at Lake Success, New York, on Friday, 7 October 1949, at 11.10 a.m.*

*Chairman:* Mr. Carlos E. STOLK (Venezuela).

### **Draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (A/977 and A/C.3/520) (continued)**

#### ARTICLE 14

1. Mrs. ROOSEVELT (United States of America) submitted a drafting amendment to article 14 (A/C.3/L.13) proposing that the expression "letters of request" should be replaced by "rogatory letters" which was the term in more general use in the United States.

2. Mrs. CASTLE (United Kingdom) pointed out that the expression "letters of request" was the one used in the corresponding provisions of the various international conventions in force, whereupon Mrs. ROOSEVELT (United States of America) said that she would not press her amendment, provided it was clearly understood that the phrase had exactly the same meaning as was conveyed by the American legal term "rogatory letters".

3. Mr. CONTOUMAS (Greece) said that, among the methods of transmission of letters of request listed in article 14, there was no mention of the most usual method, namely transmission through direct diplomatic channels from the diplomatic representative to the Foreign Ministry of the country to which the request was made.

4. Moreover, the article did not take into account the bilateral agreements which usually governed the transmission of letters of request as well as other questions of judicial assistance.

5. Under article 14, Governments would be obliged to effect the transmission through one of

the three methods provided in sub-paragraph *a*, *b*, and *c*. Once they had announced the method of transmission they had chosen, they would be unable to change to any other, even if they were bound by a bilateral agreement concerning judicial assistance.

6. He did not think that such a procedure was advisable in cases where bilateral agreements between two Governments were successfully applied. In his opinion, it would be better for the second paragraph to state that the transmission of letters of request *could* be effected by one of the three methods listed, and for the sixth paragraph to be amended to read: "*Failing* such notification, its existing procedure in regard to letters of request shall remain in force". In that way Governments would be given more freedom of action and, at the same time, the most usual practice concerning letters of request would be recognized in the convention.

7. Finally, Mr. Contoumas said that, in the French text, the word *actuelle* which appeared in the sixth paragraph was too restrictive in sense. What was meant was certainly not the procedure in force at the time of the signature of the convention but the procedure used as a general rule in the country concerned. He therefore suggested that the word *actuelle* should be replaced by the words *en vigueur*. The proposed change did not affect the English text.

8. Mr. AQUINO (Philippines) did not agree with the interpretation of article 14 given by the representative of Greece. In his opinion, article 14 was the most complete one of the whole draft convention since it mentioned all the possible

methods of transmission. He pointed out that the conjunction "or" was used throughout, so that the contracting States would have a wide freedom of choice in the methods they wished to use.

9. He was also opposed to the change in the second paragraph suggested by the representative of Greece. International conventions such as the one under discussion were normally drafted in mandatory wording; that was essential in an instrument which would be just as binding on the contracting States as any bilateral agreement they might have signed with another State.

10. Mr. CONTOUMAS (Greece) regretted that he had not made himself clear. He explained that he had no intention of limiting the obligations of the States which would sign the convention. He simply wished to point out that the article under discussion provided that the transmission of letters of request should be effected directly through the diplomatic or consular representative to the competent judicial authority whereas it was the normal practice for the diplomatic representative to communicate with the Foreign Ministry. A slight drafting change would suffice to rectify that omission.

11. Mr. SCHACHTER (Secretariat) said that there was nothing new in article 14, which was basically similar to the corresponding articles of former conventions, such as the Convention of 1910 for the Suppression of the White Slave Traffic, the 1923 Convention for the Suppression of the Circulation of Obscene Publications and the Convention of 1936 for the Suppression of the Illicit Traffic in Dangerous Drugs.

12. He realized that there were any number of bilateral agreements governing judicial assistance but most of them were general agreements covering the whole range of offences while article 14 dealt with one particular category of offences and therefore it went beyond the bilateral agreement in several respects, for example, as regards cost.

13. In conclusion, he reminded the Committee that it had long been recognized that judicial assistance should be regulated by multilateral agreements. That principle was observed in the Montevideo Agreement of 1889, the Hague Convention of 1905, the Bustamante Code and various conventions adopted under the League of Nations. It had long appeared in the conventions dealing with the exploitation of prostitution.

