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CONTENTS: Draft Covenant on Human Rights: article 22 (E/CN.4/315).  
Consideration of Part I of the draft Covenant (E/800).

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. Charles MALIK	Lebanon
<u>Members:</u>	Mr. J. D. L. HOOD	Australia
	Mr. O. SAGUES	Chile
	Mr. P. C. CHANG	China
	Mr. Max SCERENSEN	Denmark
	Mr. Omar LOUTFI	Egypt
	Mr. Rene CASSIN	France
	Mr. Garcia BAUER	Guatemala
	Mrs. Hansa MEHTA	India
	Mr. GOUDARZI	Iran
	Mr. Jose INGLES	Philippines
	Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics

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Miss Marguerite BOWIE	United Kingdom
Mr. Jose MORA	Uruguay
Mr. Joza VILFAN	Yugoslavia

Commission on the Status of Women:

Judge Dorothy KENYON

Consultants from Non-Governmental Organizations:

Category B:

Mr. Joseph B. FRIEDMAN	Co-ordinating Board of Jewish Organizations
Mrs. Grace AIETA	Catholic International Union for Social Service
Mr. Michael SCOTT	International League for the Rights of Man
Miss Catherine SCHAEFER	International Union of Catholic Women's Leagues

DRAFT COVENANT ON HUMAN RIGHTS

Article 22 (E/CN.4/315)

The CHAIRMAN called for consideration of the text presented by the Drafting Committee (E/CN.4/315). Alternative wordings had been proposed for parts of the article on which no agreement had been reached.

Paragraph 1

Mr. CASSIN (France) found none of the alternatives suggested in that paragraph satisfactory. He suggested that it might simply read: "Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms defined and delimited herein."

Mr. CHANG (China), without expressing any opinion on the substance of the matter, thought that the French proposal was similar in meaning to the Australian alternative version -- the formulation of which was, however, simpler.

/The CHAIRMAN

The CHAIRMAN, pointing out that the meaning of "defined" and "delimited" was the same, suggested that the latter word could be deleted. In view of the fact that the French proposal was the same as the first part of the composite text, there would be no need to put it to a separate vote. She would put paragraph (1) to the vote in parts, beginning with the words: "Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction...", to which no alternative version had been presented.

The beginning of the paragraph was unanimously adopted.

The CHAIRMAN put to the vote the first alternative suggestion to the second part of the sentence, to add the words "or limitation" after the phrase just adopted.

The words were rejected by 6 votes to 3, with 5 abstentions.

The CHAIRMAN put to the vote the following second alternative suggestion to the second part of the sentence: "of any of the rights and freedoms defined herein".

That phrase was adopted by 10 votes to none, with 5 abstentions.

The CHAIRMAN noted that the vote just taken eliminated the third alternative which pertained to the same subject. She then put to the vote the last alternative suggestion, which read: "or at their limitation to a greater extent than is already provided for in this Covenant."

That phrase was adopted by 10 votes to 3.

The CHAIRMAN put paragraph 1 as a whole to the vote drafted as follows: "Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms defined herein or at their limitation to a greater extent than is already provided for in this Covenant."

Paragraph (1), as amended, was adopted by 13 votes to none, with 2 abstentions.

Paragraph 2

The CHAIRMAN drew attention to the words: "or conventions to which it is a party", which referred to conventions or agreements which States acceding to the draft Covenant might previously have ratified.

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that the Drafting Committee had not sufficiently discussed paragraph 2, which as it stood seemed illogical and open to controversy. The reference to other conventions to which States were parties was not clear and might include one-sided agreements giving privileges of extra-territoriality and special property rights to foreigners residing in certain countries. He proposed that that phrase, to which he objected, should be put to a separate vote.

With regard to the words "are in addition to", he pointed out that the draft covenant did not contain a great many fundamental social and economic rights recognized in certain States; consequently it could not be said that the rights set forth therein were in addition to the rights guaranteed under the laws of any Contracting State. He was opposed to that phrase and proposed that it also should be put to a separate vote.

He fully supported the words "not in derogation of such rights and freedoms as may be guaranteed to all under the laws of any Contracting State" and stressed their importance in making clear that the provisions of the draft convention should serve to improve, and not to be detrimental to, the living conditions of the people concerned.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) was opposed to the last phrase of that paragraph, which could refer both to existing and future conventions.

