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<u>Chairman:</u>	Mr. MALIK	Lebanon
<u>Reporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. RIJOT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG FACHAN	China
	Mr. Day	Egypt
	Mr. JUVIGNY	France

Category B and Registers

Mrs. YEPGAPA	Catholic International Union for Social Service
Mrs. CARTER	International Council of Women
Mrs. SOUDAN	International Federation of Business and Professional Women
Miss ROEB	International Federation of University Women
Miss SCHAEFER	International Union of Catholic Women's Leagues
Miss PHILLIPS	Liaison Committee of Women's International Organizations
Mr. RONALDS Mrs. POLSTEIN	World Union for Progressive Judaism

Secretariat

Mr. LIN	Division of Human Rights
Mr. D/S Mrs. KITCHEN	Secretariat of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:
PART III OF THE DRAFT COVENANT DRAWN UP BY THE COMMISSION AT ITS SEVENTH
SESSION (E/1992, E/CN.4/635/MSS.5, E/CN.4/L.79/Rev.1, E/CN.4/L.84, E/CN.4/L.86,
E/CN.4/L.109, E/CN.4/L.89/Corr.1, E/CN.4/L.74, E/CN.4/L.77/Rev.1, E/CN.4/L.87,
E/CN.4/L.112)

Article 25 (concluded)

Mr. WHITLAM (Australia) said, with regard to point 1 of the Uruguayan amendment (E/CN.4/L.107), to the United States amendment (E/CN.4/L.79/Rev.1) that he agreed with speakers who had felt that there should be no definition of health in article 25. The United Kingdom and Lebanese representatives had quite justly criticized the definition given in the amendment; he would only add that there should be no definition at all. The only definition adopted so far had been that of education, and it was explained by historical reasons, it was more a condemnation of subversive education in the past than a programme for the future. Point 2 of the Uruguayan amendment conflicted with the amendment submitted by his own delegation (E/CN.4/L.86), and he would therefore vote against both points.

/s/ Mr. BRACCO

Mr. BRACCO (Uruguay) remarked that the definition of health contained in point 1 of his amendment (E/CN.4/L.109) had not been evolved by his delegation, but had been taken from the Constitution of the WHO. It was therefore a text which had the sanction of that organization, and which would be a desirable addition to article 25 since it introduced a new and valuable idea: that health was not merely the absence of disease or infirmity, but a state of complete physical, mental and social well-being. The fact that a definition had been used in the article on education was all the more reason for including a definition in an article dealing with such a basic right as the right to health.

Point 2 of his amendment would emphasize the obligation of States to assure that right to everyone; his delegation had steadily maintained that, in spite of the general provisions in article 1, such emphasis should be laid on all the rights which were of primary importance, thereby increasing the obligations of States with respect to those rights.

Mr. WOGGON (Union of Soviet Socialist Republics) observed that the most casual comparison between the original text of article 25 and the United States amendment (E/CN.4/L.79/Rev.1) to that article would reveal that the amendment would weaken the article as to make it ineffective. In particular, the United States was continuing the fight -- which it had lost at the seventh session -- to eliminate the clear and definite obligation, contained in sub-paragraph (d), to provide conditions which would assure the right of all to medical service and medical attention in the event of sickness. Whereas at the seventh session the United States delegation had said openly that States could not assume such an obligation, it now claimed that the obligation was adequately covered in article 1. As he had had occasion to point out before, the provisions of article 1 were far from satisfactory; in it, the States merely undertook to take certain measures for the progressive realization of the rights recognized in the covenant; as those measures need not lead to the desired result, it was imperative, in such important articles as the one on health, to impose on States the further obligation of actually assuring conditions under which the particular right could be realized. It was in order to escape that obligation -- and not because the obligation was already included in article 1 -- that the United States had introduced its amendment.