14. Mr. BOKHARI (Pakistan) would be prepared to accept the change in the second paragraph desired by the representative of Greece; he wondered, however, whether the authors had not had some special reason for employing the mandatory form.

15. The CHAIRMAN pointed out that under subparagraph *c* the transmission of letters of request could be effected either directly to the competent judicial authority or, if so prescribed by the country to which the request was made, to any other authority designated as competent, which in the circumstances might well be the Ministry for Foreign Affairs.

16. Mr. SCHACHTER (Secretariat) supported the Chairman's interpretation.

17. Mr. CONTOUMAS (Greece), supported by Mr. Vos (Belgium), emphasized that the corres-

ponding articles in previous conventions were less restrictive in that they employed the general formula "through diplomatic channels", which was not found in article 14.

18. Mr. SCHACHTER (Secretariat) and the CHAIRMAN repeated their opinion that the text of subparagraph *c* was sufficiently flexible not to exclude any existing procedure for the transmission of letters of request.

19. Mr. CONTOUMAS (Greece) would not press a point which was not of the first importance. It should be understood, however, that the sixth paragraph should be interpreted as leaving Governments free, "until" they had stated what method of transmission they had chosen, to continue to apply any provision contained in the existing bilateral agreements which they might have signed with other States.

20. In consideration of the Greek representative's observation, the CHAIRMAN proposed that the words *en vigueur* should be substituted for the word *actuelle* in the French text of the sixth paragraph.

*It was so decided.*

21. The CHAIRMAN put article 14 to the vote.

*Article 14 was adopted by 47 votes to none, with 2 abstentions.*

#### ARTICLE 15

22. Mr. RAMADAN (Egypt) observed that a large number of countries had bureaux of criminal investigation and maintained files. He wondered whether such bureaux did not provide a substitute for the services mentioned in article 15.

23. Mr. DELIERNEUX (Secretariat) explained that the provisions of article 15 had been taken from an article in the 1904 agreement, which had been the first step taken at the international level to combat the traffic in women and children. Since then, most countries had gone further than the limited range originally in view; but the adoption of that provision—which had been in force for many years—did not seem to present any difficulties.

24. The CHAIRMAN put article 15 to the vote.

*Article 15 was adopted by 48 votes to none, with 1 abstention.*

#### ARTICLE 17

25. Mr. ALLEN (United Kingdom) said that in submitting to the Committee his delegation's proposed amendment to article 17 (A/C.3/L.11) he was interpreting the wishes of the non-governmental voluntary organizations working for the rehabilitation of prostitutes. Those wishes had been expressed to the Social Commission too late for it to take them into account, as it would have wished.

26. Mr. SUTCH (New Zealand) emphasized that article 17 was one of the two innovations in the draft convention; article 6 was the other. Article 17 was not to be found in the conventions in force, not even in the draft convention drawn up in 1937 by a committee of experts of the League of Nations.

27. Article 17 marked a real advance in social thinking. It laid upon the contracting States the obligation to take very definite steps to aid the

victims of the offences set forth in the convention. It was, in part, a reply to those who maintained that the causes of the evil of prostitution were essentially economic and social. The Committee would undoubtedly adopt it unanimously.

28. Turning to the amendment submitted by the United Kingdom delegation, Mr. Sutch confirmed the fact that the Social Commission had regarded it favourably but had not been able to make a decision on it, as it had not had cognizance of it until after article 17 had been adopted.

29. The New Zealand delegation would vote for the United Kingdom amendment, because it approved of the substitution of the term "victims" for the crude word "prostitutes". The former not only reproduced more faithfully the modern approach to the problem of prostitution but also made it possible for a wider scope to be given to article 17, since victims could be understood to mean not only professional prostitutes but also beginners. He would prefer, however, the retention of the term "rehabilitation", which was currently used in his country and covered all aspects of adjustment, including the economic; it was not enough that the social adjustment of the victims should be ensured, work must also be found for them.

30. Mr. PLEJIC (Yugoslavia) emphasized that the recent discussion in connexion with article 6 (241st and 242nd meetings) had shown how right were those who attached the greatest importance to the social and economic aspects of the problem. During the debate, the majority of the representatives had spoken of the causes which gave rise to traffic in persons and had stressed the necessity of fighting against those causes. The time had come to take up the question seriously and realistically. If, however, the scope of article 17 could not be broadened as it should be, his delegation hoped that the Committee would at least adopt the article unanimously.

