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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.556 to 560) (*continued*)

ARTICLE 9 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/2573, annex I A) (*concluded*)

1. Mr. BRILLANTES (Philippines) said that as the text of article 9 of the draft Covenant (E/2573, annex I A) seemed clear and concise, the Italian representative's proposal (726th meeting) that the word "everyone" should be replaced by the word "workers" appeared to be unnecessary. The Philippine delegation would be obliged to vote against the USSR amendment (A/C.3/L.556), as modified by Syria (726th meeting), because it had the disadvantage of eliminating tripartite financing and of not leaving the individual the option of providing protection for himself in his own way.
2. He would therefore vote for the original text of article 9, which was in complete harmony with the Philippine Constitution. He could see no objection to the Afghan amendment (A/C.3/L.560).
3. Mr. AGOLLI (Albania) emphasized that the right to social security was one of the most important rights that could be claimed by man. It was fully recognized in Albania, where it was laid down in article 25 of the Constitution and was dealt with in various regulations which had been embodied in the Labour Code.
4. Even though article 9 stated that right unequivocally, it was still incomplete. It should also prescribe the methods of financing social insurance. The USSR amendment (A/C.3/L.556), which dealt with that question, considerably improved the original text and proposed a system similar to the one in force in Albania.
5. He did not agree with those representatives who had said that the method proposed in the Soviet text was not progressive. The social security systems based on workers' contributions were in fact restrictive, as they tended to favour those who were already fairly well off. The statement had also been made that in the underdeveloped countries the State and the employers could not afford to undertake the cost of social security. Whether or not that observation was well-founded, it should not be forgotten that under article 2 of the draft

Covenant on Economic, Social and Cultural Rights, States undertook to achieve the realization of the rights recognized in the Covenant, progressively and to the maximum of their available resources.

6. Contrary to the opinion of some delegations, Albania felt that the financing of social security by the workers might have undesirable repercussions on the living standard of the working class. There was no such danger when the State or the employers alone bore the cost of social insurance.

7. The question of financing social security should be dealt with by the Committee. It affected millions of workers and called for a progressive solution. That was why Albania would vote for the Soviet amendment (A/C.3/L.556), as further amended by Syria (726th meeting).

8. Mr. EUSTATHIADES (Greece) felt that although article 9 as drafted by the Commission on Human Rights (E/2573, annex I A) would do no actual harm, it was, perhaps, rather vague. That might be due to the fact that the concept of social security itself was difficult to define.

9. He pointed out in that connexion that the International Labour Convention (No. 102) concerning Minimum Standards of Social Security, which was the most precise legal instrument dealing with the question, did not give a definition. Article 2 of that Convention allowed States to limit their ratification to certain articles and thus recognized that there was no agreement between States concerning what constituted a social security system. The only fairly detailed definition which existed was to be found in an article published in March 1953 in the *International Labour Review*, but however interesting that article might be, it had no official status. The right to social security was also mentioned in articles 22 and 25 of the Universal Declaration of Human Rights. Article 9 did not, however, repeat the terms of either of those articles and consequently seemed to do nothing more than recognize the right of the individual to social security. Despite its vagueness, it was for that reason entitled to a place in a covenant on economic, social and cultural rights. It might be regarded as a prelude to other measures providing for the protection of the individual in more precise terms. The Greek delegation was therefore prepared to vote in favour of the text under discussion despite its shortcomings.

10. Referring to the USSR amendment (A/C.3/L.556), he said that the system of financing proposed by the USSR delegation was an ideal, but that the diversity of the systems currently in force had to be taken into account. There was a danger that many States would be unable to accept a provision which excluded any contribution from workers. For that reason, he had no alternative but to abstain when that amendment was put to the vote even though he was in sympathy with the idea behind it.

