



UNITED NATIONS
 ECONOMIC
 AND
 SOCIAL COUNCIL



GENERAL
 E/CN.4/SR.145
 13 April 1950
 ENGLISH:
 ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND FORTY-FIFTH MEETING

Held at Lake Success, New York,
 on Tuesday, 4 April 1950, at 3 p. m.

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<u>Chairman:</u>	Mrs. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITIAM	Australia
	Mr. STEYAERT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHANG	China

Members: (continued)

Mr. SORENSON	Denmark
Mr. RAMADAN	Egypt
Mr. ORDONNEAU	France
Mr. THEODOROPOULOS	Greece
Mrs. MEHTA	India
Mr. MALIK } Mr. AZKOUL }	Lebanon
Mr. MENDEZ	Philippines
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present:

Mrs. CASTILLO LEDON	Commission on the Status of Women
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Representatives of specialized agencies:

Mr. EVANS	International Labour Organisation (ILO)
Mr. WEISS	International Refugee Organization (IRO)

Representative of a non-governmental organization in Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
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Representatives of non-governmental organizations in Category B:

Mr. NOLDE	Commission of the Churches on International Affairs
Mr. BERNSTEIN	Co-ordinating Committee of Jewish Organizations
Miss TOMLINSON	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Miss DINGMAN	International Union for Child Welfare

Secretariat:

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

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (ANNEXES I AND II OF THE REPORT OF THE COMMISSION ON HUMAN RIGHTS ON ITS FIFTH SESSION, E/1371)

Article 8 (E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/388, E/CN.4/391, E/CN.4/404)
(continued)

1. The CHAIRMAN proposed that, before beginning the examination of article 9, the Commission should hear the report of the Drafting Group appointed to consider parts of article 8.

It was so decided by 8 votes to none, with 5 abstentions.

2. Mr. MALIK (Lebanon), Chairman of the Drafting Group -- composed of representatives of Australia, France, Lebanon, the United Kingdom, the United States of America, and entrusted with the drafting of a joint text on some controversial points in article 8 -- submitted the Drafting Group's report (E/CN.4/404).

3. He briefly explained how the Group had worked and which were the points on which it had not been possible to reach final agreement. The Group's aim had been to cover all the cases envisaged in a simple text; it had tried to draw up a text dealing separately with slavery and servitude and had grouped the other cases in a third category.

4. The CHAIRMAN asked members of the Commission whether they were prepared to consider article 8 immediately.

5. Mr. ORDONNEAU (France) feared that he would not be able to give his views on article 8 until he had received the French text of the new proposal.

6. The CHAIRMAN said that in that case the Commission would go on to examine article 9.

Article 9 (E/CN.4/353, Add.10, E/CN.4/365, E/CN.4/396, E/CN.4/397, E/CN.4/399, E/CN.4/400, E/CN.4/401, E/CN.4/402, E/CN.4/405, E/CN.4/406) (continued)

7. Mr. MALIK (Lebanon) said the amendment which he proposed to paragraphs 1 and 2 of article 9 (E/CN.4/405) would be distributed to members of the Commission immediately. There were two main ideas in his amendment: the first was the positive idea of protection of human freedom by law, the second an exception relating to governmental activities.

/s/ The CHAIRMAN

5. The CHAIRMAN suggested that the Commission should begin by examining paragraph 3 of article 9. Speaking as representative of the United States of America, she recalled that she had not submitted any amendments to paragraphs 3 and 4 of the article.

6. Mr. HOARE (United Kingdom) underlined the importance of Mr. Malik's proposal. It might lead to a generally acceptable solution. He added that article 9 should be examined as a whole with the Lebanese representative's amendment in mind.

10. Mr. SANTA CRUZ (Chile) justified the amendment he had submitted to paragraph 3 (E/CN.4/3.99) by the fact that the word "promptly" was too vague and would leave too much latitude to the authority carrying out the arrest.

11. Mr. RAMADAN (Egypt) supported the Chilean proposal. He also felt that the text of paragraphs 3 and 4 would leave too much to the discretion of the authorities.

12. Mr. SORENSON (Denmark) understood the Chilean representative's viewpoint and his desire that the person arrested should be informed of the reasons for his arrest without delay. But it was not always possible to give such information immediately; in many countries, the police who carried out the arrest had a warrant which did not mention the reasons for arrest. He thought the provision that the accused should be brought before a judge within a "reasonable time" was a sufficient guarantee. It seemed to him dangerous to lay down the time limit to be observed too strictly because some States might find it difficult to undertake to apply such a provision.

