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COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND FIFTY-NINTH MEETING

Held at Lake Success, New York,
on Tuesday, 18 April 1950, at 3 p.m.

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Chairman:	Mrs. ROOSEVELT	United States of America
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	Mr. CHANG Mr. TSAO	China

Members: (continued)

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

Representative of a non-governmental organization, Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)

Representatives of non-governmental organizations, Category B:

Mr. LEWIN	Agudas Israel World Organization
Mr. EASTMAN Mr. NOLDE	Commission of the Churches on International Affairs
Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Mr. HUNTINGTON	Friends World Advisory Committee
Miss SCHAEFER	International Union of Catholic Women's Leagues

Secretariat:

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

/DRAFT

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (ANNEXES I AND II OF THE REPORT OF THE FIFTH SESSION OF THE COMMISSION ON HUMAN RIGHTS, DOCUMENT E/1371)
Article 13 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/358, E/CN.4/422, E/CN.4/426, E/CN.4/429, E/CN.4/430, E/CN.4/431) (continued)
Paragraph 3

1. The CHAIRMAN submitted the amendment proposed by France and Belgium to paragraph 3 of article 13 (E/CN.4/431) and suggested that separate votes should be taken on the two sentences of the amendment.

2. Mr. MENDEZ (Philippines) suggested the deletion from the English text of the words "appears which" since they served no useful purpose.

3. Mr. ORDONNEAU (France) accepted the proposal of the representative of the Philippines, which would not affect the French text.

4. Mr. NISOT (Belgium), Miss BOWIE (United Kingdom) and the CHAIRMAN, speaking as the representative of the United States of America, supported the proposal of the representative of the Philippines.

5. Mr. WHITLAM (Australia) considered that there should be a clear interpretation of the word "final". A decision was final because every possibility of appeal had been exhausted.

6. Mr. NISOT (Belgium) suggested the following wording in the English text: "... by a decision which is res judicata a personhas been... ".

7. The CHAIRMAN proposed that the Commission should adopt the interpretation given by the representative of France at the previous meeting.
It was so decided.

8. Mr. WHITLAM (Australia) reserved his position with respect to the second sentence of the amendment proposed by the representatives of France and Belgium.

/9. The CHAIRMAN

9. The CHAIRMAN, speaking as the representative of the United States of America, suggested the addition of the words "and suffered an imprisonment" immediately after "criminal offense".

10. Mr. ORDONNEAU (France) was unable to accept that amendment, for its effect would be to limit the payment of compensation to persons who had undergone punishment only to those who had suffered imprisonment. After all, imprisonment was not the only form of punishment causing injury; there was, for instance, the confiscation of property. The United States amendment would therefore arbitrarily restrict the general principle of compensation to one given consequence of a miscarriage of justice.

11. Mr. ORIBE (Uruguay) called for a separate vote on the word "final", which he suggested should be deleted.

12. Mr. ORDONNEAU (France) pointed out that were the Commission to decide to delete the word "final", it would be possible to claim compensation for any type of conviction.

13. Mr. ORIBE (Uruguay) felt that the word "final" served no useful purpose. The Commission was establishing the principle of compensation for cases where a person suffered wrongful prejudice. The right to compensation flowed from the application of a penalty, and a penalty could be applied only after the conviction had become final.

The proposal of Uruguay to delete the word "final" was rejected by 9 votes to 2, with 4 abstentions.

The first sentence of the amendment proposed by France and Belgium was adopted by 12 votes to 1, with 2 abstentions.

14. Miss BOWIE (United Kingdom) said she had abstained from the second vote despite the fact that, at previous meetings, she had proposed the deletion of that provision. She felt that the wording had been so amended that she was no longer in a position to object to it.

/15. She hoped

15. She hoped she had thus given satisfaction to the representative of Lebanon who had the habit of constantly exhorting the Commission to put lofty ideas into practice. Unfortunately it was not always possible to do so, as it was the duty of the Commission to draft a text likely to be acceptable to as many Governments as possible. The fact that there were considerable discrepancies between the various legal systems throughout the world should also be borne in mind, although that did not imply systematic objection to every measure designed to ensure respect for human rights.

