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COMMISSION ON HUMAN RIGHTS
Sixth Session

SUMMARY RECORD OF THE HUNDRED AND NINETY-NINTH MEETING

Held at Lake Success, New York,
on Thursday, 18 May 1950, at 2.30 p.m.

CONTENTS: Draft international covenant on human rights (continued):

- (a) Draft resolution proposed by France (E/CN.4/501) (continued);
- (b) Draft resolution proposed by Lebanon (E/CN.4/493);
- (c) Draft resolution proposed by Denmark (E/CN.4/496);
- (d) Draft resolution proposed by the United Kingdom (E/CN.4/505).

Second reading of the draft international covenant on human rights

- (a) Texts of articles in part I of the draft covenant as adopted at the first reading (E/CN.4/L.11, E/CN.4/L.14);
- (b) Texts of articles 3 to 12 of part II of the draft covenant as adopted by the Style Committee (E/CN.4/L.10).

Chairman: Mrs. ROOSEVELT

United States of America

Rapporteur: Mr. MALIK

Lebanon

Members: Mr. WHITLAM

Australia

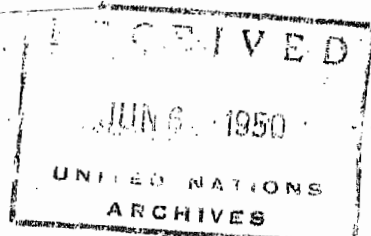
Mr. NISOT

Belgium

Mr. VALENZUELA

Chile

(28 p.)



Members: (continued)

Mr. CHANG)	China
Mr. TSAO)	
Mr. SORENSEN	Denmark
Mr. RAMADAN	Egypt
Mr. CASSIN)	France
Mr. LEROY-BEAULIEU)	
Mr. KYROU	Greece
Mrs. MENTA	India
Mr. MENDEZ	Philippines
Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. EVANS	International Labour Organisation (ILO)
Miss ORENSTEIN	World Health Organization (WHO)

Representatives of non-governmental organizations:

<u>Category A:</u> Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
Mrs. SPRAGUE	World Federation of United Nations Associations (WFUNA)
<u>Category B:</u> Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. HALPERIN	Co-ordinating Board of Jewish Organizations
Mrs. HYMER)	International Federation of Business and Professional Women
Miss TOMLINSON)	
Miss ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mr. PERLZWEIG	World Jewish Congress

Secretariat:

Mr. SCHWELB	Assistant Director of the Division of Human Rights
Mr. DAS)	Secretaries of the Commission
Miss KITCHEN)	

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (continued): DRAFT RESOLUTIONS
SUBMITTED BY FRANCE (E/CN.4/SR.501), LEBANON (E/CN.4/493), DENMARK (E/CN.4/496),
AND THE UNITED KINGDOM (E/CN.4/505)(continued)

1. The CHAIRMAN asked the members of the Commission to continue their examination of the draft resolutions transmitting the draft international covenant on human rights to the Economic and Social Council.
2. Mr. MALIK (Lebanon) considered that the Commission should submit the draft covenant to the Council in a very simple draft resolution. There was a precedent for doing so; when, after its third session, the Commission had transmitted the draft Universal Declaration of Human Rights to the Council, it had simply included the following phrase in paragraph 13 of the report of its third session: "...the Commission prepared and adopted by 12 votes for, none against, and 4 abstentions, the draft international declaration of human rights appended to this report as annex A, which it submits to the Economic and Social Council". That phrasing might serve as an example; he therefore urged the members of the Commission to vote for the first paragraph of the draft resolution he had submitted (E/CN.4/493). He would be prepared to delete the second and third paragraphs.
3. Mr. KYROU (Greece) supported the Lebanese draft resolution. He agreed that that would be the best way for the Commission to transmit the draft international covenant on human rights to the Economic and Social Council. The Council would have the report and the summary records of the Commission's meetings before it; those documents would set out the different opinions which had been expressed during the current session of the Commission. The Council could take full advantage of Article 69 of the Charter and invite members of the Commission who were not members of the Council to attend the meetings at which the draft covenant was discussed.
4. Miss BOWIE (United Kingdom) recalled that the representative of the Lebanon had stated at a previous meeting that his opinion regarding the draft covenant had been strengthened by the firm attitude adopted by the United Kingdom

/delegation.

delegation. The United Kingdom had had long experience in matters of international law and of conventions such as those sponsored by the International Labour Organisation. After the conclusion of the Second World War, there had seemed to be a reasonable prospect of a greater degree of unanimity than had in fact emerged on questions connected with human rights. The past three years had seen renewed ideological studies, and the attitude of the United Kingdom Government with regard to the draft covenant and the measures of implementation had therefore changed. Her Government feared that the system, as originally adopted, might be used by the enemies of the democratic countries. She would, however, be delighted if, at the end of another three-year period, her Government were able to revert to its former attitude, inasmuch as that would imply that the international atmosphere was once more one of peace and security.

5. She recalled the statement by the United States representative that the covenant was a means of educating the nations; she recognized the validity of that argument. In the United Kingdom, however, the value of the covenant in that respect would not be as great as the representative of the United States had declared. If the Government of the United Kingdom accepted the covenant, it would lay it before Parliament and if there had been no opposition within twenty-one days, it would be regarded as having been adopted by Parliament. However, it was advisable not only to emphasize the advantages which the covenant would have for a given country, but to stress the fact that it would constitute a useful instrument for bringing about closer co-operation between the various members of the international community.

