



CONTENTS

	<i>Page</i>
Agenda item 31:	
Draft International Covenants on Human Rights (<i>continued</i>)	
Article 13 of the draft Covenant on Economic, Social and Cultural Rights (<i>continued</i>)	315

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.588 to 591) (*continued*)

ARTICLE 13 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/2573, ANNEX I A) (*continued*)

1. Mrs. GERLEIN DE FONNEGRA (Colombia) said her delegation agreed with the representatives who had pointed out that the definition of health which appeared in paragraph 1 of article 13 of the draft Covenant (E/2573, annex I A) was inappropriate, as no definitions were included in any other articles.

2. The article contained an exhaustive enumeration of the steps to be taken to achieve the realization of the right recognized in it, but omitted one highly important factor: education. People throughout the world were suffering from diseases that could be cured if the victims were aware of the nature of their disease and the possibility of its cure. In Colombia, the normal work of the hospitals and clinics was supplemented by frequent educational campaigns, designed to explain to the people the importance of preventive and curative treatment. In the absence of such educational work, ignorant victims of disease either applied to quack doctors or resigned themselves to the idea that their disease was incurable. Her delegation suggested that the article should be amended to include a reference to educational health campaigns.

3. Lastly, she considered that the order of the provisions of paragraph 2 (*b*) should be altered so as to place the reference to recreation after the reference to economic and working conditions.

4. The CHAIRMAN suggested that the meeting should be suspended until the amendments to article 13 had been circulated in the working languages.

The meeting was suspended at 3.45 p.m. and resumed at 4.30 p.m.

5. Mr. LIMA (El Salvador), referring to the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589), said that the reference in paragraph 2

(*a*) should be not only to infant mortality as such, but also to the ratio of still to live births. That would emphasize the importance of special measures of protection for mothers.

6. He felt that the Committee should not take a decision to delete the definition of health from the article without hearing the views of the representative of the World Health Organization (WHO), as parts of the article were based on the Constitution of that agency.

7. Dr. TABONA (World Health Organization) said that his agency had given the Commission on Human Rights some technical help in drafting article 13—a fact that had been noted by the Eighth World Health Assembly—and that paragraph 1 conformed closely to the provisions of the Constitution of WHO, which had been ratified by eighty-four Governments. It was for the Committee to decide whether the definition of health should be retained; it should be borne in mind, however, that it had been accepted by all the States members of WHO, and that it recognized the close relation between social factors and such diseases as leprosy, tuberculosis, venereal diseases, trachoma and mental and occupational diseases, so that the article as it stood represented a summary of the health implications of the other articles of the draft Covenant.

8. He considered that the reference to the reduction of infant mortality should precede the reference to the healthy development of the child, on biological and chronological grounds.

9. Miss BRUUN (Denmark) stressed the importance of article 13. Her delegation was glad that the article called for prevention, treatment and control of diseases and also that the reduction of infant mortality and the healthy development of the child were specially mentioned. It was an accepted fact that the first year of life was the most dangerous, and that millions of lives could be saved in many countries if special attention were paid to infants. It was only logical to place the reference to infant mortality before any mention of the child. Her delegation also welcomed paragraph 2 (*d*); the provisions of article 9 made it unnecessary to mention the financing of medical treatment in article 13. The article as it stood dealt with many aspects of health; but she did not consider that the provisions of paragraph 2 (*b*) were strictly necessary, as they were covered in other articles of the draft Covenant. She would therefore support the deletion of the sub-paragraph if that was the feeling of the Committee.

10. With regard to the proposal in the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589) for the deletion of the definition of health from paragraph 1, she would not oppose such a step, although she did not feel strongly about the matter. The expression "social well-being" was vague, but if any part of the WHO definition was retained, the original wording must be followed.

