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Sixth Session

SUMMARY RECORD OF THE HUNDRED AND SIXTY-NINTH MEETING

Held at Lake Success, New York,
on Tuesday, 25 April 1950, at 2.30 p.m.

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General debate (continued)
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Article 18

<u>Chairman:</u>	Mrs. F.D. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHANG	China
	Mr. SORENSON	Denmark
	Mr. RAMADAN	Egypt
	Mr. CASSIN	France
	Mr. KYROU	Greece

Members (continued):

Mrs. MEHTA	India
Mr. MALIK	Lebanon
Mr. MENDEZ	Philippines
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present:

Mrs. GOLDMAN	Commission on the Status of Women
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Representative of a specialized agency:

Mr. LEMOINE	International Labour Organisation (ILO)
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Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
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Category B:

Mrs. VERGARA	Catholic International Union for Social Service
Mr. O.F. NOLDE	} Commission of the Churches on International Affairs
Mrs. E.J. NOLDE	
Mr. MOSKOWITZ	Consultative Council of Jewish Organization
Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Mr. CRUICKSHANK	Inter-American Council of Commerce and Production
Miss TOMLINSON	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Mr. BEER	} International League for the Rights of Men
Mr. VEARMAN	
Miss ZIZZAMIA	International Union of Catholi Women's Leagues
Mr. PERLZWEIG	World Jewish Congress
Mrs. FOX	World's Young Women's Christian Association
Mr. SCHWELB	Acting Director, Division of Human Rights
Mr. LIN MOUSHENG	Secretary of the Commission / MEASURES

Secretariat:

MEASURES OF IMPLEMENTATION (E/1371/Annex III, E/CN.4/366, E/CN.4/353/Add.10, E/CN.4/353/Add.11, E/CN.4/444, E/CN.4/358, Chapter IX, E/CN.4/164/Add.1, E/CN.4/419)

General debate (continued)

1. The CHAIRMAN invited the representative of the Consultative Council of Jewish Organizations, a non-governmental organization enjoying consultative status with the Economic and Social Council, to make a statement.
2. Mr. MOSKOWITZ (Consultative Council of Jewish Organizations) recalled that his organization had submitted a comprehensive plan for implementation whereby individuals or groups could take the initiative in bringing complaints of violations of their rights under the Covenant before international bodies. That plan had since been revised to meet the objections of States which were not prepared to give individuals or groups formal standing in international proceedings. It now called for a United Nations High Commissioner or Attorney-General to whom complaints would be submitted. As soon as he decided to take action, the case would cease to be a dispute between the complainant and the State and would become a matter to be settled between the United Nations and that State.
3. The revised plan was intended to focus attention on two important considerations: first, the necessity of affording individuals or groups a means of redress of their grievances without the intervention of any State; secondly, concern to prevent the use of the Covenant as a weapon of diplomatic conflict, which would inevitably result if only Governments were permitted to complain of violations.
4. It had been argued, in connexion with the first consideration, that unscrupulous individuals would abuse their privilege in order to destroy the vital interests of the State as well as of the international community. Further, the extension of the right of individual and group petition might provoke a flood of complaints which could not be dealt with through administrative channels and would ultimately cause the collapse of the entire machinery of implementation. The Consultative Council was fully aware of those risks, but felt that the establishment of a United Nations Attorney-General's office would offer adequate safeguards against abuse of privilege and ensure the efficient functioning of the machinery of implementation.

5. The Covenant would most effectively protect human rights and freedoms and prevent the exploitation of individuals or groups by States to further their aggressive aims through the permanent implementation procedure suggested by the Consultative Council. In weighing its merits, the Commission should bear in mind that when violations of rights and freedoms were so serious as to warrant an official complaint from a foreign Government, it was generally too late to repair the damage done.

6. The CHAIRMAN asked the representative of the World Jewish Congress, a non-governmental organization in category B, to present his observations on implementation of the Covenant.

7. Mr. PERLZWEIG (World Jewish Congress) paid a tribute to the work of the Commission. The Covenant constituted a signal advance in the evolution of an international community based on freedom and law. Without adequate implementation, however, its effect would be to contract the area in which human rights could be safeguarded. Although the measures for implementation need not be included in the Covenant itself, they should come into force simultaneously with the legal instrument.

