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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THREE HUNDRED AND EIGHTYTH MEETING

Held at Headquarters, New York,
on Tuesday, 3 June 1952, at 2.45 p.m.

CONTENTS:

Draft international covenants on human rights and measures of implementation (E/1952; E/CN.4/L.29, E/CN.4/SB/ADD.1; E/CN.4/L.105, E/CN.4/L.107, E/CN.4/L.104, E/CN.4/L.106, E/CN.4/L.108, E/CN.4/L.109) (continued): article 14

<u>Chairman:</u>	Mr. MALIN	(Latvia)
<u>Secretaries:</u>	Mr. WHITMAN	Australia
<u>Members:</u>	Mr. KROG	Denmark
	Mr. VALLESPINA	Chile
	Mr. GINSBURG	China
	Mr. AMI	Egypt
	Mr. GASTON	France
	Mr. KIFOU	Guinea
	Mr. MALIN	India

Members (continued):

Mr. AZMUL	Lebanon
Mr. WAJED	Pakistan
Mr. BCRATYNSKI	Poland
Mrs. ROSSIL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MORCZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRICCO	Uruguay
Mr. JEVJEVIC	Yugoslavia

Also present:

Miss MNAS	Commission on the Status of Women
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Representatives of non-governmental organizations:Category B

and

Reporter:

Mr. HALPFIN	Consultative Council of Jewish Organizations
Mrs. CARPER	International Council of Women
Mrs. SOULAN	International Federation of Business and Professional Women
Mr. BEFR	International League for the Rights of Man
Miss SCHEFFER	International Union of Catholic Women's Leagues
Miss PHILLIPS	Linson Committee of Women's International Organizations
Mr. FEIKE	World's Alliance of Young Men's Christian Associations
Mr. RONALDS) Mrs. POLSTEIN)	World Union for Progressive Judaism

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. DAS) Miss KETCHEN)	Secretariat of the Commission

/DRAFT

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(E/1992; E/CN.4/528, E/CN.4/528/Add.2; E/CN.4/L.166, E/CN.4/L.125,
E/CN.4/L.144, E/CN.4/L.156, E/CN.4/L.192, E/CN.4/L.193) (continued)

Article 14

AZMI Day (Egypt) said that the Egyptian amendment (E/1992, annex III, section A, page 32) added to the limitations now contained in the covenant to prevent abuse of freedom of the press, limitations necessary for the maintenance of peace and friendly relations between the States, which was one of the objectives set out in the Charter. The accusation that Egypt would thereby encourage censorship was unfounded, as his country had always advocated freedom of the press; its sole purpose was to prevent any abuse of that freedom.

Mr. JEVREMOVIC (Yugoslavia) emphasized that freedom of information and the press, important though it was, did not constitute an absolute or unlimited right. Society and the State could and must impose certain limitations on that right in order to prevent abuses. The difficulty was to draft a text which, while guaranteeing freedom of the press, would provide for reasonable limitations and be in conformity with the provisions of sections B and C of General Assembly resolution 421 (V). The current text of article 14 was not quite adequate for that purpose since its vagueness might be misused by governments to justify all kinds of unwarranted limitations. The Yugoslav amendment (E/1992, annex III, section A, page 32) would make paragraph 3 of article 14 more precise and practicable. According to that amendment, only such penalties, liabilities and restrictions might be imposed as were strictly necessary for the protection of the purposes of the Charter and the principles of the Universal Declaration of Human Rights. Safeguards were also provided against abuses by States. Laws might, for example, reflect fascist tendencies and encourage the press to print anti-democratic propaganda. Furthermore, some small States were unable to defend themselves effectively against the propaganda organs subsidized by certain great Powers. Provision must therefore be made for the protection of the independence of States and their security from that kind of propaganda, and also for the suppression of all propaganda in favour of aggression and discrimination. That was the purpose of the last part of the Yugoslav amendment.

Mr. MOROZOV

Mr. POPOV (Union of Soviet Socialist Republics) recalled that his country's constitution granted freedom of speech, assembly, manifestation and the press to all citizens; in addition, it ensured the effective enjoyment of these freedoms by providing the necessary facilities.

The USSR had maintained throughout the discussion on human rights that a mere statement of these rights was not enough, but that States must undertake to implement them. As it stood, article 14 was nothing more than a declaration and was therefore inadequate. The USSR amendment (E/CN.4/L.125) would replace it by a more precise text. By recognizing the theoretical right to hold any opinion, the article as it stood might be used by some persons as a justification for propaganda for war, racial hatred and all fascist and Nazi doctrine.

