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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) (*continued*)**

**ARTICLE 10 OF THE DRAFT COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS (E/2573, annex I A)
(*concluded*)**

1. Mr. DELHAYE (Belgium) explained that he had abstained in the vote on the phrase "particularly for its establishment and while it is responsible for the care and education of dependent children", in paragraph 1 of article 10 of the draft Covenant because the general formula preceding it was quite satisfactory from the point of view both of substance (wider protection for the family) and of form (necessity for synthetic formulations in the Covenant). However, he had voted for the paragraph as a whole because it contained some essential points for which Belgium had pressed in the Commission on Human Rights.

2. He had voted for most of paragraph 2, and for the Swedish amendment (A/C.3/L.571), but against the deletion of the word "particularly". However, that word had been deleted, which would presumably result in limiting protection for mothers to periods, and doubtless somewhat brief periods, before and after the birth of a child. That would be less than was already provided in Belgium. He had also voted against the USSR amendment (A/C.3/L.577), because it failed to allow for workers' participation in the financing of social security. The Danish amendment (A/C.3/L.576) improved the text, and he had therefore voted in favour of it.

3. With regard to paragraph 3, he had voted in favour of the United Kingdom amendment (A/C.3/L.574), not because his delegation objected to the word "minors", but because most delegations seemed to prefer the phrase "children and young persons". He had been unable to vote in favour of the Romanian amendment (A/C.3/L.575), although Belgium had set the age limits in question many years previously, because the proposed provision was out of place in article 10.

4. Finally, he had abstained on the article as a whole, and reserved the right to comment further on it at a later stage.

5. Mr. BASAVILBASO (Argentina) said that his delegation had broadly approved of the original text of article 10, but had voted in favour of setting up the Working Party because of the many amendments that had been submitted. The Working Party's draft (A/C.3/L.570, para. 4) had seemed satisfactory, but some of the amendments improved it. The Argentine delegation had not abstained on any of the amendments, as some unsatisfactory texts had been adopted in the past as a result of abstentions. However, the negative votes it had cast did not mean that Argentina would not sign the Covenants; it would merely do so with certain reservations. It had voted for all the parts of the first sentence in paragraph 1, but against the second sentence, which was out of place in article 10. He would have voted in favour of the Bulgarian amendment (A/C.3/L.572) if it had been clearer, but had been forced to vote against it because its insertion would have confused the text. Finally, he had voted for the Working Party's draft in preference to the amendments that had been submitted at a late stage in the Committee's deliberations; however, he was glad that the Romanian amendment (A/C.3/L.575) had been adopted, in view of the lofty ideal it expressed.

6. Mr. BRENA (Uruguay) observed that his delegation had previously submitted a text combining the amendments proposed to the original text of article 10 (E/2573, annex I A) and covering the four fundamental ideas contained in the latter. It considered that many of the provisions now included in the article were unnecessary and imprecise. The briefest texts were the least likely to lend themselves to arbitrary interpretation, whereas verbose texts were always apt to provide loop-holes for those who wished to evade their responsibilities. Nevertheless, he had felt obliged to vote in favour of some rather unsatisfactory provisions, in order to expedite the Committee's work.

7. He was surprised that several delegations had criticized the use of the word "particularly" in paragraph 2, and had brought about its deletion; the question was surely one of protecting the whole community through the mothers, and not of protecting women *qua* women. Finally, he considered that the Romanian amendment (A/C.3/L.575) was quite unnecessary, as the setting of an age-limit for child labour was implicit in the preceding sentence.

