



**CONTENTS**

	<i>Page</i>
Agenda item 31:	
Draft International Covenants on Human Rights ( <i>continued</i> )	
Article 7 of the draft Covenant on Economic, Social and Cultural Rights ( <i>continued</i> ) .....	163

**Chairman: Mr. Hermod LANNUNG (Denmark).**

**AGENDA ITEM 31**

**Draft International Covenants on Human Rights (E/2573, annexes I, II and III, A/2907 and Add.1 and 2, A/2910 and Add. 1 to 6, A/2929, A/3077, A/C.3/L.460, A/3149, A/C.3/L.528, A/C.3/L.532, A/C.3/L.538, A/C.3/L.540 to 543) (*continued*)**

**ARTICLE 7 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/2573, annex I A) (*continued*)**

1. The CHAIRMAN said that the Office of Legal Affairs, which he had consulted with regard to the Uruguayan amendment (A/C.3/L.540), had confirmed that, on the basis of General Assembly practice, it could be considered as an amendment within the meaning of rule 131 of the rules of procedure. He nevertheless suggested that it would expedite the Committee's work if in the future representatives submitted amendments to specific parts of an article rather than a text replacing the entire article.

2. Mr. PAZHWAK (Afghanistan) said that his delegation was on the whole satisfied with the wording of article 7 and had proposed only minor changes in it. The purpose of point 1 of the Afghanistan amendments (A/C.3/L.542), replacing the words "all workers" in paragraph (b) by the word "everyone" was, first of all, to bring the wording into line with the opening passage of the article and, secondly, to make it clear that the provision applied to all working persons without exception and not to a single group of the population. The change suggested in point 2 of the amendments was a consequence of the first alteration. As thus amended, the text would refer clearly to the individual, whose rights the Covenant was designed to protect.

3. With regard to the amendment submitted by Afghanistan jointly with the Netherlands (A/C.3/L.543), he said that since article 3 was entirely concerned with the equal rights of men and women and article 2 prohibited discrimination on grounds of sex, a further reference to the same subject in article 7 was unnecessary.

4. Mrs. SHOHAM-SHARON (Israel) recalled that during the debate on article 6 her delegation had made certain procedural suggestions (711th meeting) designed to expedite the Committee's work. As some

delegations had considered those suggestions too drastic, she would not press them at the moment, but the Committee's experience with articles 6 and 7 strengthened her conviction that the usefulness of its work would be impaired unless it first adopted some definite policy with regard to amendments. In her view, since each article of the draft Covenant had been discussed, scrutinized and amended in various United Nations organs over a number of years, no amendment should be proposed at the current stage unless a delegation felt that a serious question of principle was involved. Minute consideration of minute amendments might result in minor stylistic improvements, but it delayed the adoption of the draft Covenants. The Committee could not afford such perfectionism.

5. In reply to delegations which held that the Covenant should include only general principles, she said that in a legally binding instrument a certain degree of detail was essential. Unlike a declaration, a convention must by its nature contain details both on the rules it laid down and on the exceptions to the rules, as well as some provisions concerning the steps to be undertaken by signatory States in implementation of the convention. In spite of the contrary view held by the International Labour Organisation (ILO), the Commission on Human Rights had decided to include a certain amount of detail in article 7, and her delegation accepted its judgement.

6. Several delegations had also raised the question of superfluous repetitions in different articles. She suggested that, instead of attempting to consider the problem in connexion with each individual article, the Committee should deal with it when it had completed its reading and was able to see the draft Covenant as a whole.

7. Her delegation was prepared to vote on article 7 as it stood. Israel had ratified no less than eighteen ILO conventions, and was justly proud of its progressive labour legislation and practices. The provisions of article 7 presented no difficulty as far as Israel was concerned.

8. Referring to the various amendments before the Committee, she said that in the light of its experience with article 6 her delegation would in future vote only for amendments which in its opinion definitely improved the text.

9. Mr. AZNAR (Spain) said that while the draft Covenants possessed great merit, there was still room for some improvement, and he therefore felt that amendments were in order.

10. The Uruguayan amendment (A/C.3/L.540) had certain definite advantages in that its wording was clearer and better suited to its purpose than was that of the existing text, and it introduced the concept of family life, thus rightly recognizing that an individual was a member of a family, just as he was a member of a trade union or a community. While he agreed

with previous speakers that the word "conscience" in paragraph (e) of the amendment was perhaps not altogether precise, its meaning was clear enough and the paragraph was of undoubted moral value.