8. Experience had demonstrated the paramount importance of the right to petition for redress of grievances. The inadequate implementation of that right owing to the weakness of the international community had been largely responsible for the wholesale persecution of Jews before the Second World War. Even under the League of Nations, however, a system of petitions for the protection of minorities had been established and had functioned effectively in many instances. It would be useful for the United Nations, as the successor of the League, to study it carefully.

9. As a result of petitions brought before the Council of the League in 1933 by the non-governmental organization which later became the World Jewish Congress, the enforcement of discriminatory legislation enacted by the Nazis in Upper Silesia had been blocked for three years, thus preserving thousands of human lives from destruction. Later, in 1939, a similar petition to the League Council had brought about the downfall of the tyrannical gorga regime in Romania. On both occasions, the initiative had been taken, not by Governments, but by organizations and groups outside the State.

10. If the initiative for complaints were to be left to the States, as the United States-United Kingdom proposal (E/CN.4/444) suggested, aggrieved minorities would be compelled to form associations with foreign Governments and the area of diplomatic conflict would be extended. Thus, both internally and externally, that procedure would have disastrous effects. Moreover, historical events had proved that the intervention of States to redress violations of human rights, even under treaty obligations, had rarely been fruitful and usually resulted in increased international friction. States were rarely in a position to intervene in that field; the leaders of Governments often had very sound reasons for abstaining from action. Their failure to intervene to protect rights violated under the Hitler regime was a case in point. It was significant that not a single State Member of the Council of the League had ever initiated action on behalf of minority rights; petitions had always been brought by non-governmental organizations or Governments outside the Council.

11. The dangers inherent in the right of petition were understood, but to limit the right of intervention to States would not guard against abuse. That could only be done by an appropriate organization. The system of petition must be such as to eliminate irresponsible elements which might abuse that privilege. It was therefore dangerous at that stage to afford individuals or groups the right to complain direct to an international authority. The system must also eliminate action motivated by purely political ends, which might occur if States alone retained the initiative to bring complaints. Nevertheless, all risks could not be obviated. Governments which had assumed a special responsibility by signing the Covenant must be permitted to intervene. In addition, that initiative should be afforded a certain number of non-governmental organizations enjoying consultative status with the United Nations and chosen in accordance with the criteria adopted by the group of covenanting States which would ultimately constitute an implementing body.

12. One of the principal criteria for that selection should be the experience and competence of the non-governmental organization in the field of the protection of human rights. The majority of NGOs were technical groups and had no authority on the subject. They would automatically be eliminated, leaving some thirty to forty organizations through which individuals or groups might appeal to an international implementing organ. That organ could work out further safeguards by laying down precise standards for the receivability of petitions.

/13. Thus,

13. Thus, the implementing body would consist of a number of covenanting States; it would define the receivability of petitions; the Secretariat would examine all appeals on the basis of their authenticity, documentation, and relevance to the provisions of the Covenant, and eliminate those of an irresponsible nature; it would be approached, not directly by individuals or groups, but through the certified non-governmental organizations selected. The principle of the right of petition would be accepted and given expression within the limited framework of the competent non-governmental bodies.

14. The elaboration of the Covenant was in itself a tremendous achievement. If the Commission was not yet prepared to accept the limited application of the right to petition advocated by the World Jewish Congress, it should defer action on the matter and once more transmit it to Governments for their reconsideration. It should be noted, incidentally, that the right of petition had been omitted from the Universal Declaration of Human Rights and that the General Assembly, in its resolution affirming that right, had asked that it should be reconsidered.

15. The recognition of the right of petition under the Trusteeship system had not prevented that system from functioning. It would be paradoxical if the minorities in Trust Territories who enjoyed that right were to be deprived of all access to the United Nations when those territories achieved independence.

16. The obligations of individuals under international law had been defined at Nürnberg; their right to access to international authority was a necessary corollary of those obligations. The United Nations must keep pace with the evolution of the international community. Undue caution might result in retrogression in the field of human rights. The organization should recognize the limited right of petition for individuals and make more general the protection afforded them under the League of Nations.

