

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



GENERAL  
E/CN.4/SR.195  
29 May 1950



ENGLISH  
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixth Session

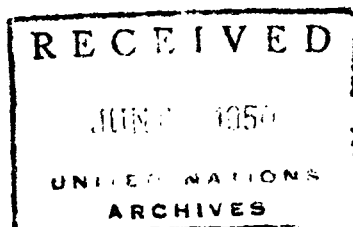
SUMMARY RECORD OF THE HUNDRED AND NINETY-FIFTH MEETING

Held at Lake Success, New York,  
on Tuesday, 16 May 1950, at 2.30 p. m.

CONTENTS:

Draft international covenant on human rights (annexes I and II  
of the report of the fifth session of the Commission on Human  
Rights (E/1371))(continued):  
- Articles 2 (continued), 3 and 4 (E/CN.4/365, E/CN.4/353/Add.10,  
E/CN.4/374, E/CN.4/380, E/CN.4/495, E/CN.4/497, E/CN.4/498)

<u>Chairman:</u>	Mrs. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHANG	China
	Mr. SORENSEN	Denmark
	Mr. RAMADAN	Egypt
	Mr. CASSIN	France
	Mr. KYROU )	Greece
	Mr. THEODOROPoulos )	
	Mrs. MEHTA	India



Members: (continued)

Mr. MALIK	Lebanon
Mr. MENDEZ	Philippines
Miss BOWIE )	United Kingdom of Great Britain
Mr. HOARE )	and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representative of a specialized agency:

Miss CRENSTEIN	World Health Organization (WHO)
----------------	---------------------------------

Representatives of non-governmental organizations:Category A:

Miss SENDER	International Confederation of Free Trade Unions (CFTU)
Mrs. GORDON-SPRAGUE	World Federation of United Nations Associations (WFUNA)

Category B:

Mr. GOLDSMITH	Agudas Israel World Organization
Mr. NOLDE	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BERNSTEIN )	Co-ordinating Board of Jewish Organizations
Mr. HALPERIN )	
Mrs. PARSONS	International Council of Women
Mr. BEER	The International League for the Rights of Man
Mr. PERLZWEIG	World Jewish Congress

Secretariat:

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

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

Article 2 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/374, E/CN.4/380) (continued)

1. The CHAIRMAN invited the members of the Commission to study paragraph 2 of article 2 of the draft international covenant on human rights and the amendments to that paragraph.
2. Speaking as representative of the United States of America, she said that her delegation had decided to withdraw its amendment to paragraph 2 and to submit instead an amendment to the United Kingdom amendment (E/CN.4/374). She also pointed out that sub-paragraph (a) of the United Kingdom amendment contained provisions similar to those of paragraph 3 of the amendment proposed by France (E/CN.4/365, page 17).
3. Miss BOWIE (United Kingdom) said that her delegation had submitted an amendment to paragraph 2 of article 2 (E/CN.4/374) because it considered that the original text of the paragraph was not sufficiently precise. She particularly stressed the importance of sub-paragraph (c) of the United Kingdom amendment.
4. Mr. CASSIN (France) agreed with Mrs. Roosevelt that paragraph 3 of the French amendment was very like sub-paragraph (a) of the United Kingdom amendment. The only difference was that the French amendment gave a list of the authorities under which a remedy was possible. He wondered whether sub-paragraph (a) of the United Kingdom amendment and paragraph 3 of the French amendment could be combined, although he did not entirely support sub-paragraph (b) of the United Kingdom amendment.
5. The CHAIRMAN, speaking as representative of the United States of America, said that the United States amendment was intended to insert in sub-paragraph (b) of the United Kingdom amendment a phrase taken from the French amendment. The United States delegation thought that the reference to national tribunals in sub-paragraph (b) of the United Kingdom amendment was too narrow. The broader reference to competent political or administrative authorities and national tribunals in the French amendment seemed preferable.

She also pointed out that in the English text of her amendment, she had placed the word "national" by "domestic". In several countries, and in the United States in particular, the expression "national tribunals" might give the impression that only the highest federal court was involved and other federal courts might thus be ignored. Moreover, it was advisable to mention political and administrative authorities.

7. She thought that sub-paragraph (c) of the United Kingdom amendment was unnecessary. However, if the Commission felt that a separate reference to enforcement should be made, the United States delegation would suggest that the words "police and executive authorities" should be replaced by the words "competent authorities".

8. Miss BOYLE (United Kingdom) was willing to refer to administrative authorities in her amendment. However, she asked the representatives of the United States and France what they understood by "political authorities".

9. Mr. CASSIN (France) said that the political authorities were those which wielded power: the Government and the Parliament. It was quite possible for an individual to appeal to those authorities by means of a petition. Moreover, Parliaments frequently adopted bills providing special compensation in cases of particular importance. Such eventualities should not therefore be excluded.