6. Mr. JEVREMOVIC (Yugoslavia) said that the comments made on the covenant must not be regarded as aspersions on the value of the work done by the Commission. It was certainly not on those grounds that some delegations were not wholly satisfied with the draft covenant.

7. Some members of the Commission did not seem to have understood the exact purpose of the United Kingdom draft resolution. The draft was an impartial statement of indisputable facts, not a judgement on the value of the Commission's

work. In particular, it stated that on certain points the Commission had not been unanimous. It was quite obvious from the discussion that there had been a clash of opinions during the examination of certain fundamental problems.

8. Mr. CHANG (China) thought that the Lebanese proposal should be carried unanimously. In his opinion, there was no point in informing the Economic and Social Council that differences of opinion had arisen in the Commission on certain problems of major importance, because the Council would have before it the Commission's report and the summary records of its meetings. He also thought that the last paragraph of the United Kingdom draft resolution was pointless. It would be sufficient to transmit the Commission's report to the Council, which would decide for itself the steps to be taken.

9. He approved the first paragraph of the Lebanese draft resolution, and proposed that the following words would be added to that paragraph: "...and measures of implementation". He also suggested that the words "continued in annex A of this resolution" should be deleted.

10. Mr. MALIK (Lebanon) accepted the alterations suggested by the Chinese representative.

11. Mr. KYROU (Greece) pointed out, in reply to the representative of Yugoslavia, that if the United Kingdom draft resolution did in fact give an impartial account of the discussion which had taken place in the Commission, it would be better to include such an account in the report of the Commission and not in a draft resolution.

12. Mr. MENDEZ (Philippines) supported the Lebanese draft resolution, as amended by the representative of China.

/ 13. Mr. CASSIN

13. Mr. CASSIN (France) felt that the Commission should present the Economic and Social Council with work which had been as well prepared as possible, without dictating to the Council as to the measures it should take. There were higher political responsibilities than those of the Commission, and in the last resort it was for the organ which held those responsibilities to decide.

14. He added that on the moral plane the Commission should not give way to pessimism. It was doing work which had never previously been attempted. The quality of that work was not questioned; incidentally, it had been largely due to the remarkable guidance given by the Chairman during the past four years. The representative of France was ready to associate himself in that spirit with the members of the Commission who supported the Lebanese draft resolution.

15. Miss BOWIE (United Kingdom) stated that it had never been her intention to disparage the work of the Commission. She was ready, in a spirit of conciliation, to support the Lebanese draft resolution on condition that it was altered to read as follows:

"...draft text of the First Covenant on human rights and draft measures of implementation, together with the summary records of the meetings of the Commission and the report of the Commission."

Mr. MALIK (Lebanon) considered that it would be pointless to submit summary records of the Commission to the Economic and Social Council with a draft resolution; the report of the Commission would bring those records to the Council's attention.

17. Mr. WHIPLAM (Australia) supported the Lebanese draft resolution, as amended by the representative of the United Kingdom. He took the opportunity to pay tribute to the representatives of China, Denmark, France, Greece, the Lebanon and the United Kingdom for their efforts to achieve agreement. He agreed with the representative of the United Kingdom that, in one manner or another, the attention of the Council must be drawn to the fact that the draft covenant had not completely satisfied the members of the Commission, and that it would be advisable to improve it.

8. Mr. SORENSEN (Denmark) stated that in proposing his draft resolution (E/CN.4/496), he had not intended to cast any doubts upon the value of the work accomplished by the Commission. In a spirit of conciliation, he would support the Lebanese proposal. He believed, nevertheless, that it would be well to draw the attention of the Economic and Social Council to the summary records of the Commission's meetings. Many representatives had stressed the fact that the Commission on Human Rights should give the Economic and Social Council a complete account of its views. The third paragraph of the United Kingdom draft resolution contained provisions which had a certain interest in that connexion. It would, therefore, be useful if the Commission were to reach a decision on that paragraph; the attention of the Economic and Social Council had to be drawn, by one means or another, to the discussion which the Commission had had during the current meeting and the preceding one.

19. Mr. MENDEZ (Philippines) did not consider it advisable to include the third paragraph of the United Kingdom resolution in the Lebanese draft resolution. Moreover, he felt that no useful purpose would be served by a reference to the summary records; the members of the Council could refer to the summary records if they so desired.

20. Mr. KYROU (Greece) suggested that in order to meet the Danish proposal, the third paragraph of the United Kingdom resolution might be inserted, as the last sentence, in the report on the draft international covenant on human rights.

21. Mrs. MEHTA (India) supported the Lebanese draft resolution. She felt, moreover, that the Economic and Social Council should be advised of the fact that some members of the Commission were not satisfied with the results of the Commission's work. Some of the objections raised by representatives had been of a fundamental character. Obviously there was no intention of denying the value of the Commission's work, and especially the skill with which the Chairman had directed the deliberations.

22. Mr. CHANG (China) thought that the Commission should submit to the Economic and Social Council a draft resolution couched in the simplest terms; the Lebanese text would answer that purpose admirably. He also endorsed the Greek proposal for the inclusion of the third paragraph of the United Kingdom draft resolution as the last sentence of the report. Finally, in his opinion the Commission should draw the attention of the Council to the summary records of its meetings.

23. Miss BOWIE (United Kingdom) urged that a reference should be made in the Lebanese draft resolution to the summary records of the Commission's meetings. If that were done, it would be unnecessary to include in the report a detailed summary of the Commission's discussion.

24. Mr. MENDEZ (Philippines) did not share the opinion of those representatives who had declared themselves dissatisfied with the work accomplished by the Commission.