8. Mr. HOARE (United Kingdom) said that he had abstained in the vote on paragraph 1 because the first sentence was overloaded with unnecessary material and because the second sentence was irrelevant and out of place. Paragraph 2 had been improved by the Swedish amendment (A/C.3/L.571); and though he disapproved of the last sentence, the Danish amendment (A/C.3/L.576) had counterbalanced it and he had been able to vote in favour of the paragraph. On the other hand, the adoption of the Romanian amendment (A/C.3/L.575) had forced him to vote against paragraph 3, as the sentence thus added completely contradicted the preceding sentence, which had been considerably

improved by the Working Party. The latter sentence implied that the employment of children, with the appropriate safeguards, was justifiable in exceptional cases; the Romanian amendment, however, absolutely prohibited such employment. That made nonsense of the paragraph, and his delegation had felt that an abstention would not serve to express adequately its views on the matter. Finally, he had abstained in the vote on the article as a whole because, although a few drafting improvements had been made, the text had been unnecessarily expanded, was worse than the original text, and constituted a bad article.

9. Mr. MASSOUD-ANSARI (Iran) said that he had originally welcomed the Working Party's draft (A/C.3/L.570, para. 4), but had been persuaded by the arguments of representatives who had pleaded for brevity, and had accordingly abstained in the vote on the more detailed elaborations. The Covenants would gain in force if they were confined to general provisions; he hoped that some of the detail would be eliminated at a later stage.

10. Mr. KEDADI (Tunisia) said that his country had achieved its independence only ten months before, and had set up a Constituent Assembly to draft a constitution embodying all the fundamental democratic principles. The Assembly had already drawn up provisions relating to civil and political rights, and the Tunisian delegation had therefore been able to participate in the debates on the first three items of the Committee's agenda. However, it would be obliged for constitutional reasons to abstain on the articles of the draft Covenant on Economic, Social and Cultural Rights, as it did not wish to prejudge the decisions of the Constituent Assembly. That attitude should not be taken to mean that Tunisia was against the moral principles involved. On the contrary, it fully supported the movement for human rights; the Arab-Moslem cultural group to which it belonged had been in the vanguard of that movement, and the decisions taken in the Committee would serve as a basis for the economic, social and cultural provisions of the Tunisian constitution. That being so, Tunisia would have no difficulty in signing the Covenants when they were completed.

11. Lastly, although the original text of article 10 had seemed satisfactory to his delegation, he considered the Working Party's draft even clearer.

12. Miss BERNARDINO (Dominican Republic), referring to the Uruguayan representative's remarks, said that the delegations which had urged the deletion of the word "particularly" in paragraph 2 had in no way wished to weaken the provisions according protection to mothers. It would be absurd to place that interpretation on the attitude of her own delegation, which had originally sponsored article 25, paragraph 2, of the Universal Declaration of Human Rights; moreover, the Constitution of the Dominican Republic provided for protection to mothers during the period before and after childbirth. However, the objective should be to protect the child, and not specifically the mother; that was why her delegation had always advocated measures on behalf of mothers during the period in question. Broader provisions on behalf of mothers might well place women under a system of permanent protection which would be detrimental to their family life and would limit their employment opportunities.

13. Mr. HAMILTON (Australia) observed that his delegation had expressed the hope that the text of ar-

ticle 10 would be clear and concise, and had made several suggestions to that end. However, that hope had not been fulfilled, and the deficiencies of the final text were such that the Australian delegation had been obliged to abstain in the vote on all the paragraphs and on the article as a whole. It had voted against certain provisions and amendments because they were out of place in article 10, not necessarily because it objected to the principles involved.

14. Mrs. RÖSSEL (Sweden) thanked the representatives who had understood that in the protection accorded under the Covenant the emphasis should be shifted from a special protection of the mother to a general protection of the family. The aim of the article should be to safeguard the status of the children by giving such support and aid that the family could decide for itself how best to care for the children. By such a general, constructive family policy, the singling out of mothers for special protection, except in connexion with childbirth, would be unnecessary. It might even be detrimental to her status in society as an equal to men, for example in the field of employment.

15. She doubted the wisdom of the words "paid leave for working mothers". In her view, that was a case for social security benefits. The Danish amendment (A/C.3/L.576) seemed to have been presented in that spirit. However, by being affixed to the previous part of the sentence, it limited social security benefits to working mothers, and thus indirectly excluded housewives. The final text was a compromise, however, and although it could be improved, it expressed all the trends that had been manifested in the Committee, and had included the basic principles of family protection.

