



CONTENTS

	<i>Page</i>
Agenda item 31:	
Draft International Covenants on Human Rights (<i>con- tinued</i>)	
Articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights	293

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.578 to 580) (*continued*)**

**ARTICLES 11 AND 12 OF THE DRAFT COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/2573,
annex I A)**

1. Mrs. RÖSSEL (Sweden) said that articles 11 and 12 of the draft Covenant (E/2573, annex I A) related to two aspects of the same problem and suggested that in its general discussion the Committee should deal with the two articles simultaneously.

2. Mr. DIAZ CASANUEVA (Chile) agreed. The advantages of dealing with articles 11 and 12 concurrently were, first, that the Committee would be able to interpret more easily the intentions of the Commission on Human Rights; and, secondly, that it would be able to consider whether the two articles should be amalgamated or, alternatively, whether their order should be reversed, article 12 with its more general language preceding the more specific provisions of article 11.

3. Mr. HOARE (United Kingdom) said that articles 11 and 12 were closely interrelated. The United Kingdom delegation had indeed at one time proposed that article 11 should be deleted, since it was covered by the reference to standards of living in article 12. His delegation would not press that suggestion at the current stage, but the suggestion of amalgamation had been made by the Secretary-General in an earlier document on the Covenants. The Swedish delegation's suggestion was a sound one.

4. Mr. BAROODY (Saudi Arabia) said the two articles were indeed interdependent. The first half of article 12 as drafted was unclear and open to conflicting interpretations. The expression "standard of living", although current, was not precise. What was indispensable for some was superfluous for others, and the range of meaning covered by the term, which was very vague at the national level, was even harder to determine at the international level. The notion of "standard of living" was not strictly definable in law and was out of context in article 12.

5. Perhaps the words in question might be omitted, though he would not suggest that article 12 should be dropped altogether. On the contrary, the second part of the sentence was apt and might usefully be added to article 11, which should be retained despite the ambiguity of the word "adequate". He formally proposed that articles 11 and 12 should be merged and that the words "and to the continuous improvement of living conditions" should be added to article 11.

6. He was inclined to support the Polish amendment (A/C.3/L.532, point 3), which referred to the means by which States would ensure the exercise of the right enunciated in article 11. Presumably, the term "appropriate steps" meant both legislative acts and administrative measures. The idea of a continuous improvement of living conditions was entirely consistent with the principle of the progressive realization of economic and social rights.

7. Mr. PAZHAWAK (Afghanistan) supported the Swedish delegation's suggestion.

8. The CHAIRMAN suggested that the general discussion should deal with article 11 and 12 simultaneously.

It was so decided.

9. Mrs. QUAN (Guatemala), introducing the amendment proposed by her delegation (A/C.3/L.579), said that, as drafted, article 11 proclaimed a right but did not expressly place a duty on States. Her delegation's proposal was intended to make good that deficiency. Its terms were sufficiently general to leave States free to choose whatever action they considered most suitable, in keeping with their stage of development. It was not intended that States should be directed to do anything specific; they would simply be expected to adopt measures, enabling the individual to obtain more easily what was essential to subsistence: food, clothing and housing. Her amendment supplemented rather than modified the original text; its adoption would convert article 11 into a provision which, in conformity with the spirit of the Covenant, would constitute more than a simple declaration, without, however, being too precise.

10. She supported the suggestion that articles 11 and 12 should be combined. If the Committee should decide to combine the two articles in a single provision, the idea underlying the Guatemalan amendment might still be retained with advantage.

11. Mr. BRENA (Uruguay) said that article 11 was more limited in scope than article 12. It would therefore be logical to reverse the order of the two provisions. It might also be argued that article 11 was an illustration of the general idea contained in article 12. The two articles might therefore be combined in a single provision, to read:

"The States Parties to the Covenant recognize the right of everyone to an adequate standard of living

and the continuous improvement of living conditions, including in particular, the right to adequate food, clothing and housing.”

12. For his part, he preferred a different formula. An expression such as “standard of living” called for clarification. In particular, it should be explained why everyone had a right to an “adequate standard of living”. Moreover, while it was perhaps not essential that the right to clothing should be mentioned, a mere reference to food and housing was insufficient; it should be made clear that everyone was entitled to balanced nutrition and decent housing. He therefore suggested the following text:

“The States Parties to the Covenant recognize the right of everyone to an adequate standard of living enabling him to live under conditions favourable to the development of his physical, intellectual and moral faculties, and in particular the right to balanced nutrition and decent housing.”

The text was modelled on the terms of article 25 of the Universal Declaration of Human Rights.