25. Mr. NISOT (Belgium) said that the draft covenant was incomplete in that it did not settle the questions of the federal clause and the colonial clause. The solution of those questions, however, would have considerable influence upon the scope of the covenant; therefore, its exact scope was still unknown. Hence, in voting for the Lebanese draft resolution, he would not be expressing complete approval of the draft covenant. He could not know what the final significance of its provisions would be until the two questions he had mentioned had been settled. Moreover, in the view of the Belgian delegation, certain provisions of the draft covenant were framed in an unsatisfactory manner, or did not take sufficient account of the actual problems confronting the States. In that spirit, he would vote in favour of the Lebanese draft resolution.

26. Mr. SORENSEN (Denmark) asked the United Kingdom representative whether it was her intention that the Commission should draw the attention of the Council to the summary records of all the Commission's meetings, or only to those setting forth the current discussion. In the latter event, the United Kingdom amendment to the Lebanese draft resolution might be changed to read: "...together with the summary records of the Commission's proceedings of the 198th and 199th meetings".

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27. Miss BOWIE (United Kingdom) accepted the alteration proposed by the representative of Denmark.

28. Mr. RAMADAN (Egypt), referring to the proposed measures of implementation, said that in the opinion of his delegation the committee on human rights, as envisaged, was merely a rough outline of a body which should have been given the necessary competence to settle disputes arising from violations of human rights. If it had been easily accessible and such as to inspire general confidence, and if its powers had been defined differently, that committee would have been able to exert a profound influence on the progress of legislation and the formation of a jurisprudence in a field not yet sufficiently explored. Given continuity and regularity in its functioning, the committee would have been able to establish traditions which would have helped to develop a sense of justice; its decisions would have constituted an expression of the world's conscience.

29. He read an excerpt from an article which stated that the Declaration of Human Rights was the final fulfilment of the humanism of the eighteenth century. That fulfilment demonstrated the character of the movement itself, consisting of an affirmation of abstract rights without reference to concrete responsibilities. It proclaimed freedoms regardless of the actual conditions under which those rights would be enforced by the persons on whose behalf they were promulgated.

30. He supported the Lebanese draft resolution, and paid a tribute to the Chairman's remarkable skill in directing the deliberations of the Commission.

The Lebanese draft resolution (E/CN.4/493) as amended, was adopted unanimously.

31. Mr. MALIK (Lebanon) thanked the representative of the United Kingdom for elucidating her Government's attitude with regard to the draft covenant. She had made it clear to the members of the Commission that the United Kingdom had altered its attitude because of the ideological conflicts which had arisen in the world in the last three years and the change in the psychological "climate"; there was therefore no fundamental alteration. Mr. Malik's own attitude was identical with that taken three

/years

years previously by the United Kingdom; he was pursuing the very ends at which that country had formerly aimed. Hence if, in another three years, the United Kingdom were to revert to its original position, it would stand shoulder to shoulder with the Lebanon.

32. He believed that in the ideological conflict currently dividing the world, nothing could help the United States, the United Kingdom and France more than to continue to take the lead in the field of human rights, as they had done during the past few years. In so doing, those three countries would be abiding by their most cherished traditions and at the same time benefiting themselves.

33. He was unable to express entire satisfaction with the draft covenant as drawn up by the Commission. In particular, the measures of implementation contained no provision which would enable interested non-governmental organizations to submit petitions on the same footing as States.

34. Mr. ORIBE (Uruguay) said that the position of his delegation with regard to the draft covenant was set out in document E/CN.4/469. He asked the Chairman whether, in order to save time, it might not be advisable for the members of the Commission to submit their comments on the draft covenant and the measures of implementation to the Rapporteur in writing; the latter could then insert them in the report which, moreover, ought not to contain any comment on changes in the attitude of the various countries with regard to the draft covenant.

35. The CHAIRMAN and Mr. MALIK (Lebanon), Rapporteur, approved the suggestion of the representative of Uruguay. The Chairman added that the members of the Commission should make their written comments as brief as possible.

36. She reminded the Commission that items 10, 11, 12, 13 and 14 of the agenda still remained to be examined. She proposed that the Commission should postpone the examination of item 10 of the agenda and take note of resolutions 154#D (VII) and 242#H (IX) of the Economic and Social Council, regarding freedom to choose a spouse.

37. Mr. CASSIN (France) thought that the Commission should not confine itself to taking note of the resolutions but should also include them in the material which it would examine during the discussion on the rights of the family.

38. The CHAIRMAN proposed that the examination of item 10 should be postponed and taken up again at the next session of the Commission.

It was so decided.

39. The CHAIRMAN proposed that the examination of item 12 of the agenda regarding local human rights committees should be postponed and taken up again at the next session of the Commission.

It was so decided.

40. The CHAIRMAN proposed that the examination of item 13 of the agenda regarding the right of asylum should be postponed and taken up again at the next session of the Commission.

It was so decided.

41. The CHAIRMAN proposed that the examination of item 14 of the agenda regarding old age rights should be postponed and taken up again at the next session of the Commission.

42. Mr. VALENZUELA (Chile) and Mr. ORIBE (Uruguay) urged that the Commission should consider that important question as early as possible.

It was decided to postpone the examination of item 14 of the agenda until the next session of the Commission.