16. Mr. ORIBE (Uruguay) observed that article 13, as a whole, dealt with the procedure to be followed in any criminal case. It was, therefore, unnecessary to mention therein the death sentence, which was the subject of article 5. It should merely be stated that the right to compensation was transferable to the heirs of a victim of a miscarriage of justice if that person died before being able to claim his right.

17. Mr. MENDEZ (Philippines) agreed with the representative of Uruguay; in his opinion, the question should be studied in connexion with the consideration of article 9, paragraph 6.

18. Mr. ORDONNEAU (France) pointed out that the principle of the right of succession was involved. The right to claim damages of a victim of a miscarriage of justice, who had died before being able to prove his claim, was automatically transmitted to his heirs. But if the person in question died as the result of a sentence pronounced against him, the right to claim compensation was not made over at the same time as the inheritance. The representative of France had added the second sentence of the text submitted by France and Belgium in order to enable heirs to be indemnified on the basis of the compensation which the condemned person would have received had he lived.

19. Mr. ORIBE (Uruguay) understood the problem perfectly, but pointed out that not all legal systems allowed transfer of the right to compensation in case of a miscarriage of justice. He still thought that such a provision should appear in the article dealing with capital punishment and its consequences.

/20. Mr. ORDONNEAU

20. Mr. ORDONNEAU (France) had no objection to having the second sentence of the Belgian-French text inserted in article 5. In his opinion, however, it would be preferable to take a decision regarding the sentence during the first reading, and transpose it, if necessary, during the second reading.

21. Mr. ORIBE (Uruguay) agreed to that procedure.

22. The CHAIRMAN pointed out that the representative of Uruguay felt that the Commission should limit itself to stating that the heirs of a victim of a miscarriage of justice had a right to the same compensation which the victim could have claimed had he not died before being able to assert that claim.

23. Mr. MENDEZ (Philippines) supported the view of the French representative that the second sentence of the joint text submitted by France and Belgium should be put to the vote, on the understanding that it might be transposed during the second reading if necessary.

The second sentence of the joint Belgian-French text was adopted by 10 votes to 3, with 1 abstention.

Paragraph 3 of article 13 was adopted by 12 votes to 3.

24. Mr. WHITLAM (Australia) said he had voted in favour of the first sentence of the Belgian-French text, but as he had not fully approved the second sentence, he had not been able to accept the paragraph as a whole.

25. Mr. MALIK (Lebanon) expressed the hope that the first part of paragraph 3 would be implemented. He recalled that article 13, paragraph 1, mentioned an "independent and impartial tribunal established by law." In his opinion, it would be the function of such a tribunal to deal with questions of compensation and to determine, in an independent and impartial manner, whether compensation should be granted and in what amount. It was with that idea in mind that the representative of Lebanon had voted in favour of paragraph 3.

/26. As to the

26. As to the comments made by the representative of the United Kingdom, Mr. Malik declared that he was indeed happy at Miss Bowie's changed attitude. Moreover, it was not the first time he had had occasion to note such a change with pleasure.

27. Mr. Malik said he would seize the opportunity to make a few remarks of a general nature. All members of the Commission were government representatives. Yet, no delegation to the United Nations had battled more tenaciously than the United Kingdom delegation against the idea that the members of the Commission on Human Rights should be exclusively the representatives of their Governments. It was thanks to the efforts of that delegation that the members of the Commission were now proposed by their Governments, approved by the Secretary-General, and finally confirmed by the Economic and Social Council.

28. Finally, Mr. Malik said that the Commission, having in mind the existence of various legal systems, must endeavour to draw up a covenant of such a general nature that it would be acceptable to all nations of the world.

29. The CHAIRMAN stated that the members of the Commission were elected as government representatives and not as individuals. The Nuclear Commission on Human Rights, which had met in the spring of 1946, had after a long debate, recommended to the Economic and Social Council that members of the Commission on Human Rights should be representatives of their Governments. It was nonetheless true that the members of the Commission represented not only their Governments, but humanity as a whole.

