



CONTENTS

	Page
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>concluded</i>)	189
Article 8 of the draft Covenant on Economic, Social and Cultural Rights	190

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.547, A/C.3/L.549, A/C.3/L.550, A/C.3/L.552) (*continued*)

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

1. The CHAIRMAN invited members of the Committee to explain their votes on article 7 of the draft Covenant (E/2573, annex I A). In that connexion, he drew their attention to the provisions of rule 129 of the rules of procedure of the General Assembly.

2. Mr. TACHIBANA (Japan) said that at Tokyo, his Government had had before it only the original text, which it had approved as being entirely in harmony with the country's Constitution and law. The Japanese delegation's abstention on the various amendments and on article 7 as a whole had been due, not to any specific objections, but merely to the fact that it had not begun to take part in the Committee's work until 18 December 1956 and had not therefore had time to familiarize itself with the new versions and grasp all their implications.

3. Miss SOUTER (New Zealand) stated that, while the New Zealand delegation had taken no part in the discussion on article 7, that did not betoken any lack of interest in the questions at issue; her delegation had thought it had made its position sufficiently clear by its votes.

4. She wished, however, to explain briefly the reasons for those votes. The New Zealand delegation had supported the Afghan and Netherlands amendment (A/C.3/L.543) calling for the deletion of the concluding phrase of paragraph (b) (i) beginning with the words "in particular" because, in its view, that phrase added nothing to the scope of the paragraph and the provisions of articles 2 and 3 afforded women adequate protection against discrimination in any form. For the same reasons, it had voted against the amendment to that paragraph proposed by the Dominican Republic (A/C.3/L.548) and against point 2 of the amendments

submitted jointly by Greece and Uruguay (A/C.3/L.545/Rev.1). It had voted against the amendments submitted by Spain (A/C.3/L.538) and Guatemala (A/C.3/L.546 and Corr.1) because it considered them out of place in an article intended mainly to state a principle. Lastly, the New Zealand delegation had voted for the article as a whole in order to demonstrate its support for the principle of equal pay for equal work. In that connexion, the New Zealand Government considered that the best way of bringing that principle fully into effect was by gradually removing the existing inequalities through a process of development.

5. Mr. MASSOUD-ANSARI (Iran) explained that the Iranian delegation had agreed in principle with the Greek and Uruguayan amendments (A/C.3/L.545/Rev.1) substituting a new text for paragraphs (b) and (b) (i) of article 7. Since, however, the Committee had put the different parts of those amendments to the vote separately, and had first voted on the question of deleting or retaining the opening words of the original paragraph (b), the Iranian delegation had abstained in the vote on those words and in the vote on paragraph (b) as a whole.

6. Mr. PONCE (Ecuador) said that his delegation had considered article 7 acceptable in its original form, which had been in conformity with the provisions of the Ecuadorian Constitution and labour legislation. The effect of the Greek and Uruguayan amendments (A/C.3/L.545/Rev.1) had been to render article 7 clearer and more coherent, and the Ecuadorian delegation had accordingly voted in favour of all of point 1 of the amendments. It had voted for the retention of the words "as a minimum", which embodied an extremely important principle. It had supported the Dominican sub-amendment (A/C.3/L.548), taking the view that the text was improved by an express stipulation that no distinction should be made between men and women as to remuneration. For the same reasons, it had had to vote against the Afghan and Netherlands amendment (A/C.3/L.543). It had voted for point 3 of the Greek and Uruguayan amendments (A/C.3/L.545/Rev.1), which re-arranged the paragraphs to correspond more closely to the importance of their subject-matter, but had abstained on points 2 and 4. Ecuador had also abstained on the Spanish amendment (A/C.3/L.538) on the ground that the idea it expressed was already implicit in the original paragraph (c). It had voted for the Guatemalan amendment (A/C.3/L.546 and Corr.1), which strengthened the position of the workers. With regard to the Afghan amendment (A/C.3/L.542/Rev.1), it was glad the Committee had decided to state in its report that the word "workers" was used in its broadest sense.

7. Mr. HAMILTON (Australia) said he had little to add to the remarks the Australian delegation had made before the voting. Some representatives had stressed the difference between the Universal Declaration of Human Rights and the Covenants, pointing out

ular paragraph was too vague. It was not clear what was meant by the words "prejudice the guarantees provided for in that Convention".

30. Mr. MOROZOV (Union of Soviet Socialist Republics) stressed the vital importance of trade-union rights. Recognition of the right to form trade unions had been a great victory for the workers of all countries. Both in the Commission on Human Rights and in the Third Committee, the USSR delegation had supported the ideas embodied in article 8; moreover, the right to form trade unions was widely exercised in the Soviet Union, where more than forty million workers who were trade-union members had been represented at the Fourth World Trade Union Congress in 1954.

31. With respect to the amendments before the Committee, he stated that he was opposed to paragraph 2 of the text proposed in the Netherlands and United Kingdom amendment (A/C.3/L.550). The nature of the limitations to which rights guaranteed by the State might be subjected had, in fact, already been dealt with in article 4, and the provisions of that article applied to the Covenant as a whole, including article 8. If the Committee wished to avoid having two sets of restrictions, it should consider supplementing article 4, if necessary, and not article 8 or some other article. On the other hand, the principle embodied in the second sentence of paragraph 2 of the text proposed in the amendment was inconsistent with the provisions of article 9 of the International Labour Convention of 1948, which applied only to the armed forces and the police. The Netherlands and United Kingdom amendment would add a further restriction which would affect a larger number of workers. States which had signed the International Labour Convention of 1948 could not properly take such action. On the other hand, he was prepared to vote for the text proposed for paragraph 3, which he considered satisfactory.