11. With regard to his own amendment (A/C.3/L.538), the principle of periodic holidays with pay had been recognized in article 7. That remedied one glaring injustice; but another remained. Workers who were paid by the hour or the day did not receive pay for their weekly day of rest or for days declared public holidays by the State, whether for religious or patriotic reasons. Thus men who worked hard all week were expected to go hungry on days of enforced leisure. His amendment was intended to remedy that situation, while leaving the method of implementation to the discretion of the signatory States. If the Uruguayan representative agreed to an appropriate redrafting of paragraph (d) of the Uruguayan amendment (A/C.3/L.540), he would be glad to withdraw his own amendment.

12. Mr. PAYRO (International Labour Organisation) recalled the view of the Governing Body of the International Labour Office (A/2907/Add.2) that the articles on economic and social rights should be drafted as brief clauses of a general nature, leaving to the ILO or other specialized agencies concerned the detailed working out and application of precise and detailed provisions in respect of matters within their competence. Many articles in the draft Covenant on Economic, Social and Cultural Rights had been given that form and it was hoped that the same approach would be maintained. It did not seem to be desirable to refer in each clause of the draft Covenant to all the questions that might be related to a single general principle, as such detailed provisions would necessarily overlap with those of existing or future international labour conventions. The International Labour Conference, in the course of the past thirty-six years, had already adopted 104 such conventions on specific questions. It had, for example, dealt extensively with the right to just and favourable conditions of work, which was precisely the subject of article 7. A detailed summary of its work in that connexion was given in the report by the Secretary-General on the activities of the United Nations and of the specialized agencies in the field of economic, social and cultural rights (E/CN.4/364/Rev.1).<sup>1</sup>

13. The phrase "a safe and healthy environment for his activities" in paragraph (b) of the text proposed in the Uruguayan amendment (A/C.3/L.540) might have a restrictive effect. The original wording was therefore preferable. The Uruguayan amendment also modified the wording of paragraph (b) of article 7 of the original text (E/2573, annex I A) in a manner that might not be in harmony with the principles incorporated in the Equal Remuneration Convention, 1951. Under that Convention, differential rates between workers, established without regard to sex on the basis of an objective appraisal of jobs were not considered contrary to the principle of equal remuneration for men and women workers for work of equal value. In order to avoid any possible discrepancy between that Convention and the draft Covenant, it might be wise to limit the text of paragraph (b) (i) to a clear statement of the principle of fair wages and the principle of equal remuneration for work of equal value.

Those two principles had been kept separate in the Universal Declaration of Human Rights and the preamble to the Constitution of the ILO, and it might be preferable not to merge them into a single concept. The amendment submitted by Afghanistan and the Netherlands (A/C.3/L.543) would come closer to the view of the Governing Body of the International Labour Office in respect of brief and general clauses.

15. The Uruguayan amendment spoke of "annual holidays with pay", whereas the original text mentioned "periodic holidays with pay". If the word "periodic" was to be taken to mean that annual holidays with pay should be granted a few days at a time at various periods during the year, the wording of the Uruguayan amendment would be more in line with ILO practice, with particular reference to the Holidays with Pay Recommendation, 1936.

16. The Governing Body of the International Labour Office had already had occasion to point out that the words "as a minimum" in the original text of article 7 might be unnecessary and limitative in their effect.

17. With regard to the related questions of a reasonable limitation of working hours and the benefits of greater leisure, the ILO had been concerned with the matter for many years, and the Forty-Hour Week Convention, 1935, would come into force during 1957.

18. Miss BERNARDINO (Dominican Republic) said that the original text of article 7 was in line with the principles recognized by the International Labour Organisation and the Dominican Constitution, and she considered it satisfactory. She appreciated the efforts made by some delegations not represented on the Commission on Human Rights, and by other delegations as well, to improve the drafting. Some of the amendments, however, were quite unacceptable. The amendment submitted by Afghanistan and the Netherlands (A/C.3/L.543), for instance, would completely undo many years of work in the field of women's rights. She therefore appealed to Afghanistan and the Netherlands to withdraw their amendment. The principle of equal rights for men and women was enshrined in the Charter of the United Nations and should now be expressed with greater legal precision in the draft Covenants. Experience had shown that unless it was spelled out in detail, pretexts were found for not applying it. The principle had been included in the Charter and the Universal Declaration of Human Rights, but the time had come to define the obligations which the recognition of that principle entailed for Governments.