30. Mr. THEODOROPOULOS (Greece) stated that his delegation to the Commission on Human Rights felt no lack of confidence in nor hostility toward any Government. It did not feel it had the right to consider its own Government as an omnivorous leviathan against which the citizens must be protected.

31. The Government, which seemed sometimes to be considered a purely mechanical institution, was in fact the expression of the will of the people, and legal systems took shape within each country. Consequently the representative of Greece saw no conflict between his capacity as representative of his Government and the fact that he spoke on behalf of the Greek people and humanity as a whole.

/32. Miss BOWIE

32. Miss BOWIE (United Kingdom) thanked the Chairman for having made clear the position of members of the Commission. They were representatives of their Governments and it was their duty to prepare a document which the Governments would be able to accept.

33. Mr. WHITLAM (Australia) thought that the interpretation of the first sentence of paragraph 3 given by the representative of Lebanon needed some explanation. He did not for his part think that it was necessary to establish an independent and impartial tribunal to settle questions of compensation. Such questions were settled in some countries by the executive departments of the Government, and the representative of Australia thought that was a better system than having recourse to a tribunal. He did not consider himself to be bound by a text which would necessitate changes in Australian legislation. He considered that the clause would have the same binding force as the other provisions of the covenant and that it would be possible to apply it with a certain amount of latitude. Lebanon had the right to adopt whatever measures it deemed useful, but if other countries thought that questions of compensation could be better handled by the executive departments of the Government, they could continue that system while still being bound by the provisions of paragraph 3.

34. The representative of the United Kingdom was not mistaken in saying that members of the Commission were representatives of their Governments. Mr. Whitlam thought, however, that they were more than that, and that their personal competence had been taken into consideration; account must have been taken of their experience, of their capabilities and, Mr. Whitlam hoped, of their humanitarian sentiments.

35. The members of the Commission frequently found that practical considerations ran counter to idealistic conceptions. At bottom they were all idealists, but they were compelled to take practical difficulties into account. It was their job to draw up an effective instrument which the Governments would be able to accept.

36. Mrs. MEHTA (India) and Mr. NISOT (Belgium) asked Commission members not to digress from the subject under discussion and observed that the capacity in which they sat in the Commission had no influence upon the course of their work.

/Supplementary

Supplementary paragraph 4, proposed by the Philippine delegation

37. Mr. MENDEZ (Philippines) explained that the text proposed by his delegation for paragraph 4 (E/CN.4/365, page 40) was based on a generally accepted legal principle according to which no accused person might be forced to testify against himself or to confess guilt. He was sure that Commission members would recognize the worth of that proposal without further explanation.

38. Mr. NISOT (Belgium) did not think that the second phrase enhanced the value of the Philippine text. It clearly rested with the accused person to decide for himself regarding confession; he could either accept or refuse the promised benefits of compensation or immunity. He could hardly see how anyone could be prevented from confessing, if he so desired.

39. Mr. MENDEZ (Philippines) replied that it was not a question of preventing the accused person from making a confession, but of preventing the authorities from forcing him to do so.

40. Mr. ORDONNEAU (France) noted that the second part of the Philippine text was intended to grant immunity to any accused person who, by making a confession, became a witness for the prosecution. The French delegation could not accept that principle. He therefore asked for a vote to be taken in sections so as to enable the Commission to take separate decisions on the last part of the phrase beginning with the words "except in the..."

41. Mr. VALENZUELA (Chile) wished the text to be put to the vote in three sections: the first vote to deal with the first phrase ending in the word "guilt", the second, with the phrase ending in the word "confession" and the third to deal with the last part of the phrase beginning with the words "except in the".

It was so decided.

The first phrase was adopted by 11 votes to 3, with 1 abstention.

The first part of the second phrase was rejected by 8 votes to 2, with 8 abstentions.

42. The CHAIRMAN observed that after the last vote, there was no further need to put the last part of the second phrase to the vote.

/43. Mr. WHITLAM

43. Mr. WHITLAM (Australia), explaining his vote, said that his delegation was opposed in principle to the Philippine text as its somewhat vague drafting might lead to misunderstanding. Furthermore, the Philippine amendment unduly widened the original scope of article 13.

