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Chairman: Mr. Hermod LANNUNG (Denmark).

In the absence of the Chairman, Mr. Massoud-Ansari (Iran), Vice-Chairman, took the Chair.

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 537) (*continued*)

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

1. Mr. PAZHWAQ (Afghanistan), continuing his explanation of his amendments (A/C.3/L.530) to article 6, of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A), pointed out that that article implied two definitions of the concept of work. The first consisted of the phrase "Work being at the basis of all human endeavour" and the second was embodied in the last part of paragraph 1, following the words "that is to say". Neither of the two could be regarded as a complete definition of work, and the point to be decided was which of the two best embodied the idea of a fundamental right. Work itself was not a right properly so called; the fundamental right at issue was the opportunity to work, with a view to fulfilling other purposes of human life. He had therefore proposed the deletion of the phrase "Work being at the basis of all human endeavour".

2. Furthermore, the purpose of the draft Covenants was to protect the rights of individuals against violation. A person's right to work could be violated only if he were denied the opportunity to work.

3. Mr. AZNAR (Spain) said that if the Committee embarked on a detailed philosophical discussion of the concept of work it would certainly not complete article 6 at the current session. Since the concept in itself seemed to be clear to all delegations, he could support point 1 (a) of the Afghan amendments, calling for the deletion of the first phrase of paragraph 1.

4. With regard to the Spanish delegation's amendment (A/C.3/L.533), it had been argued that the words "if he so desires" had originally been included in order to cover the possibility of forced labour. How-

ever, the phrase "work which he freely accepts" at the end of paragraph 1 met that point, and the phrase in question was therefore redundant. The Colombian proposal (A/C.3/L.535) to insert the words "chooses or" between "freely" and "accepts" seemed to be constructive.

5. When he had spoken (709th meeting) of the need to ensure that social parasites and idle persons should not be able to justify their laziness by citing the Covenant, he had in no way meant to imply that the concept of leisure for artistic or philosophical creation should be excluded. Nevertheless, it was essential that an instrument of such far-reaching importance should contain no phrase which might be conducive to idleness.

6. Mrs. KOWALIKOWA (Poland) said that her delegation had long taken an active part in the drafting of the Covenants; it considered that most of the articles as they then stood would help to safeguard fundamental human rights and that the implementation of the Covenants by a large number of States would further the cause of international understanding and peace. However, the Polish delegation had always reserved the right to submit constructive amendments during the detailed discussion of the draft Covenants.

7. The Polish delegation had presented its amendment to article 6 (A/C.3/L.532, point 1) because it believed that States should be called upon to take general measures to implement the right to work, in addition to the more specific measures mentioned in paragraph 2. The wording of many of the substantive articles was not strong enough and laid no binding obligations on States; for example, the adoption of paragraph 1 as it stood would simply mean that the right of an opportunity to work should not be denied. That statement was merely declaratory, and should be supplemented by a more concrete obligation. The Polish delegation was aware that the Member States of the United Nations had different political, economic and social systems, and that no provision which was acceptable to one group of nations only could be inserted in the Covenants. It had therefore refrained from proposing an unduly rigid formula; instead, it had put forward a broad provision which should be acceptable to all States. The proposed addition would create a binding obligation and would logically precede the more detailed provisions of paragraph 2.

8. She could not vote in favour of the United Kingdom proposal (A/C.3/L.534) to delete paragraph 2; her delegation considered that as many binding provisions as possible should be included in the substantive articles. She also disagreed with the view expressed by the French representative (709th meeting) that the wording of the Covenants should be general; if it were, there would be no difference between the Covenants and the Universal Declaration of Human Rights. The whole point of the Covenants was that they should be

legally binding. Finally, she would support the Afghan amendments (A/C.3/L.530).

9. Mr. VLAHOV (Yugoslavia) said his delegation had always believed that article 6 should lay a binding obligation upon States to provide social assistance to persons who were unemployed through no fault of their own. Many States had national legislation on the subject, and were bound internationally by the Convention (No. 102) concerning Minimum Standards of Social Security adopted by the International Labour Organization (ILO). However, the Yugoslav delegation would not press that view, as it had proved unacceptable to many delegations, and the text before the Committee covered the right to work in its fundamentals.

