Substantive Articles Not Incorporated in the Convention

The Sub-Commission had before it, and discussed, the text of several articles proposed for incorporation in the Convention, which were later deleted by the Commission on Human Rights.

Article on Interpretation

Messrs. Calvocoressi and Capotorti submitted to the Sub-Commission a draft Article (VIII), on interpretation of the Convention, that read:

1. Nothing in this Convention shall be interpreted as implying any right to discriminate on any other basis other than those listed in Article I, such as sex, language, religion, political or other opinion, social origin, property, birth or other status.
2. Nothing in this Convention shall be interpreted as implying a grant of equal political rights to nationals of a contracting State or a grant of political rights to a distinct racial, ethnic or national group as such.

Mr. Matsch (expert from Austria) proposed to add the following words at the end of paragraph 2:

in a contracting State where no such special rights have been or are granted to a group of persons for reasons of race, colour or ethnic origin.

The first paragraph, considered unnecessary by some experts, was later withdrawn and Mr. Cuevas Cancino proposed a new text for the second paragraph. It read:

Nothing in the Convention shall be interpreted as implying positive obligations in accordance with which the States Parties undertake to grant a specific political or social status to aliens in their territory. It shall not be interpreted as a grant of political rights to racial, ethnic or national groups as such, if such a grant might destroy, in whole or in part, the national unity and the territorial integrity of a State Party.
Messrs. Krishnaswami and Mudawi proposed a different text. It read:

The distinction between nationals and non-nationals of a State recognized by public international law in the enjoyment of political rights shall not be affected by this convention, nor does it impose a duty to grant *special political rights* to any group because of race, colour or ethnic origin, although it does not prohibit their exercise if otherwise established.

After a discussion in which several oral amendments were proposed, the Sub-Commission adopted a text suggested by the Chairman, which read:

Nothing in the present Convention may be interpreted as implicitly recognizing or denying political or other rights to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party.

The proposed Article VIII caused considerable difficulty. The discussion centered around two problems: the question of nationals and non-nationals, related to the definition of Article 1, and the applicability of the Convention to groups and not only to individuals. In the Commission the Ukrainian SSR proposed to delete the portion of the text following the words “to non-nationals.” France proposed to add the following phrase:

or as amending provisions governing, on a temporary basis, the exercise of political or other rights by naturalized persons.

France, India and the Philippines proposed to replace the text by the following:

Nothing in the present Convention may be interpreted as affecting in any way the distinction between nationals and non-nationals of a State, as recognized by international law, in the enjoyment of political or other rights, or as amending provisions governing the exercise of political or other rights by naturalized persons; nor does anything in this Convention impose a duty to grant special political or other rights to any groups of persons because of race, colour or ethnic origin.

The phrase “as recognized by international law” was later deleted by the sponsors.