



CONTENTS

Agenda item 31:

| | |
|--|-----|
| Draft International Covenants on Human Rights (<i>continued</i>) | |
| Article 6 of the draft Covenant on Economic, Social and Cultural Rights (<i>continued</i>) | 147 |

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.530, A/C.3/L.532 to 539) (*continued*)

ARTICLE 6 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/2573, annex I A) (*continued*)

1. The CHAIRMAN drew attention to the two amendments that had just been submitted, one by Guatemala (A/C.3/L.537) and the other by Italy (A/C.3/L.539); there were so many texts before the Committee that perhaps the appointment of a working party might be advisable.

2. Mr. PAZHWAQ (Afghanistan) said that the sponsors of several of the amendments had conferred informally before the meeting; they did not believe a working party was necessary. A working party would merely prepare a new text which, in turn, would become the subject of fresh amendments and debate. The best course was to vote on the various texts, as soon as the delegations of Guatemala and Italy had introduced their proposals.

3. Mrs. QUAN (Guatemala), presenting her delegation's amendment (A/C.3/L.537), said that although the Covenant as a whole concerned all categories of persons, article 6 was more particularly concerned with the human being as a worker. The Covenant should recognize, as one of the rights of the worker, the right to vocational guidance and training. It was not sufficient to mention the right in article 14, which dealt with education; persons in employment should also enjoy the benefit of the right. She therefore proposed that in article 6, paragraph 2, the words "technical and vocational guidance and training" should be inserted between the words "shall include" and "programmes". As the word "techniques" appeared further on in paragraph 2 and might cause difficulties, her delegation would agree to its deletion, if necessary. She would be glad to learn the views of other delegations.

4. Mr. MACCHIA (Italy) said that his delegation had submitted an amendment (A/C.3/L.539) in view of the different opinions expressed concerning paragraph 2. Some delegations had said that the paragraph

was unnecessary and that in specifically referring to measures of implementation the Covenant might over-emphasize some measures and understress others. It might also have the effect of encroaching upon the province of the specialized agencies. Other delegations, however, had said that the Covenants should not be a mere statement of general principles, for then they would be simply duplicating the Universal Declaration of Human Rights. Actually, there were three stages: the statement of a general principle; the obligation to apply that principle; and the measures and means by which States could discharge that obligation. The general principle was stated in paragraph 1. Therefore, a second paragraph was necessary to deal with the other two stages. The paragraph as drafted was, however, incomplete for it merely stated the obligation to apply the principle, but did not indicate how States should fulfil the obligation, nor did it stress the concept of equal economic opportunities for all. It was not sufficient for States merely to recognize the right to work. They also had to give every human being an opportunity to work. States could no longer simply proclaim the equality of men before the law; they had to take steps, through economic and social measures, to establish a *de facto* economic equality. The object of the Italian proposal was to stress that point.

5. Mrs. SHOHAM-SHARON (Israel) said the Committee's object should be to draft an instrument capable of being accepted by the greatest possible number of States. The draft Covenants, in their existing form, were the fruit of five years of work on the part of a body—the Commission on Human Rights—which was composed of experts from all parts of the world, representing all forms of government. The Third Committee, composed of seventy-nine members and working under the unfavourable conditions of the General Assembly period, could hardly improve upon the Commission's work. She therefore appealed to other delegations to exercise the greatest discretion in presenting amendments.

6. The drafting and therefore the implementation of the Covenants would be accelerated if, as her delegation had suggested at previous meetings, an international conference of plenipotentiaries were asked to frame the final text, as had been done in the case of the Supplementary Convention on Slavery and the Convention relating to the Status of Refugees. In that way direct negotiation would become possible between Governments which were prepared, in principle, to accede to the Covenants, whereas in the Committee the Governments which had no intention of acceding had equal opportunities to influence the final wording of those instruments. If, however, it was proposed to continue the discussion of the draft Covenants, article by article, in Committee, she would draw attention to annex II, paragraph 29, of the rules of procedure of the General Assembly. She therefore suggested the appointment of a number of working parties, each to

zation of the right to work, even to adopt programmes, policies and techniques to achieve steady cultural development. The whole field of human endeavour would thus become the subject of exhaustive planning and nation-wide action. Yet, he pointed out, the precise purpose of paragraph 2 was, essentially, to affirm and assure the right to work as defined in paragraph 1; it should not seek to compress in summary form virtually all the rights enunciated in the other articles of the draft Covenant. Any such summary would be pointless, since, while the implementation of the right to work naturally presupposed that of all the other rights, the latter were embodied in other provisions which the States Parties to the Covenant would also undertake to apply. Thus point 2 (a) appeared to be neither necessary nor even desirable. The same was true of the Guatemalan amendment (A/C.3/L.537).