10. The CHAIRMAN, speaking as representative of the United States of America agreed with the French representative.

11. Mr. JEVREMOVIC (Yugoslavia) approved the comments of the representatives of the United States and France. He pointed out, in addition, that certain cases involving freedom of association frequently came within the jurisdiction of the administrative rather than the judicial authorities. He would support the United States delegation's amendment to the United Kingdom amendment.

12. Mr. CASSIN (France) observed that the term "administrative authorities" could have a different meaning in France and in the Anglo-Saxon countries; in France the meaning was very narrow, while in the Anglo-Saxon countries the word "administration" could even cover the members of the Government. It was therefore  
/necessary to

necessary to adopt a very broad formula capable of covering all cases. Finally, he emphasized that in France, an effective remedy covered both monetary compensation and the abrogation of the measure already adopted, and sometimes the annulment of the decree involved.

13. The CHAIRMAN put sub-paragraph (a) of the United Kingdom amendment to the vote.

Sub-paragraph (a) of the United Kingdom amendment (E/CN.4/574) was adopted by 13 votes to none, with 1 abstention.

14. Mr. CASSELI (France) asked when the remedy provided for in sub-paragraph (a) of the United Kingdom amendment was to be made. He stressed the fact that provision should not be made for the right to remedy only; the abrogation of the illegal measures should also be envisaged.

15. Mr. NISOT (Belgium) suggested that the United States amendment should be altered as follows: "by the competent domestic authorities, political, administrative or judicial...".

16. Mr. CHANG (China) thought there was no point in inserting the word "domestic". He therefore suggested that the word should be deleted.

17. Mr. MALIK (Lebanon) proposed that the text of the Chinese amendment should be altered as follows: "by the competent authorities or a competent and independent tribunal...". The expression "independent tribunal" had already been used in article 13.

18. The CHAIRMAN put the Lebanese amendment to the vote.

The Lebanese amendment was rejected by 7 votes to 2, with 5 abstentions.

19. The CHAIRMAN put the Chinese amendment to the vote.

The Chinese amendment was not adopted, there being 4 votes in favour and 4 against, with 6 abstentions.

20. The CHAIRMAN put sub-paragraph (b) of the United Kingdom amendment, as amended by the Belgian representative, to the vote.

That sub-paragraph was adopted by 8 votes to 4, with 2 abstentions.

21. The CHAIRMAN, speaking as representative of the United States of America, recalled that her delegation thought that sub-paragraph (c) of the United Kingdom amendment was unnecessary. However, if the Commission decided to adopt that paragraph, she suggested that the words "that the police and executive authorities" should be replaced by the words "that the competent authorities".

22. Mr. CHANG (China) proposed that sub-paragraph (c) should be deleted.

23. The CHAIRMAN put to the vote the Chinese proposal to delete sub-paragraph (c) of the United Kingdom amendment.

That proposal was not adopted, there being 6 votes in favour and 6 against, with 2 abstentions.

The United States amendment replacing the words "the police and executive authorities" by the words "the competent authorities" was adopted by 8 votes to 3, with 3 abstentions.

Sub-paragraph (c) of the United Kingdom amendment, as amended, was adopted by 9 votes to none, with 3 abstentions.

24. Mr. MENDEZ (Philippines) suggested that the following should be added to article 2, paragraph 2 as a new sub-paragraph (d): "Violators shall be swiftly brought to the law, especially when they are public officials".

The Philippine proposal was rejected by 6 votes to 3, with 4 abstentions.

25. Mr. MENDEZ (Philippines) said that the vote should not be taken to mean that the Commission was indifferent to the fate of violators of human rights.

26. Mr. CASSIN (France) thought that the word "effectif" should be substituted for the word "utile" in paragraph 2 of the French text; the word "recevable" for the word "justifie"; and the words "recours presente" by the words "recours forme".

It was so decided.

The whole of article 2, as amended, was adopted by 13 votes to none, with 1 abstention.

Article 3 (E/CN.4/365, E/CN.4/353/Add.10)

27. Miss BOWIE (United Kingdom) recalled that article 3 of the draft covenant had originated with her delegation. The purpose of that article was to make clear that the General Assembly also should concern itself with respect for human rights; the draft international covenant on human rights as a whole should in fact be brought within the framework of the United Nations.

28. Mr. MISOT (Belgium) asked the United Kingdom representative whether, if article 3 were adopted as it stood, Members of the United Nations not parties to the covenant would be entitled to call upon countries parties to the covenant to explain before the General Assembly the manner in which they gave effect to the provisions of that instrument.

29. Miss BOWIE (United Kingdom) replied that any Member of the United Nations was entitled to ask a specific question on human rights in the General Assembly; a Member State, not party to the international covenant, would not, however, be entitled to call upon a state party to the covenant to explain how it applied the provisions of the covenant as a whole.

