



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2004/SR.22
17 May 2004

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-second session

SUMMARY RECORD OF THE 22nd MEETING*

Held at the Palais des Nations, Geneva,
on Monday, 10 May 2004, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL
RIGHTS (continued)

Adoption of draft general comment on the right to work (continued)

* No summary records were issued for the 20th and 21st meetings.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL
RIGHTS (continued)

Adoption of draft general comment on the right to work (continued) (E/C.12/2003/7)

1. The CHAIRPERSON invited the Committee to resume its paragraph-by-paragraph consideration of the draft general comment on the right to work (E/C.12/2003/7).

Chapter II: Normative content (paras. 1 and 2) of article 6 (continued)

Paragraphs 8-9 (continued)

2. Mr. TEXIER said that there was some confusion with regard to the paragraphs that had been adopted by the Committee at the end of its previous meeting. Paragraph 8 should have been divided into two separate paragraphs: paragraph 8 - which should have been reformulated to incorporate the points raised in draft paragraph 9 - and paragraph 8 bis. Paragraph 8 bis would reflect the sense of International Labour Organization (ILO) Convention No. 158 concerning Termination of Employment at the Initiative of the Employer. It read:

“In addition, among these rights are included the right of access to a system of protection guaranteeing each worker access to employment and not to be unfairly deprived of employment. The Committee recalls ILO Convention No. 158 on Termination of Employment, which defines the lawfulness of dismissal in its article 4 and establishes in particular the need for a valid reason for such termination and the need to respect the right of workers to defend themselves and their right to judicial or other remedies in the event of unfair dismissal.”

3. The CHAIRPERSON read out paragraph 8, which had been adopted by the Committee at its previous meeting:

“Work, as specified in article 6 of the Covenant, must be decent work. Decent work is any work which respects the fundamental rights of the human person, as well as the rights of workers, in terms of conditions of work, safety and remuneration, and which provides an income allowing workers to earn a living for themselves and their families, as highlighted particularly in article 7 of the Covenant. These fundamental rights include respect for the physical and mental integrity of the worker in the exercise of employment.”

4. Mr. TEXIER said that the paragraph that had just been read out failed to incorporate the contents of draft paragraph 9. It was important to place emphasis on the interdependence of articles 6, 7 and 8 of the Covenant.

5. The CHAIRPERSON said that the paragraph in question would be reformulated to reflect the point raised by Mr. Texier.

6. Mr. RIEDEL said that the text of proposed paragraphs 8 and 8 bis should be circulated in writing in all working languages.

7. It was so decided.

Paragraph 10

8. Mr. SADI proposed that the order of the two sentences should be inverted, so that the draft paragraph would begin with the words “The International Labour Organization” and end with the words “article 8 of the International Covenant on Civil and Political Rights”.

9. Paragraph 10, as amended, was adopted.

Paragraph 11

10. Mr. GRISSA said that in the first sentence it would be more appropriate to refer to the “informal economy”, rather than to the “black economy”.

11. Mr. SADI suggested that the words “flexible practices” should be deleted from the first sentence and that the word “economic” should be inserted in the second sentence between the words “legislative” and “and administrative”.

12. Mr. TEXIER said that agricultural and domestic work were two areas of work that were typically not covered by national labour legislation. The last sentence of the draft paragraph should therefore be amended to include a reference to agricultural, as well as to domestic, work. It would read: “Similarly, domestic and agricultural work must be properly regulated by national legislation so that domestic and agricultural workers enjoy the same level of protection as other workers.”

13. Mr. RIEDEL agreed that the words “flexible practices” should be deleted from the first sentence. He would like further clarification as to why reference should be made to agricultural work, as well as to domestic work, in the last sentence.

14. Mr. MALINVERNI suggested that the first sentence could be reformulated to read more simply: “High unemployment and the lack of secure employment induced workers to take employment in the informal economy”. In addition, the third sentence could be reworded to read: “Such measures would compel employers to respect labour legislation and declare their employees, thus enabling them to enjoy the rights provided for in articles 6, 7 and 8 of the Covenant.” He did not understand the meaning of the sentence that read: “The Committee insists on the need for policies to encourage businesses to assume responsibility, and to promote microenterprises and self-employment”, and would like clarification. Lastly, he said that the issue of domestic work - and perhaps agricultural work - was important enough to warrant a separate paragraph.