11. Lastly, she did not consider that the amendment submitted by Italy and Uruguay (A/C.3/L.590) was necessary, as the recognition of the right in question by States did not preclude the individual's right to refuse medical treatment.
12. Mr. HOARE (United Kingdom) said that although he held no particular brief for the definition of health which the Afghan and Philippine delegations wished to have deleted from paragraph 1 of article 13, he did not see the advantage of deleting them if the same words were introduced later in the text to replace the word "health".
13. Referring to the proposed new text (A/C.3/L.589), he said that the wording of paragraph 2 (b) was not acceptable, as it gave the impression that all diseases were due to environmental conditions, which was obviously not the case.
14. Mr. PAZHWAQ (Afghanistan) said that the sponsors of the Afghan-Philippine amendments (A/C.3/L.589) had proposed the deletion of the definition of health because it was unnecessarily wordy. However, as they felt that article 13 should include some such definition, they had proposed a more concise alternative wording. He drew attention to the fact that the word "moral" should be inserted after the word "mental" in paragraph 1.
15. Mr. BRILLANTES (Philippines), speaking for the sponsors of the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589), said that in order to meet the United Kingdom representative's second point, paragraph 2 (b) could be amended to read: "The improvement of all aspects of environmental hygiene;" paragraphs 2 (c) and 2 (d) of the original text remaining unchanged.
16. Mr. JUVIGNY (France) said that although he sympathized with the motives which had prompted the Italian and Uruguayan delegations to submit their joint amendment (A/C.3/L.590), he did not think the proposed new paragraph should be included in article 13. The article not only affirmed the right of the individual to health but laid down a broad programme by which States should ensure the realization of that right; it seemed out of place to add a third paragraph which limited their powers of action to achieve the ends in view. The treatments mentioned in the first sentence of the amendment were the same as those covered by the expression "medical and scientific experimentation" in article 7 of the draft Covenant on Civil and Political Rights (E/2573, annex I B), and the whole question had been exhaustively discussed by the Commission on Human Rights in that connexion. Such a provision was out of place in the draft Covenant on Economic, Social and Cultural Rights. Furthermore, the second sentence of the amendment submitted by Italy and Uruguay stated one of the fundamental principles underlying the draft Covenant on Civil and Political Rights, many articles of which dealt with respect for the dignity of the human person. By inserting such a sentence in article 13 of the draft Covenant on Economic, Social and Cultural Rights, the sponsors might be defeating their own ends by raising the question whether similar limitations were applicable in connexion with other articles. For those reasons, he felt that the sponsors would be wiser not to press their amendment at the current juncture.
17. Mr. BAROODY (Saudi Arabia) said that both the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589) and the amendment submitted by Italy and Uruguay (A/C.3/L.590) were out of place in article 13 of the draft Covenant on Economic, Social and Cultural Rights. He regretted the omission of the word "health" from the text proposed in the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589), since the alternative wording, "physical, mental, moral and social well-being", could be interpreted very differently at different social levels. It might be possible to retain the word "health", without the adjective "complete", as complete health for everyone was an unattainable idea.
18. He wondered what the words "sanitary treatments" in the first sentence of the amendment submitted by Italy and Uruguay (A/C.3/L.590) really meant, but agreed with the French representative that such a sentence was in any case out of place in article 13 of the draft Covenant of Economic, Social and Cultural Rights. If it were included, States might be barred from treating patients for their own good and for that of the community, or parents from attending to their children. The second sentence would create practical difficulties, as the limits required by respect for the human person had not been defined. He asked the sponsors to consider withdrawing their amendment and submitting it in connexion with the draft Covenant on Civil and Political Rights.
19. Mr. KETRZYNSKI (Poland) said that as article 13 was highly technical and involved specialized questions of medicine and hygiene, his delegation was unable at the current stage to take a definite position on the amendments. It wished, however, to emphasize a point which had been neglected, the necessity for special measures to protect workers from occupational diseases. He therefore formally proposed the addition of a new sub-paragraph to paragraph 2 of article 13, to read "The treatment and prevention of occupational diseases".
20. Miss BRUUN (Denmark), referring to the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589), said that while she did not object to the deletion of the definition of health in paragraph 1 of the original text of article 13, she felt that the word "health" itself should be retained, since health was the subject of the article as a whole. The word "moral" appeared to be out of place in that context; and she also had her doubts concerning the phrase "social well-being", though she would not oppose it since it appeared in the original text. Accordingly, she would prefer the formulation: "the highest attainable standard of physical and mental health and social well-being". She would be able to vote for the rest of the amendment.
21. The Polish amendment (A/C.3/L.591) went into unnecessary detail. Occupational diseases were covered both by the provision concerning environmental hygiene in article 13 and by the "safe and healthy working conditions" referred to in article 7.
22. She did not think the amendment submitted by Italy and Uruguay (A/C.3/L.590) was necessary, and was not sure of the meaning of the expression "sanitary treatments" used in it.
23. Mrs. AFNAN (Iraq) observed that the inclusion of an article on health in the draft Covenant was of

the utmost importance. Unfortunately, the Committee had not the time to give the matter adequate consideration, and her delegation was not ready to vote on any of the relevant texts.

24. In her delegation's view, the basic defect of the article lay not in its drafting—the aspect to which the various amendments were mainly directed—but in its lack of any specific detail concerning the reduction of infant mortality and provision for the healthy development of the child. Most States had already recognized their responsibilities in those fields, and in most countries, including Iraq, there existed free mother and child clinics and free prophylactic clinics for children. It would be retrogressive not to take those facts into account in an article dealing with health.

25. She was unable to support the deletion of the definition of health proposed in the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589). Health was a state of complete well-being, rather than a mere absence of disease; and it was that positive approach that should be stressed in defining the individual's right to health.