10. He could support points 1 (a) and 2 (a) of the Afghan amendments (A/C.3/L.530), but would not vote in favour of points 1 (b) and 2 (b), which seemed to complicate the text. He would vote for the Spanish amendment (A/C.3/L.533) and for the words "chooses or" in the Colombian amendment (A/C.3/L.535). However, he could not vote for the United Kingdom amendment (A/C.3/L.534), as the deletion of a paragraph providing for implementation on the ground that its provisions were already covered in an ILO instrument might set an unfortunate precedent. He approved of the Polish amendment (A/C.3/L.532, point 1), but doubted whether the proposed addition would be necessary if paragraph 2 was retained. However, if the United Kingdom amendment was adopted, he would vote in favour of the Polish amendment.

11. Mr. DE ALMEIDA (Brazil) said that the purpose of including the phrase "if he so desires" had been to emphasize the concept of freedom of work, as opposed to forced labour; but the phrase "to gain his living by work which he freely accepts", at the end of paragraph 1, provided an adequate safeguard against forced labour.

12. However, that was not the principal reason for deleting the words "if he so desires": the phrase was wrong in itself. Modern law distinguished between subjective rights and protected interests, the basis of the distinction being that the beneficiary of a subjective right exercised a power of choice with respect to the matter protected by law, while the beneficiary of a protected interest did not exercise such a power. According to the spirit of the Covenant, the realization of the right to work was an obligation resting on the States Parties to the Covenant; however, such an obligation by its very nature excluded any power of choice, either by the authorities or by those enjoying the protected interest. Article 6 as it stood would attribute to private persons a power of choice in relation to the duty of a State—the duty of promoting the possibility of free employment; he would therefore vote in favour of the Spanish amendment (A/C.3/L.533).

13. Mr. MOROZOV (Union of Soviet Socialist Republics) observed that it had become clear from the comments of Governments on the draft Covenants and from the debate in the Committee that delegations were unanimous in their view that virtually all the other rights enumerated in the Covenant would be illusory without a real guarantee of the right to work. It must be borne in mind that the wording of article 6, as of the other articles, represented a compromise; if every delegation had tried to bring the article into line with

the social structure and legislation of its own country, the result would have been utter confusion. A common denominator had been found, thanks to the exercise of restraint, and the text as it stood was generally satisfactory; the amendments that were being presented were intended merely to make it as clear as possible.

14. The general purposes of the amendments submitted by Afghanistan (A/C.3/L.530), Poland (A/C.3/L.532, point 1) and Colombia (A/C.3/L.535) to paragraph 1 seemed to be similar; it might be wise for the three delegations concerned to try to agree on a joint text.

15. He agreed with the Polish and Yugoslav representatives that the deletion of paragraph 2, as proposed in the United Kingdom amendment (A/C.3/L.534), would be undesirable. The United Kingdom representative had argued (709th meeting) that the retention in article 6 of such an enumeration of practical steps for the implementation of the right to work would be anomalous, since no such enumerations had been included in other articles and it would be difficult to insert them at the current stage. The USSR delegation would be prepared to submit amendments providing in explicit terms for the implementation of all the other substantive articles of the Covenant; if the majority of the Committee did not wish to go so far, however, there was no reason why such provisions should not be included in special cases. The United Kingdom representative's argument would have been valid if the provisions of paragraph 2 had been one-sided, and had allowed only for the peculiarities of a given national structure; but that was not the case; the measures referred to in paragraph 2 were already being taken at the international level, through the study of employment problems, the economic development of underdeveloped countries and United Nations technical assistance. The Committee should not delete generally acceptable compromise provisions; on the contrary, it should develop and supplement them, with the object of writing into the Covenants the binding obligations without which they would remain a dead letter. He would therefore vote against the United Kingdom amendment (A/C.3/L.534) and in favour of the Polish amendment (A/C.3/L.532, point 1).

16. Mrs. QUAN (Guatemala) said that she had contemplated submitting a re-draft of the opening words of article 6, but had decided instead to support point 1 (a) of the Afghan amendments (A/C.3/L.530) calling for deletion of the words in question. She also supported the Spanish amendment (A/C.3/L.533); the last phrase of article 6, paragraph 1, offered an adequate guarantee against forced labour, and the phrase "if he so desires" was superfluous. Moreover, the resulting text would be in line with her country's Constitution, which proclaimed that work was not only the right but the duty of every citizen.

