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SUMMARY RECORD OF THE ONE HUNDRED AND SEVENTY-FIRST MEETING

Held at Lake Success, New York,  
on Wednesday, 26 April 1950, at 2.30 p.m.

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Chairman:

Mrs. F. D. ROOSEVELT United States of America

Members:

Mr. WHELAN Australia

Mr. NISCT Belgium

Mr. VAREZUELA Chile

Mr. CHANG China

Mr. SORENSON Denmark

Mr. RAMLIAN Egypt

Mr. CAUSTE France

Mr. THEODOROPoulos Greece

Members:(continued)

Mrs. MEHTA	India
Mr. MALIK	Lebanon
Mr. GARCIA	Philippines
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present:

Mrs. GOLDMAN	Commission on the Status of Women
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Representative of a specialized agency:

Mr. EVANS	}	International Labour Organisation
Mr. LEMOINE		

Representative of non-governmental organizations:

Category B:

Mr. LEWIN	Agudas Israel World Organization
Mrs. AIETA	Catholic International Union for Social Service
Mr. HALPERIN	Co-ordinating Board of Jewish Organizations
Miss TOMLINSON	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Mr. GROSSMAN	World Jewish Congress

Secretariat:

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

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

Article 17 (E/1371, E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/439, E/CN.4/439/Corr.1, E/CN.4/442) (continued)

1. The CHAIRMAN, in reply to Mr. THEODOROPoulos (Greece) said she intended to put the Greek amendment to the United States proposal (E/CN.4/442) to the vote after it had been discussed. Then the Commission would vote on the joint draft resolution as amended (E/CN.4/439).

/2. Mr. THEODOROPoulos

2. Mr. THEODOROPOULOS (Greece) said his delegation had explained why it preferred to vote on its amendment last. As the Chairman had indicated that another procedure would be followed he withdrew the Greek amendment in order to avoid confusion.

3. The CHAIRMAN put the joint draft resolution on freedom of information (E/CN.4/439) as amended, to the vote.

The resolution was adopted by 9 votes to 2, with 2 abstentions.

4. Mr. CHANG (China) thought that in future it would be better to table all amendments before proceeding to the vote.

5. Mr. THEODOROPOULOS (Greece) said that he had voted against the resolution for the reasons he had given earlier. It was inadvisable to make a recommendation of that kind to the General Assembly which might prejudice its action in the matter.

6. In reply to the CHAIRMAN, Mr. CHANG (China) said he was not proposing a procedure which should be strictly adhered to in future. He merely thought it commended itself as a more orderly method of work.

7. Mr. NISOT (Belgium) said he had been unable to vote in favour of the draft resolution because it appeared to prejudice the Assembly's decision. He preferred the United States amendment (E/CN.4/442).

8. Mr. CASSIN (France) stressed that the joint draft resolution had not been intended to prejudice the decision of the General Assembly with regard to the content of any convention on freedom of information. It merely expressed the Commission's conviction that some questions could not be solved otherwise than by means of a convention. The General Assembly was at liberty to draft that instrument as it saw fit.

9. Mr. MALIK (Lebanon) said that he had voted in favour of the joint draft resolution as amended. He disagreed, however, with the views of the representatives of Belgium and Greece. In his opinion, no lower body could exercise undue pressure on a higher body, nor could it prejudice the actions of such bodies. If the Commission feared to make recommendations to parent organizations lest their actions be prejudged thereby, the Commission would be unable to take any initiative.

10. Such a situation was manifestly impossible, and made it unnecessary expressly to state in any resolution that the recommendations contained therein did not prejudge an issue or that they were not binding upon the higher body.

Article 19 (E/1371, E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/164, E/CN.4/164/Add.1)

11. The CHAIRMAN asked the Commission to consider article 19 and the relevant amendments by France, the Philippines, the United Kingdom and the United States of America which appeared in document E/CN.4/365.

12. Mr. CASSEIN (France) said that the first part of the French amendment to paragraph 1, repeating the formulation which had been adopted for article 18, was really a matter of form. The French delegation had also proposed that the words "a person may not be compelled to join an association", which reproduced the content of article 20 of the Universal Declaration of Human Rights, should be inserted in article 19. They were the affirmation of an important right, which should not be omitted from the covenant.