30. The CHAIRMAN, speaking as United States representative, said that she was opposed to the inclusion of article 3 in the draft covenant, as it would serve no useful purpose. The Commission had already decided, by adopting the provisions on implementation, that the Human Rights Committee would only hear complaints from states parties to the covenant. Moreover, it had been laid down that a state party to the covenant could call upon any state, which had ratified the covenant, for explanations. The covenant should not, therefore, authorize all Members of the United Nations, or a majority, to question a state party to the covenant through the General Assembly.

31. Mr. CASSIN (France) said that his delegation had always felt that article 3 was out of place in that part of the covenant. It had thought, at the time, that the article should be included in the part of the covenant dealing with measures of implementation. In view of the creation of the Human Rights Committee, however, it should take the form of a special General Assembly

/resolution

resolution recommending that all Members of the United Nations should supply the Secretary-General or the Commission on Human Rights with the requisite explanations of the manner in which their national laws ensured effective implementation of all the provisions of the covenant.

32. Mr. JEVREMOVIC (Yugoslavia) pointed out the difference between the purpose of article 3 and that of the measures of implementation. Article 3 was intended to induce States to make their laws conform with their obligations under the covenant, whereas the Human Rights Committee was required to deal with actual violations of the provisions.

33. The CHAIRMAN put article 3 to the vote.

Article 3 was rejected by 6 votes to 4 with 3 abstentions.

Article 4 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/497, E/CN.4/498)

34. Mr. BERNSTEIN (Co-ordinating Board of Jewish Organizations) said that during the drafting of the covenant the Commission had often had to resolve the conflict between the exigencies of sound government and the protection of the rights and freedoms of the individual. The Commission had usually tried to protect the rights of the individual, although it had sometimes had to restrict the use of them. Article 4 was obviously important because it raised that problem in an acute form.

35. The existing text of article 4 permitted derogations from the covenant in time of war or other public emergency threatening the interests of the people. History was unfortunately full of such examples of abuse of the derogation privilege.

36. The Co-ordinating Board of Jewish Organizations felt that any conflict between the interests of sound government and the protection of human rights should as far as possible be settled in favour of the exercise of those rights. That was all the more necessary because some of the articles already provided for possible limitations.

37. It was also essential that the Commission should define the exact meaning of certain phrases in the article, such as "in time of war". Theoretically, the Allies were still at war with Germany.

38. Moreover, no derogation should be allowed in any circumstances from the rights and freedoms defined in articles 6, 8, 10, 14, 15, 20 and 22. Articles 17, 18 and 19 might also be added as the rights set forth therein were already subject to some limitation. For similar reasons he suggested that the derogation privilege should not apply to such articles as 5 and 16.

/39. The Co-ordinating

39. The Co-ordinating Board of Jewish Organizations warmly supported the United States amendment to prevent any derogation inconsistent with international law. In addition, it felt that the covenant should provide that any contracting State derogating from the rights and freedoms set forth should promptly submit a full report both to the implementation body under the covenant and to the Secretary-General who should publish the report at once. Such derogations should cease as soon as the public emergency which made them necessary had passed. Finally, the Board was of the opinion that it be made explicit that the implementation provisions apply to actions taken under article 4.

40. Mr. JUVKOVIC (Yugoslavia) criticized the expression "in time of war" in the first paragraph of the article. There were defensive and offensive wars. No war, whatever its nature, should serve as a pretext for a general derogation from the obligations of the covenant. He therefore considered that the word "defensive" should be inserted before the word "war".

41. Mr. CASSEIN (France) stated that in principle his delegation supported article 4, which drew a distinction between the provisions of the covenant from which derogations were possible in certain cases and those from which no derogation whatever could be made.

42. Regarding the first paragraph, the French delegation felt that the expression "in time of war or other public emergency threatening the interests of the people" was much too vague. It therefore proposed the substitution for it of the phrase "in case of exceptional danger made evident by a public act or public disasters. The French delegation also supported the United Kingdom amendment to paragraph 2 (E/CN.4/365, page 19) as well as the United States amendment (E/CN.4/365, page 18), provided the latter ended with the words "international law".

43. Lastly, the French delegation would give favourable consideration to the Philippine amendment to paragraph 3.

44. The CHAIRMAN, speaking as the United States representative, stated that the covenant on human rights was designed to play an important part in the development of peaceful relations among nations. Nevertheless, it was

/unfortunately

unfortunately necessary to take the threat of war or other serious situations into account and that was the reason for the provisions of article 4. However, even in time of war there were some basic rules of conduct which States must observe. The United States Government felt, however, that to list all the cases in which derogations would be possible in that article would be by no means easy.

45. There were fortunately a great many conventions governing the conduct of States in time of war. They included, in particular, the four conventions recently drawn up at Geneva. The United States delegation considered that the Commission should take full advantage of those conventions which had been carefully worked out by big international conferences and it accordingly proposed that the existing text of article 4, paragraph 2, should be replaced by the following:

"No derogation may be made by any State under this provision which is inconsistent with international law or with international agreements to which such State is a party."