44. Mr. ORDONNEAU (France) associated himself with the Australian representative's views.

45. The CHAIRMAN put to the vote the whole of supplementary paragraph 4, which read: "No one shall be compelled to testify against himself or to confess guilt."

The paragraph was adopted by 11 votes to 3, with 1 abstention.

Article 14 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/425)

46. The CHAIRMAN, speaking as representative of the United States of America, said that her delegation accepted article 14 in its original form, for that article prohibited both the punishment of a person for an act or an omission which did not constitute an offence at the time when it was committed, and the application of penalties heavier than those provided by law at the time when the offence was committed. The original text was sound and the United States delegation would vote for it.

47. The United States delegation would also accept the Philippine proposal to replace the word "penal" by "criminal". It could not, however, agree to the substitution of the word "repression" for "penalty" (1) as the term suggested by the Philippine delegation was not used in United States legal terminology and therefore did not have the same definite meaning in Anglo-Saxon law as the word "penalty".

48. The Philippine delegation also proposed amendments to the second sentence in article 14; those amendments would make it impossible for a penalty higher than that applicable by law at the time when the offence was committed to be imposed upon any accused person. In the United States of America, however, it was thought that every accused person should have the advantage of subsequent legislative amendments which would result in a lighter sentence.

(1) Modifications affecting the English text only.

49. Commenting next on the text of the additional paragraph proposed by the United Kingdom delegation (E/CN.4/365, page 42), Mrs. Roosevelt said that such a provision seemed to her to be superfluous. The first sentence of article 14 laid down the principle that no one was to be held guilty on account of any act which did not constitute a penal offence "under national or international law". The text proposed by the United Kingdom amounted to a statement of the same principle, but in a positive form. Moreover, she noted that the expression "the general principles of law recognized by civilized nations" was used in article 38 c of the Statute of the International Court of Justice to designate one of the sources of international law.

50. It followed that the additional paragraph proposed by the United Kingdom merely duplicated the original text of article 14; moreover, it seemed that it might open a breach in the system of protection against retroactive laws which the article was designed to set up. It was difficult to foresee all the interpretations to which such a text might give rise in the future. Last year the Commission had voted against a similar proposal put forward by the United Kingdom, and the United States delegation did not think it would be appropriate to reverse that decision.

51. Mr. CHANG (China) associated himself with the comments of the United States representative. He confirmed the fact that the Commission had decided against retaining the text proposed by the United Kingdom, not only because it thought that it was without value but also because it was afraid that it might lead to confusion and be exploited for purposes foreign to the intention of its authors. The Nürnberg Trial was an exceptional case in international jurisprudence; it ought not therefore to be the subject of a special provision in a general convention on fundamental human rights and freedoms.

52. Miss BOWIE (United Kingdom) explained that the text proposed by her delegation appeared in the original article drawn up at Geneva by the Drafting Committee; it had been struck out only last year. At that time, the representative of Chile on the Commission of Human Rights had made a brilliant plea on behalf of maintaining it. It must be remembered that when the text was written, the Nürnberg Trial had left a deep impression on the world; moreover, it had

/not ceased

not ceased to interest the peoples of Europe as strongly as ever. That was why the United Kingdom Government had been anxious to take up a provision which could on no account be regarded as valueless. It was important to emphasize in the covenant that acts which might not so far be the subject of express provisions in international law, could nevertheless be contrary to the general principles of law recognized implicitly in both national and international legislation.

53. Mrs. MEHTA (India) recalled that it was her delegation which had proposed at the preceding session that the text of article 14, now being re-proposed by the United Kingdom delegation, should be deleted. It had done so both because of the vagueness with which the text was worded and because it was undesirable to refer in a general convention on fundamental human rights to the special case of war criminals.

54. Those reasons remained valid and the Indian delegation would therefore oppose the adoption of the additional paragraph.

55. Mr. MALIK (Lebanon) said that the United Kingdom representative had set forth most convincingly the reasons why it was important to insert a provision of the kind proposed by the United Kingdom in the covenant. The Lebanese delegation would therefore vote in favour of it.