17. She suggested that a reference to the vocational and technical training of workers should be inserted in the enumeration embodied in paragraph 2.

18. Mr. ABDEL-GHANI (Egypt) said he entirely disapproved of the United Kingdom amendment (A/C.3/L.534), which affected not only article 6 and other substantive articles, but the entire conception of the Covenant as a legal instrument.

19. He opposed the deletion of paragraph 2 for the very reason for which the United Kingdom and Canadian representatives had advocated it: that the para-

graph spelled out the right enunciated in paragraph 1 and provided in specific terms for its implementation.

20. If the Committee were to be content with a mere recognition of rights by the signatory States, the draft Covenant could be a very short document indeed; its contents could be limited to the statement that the States Parties to it recognized the rights enunciated in the Universal Declaration of Human Rights. Stripped of paragraph 2, article 6 would not differ materially from the corresponding article in the Declaration. The draft Covenant had been carefully, indeed cautiously, prepared by the Commission on Human Rights, with the active collaboration of the specialized agencies. Owing to the need to secure general agreement, it was already a much weaker instrument than many delegations, including his own, would have wished. He was prepared to vote for proposals which would strengthen it, but not for proposals which, like the United Kingdom amendment, would weaken it still further and open the door to the deletion of other important provisions imposing clear and definite obligations on the signatory States.

21. Mr. RIVAS (Venezuela) observed that he had been prepared to vote for article 6 as it stood, with the exception of the phrase "if he so desires", which was at variance with the vagrancy laws of Venezuela. He therefore welcomed the Spanish amendment (A/C.3/L.533) calling for the deletion of those words.

22. The statement that work was at the basis of all human endeavour, on the other hand, was entirely in line with his country's progressive legislation, and he would therefore abstain on the Afghan amendment calling for its deletion (A/C.3/L.530, point 1 (a)). He would be compelled to vote against point 1 (b) of the Afghan amendments, because it would alter the meaning of the sentence. Point 2 (a) of the same amendments, however, suggested a distinct improvement on the text as it stood, and he would vote for it. Point 2 (b) was unacceptable; the words "all political and economic freedoms" might be interpreted to mean those already granted by States, and any existing discriminations would thus be perpetuated. The text as it stood, on the other hand, clearly referred to the fundamental freedoms mentioned in the Charter of the United Nations, and therefore provided a safeguard against discrimination.

23. He supported the Colombian amendment (A/C.3/L.535), which made the wording of paragraph 1 clearer.

24. Since his delegation was satisfied in general with the text of article 6, it would vote against the United Kingdom amendment (A/C.3/L.534).

25. Mr. BENGTON (Sweden) thought that point 2 (a) of the Afghan amendments (A/C.3/L.530) might be suitable in article 13 or article 14, but was entirely out of place in article 6, which dealt solely with work. The Polish amendment (A/C.3/L.532, point 1) was superfluous; its content was fully covered in paragraph 2 of the article. He was also opposed to the Spanish amendment (A/C.3/L.533); those who for one reason or another did not need to work should not be compelled to.

26. Mrs. ELLIOT (United Kingdom) said that it was illogical to insert specific implementation clauses in some articles and not in others. On the other hand, to include such provisions in every article, in sufficient

detail, would make the drafting of the Covenants interminable. Her delegation was as anxious as any other that the rights set forth in the draft Covenant should be implemented; it thought, however, that that end would best be served by the general implementation clause in article 2, which applied to all the substantive articles.

27. Mr. BRENA (Uruguay) pointed out that under rule 100 of the rules of procedure of the General Assembly each Committee was expected so to organize its work as to complete the consideration of the items referred to it. He appealed to his colleagues to seek agreement on principles rather than insist on details of drafting; otherwise the Committee would be unable to complete its consideration of even one of the draft Covenants at the current session.

28. He strongly opposed the United Kingdom amendment (A/C.3/L.534). Unemployment was the scourge of the capitalist world, and a provision outlining a programme to eliminate it was essential in an article dealing with the right to work. However, if paragraph 2 was retained, the Polish amendment to paragraph 1 (A/C.3/L.532, point 1) would become superfluous.