11. Mr. MUFTI (Syria) said that he would like first to comment on article 9 as drafted by the Commission on Human Rights. Although that text had the advantage of being concise and of leaving States a great deal of latitude with regard to the operation and financing of social security systems, its very conciseness was not without danger. Since it did not indicate how it was to be applied, it might be used to justify certain extreme positions. There was the possibility, for instance, that the persons covered by the insurance might be made to bear the entire cost or that the risks covered might be reduced to a minimum, although, in reality, anything of the kind was somewhat unlikely in view of the current practice in many countries and the international instruments dealing with the subject. At all events, there were risks in the existing wording which could have been avoided if it had been more precise. In the circumstances, however, greater precision might have done more harm than good. It would be preferable to retain the original text, and the Syrian delegation was therefore prepared to vote for it.

12. Referring to the USSR amendment (A/C.3/L.556) and the addition to it proposed orally by his delegation (726th meeting), he said that the only purpose of the Syrian sub-amendment was to improve the USSR text, which it approached from the same point of view. In his opinion, the USSR proposal had two great advantages: it alluded to the method of financing, and it would have the effect of lightening the burden of the working classes in countries where, because they had only just enough to live on, they could not very well assume even part of the cost of social insurance. It did, however, have the disadvantage of ignoring the existing situation, for it should not be forgotten that a tripartite system of financing was in effect in many countries. Much could be said for such a system. There was, for instance, the argument that it developed thrift and a sense of responsibility among the insured persons and prevented them from feeling they were a burden on the community. There might also be some doubt whether the concept embodied in the USSR amendment was valid for all economic systems and whether the proposed solution was really ideal. The State and the employers could in any event always arrange matters in such a way as to take away with one hand what they gave with the other. The fundamental difficulty was actually not so much how to solve the problem of financing social security as how to provide the workers with enough real income to enable them to lead a decent life. In the circumstances, the Syrian delegation felt obliged to abstain on the USSR amendment (A/C.3/L.556).

13. He could not support the Afghan amendment (A/C.3/L.560) as a whole. The first part of it was implicit in the text of article 9 as it stood; there was no reason to reject it but it was on the other hand rather pointless. The second part implied that a State would be obliged to guarantee the right to social security only so far as its financial resources allowed. The danger of such an implication should not be under-estimated.

14. Mr. THIERRY (France) supported the text of article 9 as drafted by the Commission on Human Rights. He emphasized that that provision laid down a right which implied a policy and that, as it stood, article 9 was midway between a very general statement, such as article 25 of the Universal Declaration of Human Rights, and a highly specialized instrument, such as the

International Labour Convention (No. 102) concerning Minimum Standards of Social Security.

15. After recalling that the French system of social security had had its origin in the Act of 1898 on work accidents and that the French workers had been the first to receive family allowances, he said that France had not been a stranger to the great movement whereby social security had spread throughout the world. Like many other countries, France had been affected by the thinking and activities of Sir William Beveridge.

16. As it was for each State to organize a system of social security which suited its own conditions, article 9, as was proper, went no further than enunciating the right of everyone to require of the State the introduction of a social security system. The practical organization of the system was the responsibility of the competent authorities. Because Convention No. 102 of the International Labour Organisation (ILO) stated at length what the international community considered minimum standards of social security, there was no necessity for the Covenant to go into detail. If article 9 was to lose its general character, there would be the risk of a deeply regrettable conflict between the Committee's text and the ILO Convention.

17. In particular, it seemed unnecessary, as the USSR delegation proposed (A/C.3/L.556), to specify the methods of financing social security. The problem of financing was very complex, and there could be no certainty that a change in the system of contributions would be advantageous to workers in countries where social insurance costs were partially borne by the beneficiaries. An increase in employers' contributions would result in a rise in prices, and if a larger part of the expenditure was borne by the State, the result would be increased taxation and far-reaching economic disruptions.

18. The problem of financing actually involved the basic concept of social security, since social security could be regarded either as a system of protection against social risks or as a means of transforming social structures through the redistribution of income. It would seem that the essential purposes of social security were not economic. In any case, even if structural reform was the end in view, the fiscal system would certainly be a more effective instrument. Moreover, a distortion of the purposes of social security could only be harmful to the system itself.