15. Mr. ATANGANA said that it would be more appropriate to insert the last two sentences in chapter III of the draft general comment, setting out States parties’ obligations.

16. Mr. WINDFUHR (Foodfirst Information and Action Network (FIAN)) said that it would be useful to include a reference in the draft general comment to agricultural work as a particularly important part of the informal sector. For instance, in India alone, approximately 170 million landless peasants were employed as informal workers on agricultural smallholdings.
17. Ms. THOMAS (International Labour Organization (ILO)) said that ILO had requested that reference should be made in the draft general comment to agricultural work as well as to domestic work, because those were the two categories of workers that were systematically excluded from labour protection.
18. Mr. RIEDEL said that the words “insists on the need for” in the fifth sentence should be replaced by the words “calls for”. The Committee was not in a position to insist on the adoption of specific measures by States parties.
19. Mr. SADI said that it was unclear what was meant in the third sentence by the notion that employers should “declare their employees”. He suggested that the words “The underlying approach to such” in the fourth sentence should be replaced simply by the word “These”. Furthermore, it was unclear what businesses were being called on to assume responsibility for.
20. Mr. MARCHÁN ROMERO said that the word “Governments” in the penultimate sentence should be replaced by the words “States parties”.
21. Mr. RIEDEL agreed with Mr. Sadi that the meaning of the word “declare” in the third sentence was not clear. The sentence, as it stood, seemed to be incomplete.
22. Ms. BRAS GOMES said that, in order to clarify matters, the third sentence should be amended to emphasize more clearly the fact that employers should be compelled to register their employees with the social security authorities. Workers that were not declared did not pay contributions and therefore did not benefit from social security protection. In that connection, she would be in favour of including a reference to the rights provided for in article 9 of the Covenant, as well as to those provided for in articles 6, 7 and 8.
23. Mr. GRISSA said that it was important to emphasize that employers had an obligation to declare their employees to the social security authorities.
24. Mr. PILLAY said that he did not understand the meaning of the sentence that read, as amended: “States parties must formulate and implement comprehensive policy approaches that will help the informal sector and workers to overcome the obstacles to the benefit of the security that legal recognition would give to businesses and to the creation of decent employment.”
25. Mr. MALINVERNI, referring to the fourth and fifth sentences, said that it was difficult to determine the connection between the need to take into account people living in an informal economy and the need to promote microenterprises and self-employment.
26. Mr. TEXIER said that that, although he would not object to its deletion, the term “flexible practices” that had been used in the first sentence was a term that was commonly used as a synonym for precarious working conditions and was recognized as such by trade unions. Furthermore, the word “declare” in the third sentence was quite clearly being used in the context

of the social security system. Any worker would understand the difference between “declared” and “undeclared” work. He would not object to the deletion of the reference to microenterprises and self-employment in the fifth sentence; it would perhaps be preferable to refer simply to the development of enterprises and trade policies to stimulate employment.

27. Mr. RIEDEL proposed that the fifth sentence, which was too dogmatic, should be deleted in its entirety. He would also be in favour of deleting the penultimate sentence, the meaning of which was unclear.

28. Mr. WINDFUHR (Foodfirst Information and Action Network), referring to Mr. Atangana’s suggestion to insert the last two sentences in chapter III, dealing with States parties’ obligations, said that it was important to include in chapter II, on the normative content of article 6, a paragraph referring to the informal sector. Regarding the proposal to delete the fifth sentence, he said that, while it was perhaps not so important to refer to microenterprises, it would be regrettable to delete the reference to self-employment, which was one of the tools used to encourage workers to leave the informal sector and to enjoy better working conditions.

29. Ms. BRAS GOMES said that it would also be regrettable to delete the sentence in which reference was made to comprehensive policy approaches. However, it would perhaps be preferable to reformulate the sentence to read: “States parties must formulate and implement comprehensive policy approaches that will help workers in the informal sector to achieve legal recognition and decent employment.”

30. Mr. PILLAY suggested that the third sentence could be made clearer by inserting “for social security and other purposes” after the word “declare”. In the last sentence, the word “similarly” should be replaced by “moreover”, and the words “national legislation” should be replaced by “appropriate measures, including legislation”.

31. Mr. TEXIER suggested that the sentence starting with “The Committee insists”, and the amended sentence beginning “States parties must formulate and implement ...”, should be deleted.