13. The French amendments to paragraph 2 of article 19 were also merely formal in character and in his opinion resulted in a clearer text. He further suggested that it might be better to amend paragraph 2 to read "the international Conventions" so that both the 1948 and the 1949 Conventions would be covered.

14. The United Kingdom amendment to paragraph 2 raised serious problems, and before taking a decision he preferred to hear the United Kingdom explain its suggestion.

15. Mrs. MEHTA (India) favoured the French amendment to paragraph 1 because it repeated the principles set forth in the Universal Declaration of Human Rights. She also supported the United Kingdom suggestion to include the words "provided that this article shall not prevent the imposition of restrictions on the exercise of this right by members of the armed forces, the police or the administration of a State". The amendment raised a vital point which should be included in the covenant.

16. Mr. JEVREMOVIC (Yugoslavia) thought the purpose of article 19 of the covenant was to express the principle proclaimed in article 20 of the Universal Declaration of Human Rights, namely, the right of association, together with certain limitations. Nevertheless, the proposed text for the covenant included additional limitations in paragraph 3. He did not think that the covenant should

/contain

contain provisions for the implementation of other less significant instruments even though they related to human rights. Although similar in form to other conventions on human rights, in substance the covenant was of far greater importance than any of them, and should not be subject to the limitations in a narrower agreement. The covenant was designed to provide the basis for future instruments on human rights, and therefore it was the covenant which should define the limitations for such conventions. Furthermore, the International Convention on Freedom of Association and Protection of the Right to Organize was not based on democratic principles as it did not take into account the fact that, if only for reasons of numerical superiority, the freedom of workers could not be the same as the freedom of employers. He therefore moved that paragraph 3 should be deleted.

17. Mr. ORIBE (Uruguay) supported the French amendment to paragraph 1, which reproduced the full content of article 20 of the Declaration.

18. He felt, however, that paragraph 3 of article 19 should be deleted. As it stood, it referred only to the implementation of the International Convention on Freedom of Association and Protection of the Right to Organize, and should properly appear in that instrument. If the Commission wished to retain it, it should be redrafted to reflect the Convention's true relation to the covenant.

19. Mr. VALENZUELA (Chile) also preferred the French amendment to paragraph 1. Although the second part of the amendment might be considered redundant, the French draft was a more legal text than the original.

20. He was not in favour of the last part of the United Kingdom amendment to paragraph 2. The phrase "national security, public order, public safety" fully covered the intentions of that text and included all the necessary guarantees. On the other hand, nothing could be more dangerous than to give members of the armed forces the right to form certain types of associations. Moreover, some States refused to allow governmental employees to form associations whereas other States permitted their employees varying degrees of freedom in that respect. In particular, some States limited the right of governmental employees to strike.

21. Nevertheless, trade unions were not the only form of association referred to in article 19. The Chilean delegation therefore thought that it would be unwise to include a general restriction on the right of governmental employees to freedom of association, which in its opinion was not linked

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exclusively to the right to form trade unions and the right to strike. He would like to hear a statement from the International Labour Organisation on the question.

22. He agreed that paragraph 3 should be deleted. He did not think it would be feasible to include in a general covenant certain articles which would not be universally applicable.

23. The CHAIRMAN, speaking as representative of the United States of America, said she could accept the first part of the French amendment to paragraph 1, but not the second part, although it was true that it reproduced the principle set forth in the Universal Declaration of Human Rights. If it were retained in the covenant, however, she feared the article could be so misinterpreted as to permit derogation from the right of association. The fact that many advantages could be derived from associations might be interpreted as a compulsion on the individual to join.

24. In the General Assembly, it had been made abundantly clear that the relevant clause of article 20 was not to be construed as preventing the closed shop or other requirements of membership laid down by the unions, but to avoid any misunderstanding, with regard to the covenant it would be better to reject the French amendment.

25. She preferred the original text of paragraph 2 to the French amendment for the reasons she had given in connexion with articles 17 and 18. She was also opposed to the United Kingdom amendment to paragraph 2, which again raised the question whether the covenant should include specific or general limitations. The United States delegation thought the original text, adopted at the Commission's preceding session, should be retained.

26. With regard to the Philippine amendment, if it was intended to prevent the individual from taking action to start war she wondered whether the text was adequate. If, on the other hand, it was intended to deal with a situation where a country was under threat of invasion, it related more properly to article 4 and should be discussed in connexion with that article.

