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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Report of the Third Committee

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I. INTRODUCTION

1. At its 1210th plenary meeting, on 20 September 1963, the General Assembly allocated to the Third Committee, for consideration and report, agenda item 48, entitled "Draft International Covenants on Human Rights".
2. The draft Covenant on Economic, Social and Cultural Rights and the draft Covenant on Civil and Political Rights^{1/} have been under consideration by the General Assembly since its ninth session. Prior to the present session, the Third Committee had adopted the preambles and article 1 of both draft Covenants, articles 2 to 16 of the draft Covenant on Economic, Social and Cultural Rights and articles 3, 5 to 26 of the draft Covenant on Civil and Political Rights.^{2/}
3. Upon the suggestion of the Chairman, the Third Committee agreed to consider, first, articles 2 and 4 of the draft Covenant on Civil and Political Rights; then

^{1/} For the text of the draft Covenants prepared by the Commission on Human Rights, see E/2573, annex I, A and B.

^{2/} See Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28, document A/3077; Ibid., Eleventh Session, Annexes, agenda item 31, document A/3525; Ibid., Twelfth Session, Annexes, agenda item 33, document A/3764 and Add.1; Ibid., Thirteenth Session, Annexes, agenda item 32, document A/4045; Ibid., Fourteenth Session, Annexes, agenda item 34, document A/4299; Ibid., Fifteenth Session, Annexes, agenda item 34, document A/4625; Ibid., Sixteenth Session, Annexes, agenda item 35, document A/5000; Ibid., Seventeenth Session, Annexes, agenda item 43, document A/5365.

proceed to take up any substantive articles that might be proposed; and then to go on to the measures of implementation (part IV of the Covenant on Economic, Social and Cultural Rights and parts IV and V of the draft Covenant on Civil and Political Rights) and to the final clauses (part V of the Covenant on Economic, Social and Cultural Rights and part VI of the Covenant on Civil and Political Rights).

4. The Committee discussed the draft Covenants at its 1256th to 1269th and 1273rd to 1279th meetings. It adopted articles 2 and 4 of the draft Covenant on Civil and Political Rights, an article on the right of the child to be included in that Covenant, and a provision on the right to freedom from hunger to be added to the combined articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (see annex). A proposal for an additional article on the right of asylum (A/C.3/L.1013) which had been submitted by the USSR at the seventeenth session, was withdrawn by its sponsor at the 1256th meeting.

5. The Committee held a general debate on measures of implementation. At the 1279th meeting, it adopted a draft resolution on the implementation of and future work on the draft Covenants (see paragraphs 119-124 below). The proceedings of the Committee are briefly described in the following sections.

II. GENERAL PROVISIONS: ARTICLES 2 AND 4 OF THE DRAFT
COVENANT ON CIVIL AND POLITICAL RIGHTS

ARTICLE 2

6. The text of article 2 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (E/2573) read as follows:

"1. Each State Party hereto undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"2. Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant.

"3. Each State Party hereto undertakes:

"(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

"(b) To develop the possibilities of judicial remedy and to ensure that any person claiming such a remedy shall have his right thereto determined by competent authorities, political, administrative or judicial;

"(c) To ensure that the competent authorities shall enforce such remedies when granted."

7. The Committee considered this article at its 1257th to 1259th meetings.

Amendments submitted

8. Amendments were submitted by Japan (A/C.3/L.1166) to paragraphs 1 and 3 (a); and by the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1167) to paragraphs 2 and 3 (b). Chile and the United Arab Republic submitted a sub-amendment (A/C.3/L.1168) to the United Kingdom amendment (A/C.3/L.1167) to paragraph 3 (b). Saudi Arabia submitted a further sub-amendment (A/C.3/L.1169) to

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the sub-amendment submitted by Chile and the United Arab Republic (A/C.3/L.1167). And finally (1259th meeting), Chile, Saudi Arabia, Sudan, the United Arab Republic and the United Kingdom jointly submitted an oral proposal for a revised text of paragraph 3 (b).

Amendment to paragraph 1

9. The amendment of Japan (A/C.3/L.1166) called for the replacement of the word "individuals" by the word "persons". This amendment was withdrawn at the 1259th meeting.

Amendment to paragraph 2

10. The amendment of the United Kingdom (A/C.3/L.1167) proposed the deletion of paragraph 2. At the 1258th meeting, the United Kingdom agreed not to press for a vote on this amendment.

Amendments to paragraph 3

11. The amendment of Japan (A/C.3/L.1166) proposed that the text of sub-paragraph (a) should read as follows:

"To ensure that, if any person violates intentionally or negligently the rights or freedoms of others as herein recognized, an effective remedy shall be accorded, notwithstanding that the violation has been committed by persons acting in an official capacity."

This amendment was withdrawn at the 1259th meeting.

12. The amendment of the United Kingdom (A/C.3/L.1167) proposed the redrafting of sub-paragraph (b) to read as follows:

"To ensure that any person claiming such a remedy shall have his right thereto determined by a competent judicial or administrative authority, and to develop the possibilities of judicial remedy."

13. The sub-amendment of Chile and the United Arab Republic (A/C.3/L.1168) sought to add, in the United Kingdom amendment, the word "political" before "judicial or administrative authority".

14. The sub-amendment of Saudi Arabia (A/C.3/L.1169) sought to replace, in the sub-amendment of Chile and the United Arab Republic (A/C.3/L.1168), the word "political" by "legislative", and to insert the latter after "administrative". The phrase would then read "judicial, administrative or legislative".

15. The oral amendment submitted at the 1259th meeting by Chile, Saudi Arabia, Sudan, the United Arab Republic and the United Kingdom proposed the rewording of sub-paragraph (b) to read as follows:

"To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy."

16. In consequence of this joint proposal, the United Kingdom amendment (A/C.3/L.1167) and the sub-amendment thereto submitted by Chile and the United Arab Republic (A/C.3/L.1168) and by Saudi Arabia (A/C.3/L.1169) were withdrawn.