16. Mr. TEKLE (Ethiopia) said that although he had voted in favour of the article as a whole, his delegation was not entirely satisfied with it. The number of the amendments submitted and of votes taken was indicative of the complexity of the final text.

17. He had voted against the last sentence of paragraph 1 not because his delegation had any objection to the principle involved, but because the provision in question had no place in the Covenant on Economic, Social and Cultural Rights.

18. Miss AGUIRRE (Mexico) said her delegation could have voted in favour of the provision that marriage must be entered into with the free consent of the intending spouses in its original form and context, since in conjunction with the statement that the family was based on marriage, it dealt with the social aspect of marriage. In the form in which it had been adopted, however, the provision rightly belonged in the Covenant on Civil and Political Rights. The Mexican delegation had therefore abstained in the vote on the sentence in question, although it had voted in favour of paragraph 1 as a whole.

19. Miss MURPHY (Ireland) said that her country was actively interested in the promotion of international respect for human rights; her delegation had so far refrained from taking part in the debate on the draft Covenant only because, being new to the subject, it had wished first to familiarize itself with it.

20. The many arguments to the contrary notwithstanding, her delegation felt that it would be best to enunciate the various rights in the draft Covenant in broad general terms, and to include the provisions for the implementation of those rights in a single article, couched in the most comprehensive language, and ap-

plying to all the rest. The danger of including specific provisions in the substantive articles was that the enumeration might be regarded as exhaustive, and also that, as the social conscience developed, the Covenant might very soon become out of date. She was in full agreement with those who had said that the detailed definition of economic, social and cultural rights—no easy task—should be left to the International Labour Organisation, with its long experience and appropriate structure, and to the other specialized agencies concerned. There need be no fear that a covenant couched in general terms would not differ materially from the Universal Declaration of Human Rights: whereas the Declaration had only moral force, the Covenant would impose binding obligations on the contracting States to achieve progressively the full realization of the rights recognized in it. The system of reports provided for in part IV of the draft Covenant and the vigilance of public opinion offered sufficient assurance that those obligations would be honoured.

21. Her delegation had been compelled to abstain in the vote on earlier articles largely because they had been amended to include measures of implementation; she hoped that that procedure would be reconsidered. In that connexion, she welcomed the new trend of voting against unsuitable amendments, rather than merely abstaining because they embodied laudable principles. Her delegation would in future adopt that course, in the hope that better texts would result.

22. In principle, her delegation favoured a single limitations clause such as that contained in article 4. It had voted for the inclusion of a specific limitation in article 8 in order to bring that text into line with article 21 of the draft Covenant on Civil and Political Rights (E/2573, annex I B); but it felt that a final decision on the retention of that clause could be taken only after the form of article 4 itself had been definitely determined.

Organization of work

23. Mr. PAZHAWAK (Afghanistan) proposed that consideration of agenda item 32 (Recommendations concerning international respect for the right of peoples and nations to self-determination) should be deferred to the next session of the General Assembly. It would be inappropriate to discuss that item until the Assembly had the draft Covenants before it and had had the opportunity to consider the article on self-determination, which would affect any action to be taken either by the United Nations or by Governments in the matter. Furthermore, it was highly desirable to avoid the possibility of anything being done which might prejudice such action as might be taken on that article. Finally, self-determination was a very important and complex question, which required very careful study; delegations would not have the time, before the end of the current session, to obtain instructions from their Governments, and the Committee itself would not have time to deal adequately with the question.

24. Miss BERNARDINO (Dominican Republic) supported the Afghan proposal. At the beginning of the session she had hoped that there would be time to give the item adequate consideration; but it was obvious that that would be impossible, as the debate on the other agenda items would take some time

25. Mr. BRENA (Uruguay) urged the Committee to give serious consideration to any procedure which might help it to complete at least one of the draft

Covenants at the current session. Under rule 100 of the rules of procedure of the General Assembly each Main Committee was expected to complete the consideration of the items referred to it. In the case of the draft International Covenants on Human Rights, that could perhaps be accomplished by assigning some of the work to sub-committees, limiting the time of speakers and allowing no digressions, or by other methods, which he hoped other delegations would suggest.