46. In conclusion she stated that her delegation proposed no changes in the first and third paragraphs of article 4.

47. Mr. MENDEZ (Philippines) noted that the purpose of his delegation's amendment was to limit the scope of the first paragraph by adding the word "gravely" and indicating the articles which must not be subject to any derogation. If the Philippine amendment was accepted, the second paragraph would become superfluous. Furthermore, his delegation proposed the insertion of the words "at once" in the third paragraph to make it possible for the United Nations machinery to be brought into action in time.

48. Miss BOWIE (United Kingdom) said she would accept the United States amendment to paragraph 2 as an addition to, but not as a substitution for, the United Kingdom amendment (E/CN.4/365, page 19) to that paragraph. With reference to the additional provisions proposed by the Philippines, she stated that imperative needs of national security might make it cause a State to derogate from the rights set forth therein. The United Kingdom delegation could therefore not support the Philippines proposal to include articles 9, 11, 12, 17 and 19 among those from which no derogation was allowed.

/49. Mr. NISOT

49. Mr. NLSOT (Belgium) suggested that the United States amendment to paragraph 2 should be modified as follows:

"No derogation which is also incompatible with international law may be made by a State under this provision." (E/CN.4/497)

50. He further suggested that the third paragraph of article 4 should be redrafted as follows:

"Any State party hereto availing itself of the right of derogation shall inform the other States parties to the covenant, through the intermediary of the Secretary-General, of the provisions from which it has derogated and the date on which it proposes to end such derogation."

51. He felt, in fact, that the principal objective of paragraph 3 was to see to it that States parties to the covenant kept each other informed of any derogations from the covenant.

52. Mr. CRIBE (Uruguay) supported the retention of article 4 in spite of the serious problems it raised. It set forth a new principle in international law -- that of the responsibility of States towards the members of the community of nations for any measures derogating from human rights and fundamental freedoms. That principle was, moreover, established in most national legislations under which the executive power was responsible for its measures suspending constitutional guarantees.

53. Referring to paragraph 2, he thought, as did the representative of the United Kingdom, that it would be better to combine the United States amendment with that of the United Kingdom.

54. As regards paragraphs 1 and 3, he considered that they were drafted in too indefinite terms. Note should be taken of the many amendments aimed at limiting the scope of the paragraphs in one way or another.

55. Mr. MALIK (Lebanon) also thought that article 4 was one of the most important articles of the covenant.

56. Referring to paragraph 1, he suggested that the words "of the covenant" should be replaced by the words "of the present covenant", in view of the fact that the Commission agreed that the covenant would be the first of a series of covenants relating to human rights. He then suggested that the words "to the extent strictly limited by the exigencies of the situation" should be inserted after the words "a State may take measures" in order more strongly to emphasize the limitations on the right of a State to take measures derogating from its obligations under the covenant. Finally, he agreed with the Philippine representative that the expression "public emergency threatening the interests of the people" might give rise to serious abuse. It would therefore be advisable, in his opinion, either to adopt the French amendment to that paragraph (E/CN.4/385, page 20) or to amend the phrase as follows: "seriously threatening the vital interests of the people".

57. Referring to paragraph 2, he was ready to accept the United States amendment on condition that it was added to, and not substituted for, the United Kingdom amendment. He also suggested that the following words should be added at the end of that paragraph: "The rights recognized therein being inalienable to the human person." Recalling the objections raised by the Yugoslav representative to his proposal to describe the rights listed in the preamble as inalienable, Mr. Malik stated that similar objections could not be raised in the case of his amendment to paragraph 2 of article 4; that enumerated the rights which could not be derogated from for any reason whatsoever.

58. Finally, as regards paragraph 3, he suggested that the second sentence should be amended as follows:

"It shall also inform him as and when such measures cease to operate."

59. If that proposal were rejected, it would be advisable at least to insert the word "corresponding" before the word "provisions" and the word "present" before the word "covenant."

60. He could not support the Belgian amendment to that paragraph as he felt that the implementation of the covenant concerned all Member States of the United Nations and not only the States parties to the covenant. For that reason he preferred that the information should be transmitted to the Secretary-General.

/61. Mr. MENDEZ

61. Mr. MENDEZ (Philippines) emphasized that paragraph 1 in its existing form was quite unacceptable. It was important to clarify it either by adopting the Philippine amendment suggesting that the word "seriously" should be inserted before the words "threatening the interests of the people," or by adopting the French proposal that the following words should be added: "in the case of a state of emergency officially proclaimed by the authorities or in the case of public disaster."

62. He accepted the United States amendment as an addition to paragraph 2.

63. Mr. VALENZUELA (Chile) said that his delegation would vote against article 4 because it felt that the concept of national security and public order set forth in the other articles of the covenant sufficiently covered all cases which might arise in time of war or other calamity mentioned in that article.