32. The CHAIRPERSON said that she took it that the Committee members agreed with Mr. Texier’s suggestion.

33. It was so decided.

34. Mr. KERDOUN welcomed the idea of having a separate paragraph on the informal sector of the economy. A number of States acknowledged that the informal sector existed, but did not necessarily wish to incorporate it into the formal sector. Its existence allowed enterprises to be more flexible in recruiting workers, thereby reducing unemployment, while at the same time avoiding the numerous responsibilities which they would have to assume by hiring people on a legal basis. States parties should take steps to enact legislation covering the informal sector, but without incorporating it into the formal sector.

35. The CHAIRPERSON said that the Committee would refer the paragraph to informal consultations.

Paragraph 12

36. Mr. TEXIER suggested that the paragraph should have a footnote, indicating that some of the issues referred to in the first sentence of paragraph 12 (b) (i) were covered by article 2, paragraph 2, and article 3 of the Covenant, while others had been addressed in the Committee's work or by State parties in their case law.

37. Mr. MALINVERNI suggested that paragraph 12 (b) (i) should refer only to the criteria provided for in article 2, paragraph 2, and article 3 of the Covenant. In particular, physical and mental disabilities should not be mentioned because the nature of some professions made them inaccessible to persons with disabilities.

38. Mr. MARCHÁN ROMERO said that a clear distinction had not been made between the concepts of "availability" and "accessibility". In paragraph 12 (c) the words "have access to the labour market and find" should be replaced by "identify and find available".

39. Mr. SADI said that in the chapeau the words "exercise of" should be inserted before "the right to work"; the word "implies" should be replaced by "requires"; and the word "and" inserted after "independent". In addition, the word "implementation" should be replaced by "availability".

40. In paragraph 12 (a), the words "In each State party there must exist" should be replaced by "States parties must have". In paragraph 12 (b), the word "accessible" should be preceded by "made".

41. Mr. TEXIER said that discrimination on the grounds of physical and mental disability should clearly be prohibited. The courts would then decide on a case-by-case basis whether discrimination had taken place. In addition, a number of issues, such as sexual orientation, had not been covered in article 2, paragraph 2, and article 3 of the Covenant. Such discrimination was unacceptable, but was becoming an increasing problem. However, he agreed with Mr. Malinverni that, to avoid difficulties, paragraph 12 (b) (i) should refer only to the criteria provided for in article 2, paragraph 2, and article 3 of the Covenant.

42. Mr. RIEDEL said that such criteria as sexual orientation and HIV/AIDS were of great importance in the field of human rights and should be referred to in the general comment, in particular because Committee members often asked delegations to comment on them.

43. Paragraph 12 (a) should be amended in such a way as to make it clear that the specialized services should be provided by State or private institutions. The words "It is appropriate to reaffirm the principle set forth" in the second sentence of paragraph 12 (b) (i) should be deleted. In addition, the last sentence of paragraph 12 (b) (ii) should be deleted, as the information it contained had already been included in general comment No. 5 on persons with disabilities.

44. Mr. GRISSA, referring to paragraph 12 (b) (i), said that, in his view, there was no need to quote the text of ILO Convention No. 111.