Issues discussed

Paragraph 1

17. In support of the amendment of Japan (A/C.3/L.1166), which called for the replacement of the word "individuals" by "persons", it was pointed out that the latter term was more appropriate in a legal instrument. Moreover, the use of the term "persons" would stress that certain basic rights were shared by all human beings from birth. On the other hand, the view was expressed that in legal terminology the word "persons" covered not only individuals but also juridical persons such as bodies corporate, with which the Covenant was not concerned. It was also pointed out that the word "individuals" was more appropriate in the context of the article, since the term "person", legally speaking, denoted one whom the law recognized as possessing rights and obligations. Most members of the Committee, therefore, felt that the word "individuals" should be retained.

18. Some representatives expressed misgivings regarding the words "within its territory and". Suggestions were made that those words be deleted and that the term "jurisdiction" be qualified to show that the guarantee extended to individuals subject to the territorial and personal jurisdiction of the State. The retention of the words "within its territory" could, it was felt, restrict the exercise of certain rights, such as the right of an individual, regardless of residence, to have free access to the courts of his State of nationality. A separate vote was therefore requested on these words.

19. Some speakers considered that the word "distinction" should be replaced by "discrimination", in order to bring about conformity with the text of article 2 of the draft Covenant on Economic, Social and Cultural Rights, adopted by the Committee at the seventeenth session of the General Assembly. Several members of the Committee felt, however, that the term "discrimination" had acquired a shade of meaning which rendered it less appropriate in the present context. Moreover, the term "distinction" was used both by the Charter of the United Nations and by the Universal Declaration of Human Rights.

20. It was expressly emphasized by several members of the Committee that special measures for the advancement of any socially and educationally backward sections of society should not be construed as "distinction" within the meaning of article 2. The Committee agreed that that interpretation, to which there was no objection, should be specially mentioned in the report.

Paragraph 2

21. In support of the United Kingdom amendment (A/C.3/L.1167) to delete paragraph 2, it was explained that civil and political rights were capable of precise formulation and, generally speaking, of immediate implementation. Paragraph 2 of the text submitted by the Commission, however, provided a major loop-hole for any State wishing to become a party without bringing its legislation in line with the provisions of the Covenant, since the obligation to take steps to adopt the necessary measures, being subject to no time limit, was practically meaningless. Moreover, the introduction of the reporting procedure envisaged in article 49 would seem to give further sanction to the notion of progressive implementation. The difficulties which some States might encounter in the speedy adaptation of their legislation to conform with the Covenant should rather be allowed for by a system of controlled reservations.

22. Some representatives, while generally favouring the retention of paragraph 2, felt that States should be explicitly required to adopt the envisaged measures "within a reasonable time", a phrase deleted from the original draft by the Commission on Human Rights.

23. Several members of the Committee, however, thought that the paragraph should be retained unchanged. It represented a minimum compromise formula, the need for which, particularly in new States building up their body of legislation, seemed manifest. The notion of implementation at the earliest possible moment was implicit in article 2 as a whole. Moreover, the reporting requirement stipulated in article 49 would indeed serve as an effective curb on undue delay.

Paragraph 3

24. The amendment of Japan (A/C.3/L.1166) was designed to clarify sub-paragraph 3 (a) by stressing that a violation could be either intentional or due to negligence and that, in order to afford grounds for redress, it must be an unlawful violation. Several members of the Committee nevertheless found the existing text of sub-paragraph 3 (a) satisfactory and thought that it was not only unnecessary but undesirable to specify the kind of violations intended to be covered.

25. The amendment of the United Kingdom (A/C.3/L.1167) sought to reverse the two clauses of sub-paragraph (b), thereby stressing that the words "such a remedy" referred to the "effective remedy" mentioned in sub-paragraph (a), and to delete the reference to "political" authorities.

26. Those who favoured the deletion of the word "political" from paragraph 3 (b) observed that political authorities should not be empowered to pass judgment in matters concerning human rights and that competence in the matter should be expressly reserved to an independent judiciary and, where applicable, to administrative tribunals. Other speakers, while conceding that judicial remedies were preferable, nevertheless supported the sub-amendment of Chile and the United Arab Republic (A/C.3/L.1168) proposing the reinsertion of the word "political". They stressed that in some States the rules governing competence might preclude any judicial or administrative recourse against the decisions of certain organs; in such cases, the only possibility of redress open to an aggrieved person was an application or petition to a political authority.

27. The Saudi Arabian sub-amendment (A/C.3/L.1169) would replace "political" by "legislative". It was pointed out that, of the political organs of the State, the legislative organs had an important role to play in the redress of wrongs

suffered by the individual. The executive organs, on the other hand, were in many cases responsible for the most serious violations of human rights and should not be given jurisdiction to determine whether or not the individual concerned was entitled to obtain any redress. The amendment was, however, unacceptable to the sponsors of the sub-amendment of Chile and the United Arab Republic (A/C.3/L.1168), since they felt that the term "legislative" made no provisions for the possibility of redress by executive action. An oral proposal was accordingly advanced to refer to "competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State,". Such a formula would allow for the possibility of a remedy being granted by the executive, as well as for action by parliamentary commissions and for ad hoc legislation designed to remedy a specific wrong; yet it avoided using the word "political" which certain speakers had found objectionable. This proposal, having been accepted by the sponsors of all the earlier amendments and sub-amendments to sub-paragraph 3 (b), became the basis of the joint oral amendment which was put to the vote.

Adoption of article 2

28. At the 1259th meeting, the Committee voted on the text proposed by the Commission on Human Rights and on the amendments thereto.

Paragraph 1

29. At the request of the representatives of China and France, a separate vote was taken on the words "within its territory and" in paragraph 1. The words were adopted by 55 votes to 10, with 19 abstentions.

30. Paragraph 1 was adopted by 87 votes to none, with 2 abstentions.

Paragraph 2

31. Paragraph 2 was adopted by 84 votes to 1, with 3 abstentions.

Paragraph 3

32. Sub-paragraph 3 (a) was adopted by 88 votes to none, with 1 abstention.

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33. The oral amendment to sub-paragraph 3 (b) submitted by Chile, Saudi Arabia, Sudan, the United Arab Republic and the United Kingdom (see paragraph 15 above) was adopted by 87 votes to none, with 1 abstention.