26. Mr. TSAO (China) said he was opposed to the Afghan proposal. The Committee had an obligation to discuss all items on its agenda; it should not be asked to suspend its efforts to promote an important human right pending the adoption of the draft Covenants; moreover, delegations had had ample time to receive instructions from their Governments concerning the item on self-determination.

27. In reply to the Uruguayan representative, he said that it was too optimistic to expect the Committee to complete its consideration of even one of the draft Covenants at the current session, particularly as it had other items to consider.

28. Mrs. LORD (United States of America) said that her delegation had intended to submit a draft resolution on self-determination; she would not, however, press for consideration of the item at the current session if the majority preferred to postpone it.

29. Mr. BAROODY (Saudi Arabia) said that while his delegation supported the Afghan proposal, it did so solely for practical reasons since it attached great importance to the item on self-determination.

30. Mr. KEDADI (Tunisia) opposed the proposal on humanitarian grounds. The Committee had devoted a major part of its time to the protection of individual human rights; but any such rights would be illusory unless the community in which they were to be exercised was free. His own country had just exercised its right of self-determination but other peoples were still shedding their blood to achieve that right. The Committee should therefore not delay the elaboration of measures to ensure international respect for the right of peoples to self-determination.

31. Mr. EUSTATHIADES (Greece) said that his delegation was as anxious as any other to promote the free exercise of the right of self-determination by peoples still fighting for their freedom, particularly the people of Cyprus. The right of self-determination was already recognized by the Charter of the United Nations, by various General Assembly resolutions and in article I of the two draft Covenants, the text of which had been approved by the Third Committee (A/3077, para. 77) at the tenth session of the General Assembly. When those instruments were not given effect, they were sealed with blood. The Cypriots were shedding their blood to gain their freedom, which they expected the United Nations to recognize in pursuance of the Charter. In order not to hamper the Committee's work, however, he would not oppose the Afghan proposal.

32. Mr. BRENA (Uruguay) proposed that in order to give delegations time to consult their Governments and one another, the vote on the Afghan proposal should be postponed until the following day.

33. Mr. LIMA (El Salvador), Mr. PONCE (Ecuador) and Mr. TSAO (China) supported the Uruguayan motion.

34. Miss BERNARDINO (Dominican Republic) said that while she was in favour of the Afghan proposal, she felt that delegations should be allowed time for reflection and consultation, and she therefore supported the Uruguayan motion.

35. Mr. CASTAÑEDA (Mexico) felt that the Committee should take a decision on the Afghan proposal at once, in order to be able to proceed with its work in an orderly manner.

36. He was strongly in favour of postponing consideration of the item on self-determination until the following session. The item was one of great difficulty and complexity, and had important political and legal implications. It should therefore not be discussed hastily.

37. Mr. MASSOUD-ANSARI (Iran) agreed with the Afghan representative that the Committee would be unable at the current session to give the item the consideration it deserved, but pointed out that it had already been postponed from the previous session for similar reasons. There were grounds for fearing that it might suffer the same fate at the twelfth session

38. Mr. PAZHWAK (Afghanistan) welcomed the support that had been expressed for his proposal, and particularly the conciliatory attitude shown by the United States representative. Although delegations had had time to receive general instructions concerning the item on self-determination, they would need to consult their Governments concerning proposals made in the debate, and they would hardly have time to do so at the current session. If the Committee should finish the other items on its agenda before the end of the session, it could devote the remaining meetings to the draft Covenants.

39. He thought that the Committee was ready to vote on his proposal, and he was therefore opposed on principle to the Uruguayan motion. However, out of consideration for the delegations which did not wish to vote immediately, he would abstain on the motion.

The Uruguayan motion to postpone the vote on the Afghan proposal until the following day was adopted by 34 votes to 11, with 16 abstentions.

The meeting rose at 1 p.m.