13. Mr. SANTA CRUZ (Chile) remarked that the obligation laid down in paragraph 3 did not concern all the counts of the indictment; it was merely a case of informing the accused in very general terms of the reasons why he had been arrested. The obligation stated in paragraph 4 was of a very different kind. There it was a question of "reasonable time" in the judicial procedure before the judge, such as the 48-hours' time limit set by the Constitution of Chile.

Mr. HOARE

14. Mr. HOARE (United Kingdom) agreed with Mr. Sorenson. He thought the text adopted by the Commission at its fifth session was better, without the Chilean amendment.

15. The penal codes of all civilized countries recognized that it was extremely important that the accused should be informed upon arrest of the reasons for his arrest. But the practical circumstances in which some arrests were made must be taken into consideration: it might happen that the officer carrying out the arrest did not himself know the exact reasons for it. The counts of the indictment were in general stated when the accused was brought before the representatives of a higher branch of the public authority. He did not think it possible to improve the existing text.

16. Mr. MALIK (Lebanon) agreed with Mr. Santa Cruz that the word "promptly" was very vague. In some countries a month might be considered a short time. Human beings had a natural right to liberty, and the officer who arrested a person must have valid grounds for such action. There was no reason why the person concerned should not be immediately informed of those grounds. If there were no grounds, there was no reason for an arrest.

17. The CHAIRMAN remarked that the officers were usually subordinates. If they arrested a person on their own authority, they could easily give the reasons for the arrest.

18. Mr. MENDEZ (Philippines) admitted that it was not always possible to inform the accused of the grounds for his arrest, but thought that it was important to give him as much information as possible at once. He proposed that the words "any charges" should be replaced by "the charges".

19. Mr. WHITLAM (Australia) would be perfectly satisfied with the text as it stood, but recognized the validity of the arguments in favour of the

/Chilean

Chilean proposal. He saw no reason why a person who had been arrested should not be informed of the reasons for his arrest. Either the officer concerned had a warrant listing the counts of the indictment, or he made the arrest on his own authority. In either case, therefore, he should be able to give the person arrested the reasons. The Commission should, however, maintain the word "promptly" as the charges which were the basis of a trial or an appeal must be established with very great care. Lastly, Mr. Whitlam supported Mr. Mendez' suggestion.

20. Mr. ORDONNEAU (France) realized the advantages of the Chilean proposal, but would be unable to support it. He agreed as to the desirability of informing the arrested person of the reasons for his arrest as soon as possible, but feared that the Chilean amendment, if adopted, might have the opposite result from what its author had in mind, as it was important that the information given to an arrested person should be sufficiently precise and clear. A guilty person knew full well why he was being arrested, but care should be taken to avoid an innocent person becoming the victim of unjust charges against which he could only defend himself if he knew the particulars. Consequently the arrested person should be informed of the charges by a competent authority, and that description could not generally be applied to the officers who made arrests. The final result might be that the formality of indictment lost all meaning. There was also the danger of the contrary, of course, but Mr. Ordonneau considered that danger less serious than the danger the accused ran when he was given insufficient or wrong information. It was better to leave well alone, and Mr. Ordonneau supported the text in its existing form.

21. Mr. THEODOROPoulos (Greece) stated that there was no provision in Greek law which would be contrary to that proposed in the Chilean amendment. Such might not, however, be the case, in all countries, and for that reason he endorsed Mr. Ordonneau's conclusions.

22. The existing text of paragraph 3 constituted a specific safeguard because it brought in the reasons for the arrest. The Chilean proposal would reduce that provision to a mere formality and deprive the arrested person of any effective safeguard. With regard to Mr. Mendez' suggestion,

/Mr. Theodoropoulos

Mr. Theodoropoulos remarked that in certain cases there were no criminal charges against the person who was arrested. That was the case, for example, when witnesses were arrested and detained.

23. Mr. RAMADAN (Egypt) felt that a distinction should be made between cases of persons caught in flagrante delicto, which raised no difficulty, and such cases as political trials, where the accused were unaware of the charges against them for months.