With regard to the words "in addition to", he suggested that decision on that phrase should be deferred until the proposed additional articles had been considered.

Mr. MORA (Uruguay) considered the USSR representative's remarks concerning the last part of paragraph (2), very important, although he wondered whether the phrase "as may be guaranteed to all" would not exclude any conventions involving privileges and special rights.

The CHAIRMAN explained that the words "in addition to" would not take away from the rights in different fields guaranteed to the people of any Contracting State. They simply meant that the rights set forth in the draft convention should strengthen similar rights guaranteed under national law.

Miss BOWIE (United Kingdom) accepted the Chairman's interpretation of the words "in addition to", but felt that those words were superfluous and might give rise to misunderstanding. She therefore suggested that they should be deleted.

She was also opposed to the final phrase, although she agreed with the representative of Uruguay that the words "as may be guaranteed to all" would exclude any convention or agreement involving extra-territorial rights.

As far as other conventions were concerned, they had already become the law of the countries which had acceded to them, and reference to them was therefore unnecessary.

Mr. INGLES (Philippines) was opposed, on grounds of propriety and on legal grounds, to reference being made in the second paragraph to other conventions to which States might be parties. It would be officious and gratuitous to refer in the draft convention to the enforcement of other conventions, the parties to which might not be the same as the parties to the present instrument. Furthermore, as the USSR representative had pointed out, it might serve to perpetuate certain privileges.

His legal objections were based on the principle of international law that conventional law involving private rights could not automatically become the law of all lands. In the case of his own country, there would be no objection to that provision, because treaties and

conventions to which it was a party did become part of public law. In some juridical systems, however, special legislation was required to make treaties and conventions part of the law of the land, and for such countries it might be difficult to accept that provision. He therefore supported the deletion of the last phrase of paragraph 2.

Mr. CASSIN (France) thought that the Chairman's explanation of the phrase had been correct; indeed, the provisions of the draft covenant could not detract from any rights guaranteed by national legislation.

With regard to the phrase "or conventions to which it is a party", he agreed with Mr. Mora's interpretation.

In France, as in the Philippines, conventions and agreements became part of the law of the country, although in the case of a number of other countries the situation was different.

Replying to the representative of the Soviet Union, he pointed out that France, for instance, had signed with other countries a convention on extradition the terms of which were stronger than the provisions of the draft convention. It should be made clear therefore, that the rights and freedoms defined in the draft covenant would not be in derogation of other conventions, for otherwise States might hesitate to adhere to the present instrument.

In view of those considerations, Mr. Cassin felt that paragraph 2 should be retained as it stood, except, perhaps, for a few minor drafting changes.

Mr. HOOD (Australia) thought that the subject matter of paragraph 2 might be outside the terms of reference of the Commission, which should not impose another obligation on States in addition to that laid down in paragraph 1. Such provision could more appropriately have been included in the text of the Declaration. He therefore favoured the deletion of paragraph 2.

Miss BOWIE (United Kingdom), following a suggestion by Mr. SØRENSEN (Denmark) that the paragraph, which he supported, should be re-worded, proposed the following text: "Nothing in this Covenant may be construed as limiting or derogating from any of the rights and freedoms which may be guaranteed to all under the laws of any contracting State."

Mr. CHANG (China) supported the United Kingdom suggestion. He pointed out that the paragraph had not been sufficiently discussed in the Drafting Committee, and that there had been no intention that both paragraphs should be included in one article. He suggested that the Commission might postpone consideration of both the paragraph and the United Kingdom amendment until a later date.

Mr. PAVLOV (Union of Soviet Socialist Republics) held that it was essential to vote on the new proposals before voting on the motion to delete paragraph 2. He thought it best to postpone consideration of the matter until the suggested new texts had been submitted in writing, so that the members of the Commission would have an opportunity to examine them.

Mr. HOOD (Australia) considered it advisable to postpone consideration of the paragraph under discussion, for the various reasons already put forward by other members.

The CHAIRMAN put the proposal to postpone consideration of paragraph 2 to the vote.

The proposal to postpone consideration of paragraph 2 of article 22 was adopted by 9 votes to 9, with 5 abstentions.