27. Mr. WHITIAM (Australia) thought that one of the early drafts of article 19, which had appeared in document E/800, was a better presentation. He did not wish to reopen the debate, however, and would support the draft in E/CN.4/365. He pointed out that the French amendment to paragraph 1 was not consistent with the form which had been adopted for preceding articles.

/28. He endorsed

28. He endorsed the United Kingdom amendment in principle, but reserved his position because he was still undecided whether, as had been alleged, the original text sufficiently covered the matter.

29. It was inappropriate and perhaps premature to include paragraph 3 in the covenant, especially as the Convention in question was not in operation. Moreover, it seemed illogical for the covenant to provide for the operation of another instrument which would in all probability be self-contained.

30. Other conventions on human rights would undoubtedly be drafted in the future, and if paragraph 3 were retained in article 19, similar provisions would have to be introduced in the covenant to cover them as well. It would therefore be better to delete paragraph 3.

31. Mr. THEODORPOULOS (Greece) supported the French amendment to paragraph 1. Although the matter might give rise to doubts, it reproduced the sense of article 20 of the Declaration, which had been fully debated in the General Assembly and its implications should be perfectly clear.

32. He could accept the United Kingdom amendment although, to his mind, it was not essential, but he wished to reserve his position until the United Kingdom representative had been heard.

33. He agreed that paragraph 3 was unnecessary, as the Convention would probably provide for its own implementation. Such a procedure, moreover, might compel the Commission to provide for the implementation of a host of other conventions as well. Trade union rights were of paramount importance, but he did not believe that Governments could be compelled through the covenant to amend legislation unfavourable to those rights. For those reasons, he felt that paragraph 3 should be deleted.

34. Mr. CHANG (China) supported the French amendment to paragraph 1, which was similar in form to article 18. If the original text were retained, however, paragraph 2 should be amended to read "This right shall be subject only to such limitations..."

35. He also preferred the form of the limitations clause in article 18 to that in article 19. He proposed that the Study Committee should consider amending paragraph 2 to read: "to ensure national security, public order, the preservation of health or morals, or the protection of the fundamental rights and freedoms of others."

36. In the interests of securing a more uniform style throughout the covenant he could accept the United Kingdom amendment if the specific limitations clause were deleted.

37. Mr. RAMADAN (Egypt) preferred the French amendment to paragraph 1. With regard to paragraph 2, he pointed out that the text did not repeat the formulation adopted for other articles of the covenant. Moreover, the words "public safety" were superfluous and should be deleted.

38. He favoured the United Kingdom draft of paragraph 2 without the specific limitations clause. In line with the Chinese representative's suggestions, he proposed that the French text should use the terms "la conservation" of health or morals, and "la sauvegarde" of the rights and freedoms of others. The word "fundamental" should be deleted from paragraph 2 to avoid the implication that certain human rights were not basic.

39. He also agreed with the representatives of Greece and Australia that paragraph 3 should be deleted.

40. Mr. CASSIN (France) stated that the French amendment to the second part of paragraph 1 was based on the Universal Declaration of Human Rights and should therefore be given the same interpretation.

41. He agreed that the first part of the United Kingdom amendment to paragraph 2 was preferable to the corresponding French text and he therefore withdrew his amendment to that paragraph.

42. He thought that it would be unwise to delete paragraph 3 of article 19. Trade union rights were different from freedom of association, although the two were closely related. Any move to delete the paragraph guaranteeing trade union rights would arouse public opinion and would have serious moral and social repercussions. While not all of the Members of the United Nations belonged to its various specialized agencies, the rights of all states must be respected. France, a signatory of more than 100 conventions on labour, could not agree to any move to disregard or minimize the contributions of those agreements or the efforts of the specialized agencies. He was, however, prepared to substitute "those conventions" in place of "that convention" in the text of paragraph 3.

/43. If the covenant



43. If the covenant were to contain sections on social, economic and cultural rights, Mr. Cassin would agree to the transfer of the provisions of paragraph 3 from article 19. The extension of the convention to cover those additional important rights had, however, been rejected, and there was therefore no possible alternative position for paragraph 3. The French delegation could not accept any further contraction of the scope of the convention and would oppose the deletion of paragraph 3.

