

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.140
7 April 1950

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND FORTIETH MEETING

Held at Lake Success, New York,
on Thursday, 30 March 1950, at 2.30 p.m.

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Article 5 (continued):

<u>Chairman:</u>	Mrs. F. D. Roosevelt	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. STEYAERT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHANG	China
	Mrs. WRIGHT	Denmark
	Mr. RAMADAN	Egypt
	Mr. ORDONNEAU	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India

Mr. AZKOUL	Lebanon
Mr. MENDEZ	Philippines
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. RODRIGUEZ FABREGAT	Uruguay
Mr. JEVREMOVIC	Yugoslavia
Also present: Mrs. CASTILLA-LEDON	Commission on the Status of Women

Representative of a specialized agency:

Dr. INGALLS	World Health Organisation (WEO)
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Representatives of non-governmental organizations:

Category "A":

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
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Category "B":

Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Mr. CRUICKSHANK	Inter-American Council of Commerce and Production
Mr. NOLDE	Commission of Churches on International Affairs
Miss ROBB	International Federation of University Women
Miss TOMLINSON	International Federation of Business and Professional Women
Mrs. PARSONS	International Council of Women
Miss SCHAEFER	International Union of Catholic Women's League
Mr. LEWIN	Agudas Israel World Organization
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. VERGARA	Catholic International Union for Social Service

Secretariat:

Mr. HUMPHREY	Director of the Division of Human Rights
Mr. LIN MOUSHENG	Secretary of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (E/1371, E/CN.4/365,
E/CN.4/353/Add.10, E/CN.4/371, E/CN.4/378, E/CN.4/383, E/CN.4/384, E/CN.4/385,
E/CN.4/386) (continued)

Article 5 (continued)

1. Mr. SANTA CRUZ (Chile) said that his delegation had stated its position on article 5 of the draft international covenant on human rights at a previous session of the Commission and in the Drafting Committee, so that there was no need for him to state it again in detail. The crux of the discussion of that article was ^{not} the question whether the death penalty should or should not be abolished. The text prepared by the Commission at its fifth session had been based upon the Commission's conviction that an instrument to be signed by the largest possible number of States must take existing conditions into account, in order that the application of the covenant should not in any way injure fundamental human rights and freedoms.

2. The purpose of the United Kingdom amendment (E/CN.4/365) was undoubtedly the protection of the individual against actions both by other individuals and by the public authorities. The Chilean delegation, however, like that of the United States, had always held the view that it was, unfortunately, impossible to state the contemplated exceptions in a single provision so concisely that they would not appear to be more important than the rule itself. As the representative of China had pointed out, paragraph 3 of the United Kingdom amendment embodied the exemptions from responsibility for homicide contemplated by United Kingdom law. Many more such exceptions would undoubtedly be found in the legislation of other countries, so that it would be impossible to enumerate exhaustively all cases in which homicido was regarded as legitimate. In order to find some approximation to the implication of such a list, the Chilean delegation had proposed the insertion of the word "arbitrarily" (E/CN.4/378), concurring in that with the United States amendment (E/CN.4/365).

3. The precise significance of the word "arbitrarily" had been very fully discussed by the Commission on Human Rights and by the Third Committee of the General Assembly and it had been concluded that it had a precise enough meaning. It had been used in several articles in the Universal Declaration of Human Rights and referred both to the legality and to the justice of the act.

4. The capital defect in the United Kingdom amendment was that it failed to take into account cases in which governments took human life by means of unjust

/laws.

laws. The principal aim of the draft covenant was to protect the individual against such action by governments. That was particularly necessary in existing circumstances, because in some countries the law was framed, not by democratically elected assemblies, but by small cliques which had arrogated supreme power to themselves and could therefore compel the assemblies and courts to enforce any laws convenient to their own interests. It ought to be specified, therefore, that the law invoked must be just, or, in other words, a law not incompatible with the spirit and intention of the Declaration of Human Rights. Such an implication was inherent in the existing text of paragraph 2, but it was incomplete. The expression "the most serious crimes" must be more clearly defined. Governments must not be left to define it themselves, because some States might regard as comparatively slight crimes which the framers of the Declaration of Human Rights regarded as very serious, and on the other hand might be ready to regard as serious crimes which were not considered as such by countries which had a proper conception of the dignity of man in his relations with the State.