45. Ms. BARAHONA RIERA said that paragraph 12 (b) (i) should contain a reference to positive discrimination.

46. Mr. WINDFUHR (Foodfirst Information and Action Network) said that paragraph 12 (b) should include a reference to economic accessibility to the labour market, which would imply the need to provide specialized services to help people find employment. Such services were vital for many people who lacked the training required to find work.
47. Mr. PILLAY suggested that, in paragraph 12 (a), the words “In each State party there must exist” should be replaced by “Specialized services should be provided in each State party”, and the words “whose role it is” should be deleted. With regard to paragraph 12 (a) (i), the words “It is appropriate to reaffirm the principle set forth in” should be replaced by “according to”. In the last sentence, the words “vulnerable members” should be replaced by “disadvantaged and marginalized groups”.
48. Mr. RIEDEL endorsed Mr. Pillay’s suggestions concerning paragraph 12 (a) (i). However, in the last sentence, he would replace “vulnerable members” by “disadvantaged and vulnerable groups”. In addition, it was important to cite the relevant text of ILO Convention No. 111.
49. Mr. KOLOSOV said that he would support deleting the reference to sexual orientation from paragraph 12 (a) (i).
50. Ms. BRAS GOMES said that paragraph 12 (b) should include a reference to affirmative action.
51. Mr. RIEDEL said that the concept of affirmative action could not be included without a thorough explanation. In his view, affirmative action should be discussed in the general comment on article 3 of the Covenant.
52. Mr. SADI, referring to paragraph 12 (b) (ii), said that, in the first sentence, the words “a constituent” should be replaced by “an indispensable”; the indefinite article preceding the word “life” should be deleted; the word “necessary” should be inserted after “resources”; and the word “live” should be replaced by “living”.
53. Mr. RIEDEL suggested that the words “to live” should be replaced by “necessary for living”. He agreed that a distinction should be made between physical and economic accessibility, but suggested that an example should be provided to explain the concepts.
54. Mr. WINDFUHR (Foodfirst Information and Action Network) said that the reference to economic accessibility could also help cover, albeit partially, affirmative action. The paragraph should state that individuals who did not have economic accessibility to the labour market needed to have access to specialized services, such as vocational training.
55. Mr. PILLAY wondered whether it was necessary to refer to the right to work in paragraph 12 (b) (ii), as it had already been referred to previously. However, if the Committee decided to keep that reference, the words “in a life with dignity for the individual” should be replaced by “for the individual to live a life of dignity”. The words “the worker” should be inserted after “provides”.

56. Mr. CEAUSU said that the concept of “life with dignity” had already been covered in paragraph 8. If the Committee wished to include it in paragraph 12 (b) (ii), it was important to mention three issues, namely, lack of discrimination; physical accessibility for people with disabilities; and access to information. In addition, he saw no link between the first and second sentences.

57. The CHAIRPERSON said that she took it that the Committee wished to delete the first sentence of paragraph 12 (b) (ii) and include a sentence on economic accessibility.

58. It was so decided.

59. Ms. BRAS GOMES, referring to paragraph 12 (b) (iii), suggested that the word “means” should be replaced by “opportunities”.

60. The CHAIRPERSON suggested that the words “of means of” should be replaced by “about”.

61. It was so decided.

62. Ms. BRAS GOMES said that European Union directives that made reference to sexual orientation had been incorporated into the national legislation of a number of member States, a factor to be borne in mind when deciding on the inclusion or deletion of the reference.

63. Mr. RIEDEL said that the Committee had previously agreed to retain the reference to sexual orientation and health status, since those questions had been developed under customary international law or under treaty law. They were widely recognized in treaties subsequent to the Covenant, and the World Health Organization had strongly recommended their inclusion in the general comment.

64. Mr. PILLAY said that the reference to economic accessibility as drafted by the representative of the Foodfirst Information and Action Network read: “Economic accessibility is another dimension of accessibility to employment opportunities for workers through the agency of specialized services to enable them to offer their labour skills and experience on the labour market.”

65. Mr. TEXIER expressed his doubts as to the accuracy with which the sentence reflected the concept of economic accessibility. He was not convinced that it was necessary to include such a reference.

66. Mr. RIEDEL welcomed Mr. Texier’s comment and pointed out that, given the difficulty of agreeing on a formulation, it might be preferable to omit the reference to economic accessibility. He rated physical accessibility as the most important element of guaranteeing labour market accessibility, and while the formulation read out by Mr. Pillay was acceptable, he was not convinced of its necessity.

67. The CHAIRPERSON said that, in the absence of further comments, she took it that the Committee accepted Mr. Texier’s proposal to omit the reference to economic accessibility.