64. The Chilean delegation considered that paragraph 1 was drafted in such indefinite terms that it would permit of every kind of abuse. In that connexion the distinction drawn by the Yugoslav representative between a defensive war and an offensive war was very pertinent. Moreover, the expression "in time of war" was too vague. He also pointed out that the expression "the interests of the people" had no precise legal meaning, since all the activities of a State, whatever they might be, were always supposed to be carried out in the interests of the people. Finally, he did not like the word "measures" because it was not stated whether it was a question of legal or arbitrary measures.

65. Referring to paragraph 2, he stated that whatever might be its final form, it would not fail to raise very complicated problems of interpretation and to give rise to considerable abuse.

66. Finally, the Chilean delegation could not support paragraph 3, which duplicated the measures of implementation already adopted by the Commission, and which entrusted the Secretary-General with a task which he would not easily be able to carry out.

67. For all those reasons the Chilean delegation formally proposed that article 4 should be deleted.

68. Mr. WHITLAM (Australia) said he would support the Chilean proposal to delete the whole of article 4 provided another article in the covenant dealt clearly with the question of national security and public order.

/69. Mr. CASSIN

69. Mr. CASSIN (France) could not vote for the deletion of article 4. Although it was true that the covenant contained provisions relating to national security and public order, the French delegation believed that it was essential for the covenant to include a list of articles from which there could never be any derogation. Such a list was necessary to prevent abuses by dictatorial regimes.

70. Mr. ORIBE (Uruguay) praised the motives of the Chilean proposal. Although he recognized that the covenant contained provisions relating to national security and public order, he believed that the scope of article 4 was wider. He therefore urged the Commission to face facts and to try to draft a clear text.

71. The Uruguayan delegation believed that the Commission should do its utmost to agree on a list of articles from which there could be no derogation. Otherwise, nothing in the covenant would prevent some states from derogating arbitrarily from their obligations. It was also necessary to provide for certain measures of control.

72. Mr. NISOT (Belgium) said that in the English/ <sup>translation</sup> of his amendment to article 4 (E/CN.4/497) the word "also" in the first line should be replaced by the word "otherwise" and the expression "it proposes to end such derogation" in the last line by the words "it has put such a derogation to an end".

73. Miss BOWIE (United Kingdom) appreciated the reasons for the Yugoslav proposal to insert the word "defensive" before the word "war" but wondered whether any country had ever admitted taking part in a war which was not "defensive".

74. Mr. JEVREMOVIC (Yugoslavia) said, in reply to the representative of the United Kingdom, that peoples of the United Nations were resolved to save future generations from the scourge of war.

75. Mr. WHITLAM (Australia) wondered what was the difference between the expression "public emergency threatening the interests of the people" in paragraph 1 of article 4 and the expression "public emergency gravely threatening the interests of the people" proposed by the delegation of the Philippines. Similarly, he wanted to know what the Lebanese representative meant by the word "vital" he had proposed to insert before the word "interests".

/76. Mr. MENDEZ

76. Mr. MENDEZ (Philippines) thought that the words "public emergency" in paragraph 1 should be replaced by a clearer expression. The expression "public disaster" proposed in the French amendment to article 4 seemed to be more satisfactory, or else the expression "emergency threatening the security and general welfare of the people".

77. Mr. WHITLAM (Australia) said that the expression "other public emergency threatening the interests of the people" might cover general strikes which often lead to economic and social disorders, disruption of means of transport and food restrictions. Police action might become necessary in all those cases. Similarly any movement to overthrow a Government by force might also be considered a public emergency.

78. Mr. JEVREMOVIC (Yugoslavia) asked the Australian representative whether he wished to forbid strikes. In his opinion, the right to strike was a human right consistent with the Declaration and the Charter of the United Nations. Consequently, strikes could in no way be regarded as a public emergency.

79. The CHAIRMAN, speaking as representative of the United States, accepted the Belgian amendment to article 4 (E/CN.4/497) and withdrew her own amendment to paragraph 2 of article 4 (E/CN.4/365, page 19).

80. Mr. WHITLAM (Australia) said, in reply to the Yugoslav representative, that subversive elements seeking to disrupt the economic and social system and to endanger public order and national security might exist in any democratic society. He therefore agreed to the suggestion of the Philippine representative that the words "public emergency threatening the interests of the people" should be replaced by the words "public emergency threatening the security and general welfare of the people". The Australian delegation would support such a suggestion if it were moved in the form of an amendment.

81. Mr. CASSIN (France) hoped that, if the Commission decided not to delete article 4, it would then examine the French amendment to paragraph 1 of article 4. He recalled that during the discussion on another article of the covenant he had suggested the expression "public order in a democratic society". That expression had not been adopted by the Commission; yet it could have met the point just made by the Yugoslav representative.

82. The French amendment to paragraph 1 of article 4 would replace the words "in time of war or other public emergencies threatening the interests of the people" by the words "in the case of public disaster". The purpose of the clause concerning the official proclamation was to prevent states from derogating arbitrarily from their obligations under the covenant when such an action was not warranted by events.