17. Mr. RAMADAN (Egypt) thanked the representatives of the non-governmental organizations for their contributions to the solution of the complex problem before the Commission. It was, however, impossible to give adequate consideration to measures of implementation until all views had been heard. Accordingly, Mr. Ramadan moved that the Commission should defer discussion on implementation until the following Monday, at which time all members should be prepared to engage in an exhaustive discussion and take final decisions. Debate should be resumed forthwith on the articles of the Covenant.

/18. Mr. KYROU

18. Mr. KYROU (Greece) supported the motion.

19. Mrs. MEHTA (India) understood that when the general debate on implementation had been concluded, the issues raised by her delegation would be examined.

The motion made by Egypt was adopted by 9 votes to none, with 5 abstentions.

20. Mr. JEVREMOVIC (Yugoslavia) explained that he had abstained in the vote in view of his earlier request that the debate on implementation should be postponed until discussion on all the articles of the Covenant had been completed.

21. Mr. KYROU (Greece) reminded the Commission that there was a joint draft resolution relating to article 17, sponsored by Egypt, France, Lebanon and the United Kingdom and amended by the United States, on which action remained to be taken.

22. Mr. MALIK (Lebanon) pointed out that it would be preferable to discuss the joint draft resolution at that point, while the subject of freedom of information was still fresh in the minds of the members. Since the United States was not prepared to present its amendment, however, he would not press for immediate consideration.

It was agreed to postpone discussion of the joint draft resolution until the following meeting.

Article 18

23. Mr. MALIK (Lebanon) supported the Philippines amendment in principle, but thought that it should not be included in article 18. He suggested that it should be submitted again in connexion with a more appropriate article. The United States amendment to substitute the words "shall have" for the word "has" should be accepted, as it was in keeping with past decisions of the Commission.

24. He agreed that the word "peaceful" was unnecessary and would therefore vote for its deletion. Although it had been used in the Universal Declaration of Human Rights, it was superfluous in article 18 of the Covenant in view of the limitations included in the article. He asked, however, that a separate vote on the word should be taken.

/25. He conceded

25. He conceded that complete identity of expression between the French and English texts of the Covenant was not always desirable, but when a basic difference of substance was introduced, the Commission should insist on concordance between the two languages. He did not feel the French amendment to the first sentence of article 18 was the exact equivalent of the original English text reading "Everyone shall have the right to freedom of peaceful assembly." As both the Universal Declaration of Human Rights and the articles hitherto adopted for the Covenant spoke of the rights of every person, he preferred the original English text to the abstract French formulation. Moreover, he saw no reason why the French delegation should oppose a text which it had supported in the Declaration.

26. He asked whether the French amendment substituting the words "imposed in pursuance of the law" for the words "prescribed by law" might not prove to be unduly broad.

27. In his opinion the limitations to the exercise of the right of assembly should be prescribed by the law; authorities should not be free to impose restrictions arbitrarily. Unless an authoritative definition of the term were forthcoming, the French amendment might open the door to the most undesirable kind of arbitrary action. If the United States representative assured him, however, that there was no difference of substance between the two texts, he would not oppose the French text.

28. With regard to the French proposal to insert the words "in a democratic society" in article 18, he said that if a clear definition of the term "democratic" were given which would eliminate all possibility of misinterpretation, he would support the amendment. The word was of crucial importance, however, and unless such a clear-cut definition could be given, he thought it should not be included in a legal instrument such as the Covenant.

29. Mr. ORIBE (Uruguay) recalled the history of article 18 and the parallel article in the Universal Declaration of Human Rights, in which the Uruguayan delegation, with the support of the majority, had urged that the word "peaceful" should be retained. It was equally important to keep the word in article 18 of the Covenant.

30. It was true that the Covenant included limitations to the right of peaceful assembly, but the Declaration also listed the exceptions to that right in a separate paragraph. The United States had raised the same

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objections during the discussion of the Declaration as it was currently adducing, but the majority had not found them convincing.