68. It was so decided.

69. Mr. SADI said that use of the term “right to research and to be informed of” in the first sentence of paragraph 12 (b) (iii) was confusing, and he therefore proposed its replacement with the phrase “right to seek and obtain information on”. He also advocated replacing the term “information networks” with the term “data networks”.
70. Mr. RIEDEL noted that in texts of international instruments it was customary to use the expression “seek and obtain” in conjunction with the word “impart”. For the sake of consistency the phrase should thus read “the right to seek, obtain and impart”.
71. The CHAIRPERSON said that the word “accessibility” after the colon in paragraph 12 (b) (iii) was superfluous and should be deleted.
72. Mr. KERDOUN proposed replacing the term “information networks” with the word “databank”.
73. Mr. KOLOSOV said that principle of freedom of information was generally understood to include information irrespective of State boundaries. Consequently, the text should mention the obligation of States to provide access to information networks on employment opportunities at the international level.
74. Mr. TEXIER said that States could not be obliged to provide such information at the international level. Any decisions in that regard were the prerogative of the individual State.
75. Mr. CEAUSU said that in paragraph 12 (c) there was no clear link between the heading “acceptability and quality” and the reference to facilities, the workplace and conditions of work as referred to in the body of the text. Acceptability and quality referred to the conditions of work offered to employment seekers. For the sake of clarity, it would be advisable to illustrate the meaning of those concepts by mentioning humiliating types of work, hazardous work conditions or work that failed to meet the standards of moral acceptability, such as prostitution.
76. Mr. RIEDEL, supported by Mr. MALINVERNI, endorsed Mr. Ceausu’s comment and said that in the absence of an adequate formulation describing the categories of acceptability and quality, the paragraph should be deleted. In case it were retained, however, the phrase that read “incorporates several dimensions” should be amended to “has several components”.
77. Mr. KERDOUN agreed that in order to retain the paragraph on accessibility and quality, reformulation was necessary. As it stood, the meaning of those concepts was unclear.
78. Ms. THOMAS (International Labour Organization), supported by Mr. RIEDEL, said that the concepts of quality and acceptability in relation to the right to work were important and should thus be retained. There was a plethora of examples, which could be formulated in such a way as to specify the exact meaning of the concepts.
79. Mr. TEXIER said that developing the notions of acceptability and quality would require taking up examples already referred to under articles 7 and 8. In order to avoid unnecessary replication and lengthiness, it would be preferable to delete paragraph 12 (c).

80. Ms. BRAS GOMES said that addressing complex notions such as the “acceptability” and “quality” of work in the same paragraph was difficult and further elaboration might thus be required. However, the notion of acceptability was important and should be included.

81. Mr. PILLAY drew attention to the cross-reference to paragraph 2, which served as an explanation of the concepts. He proposed the insertion of the following sentence: “The Committee has already stated in paragraph 2 of this general comment that protection of the right to work incorporates several components that are protected by the Covenant in articles 7 and 8, notably the right of the worker to the enjoyment of just and favourable conditions of work, in particular to safe working conditions; the right of the worker to join and form trade unions; and the right of the worker to gain his living through work which he freely chooses or accepts”.

82. Paragraph 12, as amended, was adopted.

Special topics of broad application

83. Mr. TEXIER drew attention to the need to change the order of the articles under the heading in order to reflect accurately the gravity with which different segments of society were affected by the right to work. When considered in quantitative terms, the category “women and the right to work” should come first in order of importance.

84. Mr. ATANGANA, supported by Mr. RIEDEL, said that the heading “Special topics of broad application” called for a corresponding subheading under chapter II.

Paragraph 13

85. Mr. RIEDEL said that the citation in the second sentence of paragraph 13 was identical to that in general comment No. 5 and as such redundant. In the following sentence, the word “parties” should be inserted after the word “States”. As it stood, the last sentence was overly complex and should be either reformulated or deleted.

86. Mr. TEXIER said that young people and the right to work should be ranked relatively high in order of importance, given that youth unemployment was a serious problem in many parts of the world.

87. Ms. BRAS GOMES, supported by Mr. TEXIER, said that the category “children and the right to work” needed to come last in order of importance. According a high level of importance to children in relation to the right to work might send the wrong message. The first and foremost right of children was the right to play, and she therefore proposed listing children separately.

88. The CHAIRPERSON said that she took it that the Committee wished to re-order the paragraphs thus: paragraph 13: women and the right to work; paragraph 14: young people and the right to work; paragraph 15: migrant workers and the right to work; paragraph 16: persons with disabilities and the right to work; paragraph 17: older persons and the right to work; paragraph 18: children and the right to work.

89. It was so decided.

90. Mr. SADI proposed the incorporation in the first sentence of paragraph 13 of the wording “general comment No. 5 on persons with disabilities, which concludes that the right of everyone”. The word “allowing” in the third sentence should be replaced by “enabling”.

91. The CHAIRPERSON said that all occurrences of the term “disabled persons” should be replaced by the term “persons with disabilities”. For the sake of simplicity, the last sentence of paragraph 13 should be deleted.