/s/ fully

He fully realized that it might be embarrassing to state such motives openly, in a world in which, even in the developed countries, illness or the need for an operation meant financial catastrophe to countless families, while numerous facts could be cited from United Nations documents to show that in colonial territories millions were completely deprived of medical attention for lack of doctors. A covenant on economic, social and cultural rights which did not truly guarantee the right to such attention in the event of sickness would be of little use to people who died for want of a doctor's care. The assurance of that right was the barest minimum which the covenant could contain if it was to conform to the instructions of the General Assembly.

The USSR delegation would therefore vote in favour of the Uruguayan amendment, which, if adopted, would merely restore the text of the previous year, and urged all other delegations to do so. He was not asking for any improvement of the existing article which he was entitled to do in accordance with the instructions of the General Assembly: he was pleading with the Commission not to discredit itself in the eyes of the General Assembly and of the world by weakening its text.

Mr. KAFSADELIS (Greece) said that he was unable to vote for the Uruguayan amendment, for reasons explained by the Lebanese representative at the previous meeting.

Mr. SALTA MUZ (Chile) recalled that his delegation had fought a number of losing battles in the course of which it had explained its reasons for wishing to impose definite obligations on States; there was hardly any need to explain, therefore, why it would support the Uruguayan amendment, which would do no more than restore the original text of article 25, severely threatened by the United States amendment.

Those who advanced the technical argument that there was no need to repeat in each article provisions already contained in article 1 forgot that they were dealing with a covenant on human rights which defined the obligations of States to assure rights to be enjoyed by hundreds of millions of human beings. The covenant must therefore be so drafted that those millions should be able to understand it in order to know what their rights were and to be able to protest when those rights were violated.

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Furthermore, the technical argument was misleading. There was all the difference in the world between assuming an obligation to take steps, to the maximum of available resources, progressively to assure the realization of certain conditions, and a direct obligation to provide conditions which would assure the right of all to medical attention. The former wording provided many loopholes for States which did not wish to implement that right either in their metropolitan or in their colonial territories. The United States amendment would therefore greatly weaken article 25, and he would vote against it, with the possible exception of point 4, which applied to sub-paragraph (c) of the article.

The United States representative had never fully explained her objection to the obligation established in the article as adopted at the seventh session. In view of the great progress of the past thirty years with regard to extending medical care to those who could not afford it, any weakening of that article would mean that the Commission repudiated such social victories. He therefore hoped that the Commission would accept the Uruguayan amendment, restoring the old text, and thus put itself firmly on the side of progress.

Mrs. ROBERTS (United States of America) explained that, when the Commission had adopted article 25 at its seventh session, there had not been a general article governing all the subsequent articles. Now that article 1 had been adopted, all other articles had to be drafted in such a way as to be subject to its provisions. A repetition of any of those provisions would weaken article 1 and consequently -- since it was the cornerstone of the covenant -- weaken the entire covenant. The United States delegation had therefore proposed the omission from article 25 of any language which, in its view, weakened article 1.

Mrs. MEHA (India) said that, when the Commission had adopted the articles on economic, social and cultural rights at its seventh session, it had done so on the understanding that those articles would be revised. That process of revision was now taking place. She accepted the United States amendment because, by adopting article 1, the Commission had chosen a certain system -- that of laying down the obligations of States once and for all -- which it should now follow.

/s/ The UCR

The UCR representative had drawn attention to the fact that there were not enough doctors in the world; but doctors could not be trained overnight, merely because States had signed a certain clause in the covenant. The most that States could guarantee to do was to take measures so that there would be more doctors in a few years; for the present, that should be enough.

Mr. JUVIGNY (France) fully agreed with the Indian representative with regard to the relation between article 1 and the remaining articles. He would vote for the United States amendment, which met his general views. While he was not opposed in principle to defining the concept of health, he shared the reservations and fears expressed by the Lebanese representative concerning the particular definition contained in the Uruguayan amendment.