56. Mr. THEODOROPOULOS (Greece) confirmed the importance of such a provision in the eyes of the peoples of Europe.

57. Mr. ORDONNEAU (France) supported the United Kingdom proposal. The French delegation was convinced that it was impossible to draft a text as important as the covenant on human rights without including a definite reference to the events which had so strongly influenced the course of history. Moreover, it was those very events which had been responsible for the creation of the United Nations as well as the work in which the Commission was engaged. The Commission must not take any action which might seem to repudiate the measures adopted by the Allies after the Second World War. The question was important not only for Europe but for the whole world since in addition to the Nürnberg trials, there were also trials in Tokyo in which the United States had a primary concern.

/58. The French

58. The French delegation unhesitatingly supported the addition of a paragraph as proposed by the United Kingdom. Nevertheless, it recognized that the drafting of that paragraph was somewhat unsatisfactory. In the French translation particularly, the expression, "Nonobstant toutes dispositions contraires dans le présent article" should be replaced by "Rien dans le présent article ne peut être interprété comme interdisant... etc.".

59. Mr. JEVREMOVIC (Yugoslavia) also supported the United Kingdom proposal. Nevertheless, the text might be drafted more satisfactorily. Mr. Jevremovic particularly objected to the expression "general principles of law recognized by civilized nations" which seemed to imply the existence of nations which were not civilized. While it might be agreed that the peoples of the world had reached varying levels of civilization, the civilized condition of a national entity which had attained the dignity of statehood could certainly not be questioned. Mr. Jevremovic thought that that formula might perhaps be replaced by a reference to the principles of the Charter and the Universal Declaration of Human Rights.

60. The CHAIRMAN, speaking as the representative of the United States of America, commented that the adoption of the additional paragraph might appear to be intended to justify the Nurnberg trials when no one was thinking of challenging their validity. The expression "under national or international law" which appeared in article 14 adequately met the concern expressed in that regard by the representatives of the United Kingdom and France; moreover, that expression had been introduced for precisely that reason.

61. Turning next to the amendment presented by the Egyptian delegation (E/CN.4/425), Mrs. Roosevelt feared that that proposal might go beyond the aim of article 14. Thus, if a person was accused of having violated existing rent laws, that person could not escape punishment on the pretext that in the interim, the rent laws in question had been changed in his favour. Actually the legislation had been changed only because of improvement in housing conditions and could not be invoked to exonerate a person who had committed a violation at a time when there was a housing shortage. Accordingly, the United States delegation was opposed to the Egyptian amendment.

/62. Further,

62. Further, Mrs. Roosevelt asked the Egyptian representative whether the amendment was to be interpeted as giving to any person sentenced under ordinary law and serving a prison sentence the right to have his sentence commuted if, at the end of a few years, the law relating to the crime he had committed had been made more lenient. The United States delegation for its part thought that article 14, which stipulated that a heavier penalty than that applicable at the time the crime was committed should not be imposed, was enough to guarantee the desired protection.

63. Mr. RAMADAN (Egypt) explained that the intention of the Egyptian delegation in submitting its amendments had been to raise a debate likely to throw light on the question. His delegation would be fully satisfied if the debate were reproduced in the records of the meeting.

64. Mrs. MEHTA (India) and Mr. THEODOROPOULOS (Greece) said that their delegations were ready to accept the liberal Egyptian amendment which guaranteed any person charged with a crime the benefit of the most lenient law.

65. Miss BOWIE (United Kingdom) observed that any court of law which could choose between two sentences generally imposed the lighter penalty. The question was one of the administration of justice and the Egyptian amendment seemed rather unnecessary.

66. Mr. MENDEZ (Philippines) also stressed that the principle on which the Egyptian amendment was based was in general application, as for example, in the Philippines.

67. Mr. MALIK (Lebanon) hoped that, in the circumstances, the representative of the Philippines would not press for the adoption of his amendment to the second sentence of article 14.