31. In his opinion the deletion of the word "peaceful" would be a change of substance. The original text had automatically established the cardinal principle that only peaceful forms of assembly were permitted, although they too were subject to certain limitations. Moreover the term "peaceful assembly" was common to many legislations. In Uruguay, for example, a formula was used proclaiming the right of peaceful assembly without arms subject to certain limitations.

32. He thought the term expressed a concept vital to democratic society and should be retained.

33. The CHAIRMAN, speaking as representative of the United States of America, said that she could accept either the original text or the French amendment, with or without the word "peaceful". She agreed with the representative of Lebanon that wherever possible the French and English texts should be identical.

34. Mr. HOARE (United Kingdom) favoured the original text of article 18. He thought the phrase "peaceful assembly" should be retained, firstly because it was used in the English legal system, where its meaning was fully understood, and secondly because it automatically excluded all disorderly types of meetings.

35. His delegation supported the phrase "public order" in article 18, although it had suggested an alternative wording for the preceding article, where the phrase had seemed too broad. In article 18, however, the words "public order" concerned gatherings in public, where considerations of order in its widest sense were necessary. To his mind, the authorities should unquestionably be given the power to impose restrictions on the right of assembly for the sake of enforcing public order which would include, for example, restrictions necessary to permit the free flow of traffic. Such restrictions might be necessary even in the case of a peaceful assembly.

36. He opposed the French amendment to insert the words "in a democratic society" because they were too vague. He also preferred the original text to the French draft of the first sentence. As the representative of Lebanon had said, it would be better to adhere to the general pattern adopted for the preceding articles.

/37. Although

37. Although he had not come to a final decision on the question, he was inclined to think that the wording of the French amendment, "imposed in pursuance of the law", was wider than, and therefore preferable to, the original text. It would cover cases that should be dealt with through administrative or executive action which was lawfully taken under the general powers vested in the competent authority.

38. Mr. KYROU (Greece) preferred the original text of article 18. He thought the word "peaceful" should be retained, for the reasons given by the representatives of Uruguay and the United Kingdom. As they had pointed out, the phrase "peaceful assembly" was used in many legal systems and had a clearly defined meaning.

39. Mr. WHITLAM (Australia), had suggested that the word "fundamental" could be inserted in article 18 in order to follow the wording used in article 19 and in the Declaration. The Commission had not used the word in article 17, however; nor had it been consistent in other points of phraseology. He would not press what in his opinion was a purely drafting amendment, but stressed that every attempt should be made to obtain a uniform text.

40. In general he preferred to adhere to the texts adopted at the preceding session unless there were sound reasons for not doing so. The statements of the Uruguayan and the United Kingdom representatives had convinced him that the original text of article 18 was preferable and that the word "peaceful" should be retained.

41. With regard to the French proposal to insert the phrase "in a democratic society", his delegation still maintained the attitude it had expressed at a previous meeting. The word "democracy" currently embraced two diametrically opposed concepts. He understood the word to mean a society in which the individual was a unit in a collectivity of individuals. According to the other concept, however, the individual was merely a cell in a huge organism called the state. He was opposed to the French amendment, therefore, unless it could be shown to have but one clearly defined meaning.

42. He felt that the original text of the article was acceptable.

43. The CHAIRMAN, speaking as representative of the United States of America, said she preferred to follow the wording of article 17, omitting the word "fundamental". She did not feel that by so doing the Commission would be excluding any essential rights.

/44. Her delegation

44. Her delegation would accept the French amendment to the first sentence of article 18, but would prefer to keep the word "peaceful" if the French representative had no objections.

45. Mr. GASSIN (France) wondered whether it would not be better to use the word "paisible" rather than the word "pacifique" to correspond with the English term "peaceable". He felt that the true meaning of the right of assembly as understood in certain legal systems was better rendered by the word "assembly" alone. If the Commission felt strongly on the matter, however, he would agree to retain either the word "peaceful" or "peaceable".

46. With regard to the French draft of the first sentence, he thought it was not desirable to seek for identity of texts which might at times prove misleading. He also thought that a direct statement of the right in question was stronger than the original text. It was clear that the right was to be exercised by persons.