83. The French delegation accepted the general idea of the Belgian amendment to paragraph 2.

84. It also supported the Belgian amendment to paragraph 3 provided the words "at once" were inserted before the word "inform" in the second line of that paragraph. The contracting states should immediately inform other contracting states of the obligations from which they had derogated. That had also been realized by the Philippine delegation, which had proposed the insertion of the words "at once" before the word "inform" in paragraph 2 of its amendment (E/CN.4/365). He also made it clear that contracting states should inform the other contracting states, and not all the members of the United Nations, of the obligations from which they had derogated.

85. Mr. NISOT (Belgium) accepted the addition of the words "at once" before the word "inform" in the second line of his amendment to paragraph 3.

86. Mr. JEVREMOVIC (Yugoslavia) did not agree with the representative of Australia on the matter of strikes. Workers' efforts to raise the standard of living and obtain higher salaries could not be called subversive. He had already stated during the discussion of economic and social rights that it was dangerous to think of the workers' movement as subversive and harmful. Such an attitude would be incompatible with the concept of a democratic society.

87. Mr. MALIK (Lebanon) had not fully understood the French representative's statement that he supported the Belgian amendment to paragraph 2 of article 4, but thought it essential to include a list of articles admitting of no derogation in the paragraph. Those two statements seemed to be contradictory, since the Belgian amendment would substitute a new text for paragraph 2 of article 4.

/88. Mr. CASSIN

88. Mr. CASSIN (France) explained that he understood the Belgian amendment was an addition to, rather than a substitution for, paragraph 2 of article 4.

89. Mr. NISOT (Belgium) explained that his amendment would substitute a new text appearing in document E/CN.4/197 for paragraph 2.

90. Mr. CASSIN (France) urged that the Belgian text should be added to paragraph 2 of article 4, not substituted for it. In his opinion, the most important part of article 4 was the list of articles from which a State could not derogate.

91. Miss SENDER (International Confederation of Free Trade Unions) could not agree that general strikes should be considered as a public danger, threatening the interest of the people. In her opinion, the right to strike was the worker's legal weapon and should in no case be called subversive. It would be inadmissible for any article of the covenant to prejudice that democratic right.

92. Miss Sender thought that paragraph 2 was valuable, since it listed the articles from which no states could derogate.

93. The CHAIRMAN pointed out that it had not been the Commission's intention to describe the right to strike as dangerous or subversive. Actually, the discussion had related to acts of violence against the constitution or government of a state.

94. Mr. WHITLAM (Australia) noted that he had unwittingly caused a misunderstanding. In his previous statements, he had meant to refer to nationwide disturbances which might result from workers' demonstrations. In that connexion, he asked whether the Philippine representative would agree to the following wording: threatening the safety or general welfare of the people .

95. Mr. MENDEZ (Philippines) accepted that suggestion.

96. The CHAIRMAN put the Chilean proposal to delete article 4 to the vote.

The Chilean proposal was rejected by 10 votes to 2, with 2 abstentions.

/97. The CHAIRMAN

97. The CHAIRMAN put the French amendment to paragraph 1 of article 4 (E/CN.4/365, page 19) to the vote.

The French amendment was adopted by 6 votes to 3, with 4 abstentions.

98. Mr. MALIK (Lebanon) suggested that the words "to the extent strictly limited by the exigencies of the situation" in the English text of paragraph 1 should be placed after the word "derogating".

99. Mr. CASSIN (France) accepted the proposal, which meant that the words "mais seulement" should be added before the words "dans la stricte mesure" in the French text.

That proposal was adopted.

100. The CHAIRMAN put the Philippine amendment to paragraph 1 of article 4 (E/CN.4/365, page 19) to the vote.

The Philippine amendment was rejected by 10 votes to 1 with 3 abstentions.

101. The CHAIRMAN put paragraph 1 of article 4, as amended by the French delegation, to the vote.

Paragraph 1 was adopted by 10 votes to none, with 3 abstentions.

102. Mr. CASSIN (France) thought that the Belgian amendment should be added to paragraph 2 of article 4, and he was ready to make a proposal to that effect.

103. The CHAIRMAN put the Belgian amendment to paragraph 2 of article 4 (E/CN.4/497) to the vote.

The amendment was adopted by 8 votes to 4, with 2 abstentions.

104. Mr. MALIK (Lebanon) asked whether the Commission had just voted on the proposal to include a list of articles from which no States might derogate in paragraph 2.

105. The CHAIRMAN explained that the Commission had voted on the Belgian proposal to replace paragraph 2 of article 4 by the text given in document E/CN.4/497.

106. Miss BOWIE (United Kingdom) said she had understood that the Belgian amendment was an addition to paragraph 2 of article 4. She feared that other representatives might have had the same impression.