13. In his view, the Afghan amendment (A/C.3/L.578) did not remedy the vagueness of draft article 11. The Guatemalan amendment (A/C.3/L.579), which hardly differed from the Polish amendment (A/C.3/L.532, point 3), was probably unnecessary, for by virtue of article 2, the States undertook to take steps with a view to achieving progressively the realization of the rights recognized in the Covenant. There was no point in recalling that general provision in a particular article.

14. Mr. HOARE (United Kingdom) thought that the first text suggested by the Uruguayan delegation might be shortened to read:

“The States Parties to the Covenant recognize the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”¹

15. He pointed out that articles 11 and 12 had some relation to article 13 and that the physical, intellectual and moral development referred to in the second Uruguayan text were very similar to the physical, mental and social well-being mentioned in article 13.

16. Mr. EUSTATHIADES (Greece) said that inasmuch as the Committee was thinking of amalgamating articles 11 and 12, he would recall that article 13, paragraph 2 (b), spoke of nutrition and housing. Possibly—and that was a mere suggestion—one and the same article might make provision for the recognition of the right and for the steps to be taken by States to achieve the realization of the right.

17. Mr. BAROODY (Saudi Arabia) thought that articles 11 and 12 should not present any serious difficulty. The word “recognize” was particularly apt, for it left each State free to adopt the necessary steps in the light of economic and social conditions in the country concerned. Conciseness was a virtue, and he did not think that the article should elaborate the details, as the Uruguayan representative had suggested.

18. Mrs. KOWALIKOWA (Poland) said that her delegation’s amendment (A/C.3/L.532, point 3) was intended to make articles 11 and 12 more binding.

The right of a person to adequate food, for example, would remain nugatory if that person were destitute or if there were a shortage of food. Accordingly, States had to secure conditions for the fulfilment of that right. Her delegation had deliberately chosen very general terms in order to make its amendment acceptable to all.

19. The Guatemalan amendment (A/C.3/L.579) was close to the Polish amendment but she thought it was a weaker text.

20. Mr. DIAZ CASANUEVA (Chile) did not share the view expressed by the representative of Saudi Arabia; the article should definitely recognize the right to “an adequate standard of living”. The idea expressed by those words was quite clear; in fact, a Committee of Experts convened by the United Nations, jointly with the International Labour Office, had defined some of the components of the standard of living.² The right to an adequate standard of living was of great consequence to every country, but particularly to the less developed countries, and in that connexion the Committee should have regard to the Second Committee’s discussion on the economic development of the under-developed countries.

21. He would support the Guatemalan delegation’s amendment (A/C.3/L.579), but its exact meaning should be made clearer. Under that amendment, States would not merely recognize rights but would also undertake to facilitate their acquisition. That was a great advance, for what had been mere recognition would become an obligation, though of course the satisfaction of the obligation would be contingent on resources, which were very slender in the under-developed countries. Those countries could not attain the desired purpose out of their own resources. Many of them, Chile being one, were short of foodstuffs and had to import them, yet they had only small foreign currency reserves, the amount of which varied considerably in accordance with world market prices for raw materials. Accordingly, they were greatly in need of assistance from the international community. He would prefer a more general term than “acquisition”. Moreover, the expressions “standard of living” and “continuous improvement” should most certainly be retained, for the recognition of the right in question would stimulate the economic and social advancement of peoples and would impress upon States that the raising of the standard of living should be one of their constant preoccupations. It seemed unnecessary to include a definition of “standard of living” in the article, since the inhabitants of each country knew quite well what the words meant to them. Inasmuch as the standard of living depended everywhere on local possibilities, the word “adequate” had been well chosen by the Commission on Human Rights.

22. He considered that before the Committee discussed the amendments it would have to reach agreement on the fundamental ideas.

23. Mr. PAULUS (India) said that the United Kingdom delegation at the eighth session of the Commission on Human Rights had argued that the right of everyone to adequate food, clothing and housing was implicit in the right to an adequate standard of living; he noted with satisfaction that the United Kingdom representative was no longer pressing that argument.

¹This amendment was subsequently issued as document A/C.3/L.582.

²See *International Definition and Measurement of Standards and Levels of Living* (United Nations publication, Sales No.: 1954.IV.5).

The Indian delegation would prefer the right set forth in article 11 to be explicitly mentioned, since food, clothing and housing were among the prime needs of humanity. It would have no objection to a merger of the two articles, provided that the idea expressed in article 11 remained intact.

24. Mr. BRILLANTES (Philippines) also favoured combining articles 11 and 12 and proposed an amendment (A/C.3/L.580) to that effect. The wording he proposed was succinct and preserved the main elements of the texts submitted by the Commission on Human Rights (E/2573, annex I A). He had used the adjective "decent" to qualify the standard of living because it had a moral connotation and also because it appeared in article 7, which referred to "a decent living". It would be wrong to use two different terms for the same fundamental idea.