47. Mr. JEVREMOVIC (Yugoslavia) thought it unnecessary to retain the word "peaceful". In the second sentence of article 18 Governments were empowered to limit the right of assembly in the interests of public order and all disorderly meetings were therefore automatically excluded. He did not feel that the point was important, however, and he would accept either the retention or the deletion of the word.

48. He wondered whether it would not be better to substitute the word "guaranteed" for the word "recognized" in the first sentence of the French text.

49. He also accepted the phrase "in a democratic society". Other vague general concepts had been included in the Covenant and he failed to see why that particular phrase should be excluded on the grounds that it was not precise and concrete. It was true that such concepts might leave the door open to abuses, but he did not think that was sufficient reason to reject a suitable amendment and for those reasons, he would support the French proposal.

50. Mr. VALENZUELA (Chile) observed that the problem had two distinct aspects. One question was the right of man to assemble, and the other was man's freedom to exercise that right. In his opinion, the exercise of the right of assembly could not be limited by considerations of whether or not a particular
/meeting

meeting would be peaceful. In order to deny to certain groups their legitimate right of assembly, Governments were often too ready to prejudge the peaceful or disorderly nature of meetings which they proposed to hold. It would be extremely dangerous if, in addition to permitting Governments to limit the exercise of the right of assembly, they were also allowed to prejudge the nature of an assembly. For that reason, it would be better to accept the French amendment to delete the word "peaceful" from article 18. Furthermore any type of meeting other than a peaceful assembly was automatically prohibited by the second sentence of the original text, which guaranteed the State the power to take any action necessary to ensure national security, public order, the protection of health or morals, or the protection of the rights and freedoms of others.

51. With regard to the French proposal to insert the words "in a democratic society" in article 18, he thought it unlikely that the Commission, after having rejected a similar amendment to the previous article, would decide to include the phrase in the article under consideration.

52. Turning to the phrase "public order", he remarked that according to the United Kingdom interpretation, those words would include such matters as internal measures taken to ensure an orderly meeting. Under Chilean law, however, the phrase referred to the purpose of the meeting rather than to any external manifestations of order. According to the Chilean concept, a meeting which was perfectly peaceful and orderly could be prohibited in the interests of ensuring public order if its purpose was to discuss ways and means of destroying the State.

53. He felt moreover that the words "in a democratic society" included in the French amendment should be inserted after the words "public order", in order to limit the interpretation of the phrase. No matter what the type of State, the regulations it promulgated were the rules of public order. Any infringement of those regulations was harmful to public order. That criterion, which had been evolved in German law, had made possible the rise of the Third Reich and the totalitarian dictatorships. The French amendment, however, would make such abuse of the term "public order" impossible.

/54. In conclusion

54. In conclusion, he said that although he understood the Lebanese representative's desire for an express definition of the words "democratic society", he thought it was possible to classify States as democratic or anti-democratic by taking into consideration how each State complied with the principles laid down in the Charter, the Universal Declaration of Human Rights and the Covenant. For those reasons, therefore, the Chilean delegation would support the French proposal to insert the words "in a democratic society" in article 18.

55. Mr. RAMADAN (Egypt) hesitated to qualify the word "assembly", although if the Commission intended to insert some word, he would prefer the adjective "peaceful".

56. In his opinion the French proposed wording of the first sentence was stronger because it implied that the right already existed and should be recognized. He therefore supported the French amendment in preference to the original text. He could not, however, agree to the insertion of the phrase "in a democratic society" in article 18.

57. Mrs. MEHTA (India) pointed out that the Indian Constitution granted the right to assemble peaceably and without arms. The term might be vague, however, and she would not press for the retention of the word "peaceful". Nevertheless, if the term "peaceful assembly" had a recognized legal meaning she would have no objection to retaining it.

58. She thought that all the articles of the Covenant should follow the same form, and that as the French amendment to the first sentence was not consistent with the form adopted for the preceding articles, it should be rejected in favour of the original text.

59. Mr. WEITLAM (Australia) agreed with the representatives of France, Chile and Egypt who had expounded the weaknesses of the word "peaceful" and the difficulties which its use might entail. He suggested that "peaceable" might be more accurate.