SECOND READING OF THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (E/CN.4/11, E/CN.4/14, E/CN.4/L.10, E/CN.4/L.1, E/CN.4/L.3, E/CN.4/L.5, E/CN.4/L.6, E/CN.4/L.7, E/CN.4/L.8, E/CN.4/L.2/Rev.1, E/CN.4/L.4/Rev.1, E/CN.4/L.13, E/CN.4/L.15)

43. The CHAIRMAN invited Mr. Malik, Rapporteur of the Commission, to read the articles of the draft covenant. She observed that in view of the limited time at the Commission's disposal, representatives would not be able to propose alterations in the substance of the articles. All that was to be done was to see that the text of the articles of the draft covenant conformed to the decisions taken by the Commission.

44. Mr. TSAO (China) asked whether the Style Committee of the Commission on Human Rights had already submitted a revised text of the articles.

45. The CHAIRMAN said that the Style Committee had made certain alterations in the wording of the English and French texts of the articles which had been adopted by the Commission on the first reading.

46. Mr. SCHWELB (Secretariat) explained that the Style Committee had drawn up a revised text of the articles of the draft covenant, but that owing to lack of time the members of the Committee had not been able to approve the document, which had therefore not been distributed to the members of the Commission. He added that the Style Committee had been able to examine only the second part of the draft covenant.

Preamble

47. Mr. MALIK (Lebanon), Rapporteur, read the text of the preamble as adopted by the Commission on first reading (E/CN.4/L.11).

48. Mr. WHITLAM (Australia) proposed that the word "defined" in the third clause of the preamble should be replaced by the word "recognized", which was the adjective used in the other articles of the draft covenant.

It was so decided.

Article 1 (formerly article 2)

49. Mr. MALIK (Lebanon), Rapporteur, read the former article 2, which had become article 1 (E/CN.4/L.14).

50. Mr. CASSIN (France) proposed that the words "dans leurs territoires" in the second line of paragraph 1 should be replaced by the words "sur leur territoire". The correction was purely formal and affected the French text only.

The correction was adopted.

51. Mr. WHITLAM

51. Mr. WHITLAM (Australia) inquired whether the Commission should simply take note of the articles read, or whether delegations could submit observations.

52. The CHAIRMAN replied that, owing to lack of time, the Commission could not consider observations on the substance of the articles. Representatives desiring to propose amendments could, however, submit their observations in writing. The Commission would nevertheless consider any proposed changes which would not entail prolonged discussion.

53. Mr. WHITLAM (Australia) explained that his proposal called for the addition of the words "in time of war or other public emergency". He realized that the discussion of that question might consume considerable time.

54. The CHAIRMAN said that representatives wishing to submit amendments or to formulate reservations concerning the substance of any article should submit their observations in writing. The Secretariat would include such observations in the Commission's report to the Economic and Social Council.

55. Mr. TSAO (China) observed that the Style Committee had not considered articles 1, 2, 3 and 4, having drawn up a revised text for part II of the draft covenant only. He regretted that the Commission should have discussed two articles which had not been considered by the Style Committee. He thought that the Commission should limit its second reading to part II of the draft covenant, the text of which had been revised by the Style Committee.

56. The CHAIRMAN thought that the Commission could itself rapidly consider the text of the articles comprising part I of the draft covenant.

57. Mr. KYROU (Greece) supported the Chairman's proposal. He feared that lack of time would make it impossible for the Style Committee to meet again.

/58. Mr. MALIK

58. Mr. MALIK (Lebanon), Rapporteur, re-read article 1 (E/CN.4/L.14).

59. Mr. WHITLAM (Australia) recalled that the Commission had just decided to substitute the word "recognized" for the word "defined" in the third paragraph of the preamble. He wondered whether the Commission ought not to decide forthwith to make the same change in all the articles containing the expression "rights defined" in order to use a uniform terminology throughout the draft covenant. Similarly, it would be advisable to use uniform wording in connexion with the restrictions and exceptions proclaimed in some articles.

60. The CHAIRMAN also thought that the Commission could decide at once to replace the words "the rights defined" by the words "the rights recognized" throughout the draft covenant. With reference to restrictions and exceptions, she thought that it would be better if the Commission would take separate decisions on each of the articles to be considered in second reading.

61. Mr. MALIK (Lebanon), Rapporteur, stated that the Secretariat would like to receive the written observations of the various delegations not later than Wednesday, 24 May, which would just enable it to forward the Commission's report to the Economic and Social Council six weeks before the Council's next session. He proposed that the Commission should decide that written observations should be handed in before the above-mentioned date.

It was so decided.

Article 2 (formerly article 4)

2. Mr. MALIK (Lebanon), Rapporteur, read former article 4, which had become article 2 (E/CN.4/L.14).

63. The CHAIRMAN observed that the word "otherwise" in paragraph 2 seemed superfluous.

64. Mr. CASSIN (France) said that the wording of the French text of the article was unsatisfactory. He could not give all the errors at that stage of the debate, but he suggested that the Chairman should permit Mr. Leroy-Beaulieu to review the French text of article 2.

65. The CHAIRMAN accepted that suggestion.

66. Mr. KYROU (Greece) recalled that during the discussion of article 4, it was the Belgian delegation which had suggested the insertion of the word "otherwise" in the second sentence of paragraph 2. He therefore asked Mr. Nisot if he wished to retain that word.

67. Mr. NISOT (Belgium) thought that the term "otherwise" seemed essential if the Commission wished to avoid an inconsistency in paragraph 2.

It was decided to retain the word "otherwise" in paragraph 2.