25. Mr. MUFTI (Syria) said he would not oppose a merger of the two articles provided that the combined text took account of all the amendments proposed, and in particular of the Afghan amendment (A/C.3/L.578), and provided that the right recognized in article 11 was sufficiently emphasized.

26. As the Chilean representative had observed, a question of principle was at stake. The Committee should therefore decide forthwith whether the two articles should be merged. If it did so decide, it would be desirable, in order to facilitate the Committee's work, to establish a working party composed of the delegations which had proposed amendments and those wishing to make suggestions.

27. Mr. PAZHAWAK (Afghanistan) said that the right of everyone to adequate food, clothing and housing in fact presupposed an opportunity to obtain those essentials. That was the idea underlying the amendment he had proposed (A/C.3/L.578).

28. The suggestions of the United Kingdom and Saudi Arabian delegations, which were very similar, were superior to the Philippine proposal and perhaps their authors might work out a compromise text. Such a text would probably be acceptable to the majority. He added that no time limit for the presentation of amendments should be laid down as yet.

29. Mrs. AFNAN (Iraq) said she would not oppose a merger of articles 11 and 12, which were both intended to improve the individual's standard of living. Article 13, on the other hand, dealt with an entirely different subject and should therefore be considered separately.

30. It was not sufficient to proclaim, in article 11, the right of everyone to adequate food, clothing and housing. It should be expressly laid down that States were under a duty to take appropriate steps to ensure the enjoyment of that right. With regard to housing, for instance, private undertakings often did not have the capital needed to build houses for low-income groups, and it was for the State to sponsor such housing. Regarding housing as its responsibility, the Iraqi Government had applied \$5.5 million, taken from the revenues from the oil industry, to the long-term housing programmes for 1957.

31. She added that she would vote for those amendments which were consistent with the position of her delegation.

32. Mr. TSAO (China) said that though articles 11 and 12 were based on the same idea they should preferably not be amalgamated. The idea of the stan-

dard of living was broader in scope than the rights recognized in article 11, and had received prominence in article 25 of the Universal Declaration of Human Rights. Its importance should be stressed by making it the subject of a separate article.

33. Discussing the Afghan amendment (A/C.3/L.578), he pointed out that the provision was concerned not so much with a right as with the object of a right. The formula used in the two articles appeared in articles 22, 23, 24, 25 and 26 of the Universal Declaration of Human Rights. There was, therefore, no need to add to it and he hoped that the Afghan representative would not press for a vote on his amendment.

34. The Chinese delegation could not support the Guatemalan amendment (A/C.3/L.579). The general application clauses were the subject of part IV of the draft Covenant and it would be unwise to provide for implementation measures in each article.

35. Mr. THIERRY (France) observed that to provide in article 11 that everyone must be given the opportunity of securing adequate food, clothing and housing came very close to expressing in another form the idea underlying article 7 (b). On the other hand, the articles under discussion did not mention the economic measures that States should take in order to raise the general standard of living and to enable the individual to improve his own living conditions. A provision calling for the adoption of measures of that kind was to be found in article 13, paragraph 2, and he thought that that provision should also appear in the combined text which would, if it were so decided, replace articles 11 and 12.

36. Mr. BAROODY (Saudi Arabia) did not agree with the Philippine delegation's proposal for replacing the word "adequate" by the word "decent". He did not believe that the idea expressed was made any clearer by using the term "decent".

37. Mr. EUSTATHIADES (Greece) thought that if the Committee decided to merge the two articles, it might consider making the new text take account of that part of article 13, paragraph 2 (b), which referred to the improvement of nutrition and housing.

38. The CHAIRMAN felt that there was general agreement that articles 11 and 12 could be combined in a single article. He therefore suggested that unless there were any objection, the Committee could decide to combine them.

It was so decided.

39. Mr. BRENA (Uruguay) suggested that to save time a working party should be appointed immediately.

40. Mr. DIAZ CASANUEVA (Chile) thought that those delegations which had proposed amendments should be given an opportunity to redraft them to take account of the merging of the two articles. It would therefore be better not to set up a working party too soon.

41. Mr. PAZHAWAK (Afghanistan) also believed that, before a working party was set up, it would be better to await any suggestions which delegations might wish to make on the combined text.

42. He withdrew his amendment (A/C.3/L.578) but reserved his right to propose amendments to the new text.

43. Mrs. QUAN (Guatemala) withdrew her delegation's amendment (A/C.3/L.579) on the understanding that she would be free to propose it again subsequently.

The meeting rose at 6 p.m.