34. Sub-paragraph 3 (c) was adopted unanimously.

35. Paragraph 3 as a whole, as amended, was adopted unanimously.

Article 2 as a whole

36. Article 2 as a whole, as amended, was adopted by 88 votes to none, with 2 abstentions. The text of this article as adopted by the Third Committee appears in the annex to the present report.

ARTICLE 4

37. Article 4 as drafted by the Commission on Human Rights (E/2573, annex I B) read as follows:

"1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties hereto may take measures derogating from their obligations under this Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the Covenant availing itself of the right of derogation shall inform immediately the other States Parties to the Covenant, through the intermediary of the Secretary-General, of the provisions from which it has derogated, the reasons by which it was actuated and the date on which it has terminated such derogation."

38. The Committee considered this article at its 1259th to 1262nd meetings.

Amendments submitted

39. Amendments were submitted as follows: by Mexico to paragraphs 1, 2 and 3 (A/C.3/L.1170); by Saudi Arabia to paragraph 2 (A/C.3/L.1171) and paragraph 3 (A/C.3/L.1173); and by Mexico and Saudi Arabia, jointly, to paragraph 3 (A/C.3/L.1176).

40. The amendment of Mexico to paragraph 1 (A/C.3/L.1170, No. 1) was to replace "officially proclaimed" by "legally proclaimed".

41. The amendment of Mexico to paragraph 2 (A/C.3/L.1170, No. 2) was to add after "18", the clause "(paragraphs 1, 2 and 4)".

42. At the 1261st meeting of the Committee, the representative of Mexico stated that he was not pressing his amendments to paragraphs 1 and 2 to a vote.

43. The amendment of Saudi Arabia to paragraph 2 (A/C.3/L.1171) was to replace the word "and" between "16" and "18" by a comma and to add "and 22" after "18". This was withdrawn at the 1262nd meeting.

44. The amendment of Mexico to paragraph 3 (A/C.3/L.1170, No. 3) was to replace that paragraph by the following:

"Any State Party to the Covenant availing itself of the right of derogation shall, through the intermediary of the Secretary-General:

(a) on availing itself of the right of derogation, inform immediately the other States Parties of the provisions from which it has derogated and of the reasons by which it was actuated;

(b) on terminating the derogation, inform immediately the other States Parties of the date on which it has terminated the derogation and from which the provisions of the Covenant are again fully in force."

45. The amendment of Saudi Arabia to paragraph 3 (A/C.3/L.1173) was

(1) to insert the words "and of" between "derogated" and "the reasons";

(2) to delete the phrase "and the date on which it has terminated such derogation" and to add the sentence "A further communication shall be made, through the same intermediary, as soon as it has terminated such derogation".

46. Both the Mexican and the Saudi Arabian amendment to paragraph 3 were withdrawn at the 1261st meeting in favour of the joint Mexican-Saudi Arabian amendment (A/C.3/L.1176), which read:

"1. Insert, between the words 'derogated' and 'the reasons', the words 'and of'.

2. Delete the phrase 'and the date on which it has terminated such derogation', and add the following sentence: 'A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation'."

Issues discussed

47. There was agreement in the Committee that, on the one hand, emergency provisions of the kind foreseen in article 4 were required to enable a State to overcome a serious crisis and that, on the other hand, such provisions should not become an escape clause allowing the imposition of unjustified restrictions on the rights of the individual. There was also agreement on the principle that certain basic rights of the individual should not be subject to derogation even in times of emergency. The principal questions discussed related to the proclamation of the existence of an emergency as foreseen in paragraph 1; proposals to add to or delete from the rights listed in paragraph 2 as not being subject to derogation; and the wording of the requirement that other States Parties to the Covenant be informed of any derogations from provisions of the Covenant by a State Party.

Proclamation of the existence of an emergency

48. There was considerable discussion as to whether article 4 should require that an emergency be "officially" proclaimed or "legally" proclaimed. Those who favoured the word "legally" wished to ensure that the state of emergency would be proclaimed in accordance with the constitutional provisions of the country concerned. Those who opposed it held that such a measure could be "legal" and still not be in accordance with the constitution; that use of this term in article 4 might allow other States to judge the legality of domestic acts; and that in any case, "officially proclaimed" in the context of article 4 meant proclaimed by an authority competent to do so.

49. It was also pointed out that while the nature of the emergency which would make derogations permissible was specified in paragraph 1 - namely, a "public emergency which threatens the life of the nation" - the Government concerned would have to be left to decide for itself when such a situation existed; moreover, since it was in the interest of the public that law and order be preserved, the

Government should be allowed a certain latitude in judgement. Reference was made in this connexion to the doctrine of the "margin of appreciation" evolved by the European Commission on Human Rights.^{3/}

50. There was no objection to the suggestion made during the discussion that the word "proclaimed", in paragraph 1, should be rendered by "proclamé" in the French version.

Provisions not subject to derogation in times of emergency

51. Those who favoured adding article 22 to the provisions not subject to derogation in time of emergency argued that the right to marry enunciated in that article involved matters of a strictly private nature and that the State should not interfere with it. Those who were opposed pointed out, in particular, that in many countries marriage of a national to an alien bestows on the alien the right to citizenship in the country of his spouse, and that a State might therefore feel obliged, for example, to bar in time of war marriages between its nationals and enemy aliens.

52. It was argued that, whereas the right to freedom of thought, conscience and religion (article 18) should, rightly, not be subject to derogation in time of emergency, Governments in such a situation should be free to derogate from the provisions (article 18, para. 3) which specify the permissible limitations on the freedom to manifest one's religion or beliefs. On the other hand, it was held that these permissible limitations were already broad enough and that it would be undesirable to give States a blanket authority to restrict the freedom to manifest one's religion or beliefs.

53. One representative pointed out that, since "public emergency" as defined in article 4 must be understood to include a state of war, lawful acts of war could not be regarded as being barred even though the article dealing with the right to life (art. 6) was not subject to derogation in times of emergency.

^{3/} Established under the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950.

Notifications required under paragraph 3

54. It was pointed out that the amendments proposed to paragraph 3 were intended to make it quite clear that two separate notifications were required in respect of derogations from the provisions of the Covenant, one to be sent immediately the State avails itself of its right of derogation under article 4 and the other immediately upon termination of such derogation.