68. Mr. ORIBE (Uruguay) recalled that a non-discrimination clause had been included in paragraph 1 of article 1 (formerly article 2). Article 2 (formerly article 4) provided that "in the case of a state of emergency officially proclaimed by the authorities or in the case of public disaster, a State may take measures derogating, to the extent strictly limited by the exigencies of the situation, from its obligations under Part II of this Covenant." Furthermore, at a previous meeting, the Commission had decided not to add article 20, which also contained the non-discrimination clause, to the list of articles from which no derogation was permissible in any circumstances. The provisions of article 2, paragraph 2 authorized States to take measures derogating from article 20, whereas the provisions of article 2, paragraph 1 did not permit any derogation from article 1. He asked the Commission to study that question, which he considered extremely important.

69. The CHAIRMAN thought that the difficulty could be eliminated if the words "Part II of" were deleted from article 2, paragraph 1. A State could then take measures derogating from its obligations under the covenant as a whole, to the extent strictly limited by the exigencies of the situation.

/70. Mr. MENDEZ

70. Mr. MENDEZ (Philippines) proposed to substitute the word "shall" for the word "can" in the first sentence of paragraph 2 of the English text.

71. Mr. MALIK (Lebanon) recalled that during its previous discussions, the Commission had decided to use the word "may" in negative sentences. It had been pointed out that in a negative clause, the word "may" was more imperative than the word "shall".

72. The CHAIRMAN shared the views of the Lebanese representative.

73. Miss BOWIE (United Kingdom) pointed out that if the words "Part II of" were deleted from paragraph 1 of article 2 (formerly article 4), States would be permitted to derogate from the articles relating to measures of implementation which were also to be included in the covenant. She was therefore unable to accept the Chairman's proposal. She would not, however, press the Commission to consider that question at the current stage of the debate. Perhaps the Chairman could postpone the discussion until later.

74. The CHAIRMAN understood that the United Kingdom delegation would like to insert a provision in article 2, paragraph 1 permitting States to derogate from article 1, paragraph 1. She agreed that consideration of that question should be postponed until a later date.

75. Mr. ORIBE (Uruguay) felt that the question was a very important one and urged that a decision should be taken.

76. Mr. WHITLAM (Australia) wondered whether it was necessary to divide the covenant into several parts. He pointed out that a State might be obliged to derogate from one or other of the articles in case of war.

77. Mr. KYROU (Greece) associated himself with the statement made by the representative of Australia.

/78. Mr. SCHWELB

78. Mr. SCHWELB (Secretariat) pointed out that the Style Committee had not yet finished considering the whole draft covenant. Nevertheless, he recalled that the Committee had recommended that the covenant should be divided into four parts. The first part would consist of articles 1 to 4, the second of articles 5 to 22, the third of the articles on implementation and the fourth of the final provisions only.

79. Mr. SORENSEN (Denmark) was grateful to the representative of Uruguay for having raised an important question. He, too, thought that the words "and under article 1, paragraph 1" could be inserted after the words "under Part II", in paragraph 1 of article 2.

80. The CHAIRMAN put to the vote the proposal for the insertion of the words "and under article 1, paragraph 1" after the words "under Part II" in paragraph 1 of article 2.

The proposal was adopted by 11 votes to none, with 2 abstentions.

81. The CHAIRMAN asked the representative of the Philippines if he would agree to the proposal made by the representative of Lebanon that the word "can" should be replaced by the word "may" in paragraph 2 of article 2.

82. Mr. MENDEZ (Philippines) accepted that proposal.

The Committee decided to make that change in paragraph 2 of article 2.

83. Mr. LEROY-BEAULIEU (France) proposed that, in the French text of paragraph 3 of article 2, the words "ils auront mis" should be replaced by the words "ils ont mis".

It was so decided.

84. Mr. MALIK (Lebanon), Rapporteur, read article 3 (formerly article 5) (conference room paper).

85. Miss BOWIE (United Kingdom) pointed out that, in article 3, paragraph 2 the French expression "légitime défense" ^{had} been translated into English by the words

"self-defence"

"self-defence". She noted that in French, the suppression of riots for example, could be considered as a case of "légitime défense", whereas the English expression "self-defence" would not apply to cases of that sort. She wondered whether it would not be possible to find a satisfactory translation of the expression "légitime défense".

85. Mr. CASSIN (France) explained that he had taken the expression "légitime défense" from the United Nations Charter. He agreed, however, that the United Kingdom representative's remarks were fully justified. In French the expression covered both the justifiable defence of others and of society, whereas the English expression "self-defence" was far narrower in meaning.

87. He also pointed out that the English text of paragraph 1 of article 3 did not concord exactly with the French text. He therefore proposed that the texts should be brought more into line by altering the English version to read: "Everyone has the right to life. This right shall be protected by law".

88. Finally, he noted that paragraph 2 of article 3 provided that, subject to certain stated exceptions, it should be a crime to take life. As drafted, the provision covered both the taking of another's life and the taking of one's own life. In the legal systems of several States, however, suicide was not a crime. It might therefore be advisable for the Commission to take into account the legislations of the other contracting States and to add the words "of another" after the word "life" in paragraph 2.

89. Miss BOWIE (United Kingdom) agreed that it was very difficult to find an English translation of the French expression "légitime défense".

90. Furthermore, she pointed out that the English text of paragraph 2 contained the expression "to take life" while the French text read "porter atteinte à la vie", the English equivalent of which would be "to prejudice life". The Commission should perhaps make those texts correspond more closely.

91. Mr. NISOT (Belgium) explained that the expression "légitime défense" was more comprehensive than "self-defence" and could apply to cases where it proved necessary in time of war to fire on rioters if the riot had been organized by a fifth column.