24. Mr. SANTA CRUZ (Chile) feared that there might be some confusion with regard to the type and nature of charges and the method of notification. It was not a matter of giving the arrested person a complete and detailed account of the charges -- which was covered by the article defining criminal procedure -- but of providing the arrested person with sufficient information to enable him at once to claim his right to be heard by a judge, and to invoke, for instance, the habeas corpus clause. To do that, the arrested person must know whether he had been arrested by a competent authority and whether the grounds for his arrest were sufficient and provided by law. Consequently any delay in informing the accused of the charges against him prevented him from exercising the right to redress.

25. Mr. Santa Cruz did not think that an officer of the law could arrest anyone without having a general idea of the reasons for the arrest. He must know whether the order given him was in conformity with the law.

26. In conclusion Mr. Santa Cruz stated his readiness to accept the majority's decision. The only purpose of his amendment was to try to produce a more perfect text than that in the Commission's draft.

Mr. ORIBE (Uruguay) agreed with Mr. Santa Cruz that the problem had two very different aspects: on the one hand, resort to habeas corpus and, on the other, the fact that the authority should be able to explain the reason for the arrest. The first aspect should be dealt with in article 9. He quoted a provision of the Constitution of Uruguay which said that a judge who ordered an arrest incurred grave responsibility and had to notify the accused of the reason for his arrest within a maximum time-limit of forty-eight hours.

/s/ He therefore

28. He therefore supported the Chilean proposal. He did not think that article 9 should contain all the procedural details, but believed that it would be advisable to insert a formal guarantee against illegal arrest. In his opinion, the words "at the time of his arrest" should not be taken literally. A reasonable time might be laid down, and he suggested that the words "or at the latest within twenty-four hours" should be added in order to enable certain members of the Commission to vote for the Chilean proposal.

29. The person authorized to inform the accused of the reasons for his arrest might moreover be specified. He considered that that should be done by the competent examining magistrate and suggested therefore that the following words should be added: "...and by the competent examining magistrate."

30. Mr. MENDEZ (Philippines) pointed out that no arrest could legally be made without a warrant duly drawn up by the competent legal authority. Moreover, it was wrong to speak of the arrest of a person required to appear as a witness.

31. Mr. SANTA CRUZ (Chile) explained that his amendment was intended to ensure that no person could be arrested without being informed why he was being deprived of his liberty. The reasons could be given to him immediately by the official making the arrest. The competent magistrate only came in later. That was why the Chilean delegation could not support the Uruguayan representative's first suggestion. It accepted, however, his second proposal that any person arrested should be informed of the reasons for his arrest at the time of the arrest or at the latest within twenty-four hours after his arrest, although it would be better to include that provision in paragraph 4, which referred to detention properly so-called, namely, the stage following arrest.

32. Mr. ORDONNEAU (France) noted that many members of the Commission seemed to agree with the Chilean representative that it would be preferable in all cases for the reasons for an arrest to be given to the person arrested. It was desirable, however, to be realistic and to bear in mind the special circumstances under which such actions were sometimes carried out. The Uruguayan representative was

right in stating that only the competent magistrate could properly give the accused the reasons for his arrest. But it would be difficult to lay down that he should always do so within less than twenty-four hours. In some countries, where distances were great and communications difficult, some time might elapse between the arrest and the accused's appearance before the competent magistrate.

33. The French delegation therefore preferred the simpler drafting of the original text, which would not give rise to any practical difficulty in application.

34. The CHAIRMAN, speaking as United States representative, stated that her delegation also preferred the original text.

35. Commenting on the amendments suggested by the Uruguayan representative, Mrs. Roosevelt pointed out that in certain cases in the United States of America the committal for trial was made by a grand jury and not by a judge. It was not certain whether such a jury would be in session at the time an arrest was made or, supposing that it was, that it could deal with the matter within twenty-four hours. In the United States delegation's opinion, the original text had the merit of drawing a distinction between the reasons for an arrest and the accusations which might be made against the person arrested. She had been convinced by the Greek representative's arguments against the amendment submitted by the Philippine representative. It seemed better to her not to replace the words "any charges" by the words "the charges" as the former text more nearly met the requirement that the right of the person arrested to know all charges made against him, whatever they were, should be protected.