/68. Mr. SORENSON

68. Mr. SORENSON (Denmark) said that his delegation would vote against the United Kingdom amendment, as its purpose was sufficiently met by the words "under national or international law" which the Commission had adopted at its preceding meeting precisely in order to meet the United Kingdom delegation's wish not to cast doubt upon the validity of the judgments of Nurnberg and Tokyo. Article 14 in its present form could not be construed as exposing to challenge the validity of those judgments.

69. Mr. MALIK (Lebanon) said that he would have voted for the Egyptian amendment had it not been for the arguments advanced by the United States delegation, which had appeared very convincing to him. Unless, therefore, the representative of Egypt could reply to those arguments, he would be unable to vote for his amendment.

70. Mr. VALENZUELA (Chile) remarked that the words "under national or international law" limited to some extent the scope of article 14, which enshrined the principle of the non-retroactivity of penal laws. The text would actually enable the courts of certain countries to condemn persons for offences not punishable under the national legislations of those countries, under the pretext that they were punishable under international law.

71. There was, on the other hand, a special category of offences of which the whole community was a victim; such were the so-called economic offences, including illegal speculation. The principle of non-retroactivity was not and could not be applied to that special category of offences.

72. Referring to the Philippine amendment, Mr. Valenzuela said that most criminal legislations followed a flexible system under which the courts had complete freedom to determine the penalties, provided that the latter did not exceed the maximum provided by law. That represented a sufficient safeguard of the rights of defendants. The Chilean delegation was therefore opposed to the amendment.

73. Lastly, as regards the United Kingdom amendment, the representative of Chile agreed with the representative of Yugoslavia that no distinction could be drawn between civilized and uncivilized nations. A nation was, by definition, a civilized body. The word "nations" should therefore, at the least, be replaced by "peoples".

/74. Mr. NISOT

74. Mr. NISOT (Belgium) stressed that article 14 as it stood provided for the punishment of all acts constituting a breach of international law. The United Kingdom amendment was based on a different criterion, and defeated its own purpose by implying that the defendants at Nurnberg and Tokyo had not been condemned under international law but in virtue of principles of less certain authority.

75. Miss BOWIE (United Kingdom), referring to the suggestion made by the representative of Yugoslavia, explained that the United Kingdom delegation had thought it wise to reproduce the exact terms of article 38 of the Statute of the International Court because it had thought that a reference to the Charter and the Universal Declaration would be too vague.

76. Mr. ORIBE (Uruguay) agreed with the representatives of the United States and Belgium that the United Kingdom amendment was redundant because the words "under national or international law" sufficiently met its purpose. However that might be, he did not think that article 14 of the covenant could be invoked either to justify or to question the validity of judgments passed five years previously.

77. Regarding the Egyptian amendment, Mr. Oribe stressed the distinction which should be drawn between the first and the second part of article 14. The first dealt with the principle "nullum crimen sine lege", the second with that of "nulla poena sine lege". The Egyptian amendment was a logical complement of the principle stated in the second part of the article, and was entirely consistent with the intentions of its authors.

78. Mr. JEVREMOVIC (Yugoslavia) continued to believe that the United Kingdom amendment, if modified as to its second part, would meet a very real need. He asked the United Kingdom representative whether she would accept the wording "according to the principles recognized by international law". There was no reason to refer to the judgments of Nurnberg and Tokyo to justify the amendment; the defendants at Nurnberg and Tokyo had been condemned for having committed acts regarded as criminal not only under international law but also under the common law of all countries.

/79. Miss BOWIE

79. Miss BOWIE (United Kingdom) said she would agree to change her amendment to read "....according to generally recognized principles of law".

80. The CHAIRMAN, speaking as representative of the United States of America, supported by Mr. SORENSON (Denmark), maintained that the words "under national or international law" appearing in the text of article 14 had the same meaning as "according to generally recognized principles of law"; there was no principle of law which did not form part of national or international law.

81. Miss BOWIE (United Kingdom) replied that one of the main arguments of the defence at Nurnberg had been that the acts of which the defendants had been accused had not constituted crimes under international law at the time they had been committed. The words "under international law" were not therefore sufficient to cover acts such as those perpetrated during the war.

82. Mr. JEVREMOVIC (Yugoslavia) withdrew his amendment in favour of the new text proposed by the United Kingdom delegation.