92. Paragraph 13 as amended, was adopted.

Paragraph 14

93. Mr. TEXIER proposed the deletion of the last sentence in paragraph 14.

94. Mr. MALINVERNI said that, while the reference to the retirement preparation programmes might be unnecessary, the right of all workers to retirement should be mentioned.

95. Mr. RIEDEL said that in order to retain the reference, significant redrafting would be necessary. He therefore supported Mr. Texier’s proposal to delete the entire sentence.

96. The CHAIRPERSON said she took it that the Committee accepted the proposal to delete the last sentence.

97. Paragraph 14, as amended, was adopted.

Paragraph 15

98. Mr. RIEDEL said that he agreed with the wording of paragraph 15, but suggested that the second sentence should be incorporated into paragraph 29 as it referred to an obligation that States parties were required to fulfil.

99. Ms. BRAS GOMES suggested that the second sentence of paragraph 15 should be amended to read: “States parties should formulate and implement a comprehensive national strategy to promote non-discrimination and equality of treatment of women in their right to work.”

100. The CHAIRPERSON said that paragraph 15 should not specify what measures States parties should take since those had already been included under chapter III, on States parties’ obligations, but, rather, should refer to the status of women in terms of the right to work and should mention the principles of equal pay and equal opportunity for advancement. Paragraph 15 would be reformulated for subsequent consideration by the Committee.

Paragraph 16

101. Mr. TEXIER said that the words “a first job” in the first sentence should be replaced by “employment”. The words “and to adequate vocational training” should be added at the end of the last sentence.

102. Mr. MARCHÁN ROMERO suggested that the first sentence should be amended to read: “Passage to adulthood and access to a first job constitute an opportunity to exercise an independent lifestyle and, in many cases, to escape poverty.”

103. Mr. SADI said that paragraph 16 focused unduly on women, and should instead focus on young persons.

104. The CHAIRPERSON suggested that the third sentence should be amended to read: “National measures to promote and support young persons, in particular young women, would provide better access to employment.”

105. Mr. RIEDEL suggested that the third sentence should be reworded to read: “National measures should exist to promote and support young people, in particular young women, in access to employment.” That would leave open the question of whether such measures should be carried out by direct or indirect government action or by private action.

106. Mr. CEAUSU suggested that the second sentence should be deleted from paragraph 16 and its contents incorporated into paragraph 15. The last sentence should be reformulated to read: “This opportunity depends to a large extent upon the quality of their vocational training and the assistance granted to facilitate their access to employment”.

107. Ms. THOMAS (International Labour Organization) said that although it was true that young women had more difficulty than young men in finding jobs, the broader point was that young persons, in general, had more difficulty than older adults, in obtaining employment. The words “education and” should be inserted before “vocational training” in Mr. Ceausu’s proposal.

108. Mr. RIEDEL said that he was in favour of retaining the second sentence since the fact that young women had more difficulty than young men in finding work had been borne out by the Committee’s dialogue with States parties.

109. The CHAIRPERSON said that the second sentence should be reformulated to read: “Young persons, and in particular young women, had great difficulty in finding employment.”

110. Mr. MALINVERNI said that he agreed with including a reference to young women in the second sentence; however, the words “in particular young women” should be deleted from the third sentence.

111. Mr. SADI said that the word “passage” should be deleted from the first sentence as the term “passage to adulthood” referred to an imprecise period of time that could span many years.

112. The CHAIRPERSON said that since the subject of the paragraph was young persons, perhaps the word “adulthood” should be removed as well.

113. Mr. RIEDEL said that the passage to adulthood was a crucial period in the life of a young person and was a concept that should be retained.

114. Mr. TEXIER said that the access to a first job was the more important point to emphasize and the phrase “passage to adulthood” should be deleted.

115. The CHAIRPERSON, summing up, said that the paragraph should be amended to read: “Access to a first job constitutes an opportunity to exercise an independent lifestyle and in many cases, a means to escape poverty. Young persons, and in particular young women, have greater difficulty in finding a first job. National measures, such as education and adequate vocational training, should exist to promote and support young persons’ access to employment.”

116. Ms. BRAS GOMES said she would prefer the phrase “for economic independence” as an alternative to the phrase “to exercise an independent lifestyle”.

117. Mr. CEAUSU said that the reference to poverty in the first sentence should be omitted. The first sentence should be amended to read: “Access to a first job constitutes an opportunity to earn one’s living and to lead an independent life.”