92. He also suggested that the words "nul ne peut sans crime porter atteinte à la vie" should be replaced by the words "il ne peut, sans crime, être porté atteinte à la vie". The latter text could more easily be interpreted as applying to authorities as well as to individuals.

93. Mr. CASSIN (France) accepted the amendment.

94. Mr. ORIBE (Uruguay) criticized the existing form of words for paragraph 2. That paragraph should be confined to limiting ^{the} /right of Governments to take life.

95. Mr. RAMADAN (Egypt) suggested that the word "demandeur" in paragraph 4 of the French text should be replaced by "solicitor".

It was so decided.

96. The CHAIRMAN said that members' observations would be recorded in the report.

Article 4 (formerly article 6).

97. Mr. MALIK (Lebanon), Rapporteur, read article 4 (formerly article 6) and pointed out that that article had not been put to the vote as a whole; part 2 of the article, which had originally been a separate article, had been incorporated into article 4 by the Style Committee.

That incorporation was adopted.

Article 5 (formerly article 8).

98. Miss BOWIE (United Kingdom) drew the Commission's attention to two very useful amendments, suggested by the Secretariat on pages 8 and 9 of document E/CN.4/L.10, to paragraphs 3 (c) (i) and 3 (c) (ii). The first of those amendments was to substitute for the words "required to be done in the course of detention in consequence of a lawful order of a court" the words "Any work or service, other than work performed in pursuance of sentence of hard labour, required to be done in the course of detention in consequence of a lawful order of a court". The second amendment was to replace the words "in countries where they are recognized" by the words "in countries where the objection to the performance of military service on grounds of conscience is recognized".

99. Mr. MALIK (Lebanon) could not altogether agree with the Secretariat's second amendment, as the purpose of paragraph 3 (c)(ii) was not so much to recognize the principle of objection on grounds of conscience, as to recognize classes of persons as conscientious objectors. A country could admit the concept of objection on grounds of conscience without recognizing any specific person as being a conscientious objector.

100. Miss BOWIE (United Kingdom) said that she would be satisfied if those observations were listed in the report.

101. Mr. CASSIN (France) wished the words "the slave trade" in paragraph 1 of that article to be replaced by the words "the trade in human beings" so that the paragraph could cover traffic in women, who were not slaves in law.

102. Mr. HOARE (United Kingdom) pointed out that the first paragraph dealt solely with the slave trade as such.

103. Mr. CASSIN (France) withdrew his suggestion.

104. Mr. EVANS (International Labour Organisation) pointed out that certain parts of that article were based on article 2, paragraph 2(d) of the 1930 Convention on Forced Labour. In the circumstances it might, therefore, be wise to bring that article into line with the article of the Convention, so as to make it easier for States wishing to ratify both those instruments. In order to correspond to the Convention, the beginning of paragraph 3 (c) should be worded as follows: "For the purposes of this paragraph the term of forced or compulsory labour shall not ~~include~~ include...". Instead of the words "a tout service" the Convention used the formula "tout travail ou service".

105. Finally, the article in the Convention corresponding to paragraph 3 (c) (iii) was worded as follows: "Any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity".

106. Mr. LEROY-BEAULIEU (France) said that his delegation accepted in part the last suggestion of the representative of the International Labour Organisation regarding paragraph 3 (c) (iii). He proposed the adoption of the following wording: "Any service exacted in cases of emergency or of a calamity threatening the life or the well-being of the community".

It was so decided.

Article 6 (formerly article 9)

107. Mr. MALEK (Lebanon), Rapporteur, read article 6 (formerly article 9), and drew the Commission's attention to the Style Committee's amendments thereto.

108. Mr. MENDEZ (Philippines) suggested that the article would read better as follows: "Anyone arrested shall be informed of the reasons for his arrest and, charges against him."

109. Mr. HOARE (United Kingdom) reminded the Commission that that paragraph had been drafted after long deliberation. The words "shall be promptly informed" had been introduced in order to make it clear that notice of the charge was not necessarily given at the time of arrest or by the person making the arrest.

110. The CHAIRMAN agreed with that interpretation.

111. Mr. HOARE (United Kingdom) drew the members' attention to the amendments to article 4 suggested by the Secretariat in paragraph 27 of document E/CN.4/L.10.

112. Mr. CASSIN (France) said that the difficulty could be overcome by replacing the word "magistrat" by the words "autorité publique".

It was so decided.

Article 7 (formerly article 10).

113. Mr. MALIK (Lebanon), Rapporteur, read out article 7 (formerly article 10).

114. Mr. WHITLAM (Australia) announced that he would make some observations regarding that article for insertion in the report.

115. The CHAIRMAN took note of that announcement.

Article 8 (formerly article 11).

116. Mr. MALIK (Lebanon), Rapporteur, read out article 8 (formerly article 11).

117. Mr. NISOT (Belgium) and Mr. CASSIN (France) suggested that the word "mesures" should be replaced by the word "disposition" in the French text.

It was so decided.

118. Mr. HOARE (United Kingdom) said that the logic of the first paragraph of that article was questionable, since the rights mentioned in that article were, in fact, part of the rights recognized in the covenant.

119. Similarly, paragraph 2 (b), which allowed for the possibility of

/non-arbitrary

non-arbitrary exile, was in contradiction to paragraph 2 (a), which laid down that everyone should be free to enter the country of which he was a national.