19. Some delegations had maintained that no reference to women's rights was required in article 7. It was surprising that an advanced country like Sweden, which was a member of the Commission on the Status of Women, should be among them. Such a reference was essential, as, in countries where women's rights were not recognized, the word "everyone" in the preamble to the article did not cover women, and the Covenants could therefore be interpreted as applying only to men. It would be a negation of women's existence as human beings and of the value of their contribution to the community. Women had shown during the Second World War that they could work in factories as well as men and participate equally in the war effort. She regretted that the ILO representative was opposed to the inclusion of such a reference; but she was not surprised, as the ILO had always been

<sup>1</sup>United Nations publication, Sales No.: 1952.IV.4.

somewhat conservative with regard to women's rights. Point 2 of the Afghan amendments (A/C.3/L.542) was entirely unacceptable, as it would deprive a woman with a dependent family of the rights enjoyed by a man in a similar position.

20. She appealed to all the sponsors of amendments that would exclude specific references to women's rights from article 7 to withdraw their proposals and reserved the right to submit a sub-amendment to the Uruguayan proposal (A/C.3/L.540) if they did not do so.

21. Mr. SAARIO (Finland) said that article 7 was based on article 24 and the first three paragraphs of article 23 of the Universal Declaration of Human Rights. The Declaration was a more general text than the draft Covenants but there was no reason to change the wording if it was precise and clear enough. Most of the amendments submitted had the same defect: unnecessary repetition. The general provisions applicable to the draft Covenants as a whole were to be found in part II of each, and delegations would do well to consider them before proposing amendments which merely repeated those provisions. Article 2, paragraph 1, was a general implementation clause and paragraph 2 of the same article specified the measures to be taken and guaranteed, *inter alia*, that the rights enunciated in the Covenant would be exercised without distinction of sex. Furthermore, article 3 bound the States Parties to the Covenant to ensure the equal right of men and women to the enjoyment of all the rights set forth in the Covenant. It was therefore unnecessary to include detailed statements of rights in each article. At all events, the Committee should be careful not to adopt so many amendments that the resulting text was a monstrosity, as had been the case with article 6.

22. Mr. MOROZOV (Union of Soviet Socialist Republics), speaking on a point of order, said that the Committee should decide whether the Uruguayan proposal (A/C.3/L.540) was an amendment to article 7 or a separate proposal. If it was an amendment, it would have to be voted upon first, under rule 131 of the rules of procedure of the General Assembly, as it was the furthest removed in substance from the original text. Delegations would therefore be forced to choose between that amendment and the original text; but many delegations wished to support parts of the Uruguayan amendment and parts of the original text. As things stood, that would be impossible. The only solution was for the Uruguayan representative to withdraw his proposal and redraft it as a series of specific amendments to article 7. Delegations could then vote for such parts of that proposal and of the original text as they wished. Furthermore, no delegation would be placed in the illogical position of first voting against the Uruguayan proposal and later, if it was adopted, voting for it in conjunction with the article as a whole in order to demonstrate that it was in favour of the inclusion of an article of that kind.

23. If the Uruguayan representative agreed to withdraw his proposal and resubmit it in another form, there would be no problem; but if he did not, the members of the Committee must be given an opportunity of submitting sub-amendments to his proposal as it stood (A/C.3/L.540) and the time limit for submitting such amendments must be extended. He appealed to delegations not to involve the Committee in procedural difficulties by submitting such radical

amendments. The original text had been very carefully drafted and should not require drastic changes. Any procedure other than that of submitting amendments to it in the normal way would slow down the work of the Committee and produce unfortunate results.

24. Mr. BRENA (Uruguay) said that jointly with the Greek representative he was sponsoring a new amendment,<sup>2</sup> which would supersede his proposal (A/C.3/L.540) and he saw no objection to submitting it in the form suggested by the Soviet representative.

25. Miss BERNARDINO (Dominican Republic) inquired whether the new amendment would contain a specific reference to women's rights; if not, she reserved the right to submit a sub-amendment to it.

26. Mr. BRENA (Uruguay) said he had no objection to the inclusion of such a reference.

27. Mr. EUSTATHIADES (Greece) said that the Dominican representative need not submit a sub-amendment if she was satisfied with the text of the amendment to be submitted by Greece and Uruguay; otherwise she could vote for the original text.

