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COMMISSION ON HUMAN RIGHTS

Fifth Session

SUMMARY RECORD OF THE NINETY-FIRST MEETING

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CONTENTS:

Draft international covenant on human rights (E/800, E/CN.4/170, E/CN.4/170/Add.2, E/CN.4/188, E/CN.4/192, E/CN.4/193, E/CN.4/195, E/CN.4/197) (discussion continued):
Articles 5 (discussion continued), 6 and 7

Chairman: Mrs. Franklin D. ROOSEVELT United States of America
Rapporteur: Mr. Charles MALIK Lebanon

Members:

Mr. JOCKEL	Australia
Mr. Roland LEBEAU	Belgium
Mr. SAGUES	Chili
Mr. P. C. CHANG	China
Mr. Max SOERENSEN	Denmark
Mr. Rene CASSIN	France
Mrs. Hansa MEHTA	India
Mr. INGLES	Philippines
Mr. V. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. A. P. PAVLOV	Union of Soviet Socialist Republics
Miss Marguerite BOWIE	United Kingdom

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Category A:

Miss T. BENDER American Federation of Labor

Category B:

Mrs. Grace ARETA Catholic International Union
for Social Service

Mr. Frederick NOLDE }
Mr. Robert SKINNER } Commission of the Churches
on International Affairs

Mr. Moses MOSKOWITZ Consultative Council
of Jewish Organizations

Mr. Maurice PERLZWEIG World Jewish Congress

Mr. Isaac LEWIN Agudas Israel World Organization

Miss Catherine SCHAEFER International Union of
Catholic Women's Leagues

Secretariat:

Mr. HUMPHREY Representative of the Secretary-General

Mr. LAWSON Secretary of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (E/800, E/CN.4/170,
E/CN.4/170/Add.2, E/CN.4/188, E/CN.4/192, E/CN.4/193, E/CN.4/195,
E/CN.4/197) (discussion continued)

Article 5 (discussion continued):

Mr. INGLES (Philippines) thought that the United States amendment gave rise to two serious criticisms. In the first place, it protected the individual against the State only, and not against groups which might threaten the lives of individuals without the State's official participation, as had been the case under Hitler. Secondly, the individual would be protected by that amendment only if he had committed a crime; only in that case was the ^{state's} right to take a life restricted. It might be deduced that the State had the right to take life in all other cases for a great variety of reasons, for racial hatred for example. Undoubtedly that was not the intention of the author of that amendment, but it was none the less true that the right to live would be very inadequately protected by such a text.

He was interested to note from the Lebanese amendment that article 5 should refer to article 13, which laid down the conditions for the imposition of a just sentence by an impartial tribunal, the rights of the defence having been respected. What mattered was not the verdict which the State could always produce but the conditions in which the accused was tried.

/With regard to

With regard to the United Kingdom amendment, he approved of the insertion of the word "intentionally" in the first line of the article and of the suppression of the exception relating to accidental death. But he thought the list of limitations proposed by the United Kingdom was still far too long, and he agreed with the Danish representative that points (i) and (iv) of sub-paragraph (a) duplicated one another. One of the two could be deleted, preferably point (iv), the scope of which was too wide. If point (i) was to be retained, however, it should be redrafted as the defence of persons and property could not be placed on the same footing.

He favoured a much more general clause guaranteeing the right to live, except in cases of legitimate defence, aggression against another person and rebellion against the State or the authorities representing that State.

The enumeration of specific restrictions could thus be avoided.

Mr. JOCKEL (Australia) appreciated the constructive nature of the United Kingdom amendment and its authors' efforts to reduce article 5 to a reasonable length.

The French proposal to add to point (v) of sub-paragraph (a) a "watch dog" clause, permitting the use of force in the case of the violation of an important security order, was not acceptable in its existing form because of its vagueness. It could be interpreted as empowering the State to break strikes by violence under the pretext of national security.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that instead of further strengthening the individual's right to life, liberty and security of person as laid down in article 3 of the Declaration, by establishing the obligation of States to guarantee that right, the purpose of article 5 seemed to be to indicate the cases in which the States might kill lawfully. The list of possible limitations would suggest that the individual could be deprived of his life not only in execution of a regular sentence, but in the course of police action to prevent an escape or the commission of a crime, to effect an arrest, or quell a rebellion: the individual could, in such cases, be killed whether he was guilty of a crime or not, and his fate would depend on the arbitrary decision of the police officer in charge of the operation.