Voting on article 4

55. At its 1262nd meeting, the Committee voted as follows on the text drafted by the Commission on Human Rights and the amendments thereto:

Paragraph 1

The paragraph was adopted unanimously.

Paragraph 2

The paragraph was adopted by 86 votes in favour, none against, with 1 abstention.

Paragraph 3

Point 1 and point 2 of the joint Mexican-Saudi Arabian amendment (A/C.3/L.1176) were each adopted unanimously. Paragraph 3, as amended, was adopted unanimously.

Article 4 as a whole

56. The article as a whole, as amended, was adopted unanimously. The text of article 4, as adopted by the Third Committee, will be found in the annex to the present report.

III. PROPOSALS FOR ADDITIONAL SUBSTANTIVE ARTICLES:

A. DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

ARTICLE DEALING WITH THE RIGHTS OF THE CHILD

57. At the seventeenth session of the General Assembly, the representative of Poland introduced a proposal, subsequently co-sponsored by Yugoslavia, for an article on the rights of the child, to be included in the Covenant on Civil and Political Rights following article 22. The proposal read as follows (A/C.3/L.1014):

"1. The child shall be entitled to special protection by society and the State.

"2. Every child, without any exception whatsoever, shall be entitled to equal rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status, whether of himself or of his family.

"3. Birth out of wedlock shall not restrict the rights of the child.

"4. The child shall be entitled from his birth to a name and a nationality."

58. The proposal was subsequently revised. Amendments were submitted to both the original and the revised version of the proposed article.^{4/} On the recommendation of the Third Committee, the General Assembly in resolution 1843 A (XVII) requested the Economic and Social Council to refer to the Commission on Human Rights all the proposals relating to an article on the rights of the child, together with the records of the discussion thereon, for a thorough study, taking into consideration all the legal implications of including such an article in the draft Covenants; requested the Secretary-General to send the above-mentioned documents to the Governments of Member States and to the specialized agencies, so that they might submit their comments to the Commission; and requested the Commission to report on its deliberations, through the Economic and Social Council, to the General Assembly at its eighteenth session. The Economic and Social Council at its resumed thirty-fourth session (1238th meeting) decided to refer the documentation to the Commission.

^{4/} See Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 43, document A/5365.

59. The Commission on Human Rights considered the item at its nineteenth session. It discussed whether or not it was desirable to include an article on the rights of the child in the Covenants and also the question of the content of such an article and the legal implications of its inclusion. Proposals for an article were submitted by Poland and by Chile. Twenty-three Governments^{5/} and two specialized agencies^{6/} responded to the request of the General Assembly and submitted their comments. At the recommendation of the Commission, the Economic and Social Council in resolution 958 G (XXXVI) transmitted to the General Assembly the report of the Commission's deliberations^{7/} together with the summary records of the discussion of this item in the Commission.^{8/}

Proposal submitted at the eighteenth session
of the General Assembly

60. At the eighteenth session of the General Assembly the representatives of Afghanistan, Brazil, Iran, Nigeria, Panama, Poland, the United Arab Republic and Yugoslavia introduced a proposal to add a new article after article 22, reading as follows (A/C.3/L.1174):

"1. Every child shall have the right to special protection by his family, society and the State, without any discrimination.

"2. Every child shall have the right from his birth to a name and a nationality."

61. At the 1265th meeting of the Committee, the eight sponsors submitted a revised draft, following consultations in an informal working group, as suggested by the Chairman at the 1263rd meeting of the Committee. The revised eight-power proposal (A/C.3/L.1174/Rev.1) read as follows:

^{5/} E/CN.4/850 and Add.1-12.

^{6/} E/CN.4/851 and Add.1.

^{7/} Official Records of the Economic and Social Council, Thirty-sixth Session, Supplement No. 8 (E/3743), paras. 157 to 179.

^{8/} E/CN.4/SR.749-752.

"1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as required by his status, on the part of his family, the society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality."

Amendments submitted

62. Oral amendments to the revised eight-Power proposal (A/C.3/L.1174/Rev.1) were submitted by Austria to paragraph 1; by Colombia to paragraph 3; by Lebanon to paragraphs 1 and 3; and by Peru to paragraph 1 (1265th meeting).

63. The Peruvian amendment was to delete from paragraph 1 the words "as to race, colour, sex, language, religion, national or social origin, property or bith".

64. The Lebanese amendment to paragraph 1 was to add after "status" the words "as a minor".

65. The Austrian amendment was to replace in paragraph 1 the word "society" by the words "appropriate social institutions".

66. The Colombian amendment was to delete in paragraph 3 the word "acquire". This was withdrawn at the 1265th meeting.

67. The Lebanese amendment to paragraph 3 was to delete the entire paragraph. This was withdrawn at the 1265th meeting.

Issues discussed

Desirability of including an article on the rights of the child

68. As had been the case during the seventeenth session of the General Assembly,^{9/} there was general agreement that children were entitled to special protection, but opinion was divided as to the desirability of including in the Covenant on Civil and Political Rights an article dealing specifically with the rights of the child. Those who favoured the insertion of such an article held, inter alia, that

^{9/} Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 43, document A/5365, paragraphs 19 to 21.

the rights and freedoms enunciated in the draft Covenant on Civil and Political Rights could not be fully exercised by children, who therefore stood in need of special measures of protection; that the principles enunciated in the Declaration of the Rights of the Child should be converted into legal obligations; and that the draft Covenant on Civil and Political Rights should contain an article corresponding to article 10, paragraph 3, of the draft Covenant on Economic, Social and Cultural Rights which extended special protection to children and young persons. The importance of allowing the younger generation to develop under conditions of freedom from discrimination was also stressed.

69. Those who opposed the inclusion of an article on the rights of the child in the draft Covenant on Civil and Political Rights pointed out that the Covenant applied to all individuals irrespective of age and status. It was also held that article 2 of the draft Covenant as adopted by the Committee at its present session was sufficient to protect the child from discrimination. If the rights of one special group were singled out for mention in a separate article, the same would have to be done for other groups in need of protection, such as the aged, the mentally handicapped, etc.