First the USSR amendment guaranteed the right to freedom of expression so long as that freedom was exercised in the interests of democracy. It thereby protected the purposes and principles of the United Nations Charter.

Secondly, the amendment laid down, in specific terms, the essential limitations on freedom of speech and the Press. They were designed in particular to suppress propaganda in favour of a new war, incitement to hatred among peoples and racial discrimination, and dissemination of slanderous rumours. If freedom of expression was enjoyed under such conditions, the war psychosis which now existed in various countries was bound to come to a stop.

Mr. EDWARDS (United Kingdom) said that his amendment (E/CN.4/L.144) called, first, for the deletion of article 14, paragraph 1. The latter provision in its English version affirmed something which was hardly worth saying, while the French version would be difficult to accept as it implied that no person could be selected in any way whatsoever because of his beliefs. Yet States could not be expected to undertake to prohibit picket lines or public protests against views held by an individual, even though it might well be that the individual was incensed by such protests. The United Kingdom amendment proposed that paragraph 2, which would then become paragraph 1, should include the words "without interference", which appeared in the present paragraph 1, with the addition of "by public authority", since the primary purpose of the article was to set limits to interference by public authority and it was impossible to provide in a single article a code governing conduct in the field of personal relationships. The new paragraph 1 would also state the right to hold opinion. It was essential to affirm the right to freedom of expression and opinion, and

/to protect

to protect it against arbitrary restrictions which might be imposed by Governments and the right should therefore be subject only to the specific limitations of paragraph 3. Account should, however, be taken of the fact that in most countries the use of certain means of expression such as radio, was controlled in various ways, ranging from licensing to State direction. That was why at the end of paragraph 1 of the United Kingdom amendment the words "lawfully operated" had been used to qualify the reference to media of disseminating information and ideas.

The United Kingdom amendment provided for some changes in paragraph 3, which would then become paragraph 2. The existing text recognized that since the freedoms in question carried with them certain duties they might therefore have to be subject to certain limitations. It was difficult, if not impossible, to cover the whole range of limitations which might be necessary to prevent abuses of freedom of expression, but the method adopted in the existing article of formulating general categories which could apply to individual cases seemed to be the only practicable one. The words "formalities and conditions" and the reference to "territorial integrity" were included in the European Covenant on Human Rights and the Commission might wish to consider their adoption in the present text. The words "prevention of disorder or crime" were proposed instead of "public order" because, for reasons which he had already explained, they were much narrower in scope. The amendment omitted the mention of the freedoms of others, and spoke only about the reputation and rights of others. After all, every freedom was at the same time a right. Lastly, the two additions at the end of the amended paragraph 2 related to categories of limitations not mentioned before and concerned either information received in confidence or the fair and proper conduct of judicial proceedings. In these two cases freedom of expression might have to be limited, and those limitations were not, in his delegation's view, covered by any of the provisions of the existing text.

Mr. CASSEIN (France) explained that his delegation's amendment (E/CN.4/L.156) was designed to avoid detailed enumeration of limitations on freedom of expression. Also, it proposed the inclusion of the words "in a democratic society" which appeared in the Universal Declaration of Human Rights, in order to limit the too general meaning of "public order" which might give rise to abuse under a dictatorial regime.

Freedom to hold opinion was something entirely different from freedom of expression. Every person must have the right to think as he pleased and to hold his own opinions without being subject to arbitrary supervision by public authority. That was the meaning of the French text for paragraph 1 of article 14.

The CHAIRMAN drew the Commission's attention to the first two articles of the convention on freedom of information (E/CN.4/522) and the International Telecommunications Union's observations on article 14 (E/CN.4/522/Add.1).

IZMI Bey (Egypt) preferred the original text of article 14. He was prepared to support the Yugoslav amendment (E/1972, annex III, section A, page 52), which recognized the conditions necessary for the maintenance of peace and good relations between States.

He also supported the French amendment (E/CN.4/L.156), but would propose modifying it by his own amendment (E/1972, annex III, section A, page 52). He would vote in favour of the U.S.S.R. amendment (E/CN.4/L.125). He was in favour of paragraph 1 of the United Kingdom amendment (E/CN.4/L.144), but could not agree to the words "formalities, conditions" and "the prevention of disorder or crime", which involved dangers for the freedom of the press. If the Commission adopted the United Kingdom amendment, the Egyptian delegation would propose modifying it by its own amendment.