35. He did not consider that point 2 (b) of the Afghan amendments would improve the text of paragraph 2. It was difficult to determine what were the "fundamental freedoms" and no less difficult to define what was meant by "all political and economic freedoms". The Yugoslav representative had suggested that the last phrase should be replaced by the expression "all the rights embodied in the Covenants". That wording would at least have the merit of less imprecision. Even so, he was not convinced that it was really necessary to refer in summary form in that article to an obligation owed by States to safeguard the enjoyment of the rights or freedoms enunciated in other provisions.

36. Referring to the Greek amendment (A/C.3/L.536), he said there was no serious objection to inserting the adjective "fundamental" before the words "right to work", but he was not satisfied that the expression "which includes" was a desirable change. The Greek representative appeared to think that it was the right to work which was fundamental and not the right to the opportunity to work, the latter notion being an integral part of the former. The authors of the draft Covenant had, however, been manifestly thinking in terms of a single right to work, and the part of the sentence beginning with the words "that is to say" did not introduce a new idea but rather defined the right to work. The formula proposed by the Greek representative implied that the right to work included something other than the right of everyone to have the opportunity to work. If that were the case, it would be necessary to specify the other elements involved, which would mean giving an exhaustive definition. Unless it could be convinced of the inadequacy of the wording used in the draft Covenant, the Australian delegation would therefore oppose the Greek amendment. It was also somewhat surprising to note that, after admitting that the right to work was in reality separate and distinct from the right to obtain the opportunity to work, the Afghan representative had accepted the Greek text, which expressed a different opinion.

37. He reserved his delegation's position on the Spanish amendment (A/C.3/L.533). While paragraph 1 should, of course, exclude any possibility of such practices as forced labour, he did not consider that the deletion proposed by the Spanish delegation was likely to have the opposite effect. The text of the article stated unequivocally that the work had to be "freely accepted".

38. His delegation could not, at that stage, express a final opinion on the Colombian amendment (A/C.3/

L.535). The notion of free acceptance already implied that a choice was open to the person concerned. He asked what then, would be the scope of the obligations assumed by the States Parties if the amendment were adopted, and whether they would owe a duty to offer a particular person several opportunities of employment. The word "or" might support a strict interpretation.

39. He opposed the Polish amendment (A/C.3/L.532, point 1), the effect of which would be that the Parties to the Covenant would be pledging themselves to take appropriate steps to safeguard the right to work: the method it advocated was different from, and even contradictory to, the steps mentioned in paragraph 2, whereby the States Parties would strive to achieve the full realization of that right. The United Kingdom amendment (A/C.3/L.534) had encountered objections which he had not always found very intelligible. It had been said that the omission of paragraph 2 would considerably weaken the Covenant. In that connexion the representative of China had rightly stressed the importance of the provisions of part II of the draft Covenant.

40. Point 2 (a) of the Afghan amendments (A/C.3/L.530) was unnecessary: indeed, the original provision itself was perhaps not indispensable, for the notion of steady economic development was by no means precisely defined and article 12 presupposed the existence of such development. The States Parties would, secondly, have a duty to take steps to achieve full and productive employment; that provision was not indispensable either, since the right of everyone to the opportunity to gain his living, which was embodied in paragraph 1 obviously presupposed the existence of full employment. If the word "productive" were really important, it would have been introduced in paragraph 1, which would, in that case, have said that everyone must be enabled to gain his living "by productive work". If paragraph 2 were deleted, such an amendment might be contemplated. The only provision in paragraph 2 which was of some importance was that relating to "the full realization" of the right to work. If the Polish amendment (A/C.3/L.532, point 1) to paragraph 1 read "and will take appropriate steps to achieve the full realization of this right", then all the valuable provisions of article 6 would have been maintained, and nothing would have been lost by the deletion of paragraph 2.

41. His delegation sympathized with the intentions of the Italian amendment (A/C.3/L.539) but thought that its terms went beyond the scope of article 6. The removal of obstacles limiting the freedom and equality of individuals was the very idea underlying the Covenant as a whole; the proposed text should therefore more appropriately be included elsewhere in that instrument.

42. Mr. BRENA (Uruguay) said that the question raised by the Israel representative was a "previous question" and should be dealt with accordingly. If the Israel delegation submitted a formal proposal, his delegation would be quite prepared to support it.