Content of the article

70. A number of representatives pointed out that the eight-Power proposal (A/C.3/L.1174) was less far-reaching than previous proposals on the subject and was in the nature of a compromise. The inclusion of a reference to the family was welcomed. The discussions relating to the text of the proposed article revolved principally around the meaning of "special protection", the precise implications of the non-discrimination provision, and the question of the child's right to a nationality.

71. Special protection. The question was raised as to what was meant by "special protection" of the child. It was pointed out, on the one hand, that children in view of their weakness and immaturity stood in need of special protective measures in fields covered by the draft Covenant on Civil and Political Rights and not only in fields covered by the draft Covenant on Economic, Social and Cultural Rights. While primary responsibility for the upbringing of the child rested with his family, legal protection was needed for children who were neglected,

ill-treated, abandoned, orphaned, etc. It was also stated that under modern conditions, society and the State assisted the family in providing for the child's development.

72. On the other hand, a number of representatives held that the words "special protection" conveyed no precise legal meaning. Attention was drawn, moreover, to the distinction between social protection and legal protection of the child, the latter relating to such matters as recognition of paternity, guardianship and succession. Some representatives thought that the rights of the child, in particular the protection of the child in civil law, might preferably form the subject of a separate convention. The question was also raised as to the upper age limit intended by the use of the word "child".

73. It was announced on behalf of the eight co-sponsors that their revised draft (A/C.3/L.1174/Rev.1) was intended to clarify the concept of special protection.

74. Non-discrimination provision. Several representatives welcomed the general phrase "without any discrimination" in paragraph 1 of the eight-Power proposal (A/C.3/L.1174) as a compromise, compared to the more specific wording proposed previously, and stated that it was acceptable to them. Others, on the contrary, pointed out that they would be unable to support it. While no child should be subjected to discrimination on grounds of sex, race, colour, religion, etc., many legislations did distinguish, in matters of inheritance, between children born in wedlock and those born out of wedlock. Children born out of wedlock should not be subjected to any discrimination in respect of social protection, but the distinction in matters of inheritance was regarded by many countries as necessary to safeguard the family and the interests of the child born in wedlock.

75. On behalf of the eight co-sponsors it was announced that in their revised draft (A/C.3/L.1174/Rev.1) the phrase "without any discrimination" had been replaced by an enumeration of the grounds of discrimination. In reply to questions as to the meaning of the words "national origin" and "birth" in the revised proposal, the representative of Poland stated that "national origin" referred not to aliens but to different ethnic groups living within the same country; and that, had the sponsors wished to refer to the distinction between children born in wedlock and those born out of wedlock, they would have chosen the word "filiation" rather than "birth".

76. Right to a nationality. Several representatives pointed out that they favoured a provision dealing with the child's right to a nationality; that they regretted the absence from the draft Covenant of an article on the right of everyone to a nationality; and that the eight-Power proposal was intended to eliminate statelessness among children as far as possible. Those who opposed a provision on the child's right to a nationality argued that the problems relating to a nationality were not problems peculiar to childhood; that no article on the right to a nationality had been included in the draft Covenant on Civil and Political Rights precisely because of the complexity of the problem; and that a State could not undertake an unqualified obligation to accord its nationality to every child born on its territory regardless of circumstances. With reference to the revised draft it was also pointed out that naturalization could not be a right of the individual but was accorded by the State at its discretion. Reference was made to the fact that the Convention on the Reduction of Statelessness, signed on 30 August 1961, had not as yet received any ratifications.

Vote on the article dealing with
the rights of the child

77. At its 1265th meeting, the Committee voted as follows in the revised eight-Power proposal (A/C.3/L.1174/Rev.1) and on the amendments thereto:

Paragraph 1:

78. The Lebanese oral amendment to add after "status" the words "as a minor" was adopted by 38 votes to one, with 38 abstentions.

79. The Austrian oral amendment to replace "society" by "appropriate social institutions" was rejected by 27 votes to 22, with 23 abstentions.

80. The Peruvian oral amendment to delete the words "as to race, colour, sex, language, religion, national or social origin, property or birth" was rejected by 38 votes to one, with 34 abstentions.

81. At the request of the representative of France, separate votes were taken on the words "national or" and "birth". The words "national or" were adopted by 33 votes to 6 with 32 abstentions. The word "birth" was adopted by 32 votes to 13, with 22 abstentions.

82. Paragraph 1, as amended, was adopted by 60 votes to one, with 14 abstentions.

Paragraph 2

83. Paragraph 2 was adopted by 62 votes to none, with 9 abstentions.

Paragraph 3

84. Paragraph 3 was adopted by 51 votes to 4, with 16 abstentions.

85. The new article on the rights of the child, as a whole, as amended, was adopted by 57 votes to one, with 14 abstentions, The text of the article, as adopted by the Third Committee, will be found in the annex to the present report.

B. DRAFT COVENANT ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

PROVISION ON THE RIGHT TO FREEDOM FROM HUNGER

86. During the discussion by the Committee of the report of the Economic and Social Council,^{10/} the Director-General of the Food and Agriculture Organization made a statement (A/C.3/SR.1232) drawing the Committee's attention to the gravity of the problem created in many areas of the world by hunger and malnutrition. He pointed out that the marked strengthening of civil and political rights which had followed the adoption of the Universal Declaration of Human Rights had not been accompanied by parallel gains in the matter of economic and social rights; and that one of the causes of the slower progress in the latter field might be the absence of an urgent call to mankind, through the Declaration, to regard freedom from hunger as one of man's first rights. He also recalled that a wide range of world leaders and several international instruments, including the Declaration of the World Food Congress issued in June 1963, had recently stressed the absolute incompatibility of hunger and malnutrition with human dignity. In conclusion, the Director-General suggested that the right to freedom from hunger might be explicitly enunciated in the draft Covenant on Economic, Social and Cultural Rights. The mention of the right to adequate food already contained in combined articles 11 and 12 of that Covenant seemed to him insufficient, particularly since the text gave no enumeration of the measures which should be taken to ensure enjoyment of the right.

10/ Official Records of the General Assembly, Eighteenth Session, Supplement No. 2.