36. Mr. HOARE (United Kingdom) considered that the discussion had brought to light the many difficulties which might arise in the application of the paragraph because of the divergences between the various legal systems in force. The Commission should therefore refrain from entering into questions of detail which would only accentuate such difficulties. It would be better to keep to the text adopted at the Commission's fifth session.

37. Mr. WHITLAM (Australia) said that it was difficult for him to imagine an arrest being carried out unless the representative of the law knew the reasons for it. In Australia the officer who made an arrest was personally responsible for his action.

38. While it might be provided that an arrested person should be informed of the reasons for his arrest within twenty-four hours, the same provision could not be applied in the case of the detailed charges drawn up by the competent legal authority within the time-limits specified in the various codes of procedure. The Chilean representative's amendment could therefore be accepted only if a distinction was made between the communication of the reasons for his arrest to an arrested person -- which could and should be done immediately -- and the communication of the charges against him. He therefore considered that the Commission should try to find a compromise solution in that direction.

39. Mr. MALIK (Lebanon) agreed with the Australian representative. He urged the members of the Commission not to forget that their primary responsibility was to ensure the protection of human rights. Although the legal and other difficulties of paragraph 3 were real, that was no reason for the Commission to give up doing constructive work.

40. The Egyptian representative had rightly pointed out that the word "promptly" in the English text was too vague to be satisfactory. In some countries, where time did not have the same value as in the West, for example, it might be interpreted as several weeks or even several months. Furthermore, its vagueness might be abused in cases of political arrest. Mr. Malik therefore stressed the need to find a formula which would effectively guarantee the rights of the arrested person.

41. The CHAIRMAN, speaking as the representative of the United States of America, proposed the following test: "Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him" (E/CN.4/406).

42. Mr. MENDEZ (Philippines) preferred that the distinction between the reasons for the arrest and the charges should be emphasized still more. He suggested that some formula such as the following might be used: "Anyone arrested shall be told the reasons and anyone detained shall be told the charges".

/43. Mr. JEVREMOVIC

43. Mr. JEVREMOVIC (Yugoslavia) pointed out that the Commission was fully agreed on the principle that anyone arrested should be informed of the reasons for his arrest and of any charges against him. The purpose of paragraph 3 was to state that principle, and it had been done adequately in the original draft.

44. Difficulties arose, however, when it came to practical application. Some delegations had clearly shown, among other things, that it might prove impossible in some cases to inform an arrested person of any charges against him immediately and in detail. Nevertheless, it was important to ensure that any person against whom charges were laid should be brought before the responsible legal authority without delay, and that was provided for in paragraph 4.

45. The Yugoslav delegation therefore considered that the original text was quite satisfactory.

46. Mr. SANTA CRUZ (Chile) accepted the compromise text proposed by the United States delegation, which met his delegation's views.

47. Mr. CHANG (China) observed that the Commission had already discussed article 9 at length. The article had been submitted to Governments and those which had thought fit to do so had sent their comments and suggestions. It did not seem advisable at that stage to modify a text which had been so closely studied. It must not be forgotten that the Commission had reached the stage of giving final form to the draft covenant. It should devote its entire attention to and should only attempt to modify those articles which had been the subject of serious criticism -- and article 9 was not among them. Otherwise it would not complete the work before it during the current session.

48. The CHAIRMAN pointed out that, in the case in point, it was merely a question of a drafting amendment which had been introduced for the sake of clarity.

/ She asked

She asked the Commission to vote on the United States amendment to paragraph 3 of article 9, which had been accepted by the Chilean delegation (E/CN.4/406).

49. Mr. WHITLAM (Australia) wondered whether it would not be advisable to stress still further the difference in time between the communication of the reasons for arrest and that of the charges which justified detention. That might be done by moving the word "promptly", which would only be applicable at the moment of arrest, and by specifying in the second phrase that an arrested person would "thereafter" be informed of any charges against him.

50. Mr. CHANG (China) thought that it was very difficult to make such subtle time distinctions in a single sentence. He preferred the original text.

51. Referring to the United States amendment, Mr. MENDEZ (Philippines) maintained the amendment which he had submitted to the original draft ~~namely~~, that an arrested person should be informed "of the charges against him" and not "of any charges against him".

52. Mr. SORENSON (Denmark) pointed out to the Philippine representative that paragraph 3 did not provide exclusively for arrest for criminal reasons; it might also relate to the confinement of a lunatic or to isolation of a person with an infectious disease. In those cases, no charge was brought against the person deprived of his liberty; his detention was none the less justified and he should be told the reasons for it.