29. Mr. EUSTATHIADES (Greece) also opposed the United Kingdom amendment. Article 2, to which the United Kingdom representative had referred, was a very general clause, which could not possibly replace the specific provisions contained in article 6, paragraph 2. Furthermore, similar provisions, placing equally specific obligations upon States, were to be found in articles 10, 13 and 16. He was sure the Committee had no intention of eliminating them all, and it would therefore be illogical to delete the implementation clause in article 6.

30. He supported the Guatemalan representative's suggestion and thought that article 6, paragraph 2, would be a fitting place for the proposed insertion.

31. Mr. PAZHWAK (Afghanistan) said he would withdraw point 1 (b) of his amendments (A/C.3/L.530) in favour of the Greek amendment (A/C.3/L.536), which was better worded.

32. U THWIN (Burma) said that article 6 as it stood accorded perfectly with his country's Constitution, and was therefore entirely acceptable. He also supported point 1 (a) of the Afghan amendments (A/C.3/L.530), the Greek amendment (A/C.3/L.536) and—as an international safeguard—the Polish amendment (A/C.3/L.532, point 1). While the motives behind the Spanish amendment (A/C.3/L.533) were excellent, he would vote against it; the words it proposed to delete ensured everyone's freedom to choose his occupation.

33. Mrs. MARZUKI (Indonesia) said that the didactic tone of the opening words of article 6 was out of place in a convention; she therefore supported the Afghan amendment calling for their deletion (A/C.3/L.530, point 1 (a)). She also welcomed the Greek amendment (A/C.3/L.536), which clarified the existing text. While she understood the Spanish representative's point of view, the words he proposed to delete eliminated any possible doubt concerning such matters as forced labour or the right to strike, and she was therefore unable to support his amendment (A/C.3/L.533).

34. She would vote against the United Kingdom amendment (A/C.3/L.534) and in favour of the Polish amendment (A/C.3/L.532, point 1), because it was

essential that the signatory States should assume a definite obligation to implement the right to work. She would also vote for the Colombian amendment (A/C.3/L.535) because, while it did not change the meaning of the passage, it made that meaning absolutely clear.

35. Mr. CHENG (China) pointed out that the Covenants were international instruments which would be binding upon the Governments which signed them. For that reason, he felt that the Committee should give very serious consideration to the undertakings which were being written into them. The text before the Committee had been very carefully drafted by the Commission on Human Rights and the wording of the various articles should not lightly be changed. Article 6 was a case in point: the words "if he so desires", in paragraph 1, established the right to seek employment, and the words "which he freely accepts", in the same paragraph, the right to refuse it. As both rights were of equal importance, neither of those phrases should be deleted. Similarly, paragraphs 1 and 2 of the article were of equal importance; the United Kingdom amendment (A/C.3/L.534) was therefore unacceptable.

36. Nevertheless, serious consideration should be given to the United Kingdom representative's objection that a general implementation clause, applying to all the substantive articles, was already to be found in article 2. In the text under consideration, only articles 6 and 14 contained special implementation clauses and the undertaking contained in article 2 was sufficient to bind all Governments.

Mr. Lannung (Denmark) took the Chair.

37. Mr. DIAZ CASANUEVA (Chile) said that two fundamental and antagonistic concepts were to be found in article 6: the right of the individual to work and the obligation of the State to provide work. It would be useless to recognize the right to work as a theoretical concept, without providing for its implementation; on the other hand, States could not be forced to provide work. Many of them, in fact, had serious unemployment problems. For that reason, he would have been unable to support point 1 (b) of the Afghan amendments (A/C.3/L.530), and had welcomed its withdrawal in favour of the Greek amendment (A/C.3/L.536).