31. For his part, he would vote for it because he saw in it a first step along the path of social progress; as he had already stated in the Social Commission, however, he regretted that it did not make more explicit provision for the measures of prevention and rehabilitation necessary to combat the scourge of prostitution effectively.

32. On the other hand, he would vote against the United Kingdom amendment, which restricted the already limited scope of the article.

33. Mr. BOKHARI (Pakistan) associated himself fully with the views of the New Zealand representative.

34. Mr. ALLEN (United Kingdom) agreed to replace the words "social adjustment" by "rehabilitation".

35. Mr. NORIEGA (Mexico) regretted the United Kingdom representative's decision. In his opinion, the word "rehabilitation" had not the same moral significance as the expression "social adjustment". The aim of the measures referred to in article 17 should be to restore the victims of prostitution to a normal place in society; the use of the term "rehabilitation" would imply a stigma.

36. Mr. PAJVAK (Afghanistan) said that he would vote in favour of article 17. He felt, however, that the scope of the article would be increased if it were amended to read: "The Parties

to this Convention agree to take *and* to encourage", instead of "to take *or* to encourage".

37. Mr. CONTOUMAS (Greece) had no marked preference for either version of article 17. He wished, however, to draw the United Kingdom representative's attention to certain legal implications of his amendment. The text, which expressly mentioned articles 1, 2 and 3, had doubtless been drafted before the adoption of article 4 in its new form. In order to cover the whole field of offences defined by the convention, it would be logical to mention article 4 also in the text of the amendment. The best course, however, would seem to be to give up any attempt at enumeration and to use instead a general formula such as: "victims of the offences (or acts) referred to in this Convention".

38. Mr. ALLEN (United Kingdom) agreed that his point of departure had been the substitution of a more euphemistic expression for the term prostitute. Apart from that, he would welcome any proposal which might improve his amendment. That appeared to be true of the suggestion just made by the Greek representative. On the other hand, the proposal of the representative of Afghanistan did not satisfy him, as its effect would be to subject the activities of private social welfare organizations to government directives. Such an obligation would be incompatible with the ideas of certain countries, among them the United Kingdom, with regard to the part reserved to private initiative in that field. The adoption of the proposal in question would be liable to create a certain confusion in that respect.

39. Mr. KAYSER (France) considered article 17 a happy innovation in the fight against prostitution. For his part, he found the text satisfactory as it stood. In particular, he did not think it necessary to substitute a euphemism for the word "prostitute". He did, however, think it advisable to clarify the term "rehabilitation" and in that connexion, to bear in mind the judicious observations of the Mexican representative. The most suitable formula would be "rehabilitation and social adjustment" (*rééducation et reclassement*) which was the language used by the French legislator on the subject.

40. He would not oppose the adoption of the amendment, but he would be willing, if the case arose, to vote in favour of the text of article 17 as it stood, amended as he suggested.

41. Mr. JOCKEL (Australia) was in favour of the general sense of article 17 as a whole and also supported the amendment of the United Kingdom. In his opinion, the scope of the article should be still further extended by the use of both the expression contained in the basic text and that proposed by the United Kingdom representative, so that it would read: "rehabilitation and social adjustment".

42. Mr. LUNDE (Norway) warmly supported the principle of article 17. He wondered whether the United Kingdom amendment would not tend to limit rather than to enlarge the scope of the article in question. The draft convention concerned, primarily, the exploitation of the prostitution of others. It was the intention of the authors of article 17 to help the victims of that traffic, namely the prostitutes themselves.

43. He asked the United Kingdom representative whether he would agree to put his amendment

in the following form: "for the prevention of prostitution and the rehabilitation of its victims".