43. So far as paragraph 1 was concerned, the position was relatively clear. The amendments submitted by Greece (A/C.3/L.536) and Colombia (A/C.3/L.535) were not far apart, and the Committee would have no difficulty in voting on them. Paragraph 2, on the other hand, raised a hard problem. The United

Kingdom objected to it on logical grounds; but he, for his part, thought it indispensable because it was the only provision of the draft Covenant dealing with economic development and full employment. The problem of unemployment was so serious for all countries that it was desirable that States should pledge themselves to take steps of a technical nature to fight unemployment by intensified production. A general reference would be sufficient; the Covenant was an instrument that would serve as a link between the Charter of the United Nations and the Universal Declaration of Human Rights—in which the fundamental principles of human rights were enshrined—and the international labour conventions—which defined some of those rights in specific and detailed terms. The text proposed by Italy (A/C.3/L.539) was attractive, but because it was negative in character he would suggest that it should be supplemented by a positive provision. In the circumstances, he considered that a working party should be appointed. He hoped that the Committee would agree to that solution.

44. Mrs. SHOHAM-SHARON (Israel) explained that in her earlier remarks she had meant to suggest informally that a number of working parties should be formed to study the different articles of the draft Covenant simultaneously. A radical change of method was required if the Committee really wished to make progress. Her delegation would welcome any modification likely to improve its suggestion: the question of the Committee's future procedure should be settled as soon as the debate on article 6 was concluded.

45. Miss BERNARDINO (Dominican Republic) said that her delegation had been prepared to vote for the text of article 6. After hearing the various opinions, it had decided to support certain amendments, including those of Greece (A/C.3/L.536), Spain (A/C.3/L.533) and Colombia (A/C.3/L.535), though hoping that those delegations would shortly be able to submit a joint text to the Committee. It would also vote in favour of the Polish amendment (A/C.3/L.532, point 1) which laid down more expressly the duty of States to take the necessary steps to safeguard the right to work. The Guatemalan amendment (A/C.3/L.537) might improve paragraph 2, but its more logical context was elsewhere in the Covenant. Her delegation would also vote in favour of point 2 (a) of the Afghan amendments (A/C.3/L.530), even though its provisions were implicitly contained in paragraph 2. Her delegation would abstain in the vote on the United Kingdom amendment (A/C.3/L.534), because paragraph 2 usefully supplemented article 6. The new paragraph 2 proposed by Italy (A/C.3/L.539) was weaker than the original text, and therefore not acceptable to her delegation. Lastly, she supported the Uruguayan

representative's suggestion that a working party should be set up to co-ordinate the various draft amendments.

46. Mr. BAROODY (Saudi Arabia) suggested that the list of speakers should be closed.

47. The CHAIRMAN said that he intended to close the list at the end of the meeting. The Committee should taken an early decision on the question of the establishment of a working party.

48. Mr. RIVAS (Venezuela) said that, if the representatives of Greece, Colombia and Spain could work out a joint text, a working party could probably be dispensed with.

49. Mr. BAROODY (Saudi Arabia) said that the Committee could surely vote forthwith on the different amendments. The establishment of a working party might create a dangerous precedent, for instead of trying to amalgamate the various proposals, the working party might be tempted to put forward new ideas, with the consequence that a fresh debate would ensue. Besides, the appointment of a working party would be an indirect criticism of the usefulness of the Commission on Human Rights.

50. Mr. MACCHIA (Italy) said he had noted with satisfaction the different suggestions made concerning his delegation's amendment (A/C.3/L.539). He considered most acceptable and felt that they could be incorporated in the text of the amendment. He was willing to consider any method that might be proposed in order to achieve that result.

51. Mr. AZNAR (Spain) said that perhaps the delegations of Colombia, Greece, Afghanistan, Guatemala, Poland and Spain might confer with a view to drafting a consolidated amendment.

52. Mr. MUFTI (Syria) said it was not necessary to draw up such a text or to establish a working party. He would prefer the Committee to vote on the various texts immediately.

53. The CHAIRMAN invited the Committee to vote first on the question of the establishment of a working party.

54. Mr. PAZHAWAK (Afghanistan) and Mr. BAROODY (Saudi Arabia), speaking on a point of order, said that such a vote was not necessary.

55. The CHAIRMAN said that a vote was desirable in order to close the debate. He put to the vote the proposal for the establishment of a working party.

The proposal was rejected by 28 votes to 15, with 14 abstentions.

56. The CHAIRMAN declared the list of speakers closed.

The meeting rose at 1.15 p.m.