28. Mr. BRENA (Uruguay) said he had had no desire to cause procedural difficulties when he submitted his original proposal. He agreed that delegations should submit as few amendments as possible, and if it would help matters, he was willing to withdraw the Uruguayan amendment (A/C.3/L.540) and not to submit a new amendment, provided that other delegations withdrew their amendments likewise. If they did not do so, he would press the amendment he was co-sponsoring with Greece.

29. Mr. AZNAR (Spain) welcomed the Uruguayan representative's proposal. He was willing to withdraw the Spanish amendment (A/C.3/L.538) if the other sponsors of amendments would withdraw their proposals also.

30. Mr. PAULUS (India) associated himself with the Egyptian representative's appeal to delegations to adhere as closely as possible to the existing text of the draft Covenants (E/2573, annex I). That did not mean automatic adoption, and amendments could be introduced. However, it was essential to resist the temptation to change the articles completely, as substantive changes by seventy-line delegations would inevitably lead to utter confusion. The Commission on Human Rights had spent years drafting properly balanced articles, and the balance must be retained.

31. The Indian delegation approved of article 7 in its existing form and appreciated the emphasis that had been laid on women's rights, in keeping with the general concept of equal rights. He would therefore vote against all attempts to delete the specific reference to those rights.

32. Mr. VLAHOV (Yugoslavia) was glad that the Uruguayan representative had decided to base his amendment on the original text, but felt that the situation was still difficult. He would not have voted in favour of the Uruguayan amendment (A/C.3/L.540), because it did not contain sufficiently strong provisions regarding women's rights.

33. The ILO representative had urged the Committee to avoid detailed enumerations in drafting the articles. However, the provisions of article 7 were by no

<sup>2</sup> Subsequently issued as document A/C.3/L.545.

means exhaustive, since they stressed only the most important principles, such as equal rights for men and women. Moreover, although it had been said that the Governing Body of the International Labour Office wished to avoid detailed enumerations, the question of women's rights was raised at all the International Labour Conferences and, as a result of the strongly held views of some Member States, a special department for the protection of the labour of women and young persons had been set up. Perhaps in a few years' time, when the situation with regard to women's work had improved, it would be enough to include a bare reference to equal pay for equal work; in the present situation, however, the more detailed provisions of the original text were preferable. The Yugoslav delegation had taken an active part in preparing the drafts in the Commission on Human Rights. Some of its suggestions had not been adopted in the Commission, but it had refrained from reintroducing its amendments, in order to save the Committee's time.

34. He would vote in favour of point 1 of the Afghan amendments (A/C.3/L.542), because it eliminated the reference to "workers", which might be interpreted exclusively as referring to physical labour. He would vote against the amendment submitted by Afghanistan and the Netherlands (A/C.3/L.543) and against the Netherlands amendment (A/C.3/L.541). While his delegation sympathized with the intentions of the Spanish amendment (A/C.3/L.538), the expression proposed seemed to be covered by the words "periodic holidays with pay". He would vote in favour of the Polish amendment (A/C.3/L.532, point 2).

35. Mrs. SHIPLEY (Canada) found it difficult to reach a final decision on the Polish amendment (A/C.3/L.532, point 2) until it became clear what texts the Committee would adopt for part II of the draft Covenant. The amendment did not seem to be consistent with the assumption that general articles, providing for an undertaking in respect of the Covenant as a whole, would eventually appear in part II. The Canadian delegation, however, had been working on that assumption and therefore considered that the insertion of an individual undertaking in article 7 was unnecessary. It would vote against the Polish amendment and would abstain in the vote on the article as a whole if that amendment was adopted. She noted that while the word "appropriate" appeared in the Polish amendments to articles 6, 11 and 12 (A/C.3/L.532, points 1 and 3), the word "adequate" was used in the amendment to article 7 (A/C.3/L.532, point 2). She wondered whether there was any reason for the apparent inconsistency.