Proposals submitted

87. Proposed texts of a provision on the right to freedom from hunger were submitted by Saudi Arabia (A/C.3/L.1172); by Chile, Colombia, Ecuador, Guatemala and Uganda (A/C.3/L.1175 and Add.1); by Afghanistan, Chile, Colombia, Ecuador Guatemala, Nigeria, Philippines, Saudi Arabia, Uganda and the United Arab Republic (A/C.3/L.1177).

88. The proposal of Saudi Arabia (A/C.3/L.1172, which embodied the text suggested by the Director-General of FAO, sought to add in the draft Covenant on Economic, Social and Cultural Rights, after the combined articles 11 and 12, an article reading as follows:

"1. The States Parties to the present Covenant recognize the right of everyone to be free from hunger. They undertake, individually and through international co-operation, to develop programmes aimed at achieving freedom from hunger within the shortest possible time.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right, national and international action should be geared to the realization of this right by paying particular attention to:

"(a) policies to ensure that world food supplies are shared on a rational and equitable basis;

"(b) economic, technical and other measures to increase the production of food;

"(c) the adaptation of existing institutions, including systems of land tenure and land use, to the requirements of economic and social progress; and

"(d) the promotion and full utilization of scientific and technical knowledge and a massive education of the population in order to improve methods of production, conservation and distribution of food."

89. Chile, Colombia, Ecuador, Guatemala and Uganda presented an alternative proposal (A/C.3/L.1175 and Add.1) to add to combined articles 11 and 12 a second paragraph worded as follows:

"2. The steps to be taken by the States Parties, individually and through international co-operation, to draw up and execute programmes aimed at achieving freedom from hunger shall include those needed:

"(a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, disseminating guiding principles of nutrition, and adapting or reforming existing systems of land tenure and land use and systems for the exploitation of natural resources; and

"(b) to help ensure that the world's food supplies are shared on a rational and equitable basis."

90. After the texts of the Saudi-Arabian (A/C.3/L.1172) and five-Power (A/C.3/L.1175 and Add.1) proposals had been referred to an informal working group, Afghanistan, Chile, Colombia, Ecuador, Guatemala, Nigeria, Philippines, Saudi Arabia, Sudan, Uganda and the United Arab Republic submitted a new joint proposal (A/C.3/L.1177), which superseded both of the earlier proposals (A/C.3/L.1172 and A/C.3/L.1175 and Add.1) and took into account some suggestions made in the discussion on the subject in the Third Committee at the 1264th meeting. The new proposal sought to add to combined articles 11 and 12 a second paragraph reading as follows:

"The States Parties to the present Covenant, recognizing the fundamental importance of the right of everyone to be free from hunger, shall take measures, individually and through international co-operation, including specific programmes which are needed:

"(a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; and

"(b) taking into account the problems of both food importing and exporting countries, to ensure an equitable distribution of world food supplies in relation to need."

91. In the light of further discussions in the Committee, the sponsors of the eleven-Power proposal (A/C.3/L.1177), joined by Syria, submitted a revised text (A/C.3/L.1177/Rev.1), which read as follows:

"The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

"(a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; and

"(b) taking into account the problems of both food importing and exporting countries, to ensure an equitable distribution of world food supplies in relation to need."

Amendments submitted

92. Two amendments to the eleven-Power proposal (A/C.3/L.1177) were submitted orally by Greece (1268th meeting). The first proposed the replacement, at the end of the introductory sub-paragraph, of the words "which are needed" by "if and where needed"; the second called for the insertion, in sub-paragraph (a), of the words "if necessary", between commas, after "of nutrition and". These amendments were withdrawn at the 1269th meeting.

93. The various proposals and amendments relating to the right to freedom from hunger were discussed at the 1264th, 1267th, 1268th and 1269th meetings.

Issues discussed

Desirability of an additional provision on the right to freedom from hunger

94. There was general agreement that the grave problem brought to the Committee's attention by the Director-General of the Food and Agriculture Organization (A/C.3/SR.1232) called for urgent remedial action. Opinion was somewhat divided, however, regarding the desirability of including a special provision on the right to freedom from hunger in the draft Covenant on Economic, Social and Cultural Rights.

95. Many representatives felt that, notwithstanding the mention of food in combined articles 11 and 12, an additional article or paragraph dealing with the right to freedom from hunger was indispensable, as a means of stressing that lack of adequate nutrition precluded the effective enjoyment of any human rights whatever. They emphasized that, although the ultimate solution of the problem was essentially a matter for economic and technical organs, Governments should

be reminded of the human rights aspect of the question; and that, however uncertain might be the practical effects of such a provision, its adoption was at least bound to offer some hope to the hungry of the world.

96. Some representatives, however, doubted the need to add to the lucid and succinct statement contained in combined articles 11 and 12, which already covered the right to freedom from hunger. The text of those combined articles could perhaps be slightly modified, but any hastily drafted elaboration thereof, or a new provision, might detract from the clarity which should characterize a statement of principle in an international convention.

Content of the additional provision

97. Many representatives endorsed the view of the Director-General of the Food and Agriculture Organization (A/C.3/SR.1232) that the new provision should, in addition to stating the right to freedom from hunger, give some broad indication of the measures required to make that right a reality. Such an enumeration had, they recalled, been included in articles relating to several other rights and was, in their opinion, more likely to focus attention on the problem of hunger than a mere affirmation of principle.

98. Some members of the Committee thought that, although a listing of the essential necessary measures was desirable, a clear distinction should be maintained between the principle and the modalities. They pointed out that the steps which had to be taken to solve the problem of hunger were a matter for further study by, inter alia, the Economic and Social Council and FAO: that the question of food distribution was one of the problems to be considered by the forthcoming United Nations Conference on Trade and Development; and that it might therefore be premature to take an immediate decision in the matter.

99. In one representative's opinion, a list of measures required an explicit proviso that those measures would always be viewed within the context of national programmes for economic and social development.