19. In view of those considerations, the French delegation would vote in favour of the original text of article 9.

20. Mr. MASSOUD-ANSARI (Iran) observed that some representatives seemed to be chary of simple and brief texts on the ground that their general terms might give rise to different interpretations. He did not share those views and had not been persuaded by those who wanted the article amended. The Committee's experience with the preceding articles had clearly shown that the best was often the enemy of the good.

21. The Iranian delegation was particularly averse to amplifying the concept of social security. It agreed with other delegations and with the ILO representative that in a covenant that was to become a code of economic and social rights, detailed provisions should be avoided and be left for the relevant international conventions. It should be borne in mind that in a dynamic and fast-developing world the idea of social security would become increasingly broader and that certain factors which

now seemed insignificant might become vitally important in the world of the future. It would therefore be wiser to retain the non-restrictive text drawn up by the Commission on Human Rights.

22. Turning to the USSR amendment (A/C.3/L.556), he pointed out that the method of financing for which it provided would hardly be acceptable to societies based on a system of private enterprise. Moreover, despite appearances, that method did not represent an advantage for workers. The workers' contributions to the costs of social security represented but a minute proportion of their wages, and in fact they counted only on what they actually received, apart from various deductions. Their participation had the very great advantage of giving them the right of inspection over the administration and utilization of the funds intended to guarantee them the well-being and social assistance to which they were entitled.

23. The USSR representative, while referring to the provisions of article 2, which set forth the idea of progressive implementation, had himself admitted that the effect of his amendment would be to introduce considerable changes into the methods of financing social insurance in many countries. Mr. Massoud-Ansari doubted, however, whether measures which would completely alter the established practice would be feasible in societies based on the system of private enterprise.

24. The Iranian delegation considered that the Afghan amendment (A/C.3/L.560) would somewhat weaken the article. Moreover, as the Czechoslovak representative had pointed out, the idea contained in that amendment was already expressed in article 2, paragraph 1, of the draft Covenant, where it was stated that each State undertook to take steps "to the maximum of its available resources".

25. The Iranian delegation preferred the original text without any amendment, and would vote in favour of it.

26. Mr. MARTINS DE CARVALHO (Portugal) said that although article 9 in its original form was drafted in very general terms and was somewhat vague, he would vote in favour of it.

27. He could not support the USSR amendment (A/C.3/L.556) because, under the legislation in force in Portugal, contributions to certain types of social security were paid not only by the employers but also by the workers. The employers' contributions were much higher than those of the workers, which were often merely token. Furthermore, it seemed wise, considering the current stage of economic life, to continue the contributions in question in the interests of the solidarity which must exist between the various elements participating in production.

28. Mr. WOLTE (Austria) fully supported the principle on which article 9 was based. He said that in Austria the adoption of legislative measures on social security dated back to the 1850's. The social security system currently in force covered all persons and all labour risks. In 1955, the Austrian Parliament had enacted a new general law on social security, which marked an important new stage. The Austrian delegation would vote in favour of the original text of article 9 (E/2573, annex I A), which gave States wide freedom of action in applying the principle involved.

29. Miss BERNARDINO (Dominican Republic) said that her delegation could not vote in favour of either the USSR amendment (A/C.3/L.556) or the

Afghan amendment (A/C.3/L.560). She considered that the draft prepared by the Commission on Human Rights (E/2573, annex I A) was fully satisfactory and had the additional advantage of flexibility, which would enable a larger number of States to accede to the Covenant.

30. In the Dominican Republic, the State recognized the right to social security and bore its costs in the case of government workers. There was also a very comprehensive system of social insurance which protected all workers, irrespective of the nature of their employment, and which was governed by a special law. The application of that law called for co-operation between workers and employers. The Dominican delegation therefore felt that every country should be given the opportunity to organize social security in accordance with its own legislation.