38. The right of everyone to earn a living implied other basic conditions, such as full employment, improved living standards and freedom to choose an occupation. He supported the Colombian amendment (A/C.3/L.535), which took those conditions into account and would banish any possibility of forced labour. As paragraph 1 was generally acceptable to the Committee, he would abstain on point 1 (a) of the Afghan amendments (A/C.3/L.530) and also on the Spanish amendment (A/C.3/L.533), although he understood the motives which had prompted the Spanish representative to submit it. He supported point 2 (a) of the Afghan amendments (A/C.3/L.530) but was opposed to point 2 (b): "all political and economic freedoms" was too vague a phrase, which would cover not only existing but all possible freedoms. The article must specify that the freedoms meant were the fundamental freedoms proclaimed in the Charter of the United Nations and the Universal Declaration of Human Rights. He supported the Polish amendment (A/C.3/L.532, point 1), which reaffirmed obligations which Member States of the United Nations had already accepted as members of the ILO. He could not support

the United Kingdom amendment (A/C.3/L.534) calling for the deletion of paragraph 2; the recognition of the right to work laid on States the duty to create employment opportunities. Where States had special obligations with regard to implementation, as in the cases of employment, health and education, special implementation provisions had been written into the corresponding articles of the draft Covenant (articles 6, 10, 13 and 14); and those provisions should on no account be omitted.

39. He welcomed the Guatemalan suggestion of a reference to vocational training, and suggested that the Guatemalan representative should submit a formal proposal, which he would be happy to co-sponsor, provided that it covered vocational guidance as well. However, it would perhaps be more logical to insert such a reference in article 7, which dealt with conditions of work, than in article 6.

40. Mr. THIERRY (France) said that vocational training was already covered by paragraph 2 (b) of article 14.

41. Mr. JARAMILLO ARRUBLA (Colombia) said that his Government had taken special steps to promote full employment, including vocational training, for which it had established the National Workers' Training Institute. Colombian law was very clear with regard to the right to work, and did not condone forced labour in any form. That was why his delegation had submitted its amendment (A/C.3/L.535) to article 6. He supported the Spanish amendment (A/C.3/L.533).

42. Mr. MUFTI (Syria) said that although he had considerable sympathy with the Colombian amendment (A/C.3/L.535), he would be obliged to abstain on it, for two reasons. First, the replacement of a whole paragraph in a carefully drafted text such as that of the draft Covenants would create a dangerous precedent. Incidentally, the deletion of a whole paragraph would be equally dangerous; he would therefore vote against the United Kingdom amendment (A/C.3/L.534). Secondly, the right to work did not mean the same thing as the opportunity to earn a living. He preferred the Greek amendment (A/C.3/L.536), which recognized the difference between the two. He supported the Spanish amendment (A/C.3/L.533); the words "which he freely accepts" precluded any possibility of the Covenant's being used as a cloak for forced labour.

43. Finally, he wondered whether the Committee would agree to replace the word "the" by the word "this" in the phrase "States Parties to the Covenant" wherever it occurred.

44. Mr. RIVAS (Venezuela) supported the Greek amendment (A/C.3/L.536), which was closer to the original text than point 1 (b) of the Afghan amendments (A/C.3/L.530). The last part of the Colombian amendment (A/C.3/L.535), reading "which he freely chooses or accepts", removed any possible confusion as to the interpretation of paragraph 1. He asked for a separate vote on those words. He supported the Polish amendment (A/C.3/L.532, point 1).

45. Mr. PAZHWAQ (Afghanistan) said that the Committee should proceed to a vote as soon as possible. He regretted that his delegation had lengthened the debate by submitting amendments, but the Committee was the only place in which it could make its voice heard.

46. Mr. BAROODY (Saudi Arabia) proposed that in order to save time, a drafting committee should be set up to prepare a combined text from the different amendments.

47. Mr. BRENA (Uruguay) pointed out that if the Committee adopted a large number of amendments without considering their effect on the text as a whole, the final result might be unintelligible. He therefore formally proposed, under rule 98 of the rules of procedure of the General Assembly, that a sub-committee should be set up to draft the final text of the articles. It would sit throughout the session and all amendments and drafting proposals would be referred to it.

48. Mr. JARAMILLO ARRUBLA (Colombia) said that, in order to facilitate the work of the Committee and the voting on the amendments, his delegation was prepared to limit its amendment (A/C.3/L.535) to the insertion of the words "chooses or" between the words "freely" and "accepts" at the end of paragraph 1 of article 6.

49. After some discussion, the CHAIRMAN asked the sponsors of the amendments to meet informally and attempt to conciliate their views.

The meeting rose at 6.15 p.m.