5. The Chilean amendment to paragraph 3 (E/CN/378) took a peculiarity of the Chilean Constitution into account. Unanimity of the judges prevented injustice and ensured that the sentence was not imposed capriciously. It was true that other countries had different systems, and did not have courts with more than one judge, but he thought that the adoption of the Chilean amendment would do no harm and might do some good.

6. For paragraph 4 he supported the text submitted by the United States delegation (E/CN.4/365).

7. Mr. JEVREMOVIC (Yugoslavia) preferred the text submitted by the French delegation (E/CN.4/365) for paragraph 1. The Yugoslav amendment to paragraph 4 (E/CN.4/371) expressed the same idea as that in the existing text of the paragraph, but in more precise language.

8. Mr. AZKOUL (Lebanon) said that in dealing with article 5, as with all other articles of the covenant, the Lebanese delegation would not lose sight of the fact that the covenant, like the Declaration, was intended as a reply to the challenge to human rights involved in the totalitarian tendencies of the modern state. The danger to the life of the individual no longer derived so much from the chaos in the relations between individuals as from the state's attempt to extend its prerogatives over the individual. From that point of view, the only possible text for every article would be that which most drastically restricted that tendency on the part of the state.

/9. The insertion

9. The insertion of the word "arbitrarily" in paragraph 1 could not meet the purpose adequately, for a State which wished to sign the covenant would be entirely free to enact legislation permitting it to deprive persons of their life before it signed, and would thus be in a position to claim that it was not acting arbitrarily. Some criteria must therefore be given which the States parties to the covenant must take as a standard for the action of both their judicial and executive branches. A provision must be inserted which would both prevent the enactment of laws infringing fundamental human rights and prevent administrative authorities from infringing human rights without the cover of law. The United Kingdom amendment appeared to take both those aspects into account, whereas neither the United States amendment to paragraph 1 nor the existing text appeared to provide any such safeguards. The word "arbitrarily" was ambiguous and could lend itself to special interpretation in special circumstances. If it remained possible for a signatory State to invoke the covenant as a pretext for violations of human rights, it would be better to abandon the idea of the covenant entirely and retain only the Universal Declaration of Human Rights, which had already exercised a powerful influence on public opinion; it was on such opinion that, in the last resort, the strength of even a covenant must reside.

10. While he appreciated the contention of the United States delegation that the enumeration of all exceptions was impossible, reflection showed that almost all the exceptions concerned the relations of individuals with each other rather than the relation of the state to the individual. As the Commission appeared to be in agreement that the principal danger to human rights was the state, he wondered whether it would not be wiser to neglect some of the more exceptional cases, which would never be likely to become the rule, and concentrate upon the danger from the state. He therefore suggested that the United Kingdom amendment should be adopted, with the addition of a sentence at the end to the effect that national law should prevail in other cases which resulted from acts occurring as between individuals. If the Commission found that idea acceptable, he hoped that an amendment to that effect would be submitted at a later stage. It would constitute a compromise between the enumeration of only the principal exceptions, involving the state, and the listing of all possible exceptions.

/11. Introducing

11. Introducing his delegation's further amendments (E/CN.4/386), Mr. AAKOUL said that it was only tentatively proposing its amendment to the French amendment to paragraph 1, since the protection of human life from the moment of conception might not be a feasible matter for legislation by some governments. He felt, however, that it would be desirable for the Commission to assert the principle.

12. He agreed with the Chinese representative that, although the United States amendment to paragraph 4 (E/CN.4/365) was acceptable, it omitted certain ideas embodied in the original text. He was therefore proposing that the two texts should be combined.

13. Mrs. MEHTA (India) maintained her objection to the United Kingdom amendment. Unless the enumeration could be exhaustive -- which, in her opinion, it could not be -- it would be preferable not to have any list at all.

14. The insertion of either "arbitrarily" or "intentionally" in paragraph 1 would be unsatisfactory: "arbitrarily" was too vague and intention would usually be hard to prove. She would prefer a positive statement, derived from the Universal Declaration; she submitted an amendment (E/CN.4/385) to that effect. The Indian amendment to paragraph 2 reproduced the text of the Philippine amendment (E/CN.4/365). Her amendment to paragraph 3 derived from the Philippine amendment, but the words "an independent tribunal" had been substituted for the words "a competent court" because the independence of the tribunals was a safeguard against the handing down of a verdict based entirely on the political interests of the state.

15. She felt that paragraph 4 embodied matter irrelevant in the context, as the right to amnesty had no intimate connexion with the right to life; her objection to that paragraph was not, however, strong.