31. Mr. HOARE (United Kingdom) said that the view had been expressed that article 9 in its terms resembled too closely the corresponding provision of the Universal Declaration of Human Rights, and that the meaning of the term "social security" should be defined. On the first point he wished to call attention to the fact that a declaratory form of words in the context of that draft Covenant was different in its effect from the Universal Declaration, since the Covenant imposed on States the obligation to take steps to the maximum of their available resources, with a view to achieving progressively the realization of the rights recognized in the Covenant, and to submit reports on the progress made and the difficulties encountered. As regards the question of definition, it was to be noted that International Labour Convention No. 102 did not attempt to define social security, and that the Italian representative, though criticizing the absence of a definition, had not himself attempted to provide one. To elaborate the existing text, including a definition, would encroach on the sphere of action of the ILO and would be inconsistent with the general structure of the Covenant; moreover, it would be imprudent to attempt to delimit a concept which was constantly becoming broader. The effect of the existing provision in the context of the Covenant would be that States would be called upon to accept as the ultimate aim the broadest possible conception of social security.

32. Turning to the amendments, he said that he had two objections to the USSR amendment (A/C.3/L.556), as further amended by the Syrian delegation at the 726th meeting. The addition of a reference to social insurance, even as something included in social security, was superfluous, and would not be of any assistance to those delegations which were uncertain as to what other elements social security included. Moreover, the United Kingdom delegation could not share the Byelorussian representative's view that, ideally, the objective to be attained was a system in which no contribution should be required of workers. The Portuguese representative had already rightly drawn attention to the psychological advantage of workers' participation. Moreover, it must not be assumed that the expenditure was necessarily required of workers whose wages were already low; in some countries, the workers' standard of living was so high that a large proportion already paid income tax, and with the increased standard of living which the Covenant contemplated as an ultimate aim, any objection to contribution by workers would diminish rather than increase. There was in any case no justification for confining the pro-

visions of article 9 within the rigid framework implied by the USSR amendment.

33. He wondered whether the Afghan representative would not consider withdrawing his amendment (A/C.3/L.560). The United Kingdom delegation would be obliged to vote against it if it was put to the vote, because the provision in the USSR amendment limiting the financing to the State or employer would be unaffected by the Afghan amendment. That amendment also had the disadvantage of re-stating the idea already expressed in article 2, paragraph 1; that was undesirable in itself, and if adopted in article 9, would oblige the Committee to consider inserting a similar provision in other articles.

34. Miss SOUTER (New Zealand) said that the New Zealand Government had already evaluated its social security programme in relation to the standards of achievement set forth in article 22 of the Universal Declaration of Human Rights, and that a report on that subject had appeared in the *Yearbook on Human Rights for 1949*.¹ The New Zealand Government would be in a position to comply with the obligation that article 9 imposed on States.

35. For New Zealand, the term "social security" covered not only the system of benefits but also the larger and more complex field of social legislation and administration, of which pecuniary benefits represented only one aspect.

36. The New Zealand delegation felt that it would be out of place to go into detail and try to specify what risks social security should cover and who should make the payments. Numerous representatives and the ILO representative had already pointed out the dangers that would be involved. Her delegation would therefore be unable to support the Soviet amendment (A/C.3/L.556), which placed special emphasis on only one aspect of social security. Moreover, that amendment would impose on States a method of financing which was in many cases in contradiction with the very basis of their social security systems.

37. In New Zealand benefits were paid out of a special fund, which was supplied by a 7.5 per cent tax levied on all income. Everyone in receipt of income therefore made a direct contribution to the social security of the community as a whole. Such a system seemed to come closer to fulfilling the test of real progressiveness.

38. While it appreciated the spirit in which the Afghan representative had presented his amendment (A/C.3/L.560), the New Zealand delegation would be unable to support that amendment and hoped that its sponsor would not press for a vote on it.

39. Mrs. RÖSSEL (Sweden) pointed out how difficult it was for a committee of eighty members to draft a satisfactory text, and said she thought the Third Committee should hesitate a long time before trying to improve the texts the Commission on Human Rights had submitted to it. The Commission had deliberately chosen a succinct text, drafted in general terms; after due consideration it had decided that an enumeration of the various aspects of social security would limit the scope of the article.