120. Mr. MALIK (Lebanon), Rapporteur, suggested the following amendments: that paragraph 2(b) should become paragraph 2 (a) and paragraph 2(a) should become paragraph 2(b). Paragraph 2(b) should, for the sake of logic, begin with the words "Subject to the provisions of the preceding sub-paragraph, everyone shall be free to enter the country of which he is a national".

121. Mr. CASSIN (France) supported that proposal.

The proposal was adopted.

122. Mr. MENDEZ (Philippines) pointed out that the covenant did not contain a single article on the right to political asylum. It merely stated in article 8, paragraph 2 (a) that "no one shall be subjected to arbitrary exile", without stating where a person could be exiled if such exile was not arbitrary. That was a grave oversight in a system which was meant to protect human rights.

123. The CHAIRMAN reminded the Commission that it had decided that the right of political asylum should be studied at a later date. Nevertheless, the comments of the representative of the Philippines would be included in the report.

124. Mr. SORENSEN (Denmark) referred to the objections which the United Kingdom representative had raised with regard to paragraph 1, and thought that it would be sufficient to add the words "the other articles in this covenant" after the words "the rights recognized in".

125. The CHAIRMAN proposed that the first paragraph should be left as it stood.

It was so decided.

Article 9 (formerly article 12).

126. Mr. MALIK (Lebanon), Rapporteur, read article 9 (formerly article 12).
There were no comments on that article.

Article 10

127. Mr. MALIK (Lebanon) Rapporteur, read out the new article 10 of the draft covenant, and indicated the changes made in that article by the Style

Committee. He drew the Commission's attention to paragraph 2, sub-paragraphs (e) and (f) of that article, and pointed out that they were differently phrased from the preceding sub-paragraphs, both in the English and French texts. In the French text, sub-paragraph (e) should begin with the words: "ne pas être forcé de témoigner..." and in the English text with the words: "to be free not to testify...". Sub-paragraph (f) dealt with the case of minors and should form a separate paragraph. Furthermore, Mr. Malik could not see the necessity for the circumlocution used in the French text to describe that category of delinquents.

128. Mr. MENDEZ (Philippines) proposed the following text for sub-paragraph (e): "to refuse to testify against himself...".

129. Mr. CASSIN (France) proposed that the words "informé de ce droit" in paragraph 2, sub-paragraph (b) of the French text should be replaced by the words "est informé du droit d'en avoir un" which would make it correspond more closely to the English text. The Lebanese representative's comments on the phrasing of paragraph 2, sub-paragraphs (e) and (f) were justified, but the Style Committee had not been able to find a better formula. Of course, sub-paragraphs (e) and (f) might simply be deleted, but they provided a guarantee which could not be sacrificed in the interests of stylistic elegance. The circumlocutory translation of the English word "juveniles" was necessary since in French law minors of 18 years of age were regarded as having attained their majority for the purposes of penal law.

130. Mr. KYROU (Greece) thought that the difficulty which had been mentioned with regard to sub-paragraph (e) could easily be overcome by adopting the Lebanese representative's proposal. It would be preferable to make a separate paragraph of sub-paragraph (f), to be inserted immediately before paragraph 3.

131. Mr. SØRENSEN (Denmark) thought sub-paragraphs (e) and (f) could not be left as they stood, as that would obviously constitute an error of style. One way of solving the difficulty might be to make sub-paragraphs (e) and (f) separate paragraphs and to begin the former with the words: "Everyone shall have the right to refuse to testify".

132. Mr. CASSIN (France) would agree that sub-paragraph (f) concerning minors before the law should become paragraph 3, while paragraph 3 would become paragraph 4. He would accept the Danish proposal concerning sub-paragraph (e).

133. Mr. HOARE (United Kingdom) saw no objection to making sub-paragraph (f) a separate paragraph. As regards sub-paragraph (e), he did not consider that the amendment proposed by the Danish representative improved the text, the substance of which must be retained, although it might equally well form the subject of a separate paragraph.

134. The CHAIRMAN, speaking as the representative of the United States of America, did not think either sub-paragraph (e) or sub-paragraph (f) should form separate paragraphs. All the sub-paragraphs of paragraph 2 provided minimum guarantees of the same type.

135. Mr. MENDEZ (Philippines) approved of the proposed Danish amendment to sub-paragraph (e).

136. The CHAIRMAN, speaking as the representative of the United States of America, said that a solution might be found by amending the text of the second sentence of the paragraph to read as follows: "In the determination of any criminal charge, an accused person shall enjoy the following minimum guarantees...".

137. Mr. WHITLAM (Australia) pointed out that, if sub-paragraph (e) was detached from paragraph 2, its provisions would no longer be applicable to criminal charges. To take such a step would, in his opinion, be going too far.

138. Mr. MENDEZ (Philippines) thought that, if sub-paragraph (e) was drafted on the lines proposed by the Danish representative, its subject would be identical with that of the first sentence of paragraph 2.

139. The CHAIRMAN considered that, having regard to the difficulties involved in amending the sub-paragraphs, it would be better to retain them in their existing form, leaving delegations free to put forward their suggestions in the Commission's report.

140. Mr. CASSIN (France) proposed a solution which he thought should satisfy all the parties concerned, namely that each of the guarantees listed in sub-paragraphs (a), (b), (c), (d) and (e) should be preceded in the French text by

the word "à"; the text of sub-paragraph (e) would read as follows: "à ne pouvoir être forcé", while sub-paragraph (f) would become a separate paragraph.

141. The CHAIRMAN pointed out that the English text would not be affected by the amendment proposed.

142. Mr. ORIBE (Uruguay) pointed out that the French text referred to "mineurs" in paragraph 1 of article 10, whereas in sub-paragraph (f) of paragraph 2 of the same article it referred to "jeunes gens qui ne sont pas encore majeurs au regard de la loi pénale". He inquired whether there was any essential difference between the two definitions.