Mr. ROOSEVELT (United States of America) thought most of the amendments proposed less satisfactory than the present text of article 14. The U.S.S.R. amendment, (E/CN.4/L.125) in particular, aimed at granting freedom of the press to certain groups only, and for limited aims. That, in the

view of the United States delegation, was incompatible with genuine freedom of the Press. Moreover, it was undesirable to enumerate restrictions on the freedom of the press in the Covenant, for such a list might become endless. The efforts made by delegations in 1949 to formulate all the possible limitations had transformed the convention on freedom of information and of the press into a convention on restrictions on the freedom of the press. That was why the General Assembly had suspended the drafting of the convention at that time. The Yugoslav amendment contained a long list of restrictions and would tend -- doubtless unintentionally -- to make article 14 a propaganda instrument in the hands of the State.

The Egyptian amendment (E/1952, annex III, section A, page 32) would legalize censorship and control of the Press, since the question of what was contrary to the maintenance of peace and good relations between States would have to be determined by authority. In 1949 the Third Committee of the General Assembly had accepted limitations such as those proposed by the Egyptian representative, but the Commission on Human Rights rejected them at its sixth session.

As for paragraph 2 of the United Kingdom amendment (E/CN.4/L.144), the United States delegation did not oppose replacing the words "the protection... of public order" by the words "for the prevention of disorder or crime", but could not agree to the words "for the prevention of...crime", which, like the other provisions of the same paragraph, served no useful purpose.

AMEI Bey (Egypt) challenged the United States representative's assertion that the Egyptian amendment (E/1952, annex III, section A, page 32) would lead to censorship. Like the other obligations and restrictions enumerated in paragraph 3 of article 14, the restriction dealt with in the Egyptian amendment could be imposed on the press only by legislation. At its fifth session, moreover, the General Assembly had asked the Economic and Social Council to communicate amendments relating to articles 13 and 14 of the Draft Covenant to the Commission on Human Rights. The amendment now proposed by the Egyptian delegation was different from the one it had proposed in 1949.

Mr. HOWE (United Kingdom) thanked the Egyptian representative for his support of paragraph 1 of the United Kingdom amendment (E/CN.4/L.144), but wished to reply to his comments on paragraph 2. He had suggested the words "limitations" and "conditions" because they were more generally descriptive of the kinds of limitations which were necessary in practice. They no more tended towards censorship than did the words of the existing text; but he attached no fundamental importance to that amendment. He agreed with the Egyptian representative that freedom of the press was vital, and wished to point out that in the United Kingdom the press enjoyed complete independence. The term "territorial integrity" merited the Commission's particular attention because it appeared in an important international document. The deletion of the words "public order" was in accordance with the conclusions of document E/CN.4/528 and with the Secretary-General's declared view that that term was too broad and flexible, and might give legal sanction to grave abuses. Unlike the United States representative, he considered that the words "for the prevention of disorder or crime" were necessary; restriction for those purposes, moreover, had been accepted by the Committee on the Draft Convention on Freedom of Information (E/CN.4/532, paragraph 11). The other limitations laid down in paragraph 2 of the United Kingdom amendment also seemed useful, and would not impede the exercise of freedom of information and of the press.

Mr. NIKOLAY (Union of Soviet Socialist Republics) said that in opposing the Egyptian amendment (E/1952, annex III, section A, page 32), the United States representative had shown her opposition to freedom of the press, which she claimed to be defending. For all its omissions, the Egyptian amendment offered a progressive formula, and the USSR delegation would vote in favour of it if its own amendment (E/CN.4/L.125) was rejected. The United States representative opposed any restrictions aimed at the maintenance of peace and good international relations because the United States press was engaging in war propaganda detrimental to good international relations.

In reply to the United States criticism of the USSR amendment (E/CN.4/L.125), he denied that the effect of that amendment would be to restrict freedom of the press. Soviet legislation provided for the exercise of freedom of the press in the interests of democracy, i.e. of the majority of the world's population. The USSR amendment laid down that freedom of expression and of
/opinion

opinion could be limited only where it was exercised in favour of war propaganda, hatred among the peoples, racial discrimination and slander. The United States, unlike the USSR, had no legislation designed to prevent war propaganda. In 1949, the United States Committee on Freedom of the Press had admitted that in the United States media of information were largely controlled by capitalist groups, and the fact that newspapers derived their main profits from advertising implied some right of supervision of the news published in them.

Mrs. MEHTA (India) pointed out that article 14 was based on article 19 of the Universal Declaration of Human Rights, which laid down the right to freedom of opinion and expression, the right to hold opinions without interference and to seek, receive and impart information and ideas. The USSR amendment (E/CN.4/L.125), which, unlike the other articles of the Covenant, did not begin with the word "everyone", combined the two rights by saying freedom to express opinion. It did not, however, say anything about information. It would be better to state clearly those three concepts.