Mr. BOGAYNICH (Poland) pointed out that the United States amendment was self-contradictory, since, although it provided for the recognition of the right to enjoy the highest obtainable standard of health, it followed that provision with a vague wording which vitiated the obligations to be undertaken by countries for the implementation of the right. The United States representative seemed to consider that the recognition of a right was enough to satisfy the aspirations of peoples to whom that right was denied.

The reference to legislation in the Uruguayan amendment (E/CN.4/L.109) to the United States text did not, as some might have feared, carry with it the conception of socialized medicine. Most countries had had legislation to cope with such problems as epidemics and insanitary housing for many years. The need to extend such legislation to other factors influencing health was made apparent by the health situation in the United States, where large percentages of army recruits had been rejected as unfit for service, and in Rergarylia, where an extremely small number of doctors served a large population. Such examples, of which many could be quoted, served as a proof of the necessity to adopt the text which would impose more specific obligations on States.

The CHAIRMAN said that the first part of the Uruguayan amendment (E/CN.4/L.109) was a genuine amendment to the United States amendment (E/CN.4/L.79/Rev.1), and could be voted on accordingly. Nevertheless, in view of the fact that the United States amendment had not been moved as a total

/substitution

substitution for the original article 29, the second Uruguayan proposal, which consisted of a restatement of part of the relevant original text, could not be voted upon as an amendment to the United States text, since action on the original text could still be taken by the normal method of division and addition.

Mr. KRYKOV (Union of Soviet Socialist Republics) pointed out that the Uruguayan amendment was not an exact restatement of the original text. The Chairman seemed to have laid stress on the similarity, rather than the difference, between these two texts. He thought it should be treated as an amendment to the United States amendment.

Mr. SPACCO (Uruguay) accepted a suggestion by Mr. HOWE (United Kingdom) that his first amendment should be inserted after the words "to the Covenant", rather than at the end of the first paragraph of the United States amendment.

At the suggestion of Mr. ZAMANGELIS (Greece), Mrs. ROCKWELL (United States of America) stated that the word "provide" in sub-paragraph (a) of her amendment should be revised to read "the provision".

The CHAIRMAN put to the vote the first part of the Uruguayan amendment (E/CN.4/L.195).

The first part of the Uruguayan amendment was adopted by 9 votes to 7, with 2 abstentions.

The CHAIRMAN put to the vote the first part of the United States amendment (E/CN.4/L.79/Rev.1).

Mr. ANIL CHIL (Chile) asked for a roll-call vote.

A vote was taken by roll-call.

/The Ukrainian

The Ukrainian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, China, France, Greece, India, Lebanon, Sweden.

Against: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Chile, Poland.

Abstaining: Egypt, Pakistan.

The first part of the United States amendment was adopted by 10 votes to 6, with 2 abstentions.

The CHAIRMAN put to the vote the second part of the United States amendment.

The second part of the United States amendment was adopted by 12 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the third part of the United States amendment.

The third part of the United States amendment was adopted by 12 votes to none, with 5 abstentions.

The CHAIRMAN put to the vote the fourth part of the United States amendment.

The fourth part of the United States amendment was adopted by 15 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the fifth part of the United States amendment.

Mr. JEMYTESKI (Poland) asked for a roll-call vote.

A vote was taken by roll-call.

China, having been drawn by lot by the Chairman, was called upon to vote first.

/In favour:

In favour: China, France, Greece, India, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium.

Against: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Chile.

Abstaining: Egypt, Yugoslavia.

The fifth part of the United States amendment was adopted by 11 votes to 5, with 2 abstentions.

The CHAIRMAN put to the vote the United States amendment (E/CN.4/L.79/Rev.1) as a whole and as amended.

The United States amendment as a whole and as amended was adopted by 15 votes to none, with 3 abstentions.

Mr. KORZOV (Union of Soviet Socialist Republics) stated that his delegation had abstained from voting on the amended article because that text was greatly inferior to the original article and was contrary to General Assembly resolution 544 (VI), which requested the Commission to improve the existing text. It was obvious that the new article did not ensure the effective protection of the right concerned.