16. Mr. KYROU (Greece) suggested that a compromise might be achieved. In paragraph 1, the first sentence of the French proposal or the Indian text from the Declaration might be combined with the substance of the Indian text for paragraph 2, to make a second sentence, reading: "No one shall be deprived of his life except in cases provided by law". The United States text of paragraphs 2 and 3 should be adopted, with the insertion of the word "final" before

/the word

the word "sentence" in the last clause, in order to meet the views of the Philippine and Egyptian representatives. He supported the United States amendment to paragraph 4, as amended by the Egyptian representative, but would not object to the Yugoslav text.

17. Mr. MENDEZ (Philippines) objected that the existing text of paragraph 1 would be a mere repetition of the text of the Universal Declaration. The insertion of the word "arbitrarily" would, however, involve repetition, because that idea was covered by the words "competent court" in paragraph 3. It was important, moreover, that it should be specified that the law must be in force at the time of the commission of the crime, as the phrase "in accordance with a law in force" might serve .

18. The principal danger in any enumeration such as that proposed by the United Kingdom delegation was that any enumeration must necessarily be exclusive. The words "any person" in sub-paragraph (i) of paragraph 3 of the United Kingdom amendment would give rise to confusion. Furthermore, the exact meaning of "unlawful violence" was not clear; violence might be mental as well as physical; an insult was an example. It did not follow that violence of any kind should necessarily be met with violence; the Philippine amendment (E/CN.4/365) implied that the means to repel violence should be reasonable and orderly.

19. With regard to the United States suggestion that paragraphs 2 and 3 should be merged, he felt that it was not unacceptable, but that brevity should be the overriding consideration.

20. Mr. HOARE (United Kingdom) thought that the Commission agreed with the Chilean representative's contention that the covenant should prevent action taken under unjust laws in countries where legislation was under the complete control of the government; he could not agree, however, that that could be achieved by a mere reference to the Universal Declaration in paragraph 3. The Declaration was a statement of ideals, necessarily somewhat broad and vague and lacking in legal precision. To refer from the text of a legal document a statement of ideals could not be a means of exercising control over totalitarian governments.

/The covenant

The covenant must be drafted with such precision that any totalitarian government signing it would automatically be hampered in carrying out unjust legislation.

21. The objections raised against the enumeration proposed by the United Kingdom delegation had not been sustained by a single example, except in the observation circulated by the United States delegation (E/CN.4/383).

Undoubtedly, some exceptions might have been overlooked, but none had been mentioned during the two years in which the draft covenant had been discussed.

22. In reply to the United States observations contained in its paper (E/CN.4/383), Mr. Hoare explained that paragraph 3, sub-paragraph (iii) of the United Kingdom amendment did not constitute an authorization to take life, but provided that, in certain circumstances, action from which death might result -- not necessarily by homicide -- could be taken. The intention would be judged by the action; in law, intention was defined as mens rea.

23. The exceptions noted in paragraphs 1 and 2 of the United States paper occurred as a result of interference with property and were covered by sub-paragraphs (i) and (ii) of the United Kingdom text of paragraph 3. They were special cases of lawful arrest. He was prepared to accept the addition of a sub-paragraph dealing with unlawful action in respect to property; it had not been included because the United Kingdom delegation had felt, in the light of its country's experience, that it was unnecessary.

24. The third exception noted by the United States delegation -- arson -- was obviously a question of lawful arrest, as arson was a crime. That was equally true of the fourth exception -- burglary.

25. The fifth exception noted -- violation of honour -- showed some confusion of thought. The covenant should not give an authorization to take the life of such an offender. The courts in every country would make their decision in the light of the particular circumstances involved.

26. The sixth exception noted was covered by sub-paragraphs (i) and (ii), as it involved property.

27. The seventh exception noted seemed highly unrealistic. He could not conceive of circumstances in which any state would deliberately kill a few to save the lives of many, although it might perhaps destroy property after giving due notice of its intention.

28. The twelve further exceptions forwarded by the Drafting Committee of the Commission on Human Rights were all covered by the United Kingdom draft.

29. He appreciated the Indian representative's view of paragraph 4, but thought that the article was concerned with a very general right, whereas paragraph 4 was concerned with a very limited class of persons for whom special provision was being made. He did not object to the paragraph in principle, but felt that if that principle was included in the covenant, the right of recourse should be extended to all classes of prisoners.