44. Mr. MALIK (Lebanon) said that he would vote for the original text of the first part of paragraph 1 because in his opinion the French version weakened rather than strengthened the text. In all preceding articles except article 18, the accepted form had been "everyone shall have the right...". The French proposal, "the right of association shall be recognized" was subject to misinterpretation because it failed to make clear by whom or to whom the right was recognized. As the original text was also consistent with the terms of the Declaration, Mr. Malik would vote for and would oppose the French amendment.

45. Referring to the French amendment to the second part of paragraph 1, he stated that, although he shared the concern of the United States representative in connexion with that clause, he considered the interpretation that signatories would be opposed to the "closed shop" to be far-fetched. Since the matter had been debated and clarified in the General Assembly, the French amendment could be adopted without fear of misinterpretation. The Lebanese delegation would further support the French amendment.

46. Uniformity should be sought in the texts on limitation in all articles in so far as possible. In the case of articles 18 and 19, such uniformity seemed most desirable. He agreed that artificially imposed uniformity should be avoided but stressed the value of uniform language wherever possible.

47. The French amendment to paragraph 2 proposed the text "prescribed by law" while the French delegation had suggested "in pursuance of law" in article 18. In his opinion, the phrase "in pursuance of law" was too broad but, as the French amendment to article 19 referred to "prescribed by law", he would vote for the French text.

48. He was unable to vote for the Philippine amendment and could not support the second part of the United Kingdom amendment to paragraph 2. In his opinion that section was covered by the first part of paragraph 2 and the addition was therefore unnecessary.

49. Referring to the statement of the representative of France regarding paragraph 3 and his argument in favour of its retention, Mr. Malik felt that it would be well to retain that text in order to avoid any possible misinterpretation of the Commission's intentions.

50. Mr. JEVREMOVIC (Yugoslavia) agreed that trade union rights were extremely important, but felt that they should not be confused with the International Convention on Freedom of Association and Protection of the Right to Organize. Specific provisions for the protection of trade union rights were appropriate in other texts, but not in the covenant. If the Commission was working on trade union rights, he could support paragraph 3. In the covenant, however, it was inappropriate to introduce an irrelevant reference to a separate convention.

51. Mr. GARCIA (Philippines) expressed the view that the French formula for the first part of paragraph 1 strengthened rather than weakened the text. Recognition of a right was more positive than the mere proclamation of the right.

52. In his opinion, paragraph 2 of article 19 should follow the corresponding paragraph of article 18 in the substitution for "prescribed by law".

53. In the light of the remarks of the United States representative, the Philippine delegation withdrew its amendment to paragraph 2.

54. His delegation had been instructed to support paragraph 3, which was in harmony with the spirit of article 19. It would agree to deletion of that text if the Commission agreed to reinstate it elsewhere in the covenant.

55. Mr. WHITLAM (Australia) recalled that the Australian Government had drawn attention to the irrelevance of paragraph 3 of article 19. He himself was still not convinced of the advisability of including that text in article 19. Admittedly no one wished to take any step in any way prejudicing trade union rights. He feared, however, that paragraph 3 did not belong in article 19 and

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that its inclusion as an incidental matter in connexion with freedom of association might depreciate trade union rights and constitute an actual disservice to the advancement of those rights. He considered it preferable to leave the protection of such rights to international instruments directly concerned with the question rather than to include a misplaced reference in the covenant.

56. The Australian delegation considered the United States views on the French amendment to the second part of paragraph 1 as valid and would therefore vote against the inclusion of the clause "a person may not be compelled to join an association". The Australian delegation also was in agreement with the representative of Lebanon in his preference for paragraph 1 in its original form.

57. Mr. THEODOROPoulos (Greece) wished to avoid any misinterpretation of the vote for deletion of paragraph 3. While the representative of France had indicated that the deletion of that text would arouse public opinion, the general consensus of the Commission seemed to be that deletion would not indicate objection to the substance of the text, but would reflect the opinion that the paragraph was inappropriate in article 19.

58. That paragraph was merely a repetition of the generally accepted principle that states must abide by international obligations which they had assumed in treaties and conventions.

59. He could not agree with the statement that deletion of paragraph 3 would contract the scope of the covenant. Furthermore, as the machinery for implementation of the covenant would be used concurrently with the machinery set up under the ILO Convention on Freedom of Association, a confused and disorderly situation would result if paragraph 3 were maintained.

60. Mr. CASSIN (France) agreed with the Philippine representative that the French formula for the opening clause of paragraph 1 strengthened rather than weakened the right of association. Instead of granting the right, the French text recognized the existing right.