60. In his opinion, if the expression "in a democratic society" was considered relevant in connexion with public order, it was also applicable to

national security. For reasons which had already been explained, the Australian delegation was, however, unable to support the insertion of the words "in a democratic society".

61. Mr. CASSIN (France) expressed regret at the absence of the representative of the Philippines, but indicated that his interesting amendment might appropriately be discussed at a later stage.

62. He was opposed to the Australian amendment to insert the word "fundamental" before "rights and freedoms", because he felt that all rights should be protected and that no distinction should be made as to which were fundamental.

63. In reply to the representative of Lebanon, he defined a democratic society as a society based upon respect for human rights. Public order in such a society was based on the recognition by the authorities of the dignity of the individual and the protection of his rights. Undemocratic societies were characterized by a disdain for human rights.

64. The Commission should not be afraid to use significant words such as "democracy" merely because they were subject to abuse. It was important to adhere to the spirit of the Universal Declaration of Human Rights and to declare forthrightly that even public order was subordinate to human rights. The reference to a democratic society should therefore be included.

65. Mr. MALIK (Lebanon) observed that the definition given by the representative of France was subject to abuse, since often the greatest tyrannies claimed to respect human rights as they conceived those rights. If the French amendment meant the total doctrine of human rights as promulgated in the Universal Declaration, he would accept it, but he felt that the statement should be made explicit.

66. Mr. CASSIN (France) was unable to accept the Yugoslav proposal to substitute "guaranteed" for "recognized" in the French amendment. The various articles of the Covenant were intended merely to define specific human rights; the guarantee of those rights was covered by article 2.

/67. The CHAIRMAN,

67. The CHAIRMAN, speaking as the representative of the United States of America, stated that the United States could accept "peaceable" instead of "peaceful", as suggested by the representative of Australia.

68. Mr. ORIBE (Uruguay) pointed out that article 20 of the Declaration referred to "peaceful assembly", and expressed the view that extreme caution should be exercised in departing from that text, since any change might raise doubts concerning the Universal Declaration, which had already been approved by the General Assembly.

69. Referring to the French translation of the Spanish word "pacífico" he recalled that during the General Assembly's consideration of a Uruguayan amendment on the subject, the Belgian delegation had repeated that the French word "paisible" should be changed to "pacifique". That request had been approved by the General Assembly.

70. Referring to the discussion relating to "in a democratic society", he again stressed the need for a single general article similar to article 29 of the Declaration, which would enunciate the limitations on the rights of the individual. Such an article would avoid constant repetition of the discussion on limitations, would achieve uniformity throughout the Covenant and would make possible a carefully prepared and comprehensive treatment of the subject.

71. While the Uruguayan delegation endorsed the aims of the French amendment, the reservations it had already expressed regarding the form of that amendment and the ambiguity of the concept of a democratic society would prevent it from supporting the French proposal.

72. Referring to the concept that all limitations on individual rights should be based on law, he expressed the view that public order must not be considered in the abstract, but that the authorities in charge should be guided by the ideal of a democratic public order based on the principles of the United Nations Charter and the Universal Declaration of Human Rights. Moreover, the State was not to be the sole judge in determining the propriety of invoking limitations. National public order must be recognized as subordinate to international public order as prescribed in international instruments such as the Charter, the Declaration and the Covenant.

73. A separate article with such a provision would meet the wishes of the French delegation and would avoid constant resumption of the debate on limitations in connexion with each article. The discussion of that subject might usefully be deferred pending consideration of a separate article.

74. In reply to a question by Mr. HOARE (United Kingdom), Mr. CASSIN (France) stated that "prescribed by law" might be considered as too narrow in the light of article 2 of the draft Covenant. The French proposal to substitute "in pursuance of the law" took discretionary powers into consideration, involved less restriction on the literal provisions of written law and allowed for such important factors as customs, accepted usage and tradition.

75. Referring to the statement of the representative of Uruguay, he pointed out that an impartial international body would decide the legality of actions deemed appropriate to a democratic society. Just as States had national institutions which judged the constitutionality of laws, the international community would evolve a system of international regulation and control based on a system of international jurisprudence.