. The United Kingdom had made a praiseworthy effort to reduce the number of restrictions from twelve to five, but that was not enough.

. The draft Covenant should not mention the possibility of killing to protect material property: such an act could be justified only in defence of the person, and then only within clearly defined limits. Under USSR legislation the individual's right to legitimate defence could not go beyond what was necessary to repel aggression; he was not allowed to inflict upon the aggressor more harm than the latter intended to cause him by his attack. The person attacked could only kill in a case of absolute necessity, if he had no other means of defending himself from attempted murder: otherwise he might be brought to trial for killing his attacker. Those provisions could at least have been used as a basis in defining the scope of point (i).

Point (ii), concerning police action in making arrests, was likewise too vague and allowed the officer making the arrest too much latitude to kill, even though his safety was not threatened by the person whom he was arresting.

Considerable limitations should be added to points (iii) and (iv) which dealt with the prevention of escape, crime or violence.

Finally, Mr. Pavlov criticized point (v) which authorized the use of force to quell a rebellion without specifying the nature of that rebellion. There were cases in which a rebellion could be lawful, precisely when essential rights and fundamental liberties were refused to individuals, as was the case in territories in which discriminatory measures were still applied. That right to rebellion, moreover, derived implicitly from the Declaration itself. The Covenant could not, therefore, deny that right which was closely bound to the historical process of evolution that no text could halt.

The list of exceptions, which formed paragraph 2 of the United Kingdom draft, should be simply deleted and replaced by a very brief general formula.

In regard to capital punishment, he pointed out that it did not exist in his country in peace-time. His delegation had wanted it to be abolished in all countries, but the Third Committee had not agreed. It was a pity that the backward legislation of some countries should hinder the universal application of that measure which would have made possible a totally different form of words for article 5.

The CHAIRMAN recalled that the Commission would have to decide only on the draft of article 5 prepared by the Drafting Committee and on the amendments to that article. The note following the text of that article which contained a list of possible limitations would not be voted upon.

As the representative of the Philippines had expressed the fear that the United States draft of article 5 might not suffice to prevent the recurrence of the massacres committed under the Hitlerite regime, the Chairman, speaking in her capacity as representative of the United States, was of the opinion that the Convention on Genocide, once ratified, would be an effective guarantee against the recurrence of crimes of that nature.

The scope of article 5 should, of course, be as broad as possible, but the article should be sufficiently clear and precise to guarantee the right to life without the necessity of listing a series of exceptions which must needs be provisional and incomplete.

The scope of the article should therefore be clearly defined to correspond with the aims which had led to the drawing up of an international agreement on human rights. What the world now needed was protection against arbitrary action by the State. It did not follow that all the rights mentioned in the Covenant must be considered in terms of protection against the State: the prohibition of slavery or of forced labour, for example, must have a more general character. But when it came to the right to life, the defence of the individual must be directed against abuses on the part of the State. It was true that the Declaration had proclaimed that right in general terms, but the Commission must not forget that its present task was to redraft certain parts of the Declaration in the style of an international convention.

The difficulty of drawing up a list of exceptions had already become apparent in 1948: new omissions had constantly been pointed out and others could be cited even today. For example, in case of shipwreck where an excessive number of survivors threatened to sink a lifeboat, it was no crime, according to the law as applied in United States courts, to draw lots and throw the necessary number overboard.

Did that mean that all such exceptions would have to figure in the Covenant? There might surely be circumstances in which the protection of property against an illegal act of violence would justify a killing, but was it necessary on that account expressly to concede in an international instrument that it was permissible to kill in such cases? Was it necessary to admit it in the case of the escape of an individual from a place of arrest where he was being legally held, even if a child or a madman was involved?

There was no doubt that a government should protect its citizens and all those living in its territory against the illegal acts of all those living in its territory against the illegal acts of all who came under its competence, whether officials or civilians. But in this first Convention, which dealt only with certain civil rights, there could be no question of rewriting all laws which governed human relations. Were governments to be made responsible at the international level for the conduct of any person under their competence manifesting criminal tendencies? Was not the real aim rather to make such international responsibility operate against governments and their officials who deliberately ill-treated individuals whose lives they had undertaken to protect?

Since the aim was to defend the individual against the State, the Covenant could not contain a provision legalizing the right to kill for the purpose of quelling a rebellion. Had the Commission nothing better to do than to declare that it saw no objection in killings resulting from legitimate acts of war?