61. He did not wish to insist on the addition of the clause "a person may not be compelled to join an association" if that text would prevent ratification of the covenant by any Powers. He therefore agreed not to press the French amendment to the second part of paragraph 1.

/62. He recalled

62. He recalled that he had agreed to withdraw the French amendment to paragraph 2 and to accept in its stead the first part of the United Kingdom amendment to that paragraph, to be brought into harmony with the text of article 18. He expressed the view that the last part of the United Kingdom text of article 2 was covered by "public order" in the first part. If that had not been the understanding of the French Government, it would have presented proposals in connexion with armed forces.

63. In his view the most important point to be borne in mind in connexion with paragraph 3 was the link between the United Nations and its specialized agencies in their work on human rights. Maintenance of the paragraph would be a test of relations with the specialized agencies, and it was therefore important to recognize their efforts in promoting human rights. It was important for the Commission to retain paragraph 3 in the covenant, especially as it was based on a resolution of the Economic and Social Council of 17 March 1949.

64. Mr. HOARE (United Kingdom) recalled that in article 18 the expression "prescribed by law" had been altered to "in conformity with the law". There was a difference between those expressions and practical considerations must be taken into account. States would ratify the covenant only if it did not interfere with the legitimate exercise of their right to implement limitations. The Commission was therefore faced with the problem of deciding which expression was most suitable. In his opinion "prescribed by law" suggested that action must be authorized by specific provision of law while "in pursuance to the law" or "in conformity with the law" referred to more general powers and was therefore preferable.

65. Referring to the comments of the United Kingdom Government on the final section of paragraph 2 to the effect that "public order" did not clearly seem to cover the cases contemplated, he stated that it was not the intention of the United Kingdom to prohibit members of the armed forces, the police or the administration of a state from forming associations but merely to limit their choice of associations and the extent to which they might join outside unions. If the Commission was of the opinion that "public order" covered the latter part of the United Kingdom amendment, he was prepared not to press for a vote on the matter.

/66. He noted

66. He noted that the French delegation had withdrawn its amendment to the second part of paragraph 1 and expressed support of the views of the United States on that subject.

67. The CHAIRMAN, speaking as representative of the United States of America, stated that it was the understanding of her delegation that "public order" included the points covered in the latter part of the United Kingdom amendment.

68. The United States considered it unwise to include paragraph 3, which actually meant dealing with another convention. In its view, that provision had no place in article 19.

69. Mr. WHITLAM (Australia) expressed appreciation of the explanation the representative of France had given of paragraph 3 but stated that he had been instructed to vote against its inclusion. He would, however, transmit the French views to his Government and hoped that he might be able to reconsider his position.

70. He further noted that the withdrawal of the French amendment to the second part of paragraph 1 removed a serious juridical difficulty which had confronted the Australian delegation.

71. Mr. ORIBE (Uruguay) recalled that the Uruguayan delegation had originally proposed the insertion in the declaration of the clause "a person may not be compelled to join an association", that proposal had been approved by the General Assembly by 20 votes to 14, with 9 absences. He pointed out that, if taken only in connexion with trade unions, the clause might be subject to special interpretation. Trade unions were, however, not the only possible type of association.

72. The Uruguayan delegation believed that the statement that a person might not be compelled to join an association was essential because of frequent abuses and use of coercion to force people to join organizations against their will. In many cases and to varying degrees, benefits were available only to members of given organizations. The Uruguayan delegation sought to prevent any direct coercion, but did not oppose such indirect influences as the desire to secure certain benefits through joining an organization. The provision against

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the use of coercion was a necessary complement to the right of freedom of association and he hoped that the French delegation would restore its amendment.

73. He thought that paragraph 3 as drafted was meaningless and had no relation to the subject matter of article 19. The principle that States signatories of other conventions were obliged to fulfil their undertakings under those conventions was generally accepted and required no restatement in the covenant. If any such reference were deemed necessary, the proper place for it was in the International Convention on Freedom of Association.

74. While the Uruguayan delegation had no objection in principle to a positive reference to the International Convention on Freedom of Association, it could not accept paragraph 3 as it stood. It should be modified to make the intention and scope clear.