76. Mr. MALIK (Lebanon) expressed the view that the French proposed wording "in pursuance of the law" constituted far more than a drafting change, since it permitted great latitude of interpretation. While the original text might be criticized as being too narrow, it was preferable to the proposed amendment which would leave the door open to abuses.

77. Mr. WHITLAM (Australia) explained that his suggestion that "peaceful" be changed to "peaceable" had been made in an attempt to find the most precise possible term. In view of the statement of the representative of Uruguay that he would find it difficult to accept the change and depart from the language of the Universal Declaration, Mr. Whitlam would not press for the change.

78. In his opinion the question whether to say "prescribed by law" or "in pursuance of the law" was a very serious one. If the more general phrase was better suited to the time-honoured French system, the Commission could hardly ask the French Government to accept the more limited phrase, which would require a change in that system. The matter again raised the difficult problem of the desirability of having exactly uniform terminology. A similar case had arisen in

/connexion

connexion with compensation for deprivation of life, but in that instance the Commission had recognized the principle but had agreed not to require uniform administration through tribunals. In the current instance, he considered that the Commission would not be justified in demanding that the French should contract their system.

79. Mr. NISOT (Belgium) suggested the wording "imposed in conformity with the law" as a substitute for the French text.

80. Mr. CASSIN (France) accepted the Belgian suggestion although in his view the French amendment was better.

81. Mr. MALIK (Lebanon) pointed out that although the Belgian proposal was preferable to the original French amendment, it nevertheless represented a departure from the text agreed upon at a previous session of the Commission. At some later stage, the Commission would be faced with the problem of bringing all the wording into conformity. He expressed the hope that the strictest concordance would be sought in order to eliminate the possibility of diverse interpretations of the texts.

82. Mr. CASSIN (France) expressed the view that the Commission was under no obligation to follow the wording of the Universal Declaration except in matters of principle. It must, however, be borne in mind that the Covenant was a legal instrument and that its character was therefore entirely different. In the Universal Declaration, a single article on general limitations had been found appropriate, but it was impossible in the Covenant to require uniform wording in the separate articles on specific rights.

83. The CHAIRMAN put to the vote the first sentence of article 18, reading as follows: "The right of peaceful assembly shall be recognized".

The first sentence of article 18 was adopted by 8 votes to 3, with 3 abstentions.

84. The CHAIRMAN put to the vote the proposal to replace "prescribed by law" by "imposed in conformity with the law".

The proposal was adopted by 13 votes to 1, with 1 abstention.

/85. The CHAIRMAN

85. The CHAIRMAN put to the vote the final French amendment, reading as follows: "national security, public order and morals in a democratic society".
The final French amendment was rejected by 8 votes to 6, with no abstentions.

86. The CHAIRMAN put to the vote the following text of article 18 as amended: "The right of peaceful assembly shall be recognized. No restrictions shall be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary to ensure national security, public order, the protection of health or morals, or the protection of the rights and freedoms of others".

Article 18 as amended was adopted by 10 votes to none, with 3 abstentions.

87. Mr. MALIK (Lebanon) explained that he had voted in favour of the text of article 18 as a whole, although he believed that the opening sentence should be altered to conform to the language which had been used uniformly in the preceding articles of the Covenant. He could see no reason for referring to the right rather than the individual who enjoyed that right. He reserved the right to propose the wording "Everyone shall have the right" in the second reading of the article.

88. Mr. HOARE (United Kingdom) expressed the view that the alteration of the second part of the text was probably an improvement, but stated that he had abstained in the vote because he agreed with Lebanon regarding the form of the opening sentence.

89. Mr. WHITLAM (Australia) stated that he had voted in favour of the article but shared the reservation made by the representatives of Lebanon and the United Kingdom regarding the opening sentence. He hoped that the need for greater uniformity would be realized.

90. Mrs. MEHTA (India) said that she had voted for article 18 because she favoured its substance. She felt, however, that the style of the opening sentence should not have been changed and reserved the right to refer to the question at a later stage.

91. The CHAIRMAN stated that the representative of the Philippines, who had been absent during the discussion of article 18, would have the right to present his amendment at a later date.

The meeting rost at 5.30 p.m.