The listing of all those exceptions would give the impression that the limitations were being emphasized rather than the right itself. The delegation of the United States would vote against the insertion into article 5 of a list of exceptions, since it felt that such an approach to the problem would do away with any possibility of a successful outcome for the draft Covenant.

The amendment proposed by the United Kingdom could, in fact, be regarded as a codification of the provisions of various legislations on the deprivation of life. The text, therefore, should have been drafted only after a comprehensive study of the laws of different countries. The representative of China had rightly pointed to the need for such a study.

The wording of article 5, as proposed by the United States, referred only to the action of the State in the punishment of a crime. To go outside that restricted field would mean to bring into play all State activities so that it would no longer be clear what the limits to the scope of article 5 were. The article might then be interpreted as holding a State responsible for allowing persons to die of starvation on its territory. The Government of the United States, for its part, held the view that it would be impossible to list all the exceptions which would have to be taken into consideration if the much too comprehensive wording suggested by the United Kingdom were to be made acceptable.

The representative of Denmark wanted the State to have no obligation save that of combating illegal activities, and not be held responsible for the protection of the life of individual persons. In other words, a State signatory of the Covenant would simply bring its legislation into harmony with the provisions of article 5. That had certainly not been the intention of those who had spoken in support of article 5 and who held the view that individual persons should be protected and should be given guarantees other than a mere law which Hitler himself would not have hesitated to enact.

Mrs. Roosevelt admitted that the wording proposed by the United States was limited in scope in relation to the problem as a whole, which everyone hoped would be solved some day. But it was at least positive and ensured the protection of the individual against arbitrary action by the State. The delegation of the United States was prepared to give sympathetic consideration to any suggestion aimed at broadening the scope of the wording, provided that its positive character was retained and that it was not encumbered by any list of exceptions likely to neutralize the right which had to be protected.

Mr. INGLES (Philippines) pointed out that the Convention on Genocide dealt only with the destruction of human groups as such and could not therefore ensure the protection of the individual's right to life against the criminal activities of groups of persons not enjoying the status of a State.

Miss BOWIE (United Kingdom) drew the attention of the representative of the USSR to the fact that the right to kill in the cases listed in paragraph (a) of the United Kingdom's amendment was severely restricted in that it was clearly stipulated in the first line of the paragraph that the use of force must be no more than necessary. The list of limitations to the right to life had, therefore, no other purpose than to ensure the defence of individual persons and of the national community in cases specifically provided for and in conditions which were sufficiently definite.

The authors of the amendment did not feel that sub-paragraph (i) was a duplication of sub-paragraph (iv), since the former dealt more particularly with the exercise of the right of legitimate defence while the latter referred to the defence by a third party of an individual person threatened with aggression. The delegation of the United Kingdom was nevertheless prepared to yield on sub-paragraph (iv) should there be serious opposition to it. As for the protection of property, Miss Bowie felt that while the objections raised by the representatives of Lebanon and France were of some value, she would prefer to maintain the provision in sub-paragraph (i); it might simply be specified, as in the case of the French amendment, that the defence of property should be invoked as an exception only. Here again, there was no possibility of abuse in view of the fact that the use of force, in that case as in others, had to be no more than necessary.

The representative of the United Kingdom was of the opinion that the United States draft for article 5 was in no way consonant with the real aims of the Covenant as expressed in the preamble. The intention was not to draft a covenant on the relations between the State and the individual, but rather to guarantee by means of legislation and other appropriate measures, the individual rights and freedoms proclaimed in the second part of the Covenant.

Mr. CASSIN (France) remarked that the word "intentionally" which appeared in paragraph 1 of the French amendment was more in conformity with the spirit of the Declaration and the political implications of the draft Covenant than the phrase "in the punishment of crime" contained in the United States amendment. The text proposed by the United States delegation was not broad enough; the State must undertake not only not to kill but to see to it that others did not kill.

In regard to paragraph 2, he said that a distinction should be drawn between objections of principle and objections in concrete cases. The problem of choosing between a list of exceptions and a general limitation clause could hardly be solved by the Commission itself. Mr. Cassin therefore suggested that the Commission should submit two texts to Governments, drawn up according to each of the two methods mentioned. The Governments would indicate their preference at the same time that they submitted their general comments on the draft Covenant.