75. Mr. SORENSON (Denmark) pointed out that paragraph 3 of article 19 should have been concorded with paragraph 2 of article 22, as both provisions dealt with the relationship between the covenant and other special conventions already in existence or likely to be elaborated in the future. The Commission must agree that the concrete guarantees in the ILO Convention could not be limited by the more general provision for freedom of association in the covenant. The latter would apply only to states which were not contracting parties to the ILO agreement. Paragraph 2 of article 22 would seem to remove all difficulties. But, in view of the fact that the United States had requested its deletion, it might be wiser to adopt paragraph 3 of article 19 at that stage on the understanding that it would be revised in the light of the Commission's subsequent decision on article 22.

76. Mr. SCHWELB (Secretariat) at the CHAIRMAN's invitation, reviewed the events which had led to the inclusion of paragraph 3 in article 19. The Economic and Social Council, acting in accordance with resolution 193 (VIII), had transmitted to the Commission on Human Rights the decisions taken at the 1948 International Labour Conference, with the request that they and, in particular, the Freedom of Association and Protection of the Right to Organize Convention, should be taken into account in drafting the covenant on human rights. The Secretary-General's memorandum (E/CN.4/164) had compared the draft of article 19

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with the corresponding clauses of the ILO Convention on Freedom of Association and Protection of the Right to Organize because he was concerned lest the covenant should conflict with the ILO Convention, with the result that the instrument that would happen to enter into force later would affect, or possibly repeal repugnant provisions of the instrument that entered into force first. That might have undesirable consequences also in the national law of the countries concerned. In the Secretariat's opinion, the ILO Convention offered much stronger guarantees of the right of association of workers and employers than the draft covenant did in the field of the right of association in general. It provided, in particular, that no national law should be such as to impair or be so applied as to impair the guarantees provided for in the Convention. No corresponding clause appeared in the draft covenant.

77. Consequently, at its fifth session, the Commission had the choice of either adapting article 19 in substance to the ILO instrument or inserting some provision in the covenant to ensure that it would in no way prejudice the obligations of the parties to the earlier Convention. The Commission had chosen the latter alternative in 1949. The adoption of a provision on the lines of paragraph 2 of article 22 might offer an adequate solution. The Secretariat was not expressing an opinion whether the present text of paragraph 3 of article 19 should be maintained.

78. Mr. JEVREMOVIC (Yugoslavia) considered the assertion that a more recent convention automatically superseded an earlier one neither legally tenable nor relevant. The covenant was intended to prescribe minimum safeguards of human rights and freedoms; it could not affect the broader guarantees provided in other special conventions, regardless of the date of their adoption. Conversely, no other convention could impose limits upon the guarantees set forth in the covenant. Thus there could be no conflict with the ILO Convention; only in so far as that instrument reduced the safeguards provided in the covenant would it be affected by the later convention.

79. Mr. THEODOROPOULOS (Greece) observed that the concern of the Secretariat regarding a possible conflict between the two documents might be dispelled by revising the text of paragraph 3 as suggested by the representative of Uruguay.

/80. The CHAIRMAN,

80. The CHAIRMAN, speaking as representative of the United States, recalled that in connexion with article 8 (slavery and forced labour) no mention had been made of existing conventions on that subject. Reference to a single relevant convention in paragraph 3 appeared unwarranted.

81. Mr. EVANS (International Labour Organisation) explained that, though the ILO had dealt with the question of trade union rights and freedom of association since its earliest days, it was at the request of the Economic and Social Council that that question had been brought before the International Labour Conference in 1947. The Convention of Freedom of Association and Protection of the Right to Organize, adopted by that Conference in 1948, before the Assembly approved the Universal Declaration of Human Rights, could be regarded as implementing the provisions in the Declaration bearing upon those matters. In pursuance of the Council's resolution 193 (VIII), the Commission was now asked to take it into account in drafting the corresponding clauses of the covenant. While it was technically true that the International Labour Convention was not yet in force, it would come into force on 4 July 1950. The United Kingdom, Norway, Sweden, Finland and the Netherlands had thus far ratified it.

82. With regard to the last part of the United Kingdom amendment to paragraph 2 of Article 19 of the Draft Covenant, the International Labour Convention left it to national legislation to determine the extent of the freedom of association of members of the police and the armed forces but provided that its ratification should not affect laws by which the armed forces or the police of a state already enjoyed the rights enumerated in the Convention. Furthermore, the International Labour Conference in 1948 had refrained from including in the Convention any provision to the effect that a person may not be compelled to join an association.