The CHAIRMAN stated that the Commission was faced at the existing stage of its work with an important question of procedure. The original articles proposed by the Drafting Committee for Part II of the draft Covenant (E/800) having been disposed of, it would be correct to proceed to Parts I and III. In support of that suggestion, she cited various articles in Part I, particularly articles 2 and 4, to indicate that those articles provided implementation of and direct reference to Part II, and should therefore be considered at that juncture.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that the Commission had decided earlier to complete consideration of Part II before turning to other matters. There were numbers of new articles submitted by the USSR, Australian and French delegations (E/CN.4/313) which the Commission had yet to consider.

He failed to see any reason for proceeding to the discussion of purely formal articles. He did not concur in the practice of invariably postponing the consideration of difficult questions. He pointed out that, when the final document was submitted to the various Governments, they would be interested, first and foremost, in the rights provided by an International Covenant on Human Rights, and only secondarily in formalities. He did not think that the time left to the Commission would allow the consideration of the proposed additional articles. In any case, Parts I and III were not substantive.

Mr. HOOD (Australia) stated that the time factor had to be considered. His delegation had submitted proposals for additional articles in Part II which were similar, at least in form, to those offered by the delegation of the USSR, and it considered its proposals important. It was the duty of the Commission at the current session to prepare a document for submission to the respective Governments. That document must give a clear idea of the scope of the proposed covenant and of the means of implementation proposed. The Governments would want to know what measures had been proposed for domestic implementation, international implementation, and the like.

The question was, in his opinion, one of priority. Fifteen new articles had been proposed, many of which were certainly controversial. There was not sufficient time to deal with them all in the interval remaining. He would therefore support, though somewhat reluctantly, the suggestion that the Committee should return to the consideration first of Part I and then of Part III. It would be unfair to give only perfunctory consideration to the new articles and then proceed to a vote which might perhaps be a vote by blocs, as had happened the previous year.

He proposed that the reasons for each of the proposed new articles should be placed before the various Governments for their consideration prior to the following session of the Commission.

The CHAIRMAN, speaking as the representative of the United States, considered that procedure the best and accepted the suggestion of the Australian representative.



Mrs. MEHTA (India) reminded the Commission that it had previously been agreed by all that more than one covenant would be necessary in the sphere of human rights. The new proposals offered in document E/CN.4/313 involved very important rights, the implementation of some of which required financial commitments beyond the means of certain States. Would it not be better to draft, at the appropriate time, a distinct covenant on economic and social rights, embodying proposals such as those offered by the USSR and Australia?

Mr. CASSIN (France) did not think that consideration of Parts I and III would take too long; it would still leave time for consideration of Part II, as far as possible. That procedure would be normal and logical.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) thought it strange to consider it normal and logical to discuss articles in Parts I and III when almost their entire content referred to Part II. Article 2 of Part I, for example, referred to Part II: articles 1 and 3 of Part I referred to Part II. What logic was there in referring to Part II when it was not yet known what that Part would consist of? It had been stated that a general view of the matter was needed. It seemed to Mr. Kovalenko, however, that the draft of Parts I and III which had already been sent to the Governments provided them with that general view.

The Indian proposal to defer the new proposals to a separate covenant was, in effect, a rejection of matters indisputably linked to human rights and freedoms. Several weeks previously, the Chairman herself had stated that proposals for additional articles would be considered immediately upon the conclusion of discussion of the draft of Part II.

The CHAIRMAN stated that her former attitude had been based on the belief that the Commission's work would have proceeded more rapidly than had actually been the case. It was necessary to complete the work by the following Thursday evening, 16 June, so that a report would be ready by Monday, 20 June. The Australian proposal, which would place all the relevant data in the hands of the Governments, was the best. It was utterly unrealistic to assume that all the new proposals could be considered in the remaining time. Although Parts I and III did refer to Part II as it stood, they would also refer to an expanded Part II, when the time came.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that when the Universal Declaration of Human Rights had been adopted and the drafting of an international covenant had been undertaken, it had been clear that the rights listed in the Declaration would have to be listed in the covenant if they were to be enforced. The Declaration had specified the right to work, rest and leisure, social security, housing, education, participation in government and in the election thereof. Those were fundamental rights, and if they were not included in the covenant, the peoples of the world, and in particular the working people, would accuse the members of the Commission of not having considered matters involving the interests of the majority of mankind. A general declaration would be of little value. What good were the vaunted freedoms to a person without employment? They were only of value to those who were not in constant fear of losing the possibility of earning their bread. If all the rights listed in the Declaration were not written into the covenant, the Commission would discredit both itself and the Declaration in the eyes of the world. For the Commission to send to the Governments a list of formalities, and not include substantive matters of vital importance, would constitute an admission of moral bankruptcy and incapacity.