44. Mr. ALLEN (United Kingdom) found the scope of that formula too limited. He preferred the expression proposed by the Australian representative, which took account of persons guilty of attempted offences or of certain preparatory acts.
45. Mr. MESSINA (Dominican Republic) pointed out that, in the current legal terminology of his country, the word "rehabilitation" meant only the restoration of his civic rights to a criminal. If the economic and social causes of prostitution were to be combated, mention must be made of "economical and social rehabilitation".
46. Mr. KATZNELSON (Israel) emphasized the constructive nature of article 17. He considered it advisable to replace the word "prostitute" by a more satisfactory expression. A small drafting group might perhaps be better able to find the appropriate formula. If a better expression were not found, his delegation would vote in favour of article 17 as it stood.
47. The word "rehabilitation" was perfectly appropriate, for it applied to the social, medical, moral and economic fields. The addition of any adjective was therefore superfluous.
48. Mr. FREYRE (Brazil) agreed to the term "rehabilitation", which the United Kingdom representative had accepted. He would have preferred some mention to be made of social adjustment. The term "social" had a very wide scope in its most extensive connotation: it applied to all the fields covered by article 17.
49. Mr. CONTOUMAS (Greece) pointed out that the word "prostitute" was used in the feminine in article 17, whereas the other articles of the draft convention related to persons of both sexes. For that reason the formula used in the United Kingdom amendment was preferable. It was also better than that proposed by the Norwegian representative, for the words "victims of prostitution" were ambiguous: was it the prostitute or the person who had relations with her who was the victim?
50. Mr. AQUINO (Philippines) agreed with the observations made by the Greek representative. He thought the best formula would be: "victims of the offences referred to in this Convention". Furthermore the meaning of the word "rehabilitation" was too limited. It was not only a matter of restoring fallen women to their previous status, but of improving their economic and social position. The expression "social adjustment" was therefore better.
51. Mr. DELIERNEUX (Secretariat) pointed out that two types of measures were provided for in article 17: on the one hand, preventive measures which applied particularly to women who were on the verge of falling into prostitution, and on the other, measures for the readjustment of prostitutes. It was for the Committee to decide if those measures were to apply only to the victims of traffickers or to all prostitutes without distinction.
52. Mrs. KRIPALANI (India) also considered article 17 of great importance. If prostitution was to be combated, it would have to be attacked at the source of the evil, which lay in the economic and social conditions. For that reason she preferred the word "rehabilitation" to the expression "social adjustment" proposed by the United Kingdom delegation.
53. The word "prostitute" should, in her opinion, be retained, for although it was perhaps a little crude, it had the advantage of being very specific.
54. Mr. MENESES PALLARES (Ecuador) agreed with the Australian representative, who had suggested that both expressions should be used, namely, "rehabilitation and social adjustment". The representative of the Philippines had rightly pointed out that the two terms were complementary. By "rehabilitation" was understood the restoration to a person of his dignity and civil rights. The expression "social adjustment" had no legal meaning; it expressed the efforts made to ensure economic and social conditions that would enable a person to resume his normal place in human society.
55. The following phrase might perhaps reconcile the various views which had been expressed:
- ". . . for the prevention of prostitution and the rehabilitation and social adjustment of prostitutes".
56. Mr. SUTCH (New Zealand) stated that he had been impressed by the Norwegian representative's argument that the United Kingdom amendment would limit the application of article 17 to the victims of the offences mentioned in articles 1, 2 and 3. The representative of the Secretary-General had pointed out that article 17 had a much wider scope and referred to the rehabilitation of all prostitutes, and not only of those who fell into the hands of traffickers.
57. Account should be taken of the social conditions which might force a person into prostitution, and it was essential to enact measures which would be as advanced as possible. Moreover, prostitutes might not be the only ones to demand assistance; in some cases, their families and associates might also have to be given assistance towards rehabilitation. The Committee should therefore endeavour to find a satisfactory formula. He suggested the following phrase to the representative of the United Kingdom:
- ". . . for the rehabilitation of the victims of prostitution and of the offences referred to in the Convention".
58. While not perhaps very elegant, that text would meet the objections raised by various representatives.
59. Mr. ALLEN (United Kingdom) accepted the text suggested by the New Zealand representative. He thought, however, that the suggestions of the representatives of Australia and Ecuador to the effect that the last phrase should include the two expressions "rehabilitation" and "social adjustment" should also be taken into consideration.
60. The CHAIRMAN, speaking as the representative of VENEZUELA, declared his agreement with the representatives of New Zealand and the United Kingdom.
61. Mr. BAROODY (Saudi Arabia) was satisfied with article 17 without any amendment. In view of the large number of suggestions which had been made concerning that article and the lengthy discussion which had already taken place, he thought it would be wise to adjourn the meeting. Members of the Committee would thus have time

to consider all the proposed amendments before coming to a decision on article 17.