36. The recognition of the right of everyone to just and favourable conditions of work, in accordance with article 7, was a praiseworthy statement of principle. It was difficult, however, to say exactly what was meant by "just and favourable conditions of work." The conditions enumerated in the draft were hardly specific enough to add much to the concept. Safe and healthy working conditions and fair wages and equal remuneration for work of equal value were unexceptionable principles. With regard to remuneration, however, the question arose whether States which recognized the principle in a legally binding international instrument were also responsible for determining what wages were fair and what was the relative value of various kinds of work. Both management and labour in most countries would object to the imposition of State decisions

on such matters. No exception could be taken to the other provisions of the draft or to the additions proposed in some of the amendments; the only difficulty was to know where to stop. The Canadian delegation therefore thought it would be wiser to adopt a very general but easily understandable article, since it was useless to try to specify what was meant by "just and favourable conditions of work". The task of establishing specific standards should be left to the ILO, which was the competent body and included Governments, employers and workers. The International Labour Code already contained an impressive list of such standards.

37. The Canadian delegation believed that it would be wise to follow the recommendation of the Governing Body of the International Labour Office that the articles of the Covenant relating to matters within the competence of the ILO should be as brief and general as possible (A/2907/Add.2). It therefore suggested that the Committee should adopt an article 7 reading as follows:

"The States Parties to the Covenant recognize the right of all workers to just and favourable conditions of work in order to ensure a decent living for themselves and their families."

That text was clear and had the further merit of repeating almost exactly the statement of principle agreed upon by the Commission on Human Rights. She would not present the text as a formal proposal, but would co-operate with any delegation which might care to co-sponsor it.

38. Mr. EUSTATHIADES (Greece) said that he would support the Polish amendment (A/C.3/L.532, point 2) because it would introduce the obligation to take the necessary measures to implement the right. The general clause on measures of application would cover the idea of obligation, but the Polish amendment would introduce a more specific provision. He agreed with the Canadian representative that the word "appropriate" should be used instead of "adequate". He would also vote in favour of point 1 of the Afghan amendments (A/C.3/L.542). Although he was in sympathy with the purpose of the Spanish amendment, he agreed that it would introduce an unduly detailed provision, and he would abstain from voting on it.

39. In commenting on the Uruguayan amendment (A/C.3/L.540), some representatives had criticized its departure from the original text presented by the Commission on Human Rights (E/2573, annex I A). That work was indeed valuable and should serve as a basis for the Committee's debates; but it should be borne in mind that the Commission was a subsidiary organ of the General Assembly. It had also been suggested that delegations which served on the Commission should be more restrained in their statements, so as to give other delegations an opportunity to be heard. However, countries served on the Commission for short periods, and some of them had not participated in the debates on certain groups of articles.

40. The amendment submitted by Afghanistan and the Netherlands (A/C.3/L.543) was based on the assumption that the general provision in article 2, paragraph 2, would adequately cover the protection of women's rights. The ILO representative had pointed out that the text of the article would be improved by brevity; and although the Greek delegation had no objection to the phrase which it was proposed to delete,

it thought it should be borne in mind that the text of the Covenant should be concise, so that it would be sufficient to express the idea of non-discrimination on grounds of sex.

41. He could not support the Netherlands amendment (A/C.3/L.541). The argument that the provision in paragraph (b) (ii) was covered by paragraph (b) (i) and by article 12 was not convincing. Remuneration should be such as to provide the possibility of decent living conditions, and the guarantee should be kept. However, it should be borne in mind that in many cases several members of a family were gainfully employed, and it might therefore be unnecessary to refer to families; or if they were mentioned, only workers responsible for the livelihood of the other members of their family should be implied. In any event, the simple reference to a decent living would also imply a decent living for the family, since it would be inconceivable for the worker to have a decent living that was not shared by the other members of the family. It was in that connexion that he referred to article 12, which dealt generally with living conditions and the standard of living.

42. The Greek delegation was in favour of as general a text as possible; to go into details was a two-edged

policy. It was not certain which imposed the more binding obligations, a brief but general text or a more detailed wording. Even interpretations of specific terms varied considerably; thus "periodic holidays" had been interpreted by some as less frequent and by others as more frequent than annual holidays. In his opinion, obligations were not necessarily the more binding for being enumerated in detail.

43. In drafting article 7 and other articles, the members of the Committee should bear in mind the eventual terms of parts II and IV of the Covenant, especially of article 2, paragraph 1, which dealt with the obligation of each State to take the necessary steps to implement the Covenant "to the maximum of its available resources", and article 18, paragraph 2, which dealt with the reports of States on the "difficulties" affecting the degree of fulfilment of obligations under the Covenant. As it considered that the Covenant would include general provisions which would affect the extent of the obligations connected with any specific right, the Greek delegation was against any attempt to restrict the liberal nature of the clauses of the Covenant.

The meeting rose at 1.10 p.m.