30. The Lebanese representative's argument that the scope of the covenant should be restricted to the prevention of interference by the state with individuals deserved careful consideration, because it involved the exclusion of the whole question of homicide. It might be difficult to reconcile such an omission with the purposes of the covenant as a whole.

31. Mr. ORDONNEAU (France) recalled that Article 3 of the Universal Declaration of Human Rights provided that "everyone has the right to life, liberty and the security of person". The draft covenant needed a provision designed to implement that article.

32. Article 5 of the draft covenant was easy to analyze: its first paragraph laid down a general principle while the remaining paragraphs specified exceptions, all of which dealt with the death sentence. The question arose as to whether it was wise to exclude other possible exceptions. As currently drafted, and interpreted strictly, the article would in itself forbid war or the exercise of police authority in so far as they might accidentally involve the killing of a person. While such an interpretation was absurd, it was nevertheless entirely consistent with the article as currently drafted and showed the necessity for redrafting. Apparently all the members of the Commission agreed that the article should be altered. The question was how that was to be done.

33. In general the problem was to decide what dangers threatened human life. Once the answer to that question had been found, ways and means of limiting the danger must be considered.

34. Man could be killed by man or by the State, and the draft covenant should deal with both cases. Homicide was a punishable crime. As for man being killed by the State, three important exceptions must be recognized; the

/death

death penalty imposed for the most serious crimes after due process of law, death occurring unintentionally in the exercise of police or other authority acting on behalf of the State, and death occurring during war. Unless article 5 reflected every phase of that analysis it was incomplete. It should therefore be considered most carefully and should be completed. Deleting paragraph 1, as had been suggested by the Philippines, would not meet the problem. It would in effect limit the entire article to capital punishment but would not in any way implement article 3 of the Universal Declaration of Human Rights.

35. The United Kingdom proposal was an improvement to the extent that it did cover death resulting from the actions of law enforcement authorities acting on behalf of the State. He had originally supported the United Kingdom point of view, but on further reflection was not able to do so. For one thing it did not cover the case of death resulting from war. Furthermore, the addition of the word "intentional" in the first paragraph might be thought to imply that anyone might be deprived of his life unintentionally. There was also a danger that article 5, paragraph 3, sub-paragraph (iii) of the United Kingdom version (E/CN.4/365, page 23) might invite abuse; cases were known in which a State, unwilling or unable to rid itself of an opponent by legal processes, had achieved its aim by killing the person concerned in the course of an action ostensibly taken for one of the purposes mentioned in the sub-paragraph concerned. It would therefore be dangerous to insert such a clause in the draft covenant. The case of death occurring during war could very easily be dealt with since it was covered by the United Nations Charter. The draft proposed by the French delegation reflected that fact.

36. Paragraph 1 should be drafted positively rather than negatively in order to avoid the possibility of a contrary interpretation. The French representative agreed with the Indian representative in that respect. The important point was not whether the form of words suggested by France or some other positive formulation were adopted: what was important was that the principle should be stated in a clear and positive form. The French draft completely met the essential points which had emerged from his analysis. Concerning the remaining paragraphs of the article, his delegation could accept any suggestion which would improve the draft.

37. Mr. SANTA CRUZ (Chile) stated that the French representative's analysis had been almost perfect. Unlike the French representative, however, he did not think that the French draft would meet the Commission's objective of filling the void to which the United Kingdom representative had referred. He had been glad to note that the United Kingdom representative had taken up his idea that there must be guarantees against unjust laws. The United Kingdom representative had stated that the amendment put forward by his delegation met that point. It seemed, however, that paragraphs 2 and 3 as drafted by the United Kingdom dealt only with cases in which death did not occur pursuant to a court sentence.

38. He agreed with the Lebanese representative that the greatest danger to be guarded against was that of actions of the State against the individual. Totalitarian states had taught a lesson to the rest of the world. Comparatively primitive and incautious in their methods until recently, totalitarian states had since become very careful to preserve an appearance of legality while arbitrarily killing their opponents.

39. As noted by the Lebanese representative, it was a recognized legal principle that no person had the right to kill another person, and in general states dealt satisfactorily with that matter. The situation was, however, quite different in respect of the relationship between a person and the State. The latter aspect of the problem had been dealt with generally in the Universal Declaration of Human Rights. It was necessary to be specific on that important point in the draft covenant. The draft covenant used the formula "most serious crimes" without attempting to define the term. Yet, what might be a most serious crime in one State might not be so regarded in another. Political crimes, for example, ought not to entail the death penalty, although in some States they were regarded as the most serious crimes.