53. Mr. RAMADAN (Egypt) wholeheartedly supported the Danish representative's comments. The Commission's task was not to draft strictly penal legislation but an international covenant to protect human rights. It should therefore provide for cases of preventive arrest and not solely cases of punitive arrest.

54. Mr. WHITLAM (Australia) accepted the Danish representative's arguments and said that in the circumstances he could no longer support the Philippine representative's amendment.

55. The CHAIRMAN put to the vote the Philippine delegation's amendment to replace the words "any charges" by the words "the charges".

The amendment was rejected by 7 votes to one, with 6 abstentions.

56. The CHAIRMAN put the United States amendment (E/CN.4/406) to the vote.

The amendment was adopted by 8 votes to one, with 5 abstentions.

57. Mr. MENDEZ (Philippines) commented that it would be well to avoid the unfortunate repetition of the verb "informed" in the text just adopted.

58. The CHAIRMAN said that the form of all texts adopted would be reviewed on second reading.

59. Mr. ORDONNEAU (France) explained that he had abstained from voting on the Philippine amendment because the change proposed had no effect on the substance of the French text.

60. He had also abstained from voting on the United States amendment because he considered that the first part of the proposed text did nothing to ensure protection of human rights. The reasons given for an arrest were unimportant and often false: vagrancy was charged and later a person was held for murder after proof had been obtained. The important part of the text which had been adopted was the provision that an arrested person should be informed of any charges against him. Mr. Ordonneau wished to make it clear that the objections which had caused him to abstain did not apply to that part.

61. Mr. THEODOROPOULOS (Greece) said that he had abstained from voting on the United States amendment because the text proposed, resulting from a compromise, had transformed the substantive distinction which the original text made between the reasons for arrest and the charges against the arrested person into a procedural difference placing the emphasis on the time element.

62. The CHAIRMAN asked whether the Commission wished to begin studying the new text proposed by the Lebanese delegation for paragraphs 1 and 2 of article 9 (E/CN.4/405) immediately, or whether it wished to begin consideration of paragraphs 4, 5 and 6.

The Commission decided by 6 votes to none, with 6 abstentions, to go on to the consideration of paragraph 4.

Paragraph 4

63. The CHAIRMAN, speaking in the name of the United States delegation, supported the text proposed by the Commission.

64. Mr. MENDEZ (Philippines) thought that the text should stipulate that, pending trial, an accused person had no absolute right to bail.

65. The CHAIRMAN recognized the justice of the Philippine representative's comment and expressed the view that it was the responsibility of the judge to decide according to circumstances whether such action was suitable. The Philippine representative's fears were unfounded, however, as the text very carefully stated that "release may be conditioned by guarantees".

66. Mr. RAMADAN (Egypt) pointed out some flaws in the drafting of the French text of the paragraph. The words "sur l'accusation" should be replaced by the words "à la suite de l'accusation" and the word "magistrat" by "auxiliaire de la justice"; a "magistrat" was necessarily authorized by law to exercise judicial power. In the third place, Mr. Ramadan proposed that the words "aura le droit d'être jugée" should be replaced by the words "devra être jugée".

67. Mr. ORDONNEAU (France) had no objection to the first change suggested by the Egyptian representative. With regard to the second, he observed that the word "magistrat" was not always synonymous with "juge" in French legal terminology. That term could apply to mayors or police officers who could exercise judicial power only in certain very definite cases. Finally, Mr. Ordonneau had no particular objection to the third change suggested by the Egyptian representative

68. Mr. SANTA CRUZ

68. Mr. SANTA CRUZ (Chile) said that the use of the words "officer" in English and "magistrat" in French might cause difficulties in the Spanish translation. In that language, Mr. Santa Cruz would prefer the word "funcionario".

69. Mr. ORDONNEAU (France) drew the attention of the members of the Commission to the French amendment to paragraph 4, which appeared on page 32 of document E/CN.4/365. While the French delegation admitted that preventive detention might prove necessary in some cases, it considered that such detention should be the exception and not the rule. The French amendment was intended to fill that gap in paragraph 4.