32. The representative of Uruguay had pointed out that point 1 of the three-Power amendments (A/C.3/L.552) expressed the same idea as the Soviet amendment (A/C.3/L.547). He did not personally believe that those two amendments were mutually exclusive; it might, however, be advisable to complete the text proposed in point 1 of the three-Power amendments by incorporating in it the text of the Soviet amendment. Indeed, trade-union rights were meaningless unless their free exercise was guaranteed. He would not submit any formal proposal to that effect, but hoped that the three delegations in question would accept his suggestion.

33. In closing, he wished to point out that the essential purpose of the three-Power amendments was to expand the ideas contained in article 8 as drafted by the Commission on Human Rights; he was glad to note that those ideas had found support.

34. Mr. TOWNSEND EZCURRA (Peru) noted that article 8 confirmed one of the most important principles of democracy, that of the freedom to form trade unions. That freedom was one of the workers' greatest victories, and it was significant that it was suppressed by régimes established in defiance of the principles of the Charter of the United Nations.

35. The trade-union movement had been one of the most important factors in developing democracy and promoting social progress in Peru. Ever since 1919, the year of their first great victory, the trade unions

had consistently fought for freedom and justice, and after hard years of persecution they had played a prominent part in establishing the democratic system of government. Moreover, they had always shown an interest in the fate of other workers throughout the world and had accordingly helped to found the predecessor of the Inter-American Regional Organization of Workers, which in turn was affiliated with the International Confederation of Free Trade Unions. All that was entirely in keeping with Peruvian public opinion, which was coming increasingly to recognize that the citizen had trade-union as well as political duties. The Government was the first to recognize the importance of trade unions and offered them safeguards and co-operation.

36. He outlined the reasons why he and the representatives of Uruguay and Bolivia had submitted amendments (A/C.3/L.552) to article 8. He had not wished to make any extensive changes in the wording of article 8 as drafted by the Commission on Human Rights (E/2573, annex I A); he had simply tried to improve and complete it by adding certain provisions which were in harmony with the spirit of the text.

37. It seemed necessary to state clearly that individuals were entitled to enjoy the broadest possible trade-union rights. It should be remembered, in that connexion, that although the French Revolution had proclaimed the rights of man and of the citizen, it had specifically condemned, by the *Le Chapelier Act* of 1791, the formation of associations of any kind. Freedom of association had been acquired only gradually. The Constitutions of many countries now recognized the principle of that freedom, for there was a growing tendency to consider trade unions as a useful device for maintaining a proper balance between the forces of production and for guaranteeing social justice. The Covenant on Economic, Social and Cultural Rights would complete and amend the Declaration of 1789; men were no longer citizens only, but were also regarded as workers.

38. In point 2 of the joint amendments it was stated that every person and group of persons should have the right to form trade unions or to participate in their activities. It seemed necessary, in fact, to specify that once trade unions had been established they should be able to function normally. That phrase was inspired by the same concern for guaranteeing the effectiveness of trade unions as had prompted the Soviet Union to submit its amendment (A/C.3/L.547).

39. The sponsors of the joint amendments thought it necessary to amend the last part of the original text because they wished to provide unequivocal confirmation of the dynamic function of trade unions; they felt that trade unions should not merely protect the economic and social interests of the workers but also promote them. That was an important point which should be clearly stated. In regard to the replacement of the word "everyone" by the phrase "every person and group of persons", he said that that was a purely formal amendment. It was extremely unlikely that an international organization could be established by individuals; that required action by national federations or confederations.

40. Lastly, the joint amendments called for the addition of a second paragraph (A/C.3/L.552, point 5), concerning the right to strike. Recognition of the right of association was not sufficient to protect the workers'

interests; their most effective means of protection was the strike. It had been rightly argued that, although freedom of association and the right to strike were two different things, there was nevertheless a close connexion between them. To recognize the former without recognizing the latter would be to proclaim a purely theoretical right; the purpose of the joint amendments was precisely to prevent trade-union rights from being deprived of all practical value. Moreover, in proposing that the Covenant should sanction the right to strike, the sponsors of the joint amendments were only acting in accordance with the latest legislation on the subject. That right was now an integral part of civil liberties, just as was the right of association. Moreover, like other freedoms, it was not an absolute right and could

be qualified by certain restrictions. It was quite natural that those limitations should be prescribed by national legislation. It would be particularly desirable to proclaim that right in the Covenant, because it was already guaranteed by the constitutions of a number of countries, including Mexico, Uruguay, Italy, Brazil and France; the right to strike was a corollary to the right to work embodied in article 6 of the draft Covenant.

41. In closing, he said that the delegations which had submitted the amendments were anxious to ensure that the text of article 8 should duly reflect the development of the trade-union movement and the requirements of democracy.

The meeting rose at 12.45 p.m.