She supported paragraph 1 of the United Kingdom amendment (E/CN.4/L.144), which began by declaring the right to freedom of expression. She was in favour of the French amendment (E/CN.4/L.156), which replaced paragraph 3 of article 14. The Indian delegation would not vote against the Egyptian amendment, though it considered that only general limitations should be included.

Mr. KYROU (Greece) preferred the text of article 14. It was regrettable that the United Kingdom amendment (E/CN.4/L.144) combined paragraphs 1 and 2 of article 14, and eliminated the clause that everyone should have the right to hold opinions without interference. As a result, the use of the plural "these freedoms" in paragraph 2 made no sense. The Yugoslav amendment (E/1992, annex III, section A, page 32) aimed at strengthening freedom of the press by extending the list of conditions under which the freedom of the press might be restricted contained in the existing text of paragraph 3 of article 14 of the draft. Journalists were particularly sensitive to all matters affecting freedom of expression, and they believed restrictions on that freedom to be more dangerous than its abuse.

He was prepared to support the words "in a democratic society" included in the French amendment (E/CH.4/L.156), but would be unable to vote for any of the other amendments to article 14.

Mr. JEVREMOVIC (Yugoslavia) thanked the Egyptian representative for his support of the Yugoslav amendment (E/1992, annex III, section A, page 32). He protested against the United States representative's assertion that the effect of that amendment would be to allow freedom of information to the State alone. By approving paragraph 3 of article 14 the United States delegation did in fact accept an enumeration of cases in which freedom of information might be limited that was tantamount to authorizing censorship and the suppression of freedom of information. It was for that reason that the Yugoslav amendment proposed to make freedom of information subject to the purposes and principles of the United Nations, precisely in order to prevent any possibility of the misuse of State control for anti-democratic purposes. He asked the United States representative in what manner the United States delegation proposed to give effect to the provisions of General Assembly resolution 421 B (V) which recommended the Commission, in drafting the Covenant, to take account of the purposes and principles of the Charter of the United Nations.

Mrs. ROOSEVELT (United States of America) wished first to explain for the benefit of the Egyptian representative that what she had referred to was the rejection of the Egyptian proposal on freedom of the press by the Commission on Human Rights. The United States delegation had just submitted an amendment (E/CH.4/L.193) to the United Kingdom amendment, and another amendment (E/CH.4/L.192) to the French amendment. In reply to the Yugoslav representative she wished to state that the United States delegation was prepared to accept any amendment which would improve article 14, but opposed any additional restrictions on freedom of expression. The Egyptian amendment (E/1992, annex III, section A, page 32) was open to criticism because its legislative provisions were inadequate; moreover, the press should be encouraged to publish the truth, i.e. all the facts, whatever they were, rather than be asked to promote peace.

/She did not

She did not wish to defend certain articles which had appeared in the American press, but would simply stress that the authors of these articles alone were responsible, and that the Government was in no way involved. Certain Soviet newspapers published articles just as open to criticism as some American articles, but at least the latter appeared without the authorization and without the approval of the Government. Indirect control by certain groups or individuals who used newspapers for their advertising was certainly not desirable, but except in the most flagrant cases it left considerable scope for individual expression. In any event, such control was less dangerous than State control.

The United States delegation would support paragraph 1 of the United Kingdom amendment (E/CN.4/L.144), subject to the adoption of the United States sub-amendment (E/CN.4/L.193). It opposed the additional restrictions which the amendment would introduce in paragraph 3 of article 14, and wished for these additional restrictions to be put to the vote separately. She would likewise support the French amendment (E/CN.4/L.156) if it was modified in accordance with the United States sub-amendment (E/CN.4/L.192).

She could not agree to the words "in a democratic society". She considered these pointless and would ask for a separate vote on them.

Mr. CASSIN (France) stressed the considerable importance of paragraph 1 of article 14; that paragraph referred to freedom of opinion, which was absolutely different from freedom of expression and must be protected.

He asked the United Kingdom representative whether he would agree to alter his amendment to paragraph 2 of article 14 and use the wording "by any lawful medium of his choice" instead of the expression "through the medium of any lawfully operated devices"; that change seemed to be desirable because "lawful medium" merely meant any medium which was not prohibited by law and no mention was thus made of any express legal authorization. The words "without interference by public authority" did not give rise to any important criticism, but could imply that interference might be authorized from quarters other than the government, which would be just as objectionable.