62. Mr. NORIEGA (Mexico) shared the view expressed by the representative of Saudi Arabia. Article 17 was very important and it was essential to know exactly what provisions it was desirable to include in it. The United Kingdom representative would be able to submit a final text at the next meeting.

63. If a drafting committee were set up, however, it should consider whether article 17 should not become article 7, as its logical position was after article 6.

64. The CHAIRMAN, replying to the Mexican representative, said that the point would be considered when the Committee had concluded examination of the draft convention and had heard the opinion of the Sixth Committee.

65. The United Kingdom amendment, as amended by the New Zealand representative, would read:

“... for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in this Convention”.

66. Drafting amendments had also been proposed by the representatives of Afghanistan, Australia, France, Ecuador, Mexico, Greece, the Dominican Republic, the Philippines and Norway. All those proposals, with the exception of that made by the

Afghan representative, appeared to be covered by the revised text of the United Kingdom amendment.

67. Mr. MESSINA (Dominican Republic) and the representatives of AFGHANISTAN, AUSTRALIA, FRANCE, ECUADOR, MEXICO, GREECE, the PHILIPPINES and NORWAY, pointed out that they had not made any formal proposal and said they were satisfied with the United Kingdom amendment.

68. In reply to Mr. CONTOUMAS (Greece) who asked whether the French expression *rééducation et reclassement* was an accurate translation of the words “rehabilitation and social adjustment”, Mr. HESSEL (Secretary of the Committee) said that those were the words in current use in French.

69. Mr. NORIEGA (Mexico) urged that the Committee should not continue consideration of article 17 until it had before it the written text of the final version of the United Kingdom amendment. It was essential that article 17 should not be able to give rise to difficulties of interpretation; Governments which signed the convention must be in a position to know precisely what they were undertaking. They must know, for example, whether they were to enact measures for the rehabilitation and social adjustment of prostitutes only or whether those measures were to be extended to their dependants.

The meeting rose at 1 p.m.

## TWO HUNDRED AND FORTY-FIFTH MEETING

*Held at Lake Success, New York, on Monday, 10 October 1949, at 3 p.m.*

*Chairman: Mr. Carlos E. STOLK (Venezuela).*

### **Draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (A/977 and A/C.3/520) (continued)**

#### ARTICLE 17 (continued)

1. The CHAIRMAN said that, as most of the amendments to article 17 submitted at the previous meeting had been withdrawn, the Committee had before it only two amendments: one by the delegation of Afghanistan, the other submitted jointly by the United Kingdom and New Zealand (A/C.3/L.15).

2. Mrs. ROOSEVELT (United States of America) said that the United States could not accept the Afghan amendment to replace the word “or” at the beginning of the text by the word “and”. In fact, the Federal Government could undertake no engagement that would commit it to action beyond its powers.

3. Mr. BOKHARI (Pakistan) thought that the same difficulty existed for all Governments. The Afghan amendment would oblige Governments to intervene with private organizations which would thereby lose their individual character. It was therefore necessary to retain the conjunction “or”.

4. The CHAIRMAN requested the Committee to take a decision on the Afghan amendment.

*The amendment was rejected by 25 votes to 13, with 7 abstentions.*

5. The CHAIRMAN asked the Committee to take a decision on the amendment submitted jointly by the United Kingdom and New Zealand, to modify the last phrase of article 17 as follows: “for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in this Convention”.

*The amendment was adopted by 43 votes to none, with 7 abstentions.*

6. The CHAIRMAN put article 17, as amended, to the vote.

*Article 17, as amended, was adopted by 47 votes to none, with 3 abstentions.*

#### ARTICLE 18

7. Mr. FREYRE (Brazil), basing his argument on the regulations governing the conditions under which aliens were admitted to his country, thought that the best method of combating the traffic in persons was to keep watch in the ports at which emigrants disembarked. He therefore proposed the addition in article 18, sub-paragraph *c*, of the words “and arrival” after the words “ports of embarkation”. It was true that those words already appeared in sub-paragraph *a* but, in order to avoid any misunderstanding, they should be repeated in sub-paragraph *c*.