Mr. KOVALKO (Ukrainian Soviet Socialist Republic) had abstained from voting on the article as a whole because that text served to weaken the provisions of the original text with regard to health and was therefore contrary to General Assembly resolution 544 (VI).

Mr. BOGATYLSKI (Poland) thought that the reasons he had given for his objection to the United States text adequately explained his abstention.

The CHAIRMAN thanked the representative of the World Health Organization for the valuable assistance given by that organization at the previous and current sessions in formulating article 25.

Article 26

Mr. KORZOV (Union of Soviet Socialist Republics) moved the USSR amendment (E/CN.4/L.49/Corr.1) to the original article 26. The special importance of that article was self-evident, since it was generally recognized that children represented the future of the world and that the rights of maternity should therefore be protected. His delegation endorsed the provisions

/of the

of the original text, but thought that they were inadequate for the full protection of the rights concerned. The specific provisions contained in the USSR amendment represented a minimum of the measures that States should take for the effective implementation of maternity rights and he reserved the right to adduce facts to prove the necessity of such provisions.

Mr. JUVICHY (France) introduced his delegation's amendment (E/CH.4/L.74) to article 20. Sociologists, child psychologists, other workers dealing with children and, in particular, WHO had all emphasized the fact that the family environment was essential to the normal development of the child. The purpose of the French amendment, therefore, was to eliminate the a priori assumption that it was preferable for children to be removed from a family environment. Obviously the State had to become responsible for children in exceptional cases and the general protection of children was incumbent upon it, but it was essential to bear in mind that the initial responsibility lay with the family. The French amendment therefore implied collaboration between the State and the family for the protection of children.

Mrs. RÖNNEL (Sweden) stated that the purpose of her delegation's amendment (E/CH.4/L.77/Rev.1) was to give greater precision to paragraph 1 of the original article 26. The word "motherhood" had widely wide implications, since it applied to mothers and children at all stages. The general rights of mothers seemed to be covered by the broad provisions of article 22 on social security; as the majority of the Commission had deemed it unnecessary to enumerate the types of social security covered by that article, the exact meaning of the provision to be included in article 26 should be explained. The right referred to in that article should be extended to all mothers, whether or not they were employed; the USSR amendment, however, seemed to confine that right to working mothers, by referring specifically to paid holidays. Moreover, such specific provisions were covered by article 22.

Mr. WHITLAN (Australia) withdrew his amendment (E/CH.4/L.87) in view of the discussion that had taken place on the preceding article.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) said that she would support the French amendment (E/CN.4/L.74), because it provided for an additional safeguard. She would support the Swedish amendment (E/CN.4/L.77/Rev.1), because it was in line with the policy of the ILO and because it clearly expressed the idea which the Commission had had in mind when drafting article 26. She would vote against the USSR amendment (E/CN.4/L.49/Corr.1), because it was too detailed and because it prescribed special legislation as the means of implementing the right. Its provisions, furthermore, were implicit in article 22.

Miss KAZIUS (Commission on the Status of Women) said that her Commission did not agree with the deletion of the word "motherhood" as proposed in the Swedish amendment (E/CN.4/L.77/Rev.1). Motherhood included the idea of both the mother and the child, and the protection of the child was even more important than that of the mother, as had been recognized in article 25, paragraph (2) of the Universal Declaration of Human Rights. The mother was responsible for the development of the child during its early years; that was the meaning of motherhood, whereas the word "maternity" referred to a much shorter period, that immediately before and after birth. Recent medical research had shown that deprivation of the mother's care at too early an age was likely to impair the child's full physical and mental development. It might, therefore, be wiser to insert the words "motherhood and particularly to" before "maternity".

Mr. JENREKOVIC (Yugoslavia) agreed with that suggestion, which he would adopt as his own. He would also support all the other amendments.