107. The CHAIRMAN explained that the Commission had voted on a Belgian amendment to replace paragraph 2 by a new text. She recalled that the French delegation had indicated its intention of submitting that amendment as an addition to paragraph 2.

108. Mr. NISOT (Belgium) stated that document E/CN.4/497 allowed of no doubt on the point. It was a substitute text.

109. Mr. ORIBE (Uruguay) explained that he also had considered the Belgian amendment an addition to paragraph 2 of article 4. He therefore asked the Chairman to put the amendment to a vote a second time.

110. The CHAIRMAN regretted the misunderstanding which had arisen. In accordance with the Commission's rules of procedure the Belgian amendment could not be put to a vote a second time unless a delegation submitted a formal motion to that effect.

111. Mr. MALIK (Lebanon) formally proposed that another vote should be taken on the Belgian amendment to paragraph 2 of article 4.

112. The CHAIRMAN put the Lebanese proposal to the vote.

The Lebanese proposal was adopted by 10 votes to none, with 3 abstentions.

113. Miss BOWIE (United Kingdom) wondered how it was possible to put the Belgian amendment to paragraph 2 to the vote and then the original paragraph 2. If the Belgian amendment was adopted as a substitute text, no vote would be taken on paragraph 2. The United Kingdom delegation therefore wished to submit an amendment to the Belgian proposal reading as follows: "No derogation which is also incompatible with international law or with articles 5, 6, 8, 10 and 14 may be made by a State under this provision."

114. Mr. WHITLAM (Australia) supported the United Kingdom proposal and stated that he also had considered the Belgian amendment an addition to paragraph 2.

115. Mr. CASSIN (France) observed that if the Belgian amendment was rejected the Commission would vote on the Lebanese amendment, and then the French delegation would again submit the Belgian amendment as an addition to paragraph 2.

116. The CHAIRMAN put the Belgian amendment to paragraph 2 of article 4 (E/CN.4/457) to the vote a second time.

The amendment was rejected by 7 votes to 4, with 2 abstentions.

117. Mr. SORENSEN (Denmark) considered that the United Kingdom amendment would prejudge the Commission's decision on the articles from which no state might derogate. In his opinion it would be better not to list those articles in paragraph 2 at the current stage of the debate.

118. Miss BOWIE (United Kingdom) amended her proposal so as not to list the articles from which there might be no derogation.

119. The CHAIRMAN asked the French delegation whether it accepted that amendment. If so, the French and United Kingdom amendments would be the same.

120. Mr. CASSIN (France) accepted the modification to his amendment suggested by the United Kingdom delegation.

121. The CHAIRMAN put to the vote the Lebanese proposal that the words "the rights recognized therein being inalienable to the human person" should be added after the list of articles (E/CN.4/498).

The amendment was rejected by 7 votes to 2, with 4 abstentions.

122. The CHAIRMAN suggested that the Commission should vote on each of the articles enumerated in the French amendment to paragraph 2 (E/CN.4/365, page 20)

/123. Mr. MALIK

123. Mr. MALIK (Lebanon) stated that the numbers of the articles had been changed a great deal during the Commission's discussions. He suggested therefore that no decision should be taken on the articles at that stage of the debate.

124. Miss BOWIE (United Kingdom) opposed that proposal.

125. Mr. CASSIN (France) thought that the difficulty might be solved by describing the article briefly before putting it to the vote.

126. The CHAIRMAN accepted Mr. Cassin's proposal, and stated that after the vote the Secretariat would correct the numbers of the articles enumerated.

127. Mr. NISOT (Belgium) wondered whether in time of war article 5 would prevent the use of armed force to put down a riot organised by fifth columnists.

128. Miss BOWIE (United Kingdom) said that if the Commission intended to vote on the articles to be enumerated in paragraph 2, it would have to examine the United Kingdom amendment proposing the addition after the word "derogation" of the words "from article 5, except in respect of deaths resulting from lawful acts of war, or from..." (E/CN.4/365, page 19).

129. Mr. CASSIN (France) said that paragraph 2 of article 5 clearly covered cases of self-defence, which settled the question raised.

130. The CHAIRMAN put to the vote the United Kingdom amendment adding after the word "derogation" in paragraph 2 the words "from article 5, except in respect of deaths resulting from lawful acts of war, or from..."

The amendment was not adopted, there being 4 votes in favour, 4 against and 5 abstentions.

131. The CHAIRMAN put to the vote the following part of the French amendment to paragraph 2 "No derogation from articles 5... can be made under this provision" (E/CN.4/365, page 20).

The amendment was adopted by 10 votes to 2, with 1 abstention.

/132. Mr. NISOT

132. Mr. NISOT (Belgium) recalled, in reference to the inclusion of article 6 in paragraph 2, that during the First World War prisoners of war had been mistreated by one of the belligerents and that it was only by using reprisals that they had been induced to mitigate those practices, as all other measures had been fruitless. Should a State submit to everything without being able to react in what was, in the best analysis, the interests of humanity?