40. He agreed with the Philippine representative that the tribunals in question must be independent. A reference to article 10 of the Universal Declaration of Human Rights might be desirable.

41. Mr. Santa Cruz suggested that no decision should be taken on article 5 and the amendments thereto until Monday, 3 April. In the meantime, the authors of the various amendments might attempt to produce a joint formula representing

/the largest

the largest possible measure of agreement, taking the French analysis as a point of departure. If the United Kingdom representative should find it impossible to agree with the other authors of amendments, he might perhaps consider the possibility of formulating his own proposals as an amendment to the joint amendment which might emerge from the consultation.

42. Mrs. MEHTA (India) stated that there was yet another case which would not be covered by the United Kingdom proposal, that of a doctor, who, in order to save the life of the mother, intentionally killed the child during or before delivery. The example which she had just mentioned showed once again how dangerous it would be to list exceptions unless it was certain that the list was truly exhaustive. In the absence of such assurance it would be preferable not to have such a list.

43. Mr. RODRIGUEZ FABREGAT (Uruguay) concluded from the discussion that greater precision was required. The draft covenant would become an international convention, as distinct from a penal code concerning crimes committed by individuals. Article 5, paragraph 1, should begin with an affirmative statement as suggested by France and India. As he had previously stated, his delegation would prefer to abolish capital punishment, which it regarded as an abridgement of the right to life. Paragraphs 2 and 3 reflected existing legal concepts in many States, while paragraph 4 dealt with amnesty. It was not a question of examining individual crimes: that was left to the internal legal machinery of the individual States. The draft covenant was on the much higher level of the international community. It was concerned with precepts of national legislation, including capital punishment; it was not concerned with death penalties as such. Similarly, article 6 forbade torture or cruel, inhuman or degrading treatment or punishment but was silent on the conditions of application or non-application of the article.

44. The United Kingdom proposal did not refer, as the draft covenant should, to punishment, but to crimes that might be committed. Its paragraph 3, sub-paragraph (1), really included legitimate self-defence; sub-paragraph (11) dealt with the case of state officers upholding the law, as they were clearly entitled

to do; and sub-paragraph (iii) dealt with a question of necessity. None of those provisions involved the application of the death penalty and in none of them was it a question of punishment since no crime was involved. The provisions thus went beyond conceptual considerations, while the draft covenant should deal, not with crimes, but with States and their actions. The representative of Chile had rightly stated that sometimes tribunals could not be considered as independent and laws as just. Indeed, some cases involving that very point had already been referred to the General Assembly. It was thus not an abstract problem, but a concrete and urgent one, and should be dealt with in the draft covenant.

45. The substance of paragraph 1 should be retained. While it was true that the mere enunciation of the principle of the sanctity of life did not involve a legal obligation, it would nevertheless be most useful to take note of it in the draft covenant because the principle so clearly agreed with the conscience of humanity.

46. He had been glad to note the Egyptian proposal (E/CN.4/384) to rule out the death penalty and life sentence with hard labour for offenders under seventeen years of age. Uruguay had abolished capital punishment altogether. Unfortunately that had not been the case everywhere and he realized the need for including pertinent provisions in the draft covenant. His delegation welcomed, however, any attempt to limit the imposition of capital punishment. A further case in point had been that cited by the Indian representative concerning a doctor saving the life of a mother.

47. There should be no excessive gap between the draft covenant and the Universal Declaration of Human Rights. Without making a formal proposal, he would suggest for the consideration of his colleagues the advisability of including the Universal Declaration of Human Rights in its entirety in the preamble to the draft covenant. That would make the Declaration a part of the draft covenant and would combine both in a single document, to be studied as a whole.

48. Finally, Mr. Rodriguez Fabregat agreed with the Chilean representative's procedural suggestion.

49. The CHAIRMAN noted that the draft covenant would form the second part of a Bill of Human Rights in three parts, of which the Universal Declaration was the first part. The Bill of Human Rights would eventually be printed in a single volume so that it could be studied as a whole.

50. Speaking as the representative of the United States of America, she recalled that her delegation had not submitted any amendments to article 5, paragraph 2. Paragraph 3 of that article, as currently drafted, was not sufficiently explicit in providing that the draft covenant did not confer upon any State in which capital punishment did not exist, the right to have recourse to such punishment. The United States draft was clear in that respect.