83. Mr. RAMADAN (Egypt), in reply to the remarks made by the United States representative, pointed out that the application of rent laws fell within the competence of courts specially set up for that purpose, and did not come within the scope of the Egyptian amendment. On the other hand, his amendment provided for the possible determination of a lighter penalty at the time when the sentence was passed; it was clear that after the judgment had been pronounced it was irrevocable and no change in the law could modify it.

84. Mr. WHITLAM (Australia) stated that his delegation was satisfied with the original text of article 14, subject to the substitution of the word "penal" for the word "criminal" in the English text, as proposed by the Philippine delegation.

85. With regard to the United Kingdom amendment, Mr. Whitlam shared the view of the representatives of the United States and Denmark; he felt that the words "under national or international law" appearing in article 14 sufficiently covered the point with which the United Kingdom delegation was concerned. The Australian delegation therefore would abstain from voting on that amendment.

/86. Mr. ORIBE

86. Mr. CRIBE (Uruguay) stated that provisional laws establishing or abolishing certain categories of offences should not be confused with laws altering the existing penalties for a given offence. The Egyptian amendment called for the application of laws providing for lighter penalties, and bore no relation whatever to the offences as such. It was clear that if a person was convicted of having violated rent laws, his sentence could not be reviewed even if the law under which he had been convicted had become obsolete.

87. Mr. NISOT (Belgium) indicated that the Egyptian amendment proclaimed a principle which was generally recognized, especially in French and Belgian law, and which raised no difficulty.

88. Mr. ORDONNEAU (France) also wished to make it clear that the Egyptian amendment called for the imposition of a penalty in accordance with the law in force at the time of the pronouncement of the sentence. Once the sentence had been pronounced it could not be affected by any subsequent changes in the existing penalties. The Egyptian amendment therefore had a definite field of application concerning which no difficulty could arise; consequently Mr. Ordonneau would support it.

89. The CHAIRMAN announced that she would put to the vote article 14 and the amendments to it, beginning with the first Philippine amendment to replace the word "penal" by the word "criminal" in the English text.

90. Mrs. MEHTA (India) remarked that the word "penal" was contained in the corresponding article of the Universal Declaration of Human Rights.

91. Mr. ORDONNEAU (France) stated that he had no objection to that amendment which, in his opinion, did not apply at all to the French text, for the words "criminal" and "punishable" had not the same meaning in French as in English.

92. Mr. CRIBE (Uruguay) thought it unnecessary to put to the vote an amendment involving only drafting changes.

The Philippine amendment was adopted with the proviso that the interpretation given to the word "criminal" by the French representative should apply to the French text.

/93. The CHAIRMAN

93. The CHAIRMAN put to the vote the second Philippine amendment to replace the words "heavier penalty" by the words "different penalty".

The amendment was rejected by 13 votes to 1, with 1 abstention.

94. The CHAIRMAN put the Egyptian amendment to the vote (E/CN.4/425).

The amendment was adopted by 7 votes to 3, with 5 abstentions.

95. The CHAIRMAN put to the vote the paragraph as a whole as amended.

The paragraph was adopted by 14 votes to none, with 1 abstention.

96. The CHAIRMAN put to the vote the United Kingdom proposal to add the following paragraph to article 14:

"Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations."

The proposal was adopted by 7 votes to 6, with 2 abstentions.

97. The CHAIRMAN put to the vote article 14 as a whole as amended.

Article 14 as amended was adopted by 9 votes to none, with 6 abstentions.

98. Mr. ORIBE (Uruguay) stated that he had abstained from voting on article 14 as a whole in view of the fact that the United Kingdom amendment had introduced an entirely new element into it.

Article 15 (E/CN.4/365, E/CN.4/353/Add.10)

99. The CHAIRMAN, speaking as the United States representative, said that her delegation proposed that the word "has" should be changed to "shall have".

The change was adopted.

100. The CHAIRMAN put to the vote article 15 as amended.

Article 15, as amended, was adopted unanimously.

The meeting rose at 5.20 p.m.

27/4 a.m.