The problem with which the Commission was confronted with regard to paragraph 3 lay in choosing between the disadvantages of a general formula and those of a detailed enumeration. The United Kingdom amendment might be criticized for combining both disadvantages. He was in favour of retaining a general text and thought that the original article 14 was, if not the best text, at any rate the least objectionable. There were two considerations that must not be lost sight of. It was important, first of all, while reaffirming and respecting freedom of expression and of information, to avoid any impairment of the rights and reputations of individuals; secondly the national community as a whole must be protected against any incitement by the press to violate public order, morals and national security. Lastly, respect for public policy, both national and international, had to be ensured by stipulating that the press and other methods of information should respect the purposes and principles of the United Nations. His delegation would revise the text of its amendment in accordance with the ideas he had expressed.

In conclusion, he emphasized that the proposed limitations were not tantamount to preliminary censorship. There was all the difference in the world between such censorship and a warning to the journalists responsible that, if they violated certain rules, they would lay themselves open to penalties such as the obligation to issue corrections, actions for slander, and criminal prosecution in serious cases. In short, the freedom of the press must be proclaimed, but at the same time the responsibilities incumbent upon journalists must be made quite clear.

Mr. AZMOUL (Lebanon) thought that three factors which complicated the work of the United Nations with regard to freedom of information were: the importance assumed by information media and the extent of their influence on public opinion in modern times; the fact that those media were unequally distributed among the various countries; and thirdly, the difference between the concept of information in Communist and non-Communist countries. In spite of those difficulties, a common denominator must be found which the majority of the Members of the United Nations would accept. To that end, limitations to freedom of information had to be worded in terms which would be uniformly accepted by all, care being taken to avoid terms which were open

/to contradictory

to contradictory interpretations. From that point of view, the wording of article 14 was most satisfactory, though there might be room for some drafting improvements. The terms "national security", "health", "morals" and "protection of the rights, freedoms or reputations of others" were perfectly clear and meant more or less the same in all countries. The terms of the USSR, Yugoslav, Egyptian and French amendments, on the contrary, were vague and extremely dangerous, since they set the State up as the supreme arbiter of what was or was not allowed. Thus, the introduction in the USSR amendment of the idea of "democracy", which was interpreted in diametrically opposite ways in different countries, enabled the State to suppress all individual liberties, including freedom of expression; the same applied to the notions of "war propaganda" and "hatred among the peoples". In the Yugoslav amendment, the same was true of such ideas as "the protection of the purposes of the Charter of the United Nations", "the protection of the independence of the State" and "the establishment of unequal relations between peoples". Although the Egyptian amendment was open to less serious criticism, it had the same shortcomings, and the same was true of the revised version of the French amendment.

The United Kingdom amendment, on the other hand, was an attempt to provide for specific limitations; nevertheless, those limitations were already included in article 14. For example, the word "limitations" included the idea of "formalities, conditions, restrictions or penalties"; the idea of "national security" included that of "territorial integrity"; the prevention of the disclosure of information received in confidence and the ensuring of the fair and proper conduct of judicial proceedings arose out of the notion of the protection of the rights and freedoms of others. Only the substitution of the idea of "the prevention of disorder" for that of "public order" should be retained.

ADHI Bey (Egypt) would support paragraph 2 of the United Kingdom amendment (E/CN.4/L.144) if the words "formalities" and "for the prevention of disorder or crime" were deleted. He fully understood the traditional desire of the United States delegation to maintain the absolute freedom of the press; nevertheless, that country had renounced isolationism in order to become
/an international

an international power and its traditional conception of freedom of the press should be adjusted accordingly, since it must take the requirements of international society into account. The absolute freedom now enjoyed by the American press would give rise to discontent which the United States must heed, now that it could not ignore the importance of maintaining good relations with other peoples. He was sure that, by accepting his amendment, the United States delegation would be rendering a great service to its own country.

The USSR representative had pointed out to the United States representative the anxiety to which the position of the Egyptian press should give rise. That question, however, was regulated by article 15 of the Egyptian Constitution, which provided for freedom of the press within the limits prescribed by law; preliminary censorship was prohibited and so were measures such as the suspension of newspapers, which could not be decreed except in cases where they were necessary for the protection of public order; the latter provision was a safeguard against Bolshevism. The United States representative might therefore rest assured that the Egyptian press was free and that no censorship was possible unless martial law was proclaimed. As regards the maintenance of peace and good relations between States provided for in the Egyptian amendment, he would confine himself to quoting the Egyptian Penal Code, which provided that the crime of lese-majesté applied not only in cases of insults against the King but also to any insult against a foreign head of State; the Egyptian delegation would like that legislation, which had already been passed in many countries, to be generalized. He felt that the time had come for the United States to renounce, in its own interests, a concept which was appropriate only to an isolationist country, but which was no longer admissible in a country that had been integrated in the international community.

The meeting rose at 5.45 p.m.