26. While she sympathized with the motives of the Italian and Uruguayan representatives, their amendment (A/C.3/L.590) would be out of place in article 13, and she was therefore unable to support it.

27. Mr. PAZHAWAK (Afghanistan) said that he had suggested the term "well-being" because it was broader than "health"; but since several delegations had expressed a preference for the latter term, he for his part was prepared to defer to their view.

28. Mr. BRENA (Uruguay) regretted that in the Afghan-Philippine amendment (A/C.3/L.589) to paragraph 2 (b) the reference to the improvement of nutrition, housing, sanitation, recreation and economic and working conditions was omitted; those were all social factors indispensable to the achievement of health, and the list gave States a useful indication of the policies they should pursue to that end.

29. Dr. TABONA (World Health Organization) said that WHO believed that mental, physical and social well-being—the last arising from an individual's harmonious relations with others in all facets of his existence—were all extremely important factors of health. That belief was based on extensive studies. On the other hand, WHO would find it difficult to gauge standards of "moral health".

30. Paragraph 2 (b) as amended by the Afghan and Philippine representatives (A/C.3/L.589) was very comprehensive. Nevertheless, although environmental hygiene strictly speaking included industrial hygiene, the sponsors of the amendment might wish, for the sake of clarity, to modify the clause to read: "The improvement of all aspects of environmental and industrial hygiene".

31. The amendment submitted by Italy and Uruguay (A/C.3/L.590) might cause WHO some difficulties of interpretation.

32. Mr. BRILLANTES (Philippines), speaking for both sponsors of the amendments (A/C.3/L.589), accepted the words proposed by the representative of WHO.

33. Mr. MARTINS DE CARVALHO (Portugal) said that he approved of the amendments submitted by

Afghanistan and the Philippines (A/C.3/L.589) in principle, as they gave added logic and precision to the original text. He also supported the Polish amendment (A/C.3/L.591). He shared the French representative's views as regards the amendment proposed by Italy and Uruguay (A/C.3/L.590), but would be able to vote for the first sentence if the drafting was improved.

34. Mr. MUFTI (Syria) said he preferred the original text of article 13 (E/2573, annex I A), which contained a useful definition of health based on standards painstakingly established by WHO in the light of its wide experience, and which did not merely recognize the right to health but indicated the measures States should take to guarantee that right. The amendments submitted by Afghanistan and the Philippines (A/C.3/L.589) offered no great improvement on the original text, but he had no objection to the transposition in paragraph 2 (a) suggested in the amendments. He was ready to vote for the amendment submitted by Italy and Uruguay (A/C.3/L.590), although he recognized that article 7 of the draft Covenant on Civil and Political Rights (E/2573, annex I B) dealt with a similar subject. The Polish amendment (A/C.3/L.591) was hardly necessary, since the point it dealt with was covered by the words "and other diseases" in paragraph 2 (c); if an express mention of occupational diseases was desired, it should be included in that paragraph.

35. Mr. CHAUDHURI (Pakistan), referring to the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589), said that it would be a pity to delete the excellent definition of health, and the word "health" itself, from article 13, paragraph 1. The insertion of a new idea—moral well-being—was also unadvisable; morality could not be legislated into being, and no State should be asked to make the attempt. Furthermore, the omission proposed in paragraph 2 (b) would be unfortunate, as the social aspects of health to which the passage in question referred were no less important than the biological aspects; moreover, the passage provided a useful definition of what was meant by an otherwise vague term, "environmental hygiene". For those reasons, he would vote for the original text of the article, with the addition proposed by Poland (A/C.3/L.591).

36. As other speakers had pointed out, article 13 was not the proper place for the amendment proposed by Italy and Uruguay (A/C.3/L.590). High as his own regard was for the freedom of the individual, he could not but agree that some compulsion might be justified where the health of the community was at stake. He therefore hoped that the two sponsors would not press their amendment.

37. Mr. PAZHAWAK (Afghanistan) pointed out that the current meeting was the last of those allocated to the draft Covenants, and urged the Committee to vote on the texts before it.

38. Mr. MACCHIA (Italy) said he felt that many delegations were not yet ready to vote.

39. Mrs. SHIPLEY (Canada) said that she, for one, was not prepared to vote on the different amendments without having consulted other members of her delegation.

40. The CHAIRMAN said that in that event no vote would be taken.

41. Mr. BAROODY (Saudi Arabia) asked the Chairman and the Committee to consider whether the procedure followed at the current session of the General Assembly with regard to the draft Covenants should be continued at the twelfth session, or whether, in view of the difficulties of drafting legal texts in a very large group, some other procedure should be followed.

42. The CHAIRMAN said that the Committee would open its discussion on agenda item 60 at the following meeting and return to item 31 when delegations had had time to study the amendments to article 13 of the draft Covenant.

The meeting rose at 6.5 p.m.