American trade unions estimated that the unemployment figures in the United States had reached 5,000,000, and part-time unemployment, 10,000,000. That being the case, it was absolutely essential to include the right to work and similar rights in the covenant.

In the light of those facts, the United States proposal was directed against the interests of the working people. It was not simply a procedural matter. It was aimed at the postponement of actions essential to the welfare of the majority of mankind.

Should that proposal be adopted, what would happen a year later, when the proposed additional articles again came up for consideration? The Chairman would no doubt state that the Governments had submitted proposals relative to the formal questions in Parts I and III on which action had already been taken by the Commission and that those proposals should receive priority; consideration of the additional articles would again be postponed.

Since World War II, the people were no longer a solid gray mass, understanding nothing. The proposal to defer consideration of their fundamental needs was nothing short of scandalous, and constituted a conspiracy against the working people. He registered his protest against it. Objectively speaking, he considered it nothing short of fraud.

If the excuse offered was lack of time, that constituted contempt of the people. It would be asked what the Commission had wasted one and a half months in doing? The Commission could offer the excuse that it had committed one or another paragraph to paper, but it was the substance of what had been written that was important, not merely the fact that something had been set down. The function of the Commission was precisely to determine what the substance of the covenant was to be.

The Chairman herself had said the previous year that without the proposed provisions the rest would be meaningless. When he had spoken of amending articles 11 and 20 so that they might have meaning, however, he had been told that the time had not yet come for that. Now he was again being told to wait a year.

It seemed to him that there had been an advance agreement to discriminate against the proposals offered by his delegation. He proposed that the Commission should proceed immediately to consider the supplementary articles to Part II that had been offered by the various delegations. Those articles were not, in fact, supplementary, but fundamental, the most important of all the matters treated in the covenant. The Commission had no right, therefore, to discuss anything else so long as they had not been disposed of.

The CHAIRMAN pointed out that the Australian representative had proposed that representatives should submit in writing their statements in support of the proposed additional articles, and that those should be transmitted to Governments together with a record of any discussion that had taken place in the Commission on those articles.

Replying to the USSR representative, she said that even if the draft covenant on human rights did not include economic and social rights, it laid down as human rights certain freedoms which meant something to most men who enjoyed them. In the countries in which those freedoms were not enjoyed they naturally meant nothing.

Concerning the question of unemployment in the United States of America, she admitted that there was always room for improvement in all countries, but claimed that under the United States system of unemployment insurance unemployed people in the United States enjoyed a standard of living which was on the whole higher than that in the USSR.

Mrs. MEHTA (India) reminded the Commission that the covenant had been drafted on the understanding, reached at Geneva, that economic and social rights would be included in later covenants. If the Commission desired such rights to be included in the present covenant she thought Governments should be given more time to consider them.

Mr. VILFAN (Yugoslavia) said that when the Commission had decided to consider the proposed additional articles after completing Part II, it had been fully aware of the time at its disposal, and he felt that it would constitute discrimination if it were to change that decision now.

The system of human rights and fundamental freedoms was not a sum which could be expanded or limited at will but a system based on the principle of the dignity and worth of the human personality. He quoted article 22 of the Universal Declaration of Human Rights, which he considered to be one of its basic articles, and stated that the implementation of the Declaration must be based on the concept of the dignity and free development of human personality and not on a negative system of penalties for violations of human rights.

The Commission's work consisted not only in the formulation of articles but in the emphasis which it placed on them. The mere sending to Governments of the proposed additional articles without first discussing them fully in the Commission would be a failure on the Commission's part to stress some of the most important principles in the covenant.

Mr. LOUTFI (Egypt), in an endeavour to reconcile the two opposing tendencies in the Commission, proposed that it should discuss Parts I and III of the draft covenant at morning meetings, and the proposed additional articles for Part II at afternoon meetings.