For the time being, the Commission might, on the one hand, improve the drafting of paragraph 2 by making it more positive; it might say, for example, "exceptions to the above rule are permitted only in the following cases", thus emphasizing the principle stated in paragraph 1 rather than contradicting it; on the other hand, it could try to reduce the list of possible exceptions to a minimum.

He thought that the Commission should decide at once on paragraph 1, about which it was sufficiently clear, and postpone the vote on paragraph 2 until the following meeting.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that his delegation would be unable to accept the United States amendment, which restricted the scope of article 5. To give but one example, the United States text would provide no recourse against lynching which, in the opinion of the President of the United States himself, still constituted the greatest internal danger to United States citizens. The State should be obliged to forbid occurrences of that kind which could not take place without its knowledge, let alone its complicity.

Replying to the United Kingdom representative, Mr. Pavlov repeated his objections to the inclusion of a list of specific limitations; such a list could not be complete and might end in absurdity.

The CHAIRMAN, speaking as the United States representative, emphasized that the Commission could not submit two texts to Governments without itself first taking a decision and informing the Governments which method had received the majority of its votes.

Mr. MALIK (Lebanon), supported by Miss BOWIE (United Kingdom), said that the Commission could not submit two texts to Governments, but had to choose between them; it had been studying the question for two years already and should not shirk its responsibilities. The Governments would always be able to make their opinion known in their comments on the draft Covenant.

Mr. PAVLOV (Union of Soviet Socialist Republics) did not think that the Commission had as yet reached a stage at which it could choose, and recommend the adoption of, one or the other method. The right decision would become clear in the light of subsequent discussions.

Mr. CHANG (China) suggested that the delegations of the United Kingdom, France and Lebanon, which had presented similar proposals for article 5, should meet informally in order to prepare and submit to the Commission a joint text containing the improvements suggested by Mr. Cassin.

Miss BOWIE (United Kingdom), supported by Mrs. MEHTA (India), urged the Commission to decide at once on the United States amendment to article 5 (E/CN.4/170).

The CHAIRMAN asked the Commission whether it wished to vote on the United States amendment at once.

The Commission decided by 5 votes to 4, with 3 abstentions, to put the United States amendment to the vote immediately.

The United States amendment was rejected by 7 votes to 2, with 3 abstentions.

The CHAIRMAN requested the representatives of the United Kingdom, France and Lebanon to meet informally before the following meeting in order to prepare a joint text for paragraph 1 of article 5.

She stated that the vote on the new text would be taken at the following meeting.

It was so decided.

Article 6

The CHAIRMAN read the text of article 6 and stated that amendments to that article had been proposed by the delegations of Denmark (E/CN.4/192), Lebanon (E/CN.4/193) and France (E/CN.4/197).

Mr. MALIK (Lebanon) said that the questions dealt with in articles 6 and 7 of the draft Covenant were so closely connected that the two articles should be merged into one. Article 7, which should be re-worded in such a manner as to repeat the provisions of article 5 of the Declaration, should become the first paragraph of that new article, while article 6 of the draft Covenant, which went into the details of the principle more generally expressed in article 7, should become the second paragraph.

The Lebanese delegation agreed that, as the United States delegation had suggested, the World Health Organization should be consulted with respect to the possible restrictions of the rights stated in article 6; it would be necessary, however, to tell the WHO on what precise points the Commission was asking its advice, and to draw to its attention the circumstances in which physical mutilations and medical or scientific experiments under the fascist and nazi regimes had taken place, circumstances which were the reason for article 6.

Mr. SOERENSEN (Denmark) explained that the Danish amendment to article 6 was motivated by the fact that the Danish Government would be unable to accept the provisions of that article without reservation in view of the existing domestic legislation in Denmark. That legislation permitted operations of the kind mentioned in the amendment to be carried out in certain circumstances without

the consent of the individual concerned. Mr. Soerensen explained that that legislation contained certain guarantees and that hitherto such operations had in fact always been carried out with the consent of the person concerned.

Mr. Soerensen fully understood that the Commission might feel itself unable to discuss the whole of the question or might find it inadvisable to include in the covenant a provision like that suggested by the Danish delegation. The case in point proved the need of following the method of drafting recommended by his delegation, which was not to list the limitations of rights in the covenant, but to permit Governments to make reservations with respect to the application of articles which were incompatible with their domestic legislation.

As regards the suggestion that the WHO should be consulted, the Danish representative agreed with the representative of Lebanon that the Commission should give guidance to the WHO. The question of guaranteeing the physical integrity of the individual was highly controversial. The ideas of physicians and politicians on that subject differed greatly; the Commission should therefore first form its own opinion on that question and then consult the WHO.