51. The amendment to paragraph 4 proposed by her delegation was designed to make it clear that the provision referred only to persons under sentence of death. She feared that the Yugoslav amendment (E/CN.4/371) was rather too limited.

52. Her delegation could accept the Philippine proposal.

53. The United Kingdom representative had said that it would be better to list some exceptions rather than let each state interpret the entire, broad provision. States, however, would inevitably interpret all aspects of the draft convention. Thus a body of precedent would be built up over a period of time and would result in determining what was, and what was not, arbitrary.

54. No exhaustive list of exceptions had been compiled and it was to be doubted whether it was practicable to make such a list.

55. Speaking as the Chairman, she noted that it had been suggested that no vote should be taken at the present meeting. She thought, however, that it would be possible to vote on three questions of principle: whether the first paragraph should be deleted, as suggested by the Philippines; whether the article should contain a list of exceptions; and whether the article should be limited to actions taken by States rather than by individuals.

56. Mr. WHITLAM (Australia) remarked that it was clear from the discussion that paragraph 1 as it stood was unacceptable. The Commission should decide whether it wanted that paragraph to appear in some other form, and if so, whether the article should be limited to acts by States and persons authorized by States, or should apply to acts by private individuals as well. If the latter, it might be advisable to draft two separate articles to deal with the two aspects of the case.

57. Mr. SANTA CRUZ (Chile) said, with reference to the Chairman's suggestion, that votes on principles should be the exception; the general rule should always be to vote on actual texts and amendments.

58. He recalled his suggestion that decision with respect to article 5 might be postponed until the following Monday, and that the proposers of various amendments might in the meantime make an effort to arrive at one or more agreed texts.

59. Mr. CHANG (China) observed that in the case of the draft covenant text and substance were so closely related that it was next to impossible to distinguish between them and to vote on them separately. At the same time, the covenant was a most important document, which required careful consideration and reflection. He therefore proposed that the Commission should agree to have two readings; votes would be taken at the first reading in the knowledge that any serious errors could still be corrected at the second and more rapid reading.

60. With respect to article 5, it would be unfortunate to omit paragraph 1 altogether, as the part of the covenant containing provisions on human rights would then begin by stating not a right but an exception to it. The Commission would find it much easier to reach a decision on that article if the Secretariat were to prepare a paper listing all the amendments and proposing in what order they should be put to the vote.

61. Mr. HOARE (United Kingdom) said that paragraph 1 should not be deleted. If it were, article 5 would apply exclusively to the death penalty and would not cover any other cases of taking human life, as by police or military action.

62. It was plain that the article and the various amendments to it required further reflection. He therefore supported the Chilean representative's suggestion.

63. Mr. AZKOUL (Lebanon) wondered whether the Chilean representative proposed to close the debate on article 5.

The Chilean proposal to postpone decision on article 5, to give time to the proposers of various amendments to make an effort to arrive at one or more agreed texts, was rejected by 4 votes to 4, with 6 abstentions.

After a brief discussion, the Chairman stated that the debate on article 5 would be continued on Monday, that the Secretariat would be requested to submit by Friday a working paper listing the various amendments and suggesting the order in which they should be voted, and that the Commission would take up article 6 on Friday.

64. The CHAIRMAN supported the suggestion of the Chinese representative that there should be two readings of the draft covenant.

65. In reply to Mr. SANTA CRUZ (Chile), Mr. CHANG (China) said that in his view amendments of substance as well as drafting changes should be permitted during the second reading, provided that new arguments were adduced.

66. Mr. AZKOUL (Lebanon) feared that the arrangement might lead to a repetition of full-scale debate on each article at the second reading. He was, however, prepared to abide by the Commission's decision in the matter.

67. Mr. ORDONNEAU (France) drew attention to the fact that votes taken on the second reading might differ from those on the first, because alternates without the right of vote might by then be replaced by full-fledged members having that right.

68. The CHAIRMAN felt that all members of the Commission could be trusted to give careful thought to every article during the first reading and to vote only when they felt they had arrived at a final decision on the basis of the considerations before them; and, during the second reading, to suggest only such changes as they deemed vital. The second reading should not be regarded as an opportunity for a change of mind; at the same time, there would be no limitation of debate, and all errors could be rectified.

69. On that understanding, she put to the vote the Chinese representative's suggestion that two readings should be held.

The Commission agreed, by 10 votes to 9, with 3 abstentions, that there should be two readings of the draft covenant.

The meeting rose at 5.25 p.m.