133. Mr. JEVREMOVIC (Yugoslavia) recalled that the Commission had decided to add the second part of article 7 to article 6.

134. The CHAIRMAN put to the vote article 6, dealing with torture and cruel, inhuman or degrading treatment or punishment and including the second part of article 7 which concerned medical or scientific experimentation.

It was decided to include article 6, by 11 votes to none, with 1 abstention.

135. Mr. NISOT (Belgium) explained that against his convictions he had voted for the inclusion of article 6 so that it should not be thought that the Belgian delegation was in favour of cruel, inhuman or degrading treatment.

136. At the request of Miss BOWIE (United Kingdom), Mr. CASSIN (France) accepted the United Kingdom proposal that only paragraphs 1 and 2 of article 8 should be taken into account.

137. The CHAIRMAN put the inclusion of paragraphs 1 and 2 of article 8 in paragraph 2 of article 4 to the vote.

It was decided to include paragraphs 1 and 2 of article 8, by 12 votes to none, with 1 abstention.

138. The CHAIRMAN put to the vote the inclusion in paragraph 2 of article 10, which dealt with the prohibition of imprisonment for non-fulfilment of contractual obligations.

It was decided to include article 10, by 12 votes to none, with 1 abstention.

139. The CHAIRMAN put to the vote the inclusion of article 14 on the retroactivity of sentences.

It was decided to include article 14, by 12 votes to none, with 1 abstention.

/140. The CHAIRMAN

140. The CHAIRMAN put to the vote the inclusion of article 15 regarding the recognition of juridical personality.

It was decided to include article 15, by 12 votes to none, with 1 abstention.

141. The CHAIRMAN put to the vote the inclusion of article 16 regarding freedom of thought, conscience and religion.

It was decided to include article 16, by 12 votes to none, with 1 abstention.

142. Mr. MALIK (Lebanon) wished to reserve the right of his delegation to propose on second reading of the covenant that other articles should be included in the list in paragraph 2 of article 4. He proposed that article 20 on discrimination should be added to the list immediately.

143. The CHAIRMAN put to the vote the inclusion of article 20 in paragraph 2 of article 4.

It was decided to include article 20, by 8 votes to 4, with 1 abstention.

144. Mr. NISOT (Belgium) explained that he had voted against the inclusion of article 20 because its provisions were not applicable in time of war. For instance, a State could not treat its own citizens the same as enemy nationals.

145. Mr. CASSIN (France) thought that the Commission ought to re-examine the question of article 20. He was afraid that it might have made a hasty decision.

146. The CHAIRMAN put to the vote the whole of the French amendment to paragraph 2 of article 4 (E/CN.4/365, page 20), with the addition of article 20.

The amendment was adopted by 7 votes to 2, with 3 abstentions.

147. The CHAIRMAN, speaking as representative of the United States of America, also wished to reserve her delegation's position on the inclusion of article 20.

148. Mr. MENDEZ (Philippines) shared the doubts of the preceding speakers with regard to the inclusion of article 20.

/ 149. Mr. KYROU

149. Mr. KYROU (Greece) explained that he had abstained from voting on the inclusion of paragraph 20 on the grounds already given by the preceding speakers.

150. The CHAIRMAN said that the Commission would re-examine the question of including article 20 at its next meeting.

151. She suggested that the Commission should vote on the second part of the French amendment to paragraph 2, given on page 20 of document E/CN.4/365.

152. Mr. HOARE (United Kingdom) wondered what was the exact meaning of the French amendment.

153. Mr. CASSIN (France) explained that several alterations had been made since the amendment was submitted. The French delegation had simply meant that there should be no total derogations from article 9 and that States should make every effort to avoid arbitrary arrests. He would accept any satisfactory compromise solution on that point.

154. The CHAIRMAN proposed that for the time being only paragraph 5 of article 9 should be taken into account.

155. Mr. CASSIN (France) thought that the question could not be settled hastily. He therefore proposed that the vote on that sentence should be postponed to the next meeting.

156. The CHAIRMAN put to the vote the United Kingdom proposal to add the Belgian amendment to paragraph 2 of article 4 (E/CN.4/497) to paragraph 2.

The amendment was adopted by 11 votes to none, with 1 abstention.

157. The CHAIRMAN put paragraph 3 of the Belgian amendment (E/CN.4/497) to the vote.

Paragraph 3 was adopted by 8 votes to none, with 5 abstentions.

/158. Mr. HOARE

158. Mr. HOARE (United Kingdom) explained that he had abstained from voting because he preferred that the contracting States should inform the Secretary-General of the United Nations, and not all the other States parties to the covenant, of the provisions from which they had derogated.

159. Mr. VALENZUELA (Chile) said that he had abstained on all the paragraphs of the article because he had proposed the elimination of article 4 as a whole.

The meeting rose at 7.10 p.m.