¹ *Yearbook on Human Rights for 1949* (United Nations publication, Sales No.: 1951.XIV.1).

40. The idea contained in the Soviet amendment had been debated at length in the Commission on Human Rights and had been rejected. Sweden had a long and successful experience in the field of social security and, like many other countries, believed that it was preferable, in view of the complexity of the question, not to be bound by too rigid rules for the financing of the various programmes. In many cases the best course seemed to be to finance the programmes by means of general taxation. That is what Sweden had done, for instance, in the case of health insurance. Other programmes were financed jointly by the State and the workers, or by the State and the employers, as the case might be. Those were only a few of the methods of financing provided for by the Swedish system, which was extremely flexible. Swedish workers, moreover, were not too anxious that employers alone should make contributions: that system encroached upon their freedom of action since, in order not to lose the advantages they had gained, they hesitated to change employers and seek other employment which might perhaps be the means of improving their living conditions.

41. The Swedish delegation would vote against the Soviet amendment (A/C.3/L.556). It would also vote against the Afghan amendment (A/C.3/L.560), which merely repeated what was stated in article 2. It would vote for the original text of article 9 (E/2573, annex I A), which it considered wholly satisfactory.

42. Mr. AYALA MERCADO (Bolivia) said that the social security code which had been approved by the Bolivian Parliament at the end of 1956 and which would soon be promulgated, covered almost all labour risks. In Bolivia, as in most Latin American countries, the financing of social security plans was based on a tripartite system, since the countries in that region were poor and their industry was still at an early stage of development. In those circumstances, he felt that the adoption of a social security system which would be financed exclusively by the State or the employer might impede his country's development, or even halt it completely. He would therefore be unable to vote for the Soviet amendment (A/C.3/556). That did not mean that his delegation was adopting a reactionary position; it was merely taking the actual facts into account. He would also be unable to vote for the Afghan amendment (A/C.3/L.560), which he considered superfluous. He would vote for the original text of article 9.

43. Mr. MOROZOV (Union of Soviet Socialist Republics) said that as he wished to take into consideration the ideas expressed during the debate on article 9, he would like to make two minor drafting changes in the amendment proposed by his delegation (A/C.3/L.556). He wished to replace the words "and to" by the word "including", and to add at the end of the text the words "or both of them".

44. He thanked the delegations that had supported his amendment. Their statements had amply demonstrated that the proposed text met the aspirations of millions of workers.

45. He asked for the text of his amendment to be voted on in two parts; the Committee would vote first on the words "including social insurance" and then on the concluding phrase. The Soviet Union delegation considered it appropriate to state clearly in article 9 that the concept of social security encompassed the important idea of social insurance and it hoped in that respect

to receive the support of delegations which, while sharing its views on that subject, would not be prepared to vote for the USSR amendment as a whole. Inclusion of those words in article 9 would dispel any doubts which might arise in the future as to the Third Committee's interpretation of the concept of social security.

46. Turning to the Afghan amendment (A/C.3/L.560), he noted that it restated, in a slightly different form, a principle which was already set forth in article 2, paragraph 1, of the draft Covenant, and he therefore requested the Afghan representative not to press for a vote on his amendment.

47. The CHAIRMAN proposed that the USSR amendment (A/C.3/L.556) should be put to the vote first.

It was so decided.

48. The CHAIRMAN invited the Committee to vote on the words "including social insurance", which appeared at the beginning of the USSR amendment (A/C.3/L.556) as modified by its sponsor.

Those words were adopted by 26 votes to 13, with 28 abstentions.

49. The CHAIRMAN put to the vote the remainder of the USSR amendment (A/C.3/L.556) as modified by its sponsor.

The remainder of the amendment was rejected by 41 votes to 9, with 17 abstentions.

50. Mr. PAZHAWAK (Afghanistan) pointed out that as the second part of the USSR amendment had been rejected, his own amendment was no longer necessary. He would therefore not press for a vote on it.