100. Several other representatives felt that the draft Covenants should be restricted to the clear enunciation of fundamental human rights and of the underlying principles, and should not indicate the specific measures which States should take in order to promote and protect such rights. It was pointed out that

measures to ensure freedom from hunger were bound to form part of general development plans reflecting the needs of individual States, which varied to a degree rendering uniform directives often inapplicable. Furthermore, questions such as increasing food production and ensuring its equitable distribution, or reforming agrarian systems, were within the competence of national authorities or of international organs other than the Third Committee.

101. One representative considered that the reference to sharing the world's food supplies on a rational and equitable basis, which was common to the two original proposals (A/C.3/L.1172 and A/C.3/L.1175 and Add.1), should be clarified by a clause safeguarding the interests of both food producers and consumers. This suggestion was adopted by the sponsors of the eleven-Power proposal (A/C.3/L.1177), which enjoined States Parties to take into account "the problems of both food importing and exporting countries". It was pointed out, on behalf of the sponsors, that the word "problems" seemed preferable to "interests", as the latter might be misconstrued to imply that economic interests should prevail over humanitarian and social considerations.

102. A widely welcomed feature of the eleven-Power proposal (A/C.3/L.1177) was its implicit denunciation of paternalism. It was stressed that freedom from hunger had to be assured with full respect for the liberty of the developing peoples: they should be given not only enough to eat but also, and above all, the possibility to provide for their needs through their own efforts.

103. The sponsors of the eleven-Power proposal (A/C.3/L.1177) stressed that the call to States to develop or reform their "agrarian systems" clearly implied improved production measures as well as legal measures designed to adjust unproductive or inequitable systems of agricultural holding. This stipulation, as interpreted by its sponsors, was endorsed by many other members of the Committee.

104. One representative thought that the eleven-Power proposal (A/C.3/L.1177) tended to place the emphasis on technical, scientific and educational measures which, albeit necessary, were of secondary importance. This defect could, in his view, be remedied by reversing the order of the two subsidiary parts of sub-paragraph (a), beginning with the words "by making full use ..." and "by developing or reforming ..." respectively. No formal amendment, however, was submitted on this point.

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105. A suggestion was put forward that some adjustment be made in the introductory sub-paragraph of the eleven-Power proposal (A/C.3/L.1177) in order to emphasize that what the States parties formally recognized was, not merely the importance of the right under discussion, but the right itself. This suggestion was accepted by the sponsors and incorporated into the final revised proposal submitted by Afghanistan, Chile, Colombia, Ecuador, Guatemala, Nigeria, Philippines, Saudi Arabia, Sudan, Syria, Uganda and the United Arab Republic (A/C.3/L.1177/Rev.1).

106. The Greek oral amendments (1268th meeting), which proposed the replacement of the words "which are needed", at the end of the introductory sub-paragraph, by "if and where needed" and the insertion, in sub-paragraph (a), of the words "if necessary" after "of nutrition and", were unacceptable to the sponsors of the eleven-Power proposal (A/C.3/L.1177). They felt that the first amendment would weaken the text by implying that the need for measures was, as a general rule, not absolute but hypothetical; and the second amendment seemed to them superfluous, since the text already gave States the alternative either to develop new agrarian systems or to reform existing systems. In the light of these explanations and after certain punctuation changes had been introduced in the final revised proposal (A/C.3/L.1177/Rev.1), the Greek amendments were withdrawn (1269th meeting).

Adoption of the paragraph

107. At the request of the representative of Chile, a roll-call vote was taken on the revised joint proposal (A/C.3/L.1177/Rev.1) to add a new paragraph to combined articles 11 and 12. The proposal was adopted by 88 votes to none with 1 abstention. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo (Brazzaville), Congo (Leopoldville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Denmark, Ecuador, El Salvador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Guinea, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kuwait, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua,

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Niger, Nigeria, Norway, Panama, Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Syria, Tanganyika, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Venezuela, Yugoslavia.

Against: None

Abstaining: Pakistan.

108. The text of the new paragraph as adopted by the Third Committee appears in the annex to the present report.

IV. MEASURES OF IMPLEMENTATION

109. A general debate on the measures of implementation of the draft international Covenants took place at the 1267th to 1269th and 1273rd to 1276th meetings. There was a consensus among those who spoke as to the importance of the question of implementation and the necessity, particularly in view of the increased membership of the United Nations, to give ample opportunity to the new Members to express their views on the question.

110. From the discussion it was apparent that there was general agreement, in principle at least, regarding the system of implementation proposed for the draft Covenant on Economic, Social and Cultural Rights. Divergent views, however, were expressed concerning the measures of implementation to be adopted with respect to the draft Covenant on Civil and Political Rights.

111. Several delegations held the view that the two draft Covenants called for different measures of implementation, since the nature of the rights and obligations set forth in each Covenant was distinct. The draft Covenant on Economic, Social and Cultural Rights envisaged progressive realization of the rights enunciated therein. Consequently, the system of implementation most suitable for that Covenant would be that under which States parties undertook to report progress to the international community and in particular to the other States parties. In the case of civil and political rights, which were to be of immediate application, a different system of implementation was called for. The establishment of an international machinery such as that proposed by the Commission on Human Rights was more appropriate and would provide a more effective guarantee that States parties honoured their obligations under the Covenant. The setting up and acceptance of such a machinery would imply a willingness among States parties to subject their actions to a modicum of international scrutiny. States relying solely on a national system of implementation denied their people the additional safeguards provided by an international guarantee.

112. The establishment of such an organ as that envisaged in the draft Covenant on Civil and Political Rights would not conflict with the United Nations Charter or with general international law. The principle of non-intervention in matters

of "domestic jurisdiction", as set forth in Article 2, paragraph 7, of the Charter, was not applicable where human rights were concerned. The protection of human rights had become a matter of international concern. Moreover, by accepting the Covenants, States parties could hardly claim that the provisions of the Covenants were matters of exclusively domestic jurisdiction.