The CHAIRMAN invited Miss Schaefer, representative of the International Union of Catholic Women's Leagues, to make a statement with respect to article 6.

Miss SCHAEFER (International Union of Catholic Women's Leagues) began by re-affirming the basic principle that the human body should not be subjected to any mutilation, save when there was no other way of saving a person's life or health.

The Danish amendment was prompted by two motives: the desire to prevent crime and the fear of heredity. There was no reason to suppose that sterilization or castration, which prevented only procreation, should eliminate sexual offences. The only way to prevent the recurrence of such crimes was to jail the criminals. Moreover, sterilization and castration did not appreciably reduce the number of children mentally defective from birth. The theory that mental ailments were hereditary was by no means proved; scientists held that nearly 90 percent of mental defectives had been born of normal parents.

The system of sterilization not only did not serve the purpose for which Denmark had adopted it, but presented grave dangers. It might lead to an increase of immorality and social diseases on the one hand, and to serious abuses on the part of the State on the other. The Nazi sterilization law of 1933 was a striking example of the latter.

The International Union of Catholic Women's Leagues thought that the principle behind the Danish amendment did not differ basically from the theories on sterilization held by the Nazis, inasmuch as it permitted the State to flout certain inalienable rights of citizens.

Miss BOWIE (United Kingdom) saw no real need to consult the WHO with respect to article 6. That organization exercised its activity in a field very different from the Commission's own, and it was to be feared that it might look at the question from a viewpoint quite other than that of human rights.

The United Kingdom delegation was of the opinion that article 6 could be deleted altogether, as its substance was contained in the following words of article 7: "No one shall be subjected.... to cruel or inhuman indignity."

Mr. MALIK (Lebanon) was not opposed to the solution suggested by the United Kingdom representative, but in view of the past events which had inspired the provisions of article 6, he thought article 7 should expressly mention physical mutilation and medical or scientific experimentation.

Mr. CASSIN (France) supported the Lebanese representative's proposal to reverse the position of articles 6 and 7 of the draft covenant, but urged that they should remain two separate articles.

He was not at all sure that it was advisable to consult the WHO, which would probably have to take a scientific approach to the question.

The French delegation found the present wording of article 6 highly satisfactory. It had only one criticism to make, namely, that if the word "experimentation" were interpreted too narrowly, the cure of some patients might be prevented. Certain types of medical treatment were in fact experimental to some extent; for that reason the French delegation suggested the wording: "No one shall be subjected against his will to physical mutilation or medical or scientific experiment not required by his state of health." (E/CN.4/197).

The French delegation formally opposed the Danish amendment to article 6. It would be inadvisable to sanction a general adoption of the system practised in Denmark. In that respect the drafting method suggested by the Danish delegation presented certain advantages: when the Danish Government signed the covenant it could make reservations as regards article 6.

Mrs. MEHTA (India) also saw no need to consult the WHO, since the Commission itself was competent to establish the proper limitations of the right granted in article 6.

The Indian delegation supported the Lebanese amendment.

Mr. CEANG (China) supported the Lebanese amendment to reproduce, in article 7 of the draft Covenant, the text of article 5 of the Declaration. He thought that, generally speaking, the articles of the draft Covenant should, whenever possible, repeat the provisions of the Declaration.

The Chinese delegation did not object to listing in article 6 the limitations of the right stated in that article. In drawing up such a list, account should be taken of various existing national laws. The Secretariat might be asked to compile the necessary material.

He therefore proposed that article 6 be deleted for the time being, and that article 7 might be retained in the form of article 5 of the Declaration.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that in view of the events which had taken place in Nazi Germany he could not accept the Danish amendment to article 6 of the draft Covenant. It would be most dangerous to permit the State to decide in every particular case whether or not a person should be subjected to sterilization or castration.

The evils which it was proposed to combat by a system of sterilization were the result of abnormal economic and social conditions. If those conditions were improved the evils would gradually be remedied and would finally disappear altogether.

If Danish legislation contained provisions such as those which the Danish delegation wished to introduce into the draft Covenant, Denmark could, when signing the Covenant, formulate reservations with respect to article 6.

The USSR delegation did not think it necessary to consult the WHO in regard to article 6. What was involved was not a medical question, but the exercise of a human right. It was for the Commission itself to affirm the principle that the individual's physical integrity should be respected.