143. Mr. CASSIN (France) replied that there was none. Paragraph 1, however, dealt with civil law, in which connexion the word "mineur" could be used without qualification, whereas the end of the article dealt with delinquents, to whom it was undesirable to refer in direct terms.

Article 10 was adopted, as amended.

Article 11

144. Mr. MALIK (Lebanon), Rapporteur, read out the new article 11, drawing attention to the amendments made by the Style Committee.

145. Mr. HAMADAN (Egypt) pointed out that the phrase "ne fait obstacle" in the second line of paragraph 2 of the French text was incorrect and should be replaced by the words "ne s'oppose".

146. Mr. CASSIN (France) accepted that amendment.

147. Mr. MENDEZ (Philippines) pointed out that the word "nor" at the beginning of the second sentence of paragraph 1 of the English text was unsuitable and should be replaced by the word "neither".

148. The CHAIRMAN said that the word "nor" had been used in the Universal Declaration of Human Rights. There was therefore no reason why it should not be used in the covenant.

149. Mr. ORIBE (Uruguay) stated that his Government had made formal reservations concerning paragraph 2 of article 11, and asked that a vote should be taken on the deletion of the paragraph.

150. Mr. VALENZUELA (Chile) said the paragraph completely misrepresented the penal system currently in force in some countries and should therefore be deleted.

151. Mr. HOARE (United Kingdom) noted that the last sentence of paragraph 1 had been modified by the Style Committee. The current text meant that an offender could benefit from a provision for a lighter penalty even after the judgment had been pronounced, which was not what the Commission had intended.

152. Mr. MALIK (Lebanon), Rapporteur, thought that the United Kingdom representative's remark was well founded. It might be taken into account by amending the second sentence as follows: "If, subsequent to the commission of the offence and before the judgment is carried out...".

153. Mr. CASSIN (France) also considered that the United Kingdom representative's remark was justified, but thought that instead of making the change suggested by the Lebanese representative, the words "in the judgment" might be added after the words "benefit thereby".

154. In reply to the Chilean representative's remark, Mr. Cassin pointed out that paragraph 2 should not be regarded as altering all national procedures. There was nothing in article 11 which obliged a country to change its procedure. In any case, he was not prepared to agree to the deletion of paragraph 2 of that article.

155. Mr. ORIBE (Uruguay) said that the Commission was legislating for the future and not for the past. Moreover, it was the United Kingdom representative who in the course of the debate had proposed the addition of paragraph 2. It seemed that the reference to national or international law in paragraph 1 was sufficient.

156. Mr. RAMADAN (Egypt) proposed that the last sentence of paragraph 1 should be drafted as follows: "If, subsequent to the commission of the offence and before the judgment had been pronounced".

157. Mr. NISOT (Belgium) agreed with the representative of Uruguay that paragraph 2 was unsatisfactory, but he would not press for its deletion.
158. Mr. HOARE (United Kingdom) was opposed to the deletion of paragraph 2. If certain representatives wished to make reservations regarding that paragraph, they could do so in the report.
159. The CHAIRMAN, speaking as the representative of the United States of America, saw no objection to amending the second sentence of paragraph 1, as proposed by the representative of Egypt.
160. Mr. VALENZUELA (Chile) asked that a vote should be taken on the deletion of paragraph 2.
161. The CHAIRMAN did not think that the Commission should take such action. It could, however, record in its report the objection raised to paragraph 2.
162. Mr. HOARE (United Kingdom) shared the Chairman's view.
163. Mr. ORIBE (Uruguay) recalled that the Chairman had stated that it would be possible to re-open certain questions at the second reading. It was entirely in order for reservations to be made at the first reading.
164. Mr. MALIK (Lebanon), Rapporteur, speaking on a point of order, said it had been understood that there would be no discussion of the substance of the articles at the second reading. He had made reservations on some points but had refrained from asking for a vote on them. If the Chilean representative insisted, he would expose the Commission to other requests of the same type and would thus cause it considerable embarrassment.
165. Mr. VALENZUELA (Chile) and Mr. ORIBE (Uruguay) said that, in those circumstances, they would not press the matter, but would make formal reservations in the report.

166. Mr. MENDEZ (Philippines) said that he could not accept the proposal of the Egyptian representative that the words "and before judgment was pronounced" should be added to paragraph 1, and would therefore reserve his position on that question.

167. Mr. RAMADAN (Egypt) pointed out that he had submitted the original amendment to article 11. The amendment he was now proposing to his own text was not one of substance.

168. Mr. MENDEZ (Philippines) could not agree with that interpretation.

169. The CHAIRMAN said that, in the circumstances, the proposed amendment could not be accepted and should be submitted as a proposal for inclusion in the report.

170. Mr. KYROU (Greece) said that it was for the Chairman to decide whether or not it was an amendment of substance. If she decided it was not, the Commission could amend the text at the second reading.

171. The CHAIRMAN, after having consulted the representative of the Secretariat, said that the amendment was one of substance and could not therefore be voted on by the Commission.

Article 11, with the drafting amendments thereto, was adopted.

172. Mr. MALIK (Lebanon), Rapporteur, read out article 12, which had not been altered by the Style Committee.

173. The CHAIRMAN said that the French draft resolution would be dealt with as the first item on the agenda of the following meeting of the Commission.

The meeting rose at 7.25 p.m.