Mr. SOERENSEN (Denmark) said there were no grounds for believing that the Commission had any desire to relegate economic and social rights to a secondary position.

/He agreed

He agreed with the USSR representative that fundamental freedoms meant nothing without certain minimum social standards. He felt, however, that economic and social rights were more within the province of the Social Commission, the Economic and Employment Commission, the International Labour Organization and similar bodies. It was for the Commission on Human Rights, which was not composed of specialists, to supervise and co-ordinate the work of those other bodies and attempt to obtain a general picture of progress in that field. If, therefore, the Commission decided to consider the proposed additional articles, he would be forced to move that those articles should be omitted from the covenant. If the Commission decided to postpone consideration of them, he would suggest that it would be useful if the Secretariat could produce a statement on the work of the specialized agencies in the fields of housing, full employment, education etc., which would show the effort which was already being made towards social progress.

Mr. LOUEFI (Egypt) suggested that the Commission might discuss Parts I and III until Wednesday afternoon, 15 June, and devote Thursday, 16 June, to a discussion of the proposed additional articles.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that in view of the right of representatives to present their proposals orally in the Commission and hear discussion on them, the Australian proposal that they should be submitted in writing to Governments was an instance of discrimination against the USSR.

He was anxious that the question of unemployment and of living standards in the United States of America and the USSR should be discussed in the Commission with the presentation of full facts and figures. He saw no reason for not incorporating economic and social rights in the present covenant.

He pointed out that a special vote would be required to reverse the Commission's previous decision to consider the proposed additional articles after Part II of the draft Covenant.

Mr. HOOD (Australia) wished there to be no misunderstanding concerning the procedure he had proposed. His Government fully recognized the importance of the proposed additional articles and did not wish them to

be treated in a perfunctory manner. When the discussion of Parts I and III was finished, there might be time to present those articles in the Commission; it was as an additional safeguard that he had proposed that those representatives who so desired should also submit a written statement in support of their proposed articles.

At the request of the USSR representative, a vote was taken by roll-call on the USSR proposal that the Commission should continue work on Part II of the draft covenant (proposed additional articles), completing it by 15 June so as to leave 16 June for consideration of the formal articles in Parts I and III.

A vote was taken by roll-call, as follows:

In favour: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, France, United States of America, Uruguay.

Abstaining: Chile, China, Denmark, Egypt, Guatemala, India, Lebanon, Philippines, United Kingdom.

The USSR proposal was rejected by 4 votes to 3, with 9 abstentions.

The CHAIRMAN put to the vote the Australian proposal that the Commission should consider first Parts I and III of the draft Convention and then, if time allowed, the proposed additional articles, and that if the discussion on the latter were not completed, a report of it should be forwarded to Governments together with written statements by the proposers of the articles.

The Australian proposal was adopted by 6 votes to 3, with 6 abstentions.

#### CONSIDERATION OF PART I OF THE DRAFT COVENANT (E/800)

The CHAIRMAN proposed that article 1, which was very similar in form to the preamble, should be considered with it after the other articles had been discussed, and that the Commission should proceed to article 2.

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed that article 1 should not be considered until Part II of the covenant had been completed.

The USSR proposal was adopted by 13 votes to none, with 2 abstentions.

Mr. CHANG (China) pointed out that since the drafting of the text of the Covenant, the Commission had formulated the Declaration in which the term "civilized nations" had been deleted wherever it occurred, because of the difficulty of defining it. He therefore hoped that the Commission would see fit also to delete "civilized nations" from article 1 of the Covenant.

Mr. MORA (Uruguay) said that the article was of great importance because when the time came the principles of human rights enunciated in the Declaration would have to be incorporated in the framework of international law. At that time, he assumed that the words to which the Chinese representative referred would have the scope defined by article 38 (c) of the Statute of the International Court of Justice. If the Commission altered those words, another interpretation might be given to the phrase by the Court.

Mr. PAVLOV (Union of Soviet Socialist Republics) agreed with the Chinese representative in opposing the division of nations into civilized and uncivilized. He pointed out that reference had also been made to article 38 (c) of the Statute of the International Court of Justice during the consideration of the Universal Declaration, but that that reference had not prevented the Commission from deleting the words.

The meeting rose at 1 p.m.