With regard to the proposal submitted by the delegation of Lebanon to combine the provisions of articles 6 and 7 into a single article, Mr. Pavlov pointed out that medical or scientific experimentation had nothing in common with torture or cruel and degrading treatment. The two ideas were entirely different. As far as he was concerned, Mr. Pavlov objected to the Lebanese proposal. He felt that the Commission could not come to any decision with respect to the proposal until it had taken up article 7.

As for the list of exceptions to the principle of respect for physical integrity, as drawn up by the Drafting Committee, Mr. Pavlov thought the Committee's choice was not a happy one. For example, compulsory vaccination was neither physical mutilation nor medical or scientific experimentation. The delegation of the USSR objected to each and every one of the exceptions.

Speaking as representative of the United States, the CHAIRMAN stated that article 6 entailed so many technical problems of a medical nature that it would be preferable to consult WHO before any decision was taken on it. It should be borne in mind that WHO was a specialized agency of the United Nations the purpose of which, as expressed in article 1 of its constitution, was the attainment by all peoples of the highest possible level of health.

Citing many instances when operations entailing physical mutilation might be considered necessary without the patient being able to give his consent, Mrs. Roosevelt stressed the necessity of consulting WHO on the exceptions to be admitted to the principle of the physical integrity of the human being.

The delegation of the United States did not object to the inversion of the order of articles 6 and 7, nor to the terms of article 7 of the draft Covenant being brought into line with the provisions of article 5 of the Declaration.

Mr. SOERENSEN (Denmark) expressed his willingness to withdraw his amendment, if it were clearly understood that the Danish Government, when the Covenant was ready for signature, could express reservations with regard to article 6.

The CHAIRMAN pointed out that the question whether contracting States could express reservations when signing the Covenant was one of principle which would have to be dealt with by the Economic and Social Council and not by the Commission itself. Since the Commission would not come to an immediate decision on the exceptions to the right expressed in article 6, she suggested that the representative of Denmark should withdraw his amendment for the time being.

Mr. SOERENSEN (Denmark) withdrew his amendment provisionally.

The CHAIRMAN put to the vote the proposal of the delegation of the United States that WHO be consulted prior to any decision being taken with respect to article 6.

The proposal was adopted by 4 votes to 3, with 4 abstentions.

The CHAIRMAN instructed the Secretariat to draft a letter to the Secretariat of WHO, to be sent together with the request for an advisory opinion. The letter was to reflect the views expressed within the Commission and was to be communicated to the members of the Commission before being sent to WHO.

Article 7

The CHAIRMAN invited the representative of the Agudas Israel World Organization to make a statement on article 7.

Mr. LEMIN (Agudas Israel World Organization) wished first to point out the fundamental difference existing between the draft article 7 and the amendment thereto proposed by the delegation of the United States (E/CN.4/170). Under the terms of the latter, the State was to assume direct responsibility for enforcement of

the right in question since, under the amendment, the obligation rested upon the State. Mr. Lewin held the view that this should be the case for all articles in the draft Covenant, as the adoption of an entirely different form for the Declaration and the Covenant would emphasize the basic difference in character which should exist between the two documents.

With respect to the specific case of article 7, however, Mr. Lewin felt that it would not be sufficient merely to declare that the State could not subject anyone to torture, since it was possible for the State, without directly participating in the crime, to allow entire groups to be subjected to torture on its territory; that had been amply proved by the example of Nazi Germany, and more particularly in the anti-Semitic incidents in 1938. Mr. Lewin therefore suggested the wording: "No State shall tolerate ...".

Mr. Lewin pointed out, in conclusion, that none of the proposed texts for article 7 was comprehensive enough to prevent the recurrence of the atrocities which the world had recently witnessed. It should be borne in mind that it was mainly on account of the Nazi activities that the need had been felt for the conclusion of a Covenant ensuring the enforcement of human rights. Those activities had taken widely different forms which did not necessarily correspond to the ideas of cruelty and torture which formed the basis of the proposed texts. With a view to filling this gap, Mr. Lewin suggested that the Commission should adopt either of the following drafts: "No one shall be subjected to torture or to cruelty or to inhuman punishment or to treatment contrary to human dignity" or "No State shall tolerate tortures or cruelties or inhuman punishments or treatment contrary to the human dignity of its inhabitants".

The meeting rose at 5.40 p.m.