70. Mr. SANTA CRUZ (Chile) supported the amendment. The sole purpose of preventive detention should, in fact, be to guarantee the appearance of the accused for trial where, in the opinion of the court, there were insufficient grounds for admission to bail, as, for example, in the case of serious crimes involving the death penalty.

71. The CHAIRMAN, speaking as the representative of the United States, stated that, in the opinion of her delegation, the French delegation's misgivings were adequately met by the existing text.

72. Mr. CRIBE (Uruguay) agreed with the representatives of France and Chile. It would appear from the current text that preventive detention would be the rule and admission to bail the exception. It was precisely the reverse that should be stipulated.

73. Mr. HOARE (United Kingdom) admitted that the French amendment served a useful purpose, but felt that it raised a number of difficulties. For instance, the term "preventive detention" had a very special meaning in Anglo-Saxon law and applied to the detention of hardened offenders. On the other hand, the term "legal proceedings" in the English text was not very happy because it did not render the purpose of the French amendment, which was to preclude preventive detention during the examination proceedings before the preliminary investigation properly so called.

74. Mr. ORDONNEAU

74. Mr. ORDONNEAU (France) observed that the difficulties mentioned by the United Kingdom representative were the result of an imperfect translation.

75. Mr. SANTA CRUZ (Chile) felt that the idea of preventive detention should be retained; it existed in the legislation of many countries, particularly in Latin America. It should be made quite clear, however, that as brought out by the representative of the United Kingdom, detention pending preliminary investigation was compulsory. Upon completion of the preliminary investigation, however, release on bail should be granted unless there were serious reasons against it.

76. The CHAIRMAN proposed that the delegations concerned should meet and agree on a satisfactory English text before a vote was taken on the amendment.

It was so decided.

Paragraph 5

77. The CHAIRMAN, speaking as representative of the United States, drew the Commission's attention to an amendment proposed by her delegation, which wished to add the following sentence at the end of paragraph 5: "This remedy may not be suspended unless when in cases of rebellion or invasion the public safety may require it". (E/CN.4/365).

78. The United States delegation would not insist on that amendment if article 4 was so drafted as to meet the problem. If that were not the case it reserved the right to bring the matter up again on second reading.

79. Mr. RAMADAN (Egypt) felt that the words "following arrest" should be substituted for the words "by arrest". Under the Egyptian criminal code, officers of the law were not accountable for acts performed as part of their duty. For that reason, the Egyptian delegation had abstained from voting on the paragraph at the previous session and would maintain the same attitude.

80. Mr. AZKOU (Lebanon) asked why only "detention" was mentioned in the second part of the paragraph, whereas reference was made to "arrest or detention" at the beginning. He felt that the two words should not be separated.

81. Mr. SANTA CRUZ

81. Mr. SANTA CRUZ (Chile) admitted that the Lebanese representative's observation was well founded. In many legislations there was a marked difference between "arrest" and "detention". Under Chilean military law, for instance, any imprisonment for less than sixty days was called arrest. In order to avoid any confusion the two words should be linked throughout the paragraph.
82. Moreover, the word "speedily" was open to criticism as it was difficult to give it a legal definition. If it were absolutely necessary, he would accept the term "without delay" so as to avoid any ambiguity.
83. Mr. ORDONNEAU (France) did not agree with the last suggestion. Sufficient time must be allowed for the institution of the proceedings provided for in paragraph 5.
84. With respect to the Lebanese representative's objection, a distinction should be made between arrest properly so called and committal; the two actions were juridically different. But a person arrested one way or the other was under detention, and the proceedings mentioned in paragraph 5 only concerned detention.
85. The CHAIRMAN, speaking as representative of the United States of America, pointed out that arrest was the initial detention. Habeas corpus applied in all cases of detention. The protection contemplated in paragraph 5 was against detention because it was the general term.
86. Mr. HOARE (United Kingdom) agreed that the word "speedily" in the English text was unsatisfactory. It might be better to replace it by "as soon as possible". On the other hand, arrest always implied detention while the contrary was not necessarily true. In fact, paragraph 5 referred to proceedings against detention and not against arrest.
87. Mr. SANTA CRUZ (Chile) urged that the two terms "arrest" and "detention" should be used. They connoted two very different ideas.
88. Mr. MENDEZ (Philippines) also emphasized the difference between the two terms and supported Mr. Santa Cruz.

The meeting rose at 5.30 p.m.