51. The CHAIRMAN put to the vote the text of article 9 as a whole, as amended.

The text of article 9, as amended, was adopted by 51 votes to 1, with 16 abstentions.

52. Mr. BRENA (Uruguay) said that he had not voted for the Soviet amendment, as he considered it superfluous. In his opinion, no social security policy existed that excluded social insurance. Inclusion of the idea of social insurance in the text of article 9 had the effect of limiting the scope of that article. It was precisely in order to prevent that from happening that he had refrained from submitting an amendment designed to clarify the meaning of article 9.

53. He too wished to emphasize that the adoption in most Latin American countries of the tripartite system of financing social insurance plans in no way signified that those countries were following a conservative policy. The sums spent by the State to finance the social security system were obtained from a tax levied on all citizens. Moreover, in Latin American countries where the workers' contributions were kept at a low level, the workers themselves asked to participate in the financing of social security programmes.

54. He then turned to the question of the progress made by the Committee in the consideration of the draft Covenants. He recalled that under rule 100 of the rules of procedure of the General Assembly, the Committee was obliged to complete the consideration of the items referred to it. It should therefore conclude its study of the draft Covenant on Economic, Social and Cul-

tural Rights at the current session. However, it had devoted four meetings to the consideration of article 9, which was the shortest and simplest of all, and it had required one month of work to adopt four other articles. The Committee therefore had approximately fourteen meetings left in which to study twenty-five articles and, if the work progressed at the same rate, it would need from sixty to seventy meetings for that purpose. Accordingly, if the Committee wished to accomplish the task given it by the General Assembly, it would have to change its method. The Chairman could, under the rules of procedure, propose the limitation of the number or length of statements or the consideration of certain articles together, according as they referred to rights to be defined, safeguards to be ensured or methods to be applied. He was not making a formal proposal on that subject; he would do so only if the majority of delegations favoured his suggestion.

55. Mr. THIERRY (France) said that he had abstained in the vote on the first part of the Soviet amendment because he considered that the idea of social insurance was included in the concept of social security.

56. Mr. PONCE (Ecuador) said that he shared the Israel representative's view that there was a danger in adopting a text of as general a nature as the text of article 9 as drafted by the Commission on Human Rights. But it was also dangerous to enumerate the various elements which comprised the notion of social security and, for that reason, he would have preferred article 9 to be adopted in its original form.

57. He had voted against the Soviet amendment (A/C.3/L.556) for various reasons. Some delegations that had supported the amendment had noted that the system of financing advocated by the Soviet Union represented an ideal, whereas the tripartite system of financing was historically outdated. He challenged the validity of that assertion. The tripartite system of financing had been adopted not only by so-called underdeveloped countries but also by countries with a highly developed economy, such as Canada and the United Kingdom. Everything depended upon the point of view: for some countries, for example, the introduction of the system of private ownership represented an advanced stage of historical evolution, and the same could be said with regard to the adoption of the system of collective ownership.

58. He did not believe that the social security system applied in his country could be considered historically outdated. He retraced the steps in the progress achieved in Ecuador in the field of social security and stressed the progressive nature of the legislation currently in force in his country. Not only did the social security system apply to all categories of workers, but the workers were granted low-interest loans for the construction of low-cost housing and for the purchase of real estate. Medical and surgical expenses, in particular, were covered by social insurance.

59. The Ecuadorian delegation had abstained in the vote on the first part of the Soviet amendment because it felt, like many other delegations, that the idea of social insurance was implicit in the concept of social security. It was dangerous to mention one aspect of that idea without listing other aspects which were no less important.

60. The Afghan amendment (A/C.3/L.560), as the Iranian and United Kingdom representatives in particular had observed, was pointless, because the idea it embodied was to be found in article 2, paragraph 1, of the draft Covenant. He was glad that the Afghan representative had withdrawn his amendment.

61. In view of the foregoing considerations, the Ecuadorian delegation had considered it only logical to abstain in the vote on article 9 as a whole which, in its opinion, had lost some of its value through the inclusion in it of the first part of the Soviet Union amendment.

The meeting rose at 1 p.m.