Mr. SANTA CRUZ (Chile) would also support and sponsor the suggestion made by the representative of the Commission on the Status of Women. The Swedish representative should be able to accept it, as it retained the wording of her amendment as well.

The CHAIRMAN said that the proposed insertion would be regarded as a joint Chilean and Yugoslav amendment (E/CN.4/L.112).

/Mr. BORATINSKI

Mr. BORATYNSKI (Poland) asked whether the Swedish representative thought that paid holidays before and after confinement (E/CH.4/L.49/Corr.1) were covered by social security or should be.

Mrs. ROSSER (Sweden) thought that all the provisions of the USSR amendment must be taken as covered by social security. If they were singled out in article 22, article 22 would be weakened. Furthermore, such provisions were themselves restrictive. In Sweden, for example, all women were given special allowances in connexion with confinement, not only the gainfully employed women mentioned in the USSR amendment (Z/CH.4/L.49/Corr.1). She could not accept the joint Chilean and Yugoslav amendment (Z/CH.4/L.112), since motherhood was a vague term and most of the trials on society made by a mother were really made in her capacity as a member of the community and thus came under article 22.

Mrs. DEVA (India) believed that article 22 should be moved closer to article 23, as the protection of maternity and motherhood was closely linked with social security. Paragraph 1 of the original text (E/1972, p.21) was rather weak, but the Commission had hitherto been unable to find a better wording. In the course of previous discussion it had been pointed out that in certain industries there was definite discrimination against women because some women needed protection during pregnancy and immediately after childbirth. It was, therefore, necessary to say that protection was for women during maternity and not for women as women. It was difficult to find a suitable wording to express that idea in the text. She preferred the wording of the Swedish amendment (Z/CH.4/L.7/Rev.1). The protection of motherhood was really more a matter for social security. She agreed with the substance of the USSR amendment (E/CH.4/L.49/Corr.1), but she would not have it in the article. She would support the French amendment (E/CH.4/L.4), as it was essential for children should be given protection within the family, and also the second paragraph of the USSR amendment.

Mr. ROYER (United Kingdom) was inclined to support the Swedish amendment. He had no objection to the French amendment, but it should be placed elsewhere in the article, closer to the general statement of the recognition of the need for social protection on behalf of children. The final phrase of paragraph 2 of the original text seemed to refer rather to outside circumstances than to the family. He would support that amendment if a better place could be found for it.

/He crossed

He opposed the USSR amendment, although he was entirely in favour of its objectives. They were certainly some of the possible methods of putting into practice the principle stated in paragraph 1 of the original text. It would not, however, be desirable to attempt to impose the methods used in some countries upon all countries. Actually, under the United Kingdom social security and National Health schemes, maternity benefits were far more elaborate and generous than those listed in the USSR amendment. It was not, however, for the Commission to recommend specific detailed measures, particularly in the draft covenant. That was the responsibility of the specialized agencies concerned. Furthermore, as many existing schemes -- that of the United Kingdom, for example -- were far more complete than the measures suggested, the first USSR amendment was limiting. Paragraph 2 of the USSR amendment was open to similar criticism. Certainly, child labour ought to be protected by legislation, as indeed it was protected most elaborately in the United Kingdom. But internationally the matter was one for the ILO to deal with. The Commission must be very careful not to infringe upon the territory of the specialized agencies.

Mr. SANTA CRUZ (Chile) could not support the Swedish amendment without the joint amendment (E/CN.4/L.112) to it. To his regret he could not support the USSR amendment. Its substance was already incorporated in Chilean law, but to enunciate such measures would be inconsistent with the structure of the draft covenant.

Mr. KAPLANBELIS (Greece) supported the French and Swedish amendments and agreed with the views of the representatives of France, India, Sweden and the United States. The views of a non-governmental organization of Roman Catholics agreed with those of the French delegation; children should remain in the home as long as possible. He was inclined to support the joint Chilean and Yugoslav amendment (E/CN.4/L.112), but would require more explanation, particularly with regard to the extent to which mothers might be regarded as covered, as such, by social security.