118. Ms. BRAS GOMES, supported by Mr. RIEDEL, said she had understood the sentence to convey both the idea that a first job could provide both economic independence and an escape from poverty.

119. Mr. SADI said that to lead an independent economic life was not a right contained in the Covenant.

120. Mr. MARTYNOV said that the phrase “to earn a decent living” would be a better alternative as it related more closely to the rights provided under the Covenant.

121. Ms. THOMAS (International Labour Organization) agreed with Mr. Martynov’s formulation.

122. Paragraph 16, as amended, was adopted.

Paragraph 17

123. Mr. RIEDEL said that a more authoritative tone was needed in paragraph 17 and that additional information should be included to explain how migrant workers should be protected under the Covenant and not only under the other international instruments mentioned.

124. The CHAIRPERSON suggested that the reference to the principle of non-discrimination in the first sentence should be followed by mention of article 2, paragraph 2, of the Covenant.

125. Mr. RIEDEL said that the Committee should restrict its comments on migrant workers to what was contained in the Covenant and should clearly indicate that it was for States parties to decide whether or not to ratify the other instruments mentioned.

126. Ms. BARAHONA RIERA said that the Committee needed to establish general criteria with regard to migrant workers. She did not see any reason not to mention the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as such a reference did not imply any obligation on States parties to ratify the Convention.

127. Mr. PILLAY suggested that paragraph 17 should be redrafted in such a way as to emphasize the provisions of the Covenant, while indirectly referring to the wording of ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

128. Mr. SADI said that ILO Convention No. 143 was a broadly accepted instrument to which the Committee made frequent mention when discussing migrant workers during its consideration of States parties' reports. Since general comments were based on the Committee's experience, it made sense to refer to ILO Convention No. 143 as a guideline.

129. Mr. TEXIER said that the mere fact of citing an ILO convention did not imply that States parties should ratify it; however, the Committee often recommended to States parties that they should ratify the principal ILO conventions. He suggested that paragraph 17 should be reformulated to incorporate the main provisions of ILO Convention No. 143, such as equality of opportunity and treatment in respect of employment and occupation for persons who were lawfully within the territory of a State party, with a footnote referring readers to the full text of ILO Convention No. 143.

130. Mr. WINDFUHR (Foodfirst Information and Action Network) said that there were two important points to be drawn from ILO Convention No. 143 for the purposes of paragraph 17: one concerned the fact that migrant workers should not be deprived of the rights granted other workers and the second concerned the promotion and support of migrant workers and members of their families. Those could be mentioned either within the context of an interpretation of article 2, paragraph 2, of the Covenant or as principles taken directly from ILO Convention No. 143.

131. Mr. RIEDEL said that paragraph 17 should be based primarily on article 2, paragraphs 2 and 3, of the Covenant. The Committee could make use of other international instruments to the extent that their provisions were relevant to the interpretation of that article. ILO Convention No. 143 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families could be referenced in a footnote.

132. Mr. PILLAY suggested the following reformulation of paragraph 17: "The principle of non-discrimination and equality of treatment as set forth in articles 2, paragraphs 2 and 3, of the Covenant should apply in respect of employment and occupation opportunities to migrant workers and their families who are lawfully within the territory of the State party." A footnote could then be added to refer to ILO Convention No. 143.

133. Mr. SADI suggested that the phrase "and guided by ILO Convention No. 143" should be inserted after reference had been made to the Covenant.

134. Ms. THOMAS (International Labour Organization) said that if paragraph 17 would eventually contain a general statement based on the Covenant, as opposed to a citation from ILO Convention No. 143, the phrase "lawfully within its territory" should be deleted since the principle of non-discrimination, in terms of the right to work, applied to all persons, whether residing lawfully in the country or not.

135. Mr. RIEDEL, recalling the two points mentioned by the representative of FIAN, said that it was important to include both in paragraph 17.

136. Ms. THOMAS (International Labour Organization) said that the Committee might wish to consider including a sentence that encouraged States parties to declare and pursue a national policy designed to promote equality of opportunity and treatment for migrant workers. It could then include a footnote to refer to relevant international instruments.

137. Mr. RIEDEL said that he endorsed the suggestion made by the representative of ILO.

138. The CHAIRPERSON said that the Committee would defer its consideration of paragraph 17 to the next meeting.

The meeting rose at 6 p.m.