83. The existence of two different methods of implementation capable of being applied to the same cases should be avoided. The Covenant should be so drafted as to permit of it being applied by a state party to the International Labour Convention without conflict of laws. Even if paragraph 3 of Article 19 were deleted, the principal consideration in resolving discrepancies should be the concern of states to afford the greatest degree of protection to individuals and groups. The rule that a more recent convention legally superseded an earlier instrument could not apply; it was applicable only to national legislations. A convention adopted through the instrumentality of one international body could not prejudice a similar instrument adopted by another international, quasi-  
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legislative body. The ILO would assume that no state which had ratified the International Labour Convention would invoke the covenant, even if paragraph 3 of Article 19 or paragraph 2 of Article 22 were not accepted to restrict the guarantees to which it had pledged itself when it signed the earlier convention, or to mitigate their effects.

84. Mr. CHANG (China) saw no possibility of conflict between the two conventions. The covenant was intended to be a legal instrument to reinforce the rights proclaimed in the Declaration and to be further strengthened by existing conventions or future conventions dealing more specifically with the guarantees it provided. Only a new convention on freedom of association, adopted by the General Assembly, could prejudice the ILO Convention. There was no reason to retain paragraph 3 of article 19, especially since further safeguards against conflict with other conventions could be introduced in article 22.

85. Mr. CASSIN (France) could not take such an optimistic view of the matter. Article 22 could not be depended upon to deal adequately with the problem. In fact, article 22 envisaged the possibility of limiting the Covenant to conform with a special convention. There had been no need to refer to other conventions on slavery and forced labour in article 8 because the signatories of the Geneva Convention on the subject had voluntarily consented to enlarge, rather than restrict, the scope of the guarantees provided. The ILO Convention on Freedom of Association, on the other hand, contained a text identical with paragraph 3 of article 19. It must be borne in mind that the article as a whole applied not to trade union rights specifically, but to the broader, general freedom of association.

86. Mr. ORIBE (Uruguay) strongly supported that argument. It was significant that the Declaration included the clause, "A person may not be compelled to join an association", in its provision on freedom of association, while it omitted it from the provision on trade union rights as such. The ILO had also taken account of that distinction and had quite deliberately omitted that limitation from its Convention. To be consistent, the Commission should retain in article 19 the same limiting clause as appeared in the corresponding provision of the Declaration. For those reasons, Mr. Oribe re-introduced it, on behalf of his delegation, as a new proposal, and as a formal amendment to paragraph 1, from which the French delegation had withdrawn it.

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87. Like the representative of France, he was not satisfied that there could be no conflict between the covenant and other conventions on freedom of association. Paragraph 3 as drafted might be adequate for the ILO Convention, but it failed to guard against the eventuality of such conflict within the context of the covenant. Accordingly, he submitted an amendment (E/CN.4/453) revising the wording of the opening clause to read: "Nothing in this article shall authorize national legislation either to prejudice or be applied...".

88. Mr. CHANG (China) suggested that consideration of the Uruguayan amendment to paragraph 3 should be deferred until it had been distributed in writing and moved the adjournment of the meeting. He accepted the United Kingdom representative's suggestion, however, that a vote should be taken forthwith on paragraphs 1 and 2 of article 19.

89. Mr. ORIBE (Uruguay) accepted that compromise.

90. The CHAIRMAN put to the vote the only remaining French amendment to paragraph 1, with the slight drafting change proposed for the English text: "The right of association shall be recognized".

The amendment was adopted by 8 votes to 4 with one abstention.

91. The CHAIRMAN next put to the vote the Uruguayan amendment to paragraph 1, the addition of the clause: "A person may not be compelled to join an association".

The amendment was rejected by 5 votes to 4, with 5 abstentions.

92. Mr. HOARE (United Kingdom) asked for an assurance from the Commission that it interpreted the phrase "public order" in paragraph 2 as covering the specific limitations in the final clause of the United Kingdom amendment to that paragraph.

93. Mr. NISOT (Belgium), interpreting the unanimous view of the members, assured the United Kingdom representative that the expression "public order" covered the last part of his amendment and thus rendered it superfluous.

94. On that understanding, Mr. HOARE (United Kingdom) withdrew the clause of his amendment beginning "provided that...".

95. The CHAIRMAN put the United Kingdom amendment to paragraph 2 to the vote.

The amendment was adopted unanimously.

The meeting rose at 5.30 p.m.