Mrs. ROOSEVELT (United States of America) said that the USSR amendment contributed nothing to the article, but rather tended to limit its scope and confuse a clear-cut text. There was no definition in paragraph 2 of the amendment of what was to be made legally actionable. No two countries would interpret the unlawful use of child labour in the same way. The amendment
/would limit

would limit the protection of the child against only what the State regarded as unlawful. Furthermore, if it was necessary to go into details, other kinds of work than that harmful to health or dangerous to life, such as work in immoral surroundings, should be forbidden. An effort to find work for the children in better surroundings should be preferred to making such work unlawful.

Mr. MITLAK (Australia) would support the Swedish amendment. He agreed with the criticisms of the USSR amendment levelled by the Chilean and United States representatives. He thought the French amendment a good one, and would support it on the understanding that its placing would be decided later in such a way as to meet the United Kingdom representative's objection.

Mr. MOROZOV (Union of Soviet Socialist Republics) was surprised that the United States representative should have failed to understand what the phrase "the unlawful use of child labour" meant. In the United States, perhaps, that conception might be rather difficult to understand, because there was no federal law prohibiting the employment of young persons in work harmful to health. That was regrettable; but it did not follow that other countries could not grasp the idea. The law of course varied from country to country. Some countries did not allow children to work until the age of fourteen and placed limits on working hours between the ages of fourteen and sixteen. The USSR amendment would not impose the system in force in one country upon all others; but certainly all countries ought to have some basic law prohibiting the abuse of child labour. If there was no such law in the United States, it would have to enact one when it became a party to the covenant. The USSR amendment could have gone further and specified such conditions for child labour as he had just mentioned; but it had been deemed wiser to recognize the variation from country to country and to confine the amendment to a general statement. The phrase "the unlawful use of child labour" was perfectly easy to understand; it simply meant the use of child labour in any manner contrary to the existing law. The words "legally actionable" had been carefully chosen; they meant that the breach of the child labour laws was regarded as so objectionable that it must be made a penal offence.

/s/ The United States

The United States representative had asserted that the USSR amendment confused a clear-cut text and that the article should not contain detailed provisions. At one time, however, the United States delegation had taken a quite different stand; in 1943, it had supported in the Social Commission, in connexion with the proposed United Nations charter on the rights of the child, the idea that the exploitation of children should be penalized by law. He had been surprised to find that the idea had not, as he had supposed, originated with the USSR delegation; perhaps that discovery might induce some members to alter their stand on it. Four years later, the United States representative was arguing that to make the exploitation of child labour a penal offence was confusing. On the contrary, actual facts which could be cited, particularly about the United States, showed the urgent need for such a step.

The United States and other representatives had brought out again their old argument that the USSR amendment was restrictive; in their view, it would almost seem that all USSR amendments to the draft covenant were restrictive. The logic of the United Kingdom representative, in particular, was odd. That representative had said that he was entirely in favour of the objectives listed and that the United Kingdom had an even better system. There might be a few reservations about the latter statement; but he would not go into that at the moment. But, having stated that the principle was admirable, the United Kingdom representative had gone on to say that he would not vote for it because the objectives were restrictive. That contention entirely neglected the words "in particular". That phrase expressly did not preclude any additional measures, such as those in the United Kingdom with which the United Kingdom representative was so satisfied. Of course, no one could support exaggerated proposals, such as the provision of luxuries for mothers during confinement; but the measures proposed were not only a bare minimum; they were regarded as very important and were applied in many countries. He could only surmise the motives for the United Kingdom representative's singular lack of logic. The real question at issue was whether the Commission wanted some action to be taken against the unlawful use of child labour or to permit the existing arbitrary conditions to continue.

The meeting rose at 7.35 p.m.

4.15 p.m.