113. The implementation machinery proposed for the draft Covenant on Civil and Political Rights did not constitute an innovation in international law. Similar measures had been embodied in the European Convention on Human Rights and Fundamental Freedoms, 1950, and in the Inter-American draft Convention on Human Rights. The measures of implementation provided for in the Constitution of the ILO combined a system of reporting and complaints procedure and the possibility of referring certain matters to the International Court of Justice. Recently, the General Conference of UNESCO had adopted a Protocol to the Convention against Discrimination in Education, which provided for a complaints procedure very similar to that proposed in the draft Covenant on Civil and Political Rights. It was also pointed out that an implementation system providing for the right of individual petition had been established in the case of the Declaration on the granting of independence to colonial countries and peoples.^{11/}

114. Other delegations felt that there should be uniform or at least very similar measures of implementation for both Covenants. The rights envisaged in the two draft Covenants were closely interrelated and the full implementation of one set of rights was inconceivable without the full implementation of the other. It was held that the international measures of implementation appropriate for both Covenants were those which provided a means of appreciating existing conditions within the contracting parties through the submission of reports, as envisaged in article 17 of the draft Covenant on Economic, Social and Cultural Rights and article 49 of the draft Covenant on Civil and Political Rights.

115. It was stressed by some speakers that the implementation of the rights set forth in the Covenants rested primarily on the States parties themselves, which were expected, in accordance with the principle of pacta sunt servanda, to carry out the obligations they had contracted. International measures of implementation

^{11/} General Assembly resolution 1514 (XV). A Special Committee to examine the situation with regard to the implementation of the Declaration was established by the General Assembly (see resolutions 1654 (XVI) and 1810 (XVII)).

could, of course, be useful and should not be disregarded, but their importance should not be exaggerated. What was of prime importance was the speedy adoption of the Covenants and their universal acceptance. These objectives might be jeopardized if measures of implementation such as those envisaged in the draft Covenant on Civil and Political Rights, which called for the establishment of a supra-national body to supervise its implementation, were to be included.

116. The implementation machinery proposed for the draft Covenant on Civil and Political Rights was, in the view of several members, unrealistic and contravened the provisions of the United Nations Charter as well as the principles of international law. The establishment of a supra-national organ would require States parties to relinquish their sovereignty and would authorize intervention by others in matters within their exclusive domestic jurisdiction. There was also danger that such supra-national organ might be used for political ends by powerful States to justify intervention in the affairs of weaker nations.

117. It was pointed out that the proposed implementation measures required re-examination and adaptation to contemporary conditions and needs. During the period which had elapsed since the Covenants were drafted by the Commission on Human Rights, conditions had changed materially and new experience had been gained. It was essential that, if universal acceptance of the Covenants was to be achieved, the system of implementation adopted must not impose too stringent obligations and must take into account the variety of conditions in individual countries. The measures of implementation should not provide an instrument for intervention, pressure and fomentation of the cold war, but should provide a means for determining, studying and removing obstacles to the realization of the rights set forth in the draft Covenants and for extending international aid, where needed, in order to further friendly relations and international co-operation among nations.

118. At the close of the general debate, a brief discussion on the measures of implementation (part IV, articles 17 to 25) of the draft Covenant on Economic, Social and Cultural Rights took place (1277th meeting). Views on specific articles relating to the measures of implementation of both draft Covenants were also expressed by several representatives in the course of the general debate (1267th to 1269th and 1273rd to 1276th meetings). Amendments to article 21 of the draft Covenant on Economic, Social and Cultural Rights was submitted by the United Kingdom (A/C.3/L.1180).

V. DRAFT RESOLUTION CONCERNING MEASURES OF IMPLEMENTATION
AND FUTURE CONSIDERATION OF THE DRAFT INTERNATIONAL
COVENANTS ON HUMAN RIGHTS

119. Hungary, Iraq, Italy, Madagascar, Mexico, Panama, Peru, Saudi Arabia, Venezuela and Yugoslavia submitted a draft resolution concerning measures of implementation and future consideration of the draft Covenants (A/C.3/L.1182).

120. The Committee considered the draft resolution at its 1277th to 1279th meetings. The draft resolution was revised twice by the sponsors in the light of the discussion.

121. In the second revision, the draft resolution (A/C.3/L.1182/Rev.2) read as follows:

"The General Assembly,

Recalling its resolution 1843 B and C (XVII) of 19 December 1962,

Having devoted attention, once again, to the draft International Covenants on Human Rights and, in particular, to the problem of measures of implementation, the solution of which is a vital factor for the adoption of the Covenants,

Having regard to the presence of many new States which have not had an opportunity to express their views on measures of implementation, owing in particular to the date on which the Commission on Human Rights approved the draft International Covenants on Human Rights,

Considering also the many different views expressed in the debate on measures of implementation,

1. Reaffirms its belief that final adoption of the draft International Covenants on Human Rights is urgent and essential for the universal protection and promotion of human rights;

2. Requests the Secretary-General to transmit to Member States the text of the articles of the draft International Covenants on Human Rights, which were adopted at the tenth to eighteenth sessions of the General Assembly, together with the records of the debates which took place in the Third Committee on measures of implementation of the said drafts, the explanatory paper prepared by the Secretary-General and the observations sent by Governments (A/5411 and Add.1-2);

/...

3. Invites Member States to consider the text of the articles of the draft International Covenants on Human Rights which have already been adopted by the Third Committee and the measures of implementation and the final clauses relating to the said Covenants elaborated by the Commission on Human Rights, in order that they may be in a position to decide on the measures of implementation and on the final clauses of the Covenants;

4. Requests the Secretary-General, if observations are sent by Member States before the opening of the nineteenth session of the General Assembly, to transmit them to the other Member States as soon as possible;

5. Decides to make a special effort to complete, at the nineteenth session, the adoption of the entire text of the draft International Covenants on Human Rights."

122. Israel submitted an amendment (A/C.3/L.1184) to paragraph 2 of the preamble of the draft resolution (A/C.3/L.1182/Rev.2) which would replace the words "problem of measures of implementation, the solution of which is a vital factor for the adoption of the Covenants" by the following text: "issues connected with the measures of implementation, which are vital for the adoption and effectiveness of the Covenants,".

123. The Committee voted on the draft resolution (A/C.3/L.1182/Rev.2) and the Israel amendment (A/C.3/L.1184) at its 1279th meeting, as follows:

(a) The amendment of Israel (A/C.3/L.1184) was adopted by 40 votes to 35 with 8 abstentions.

(b) Paragraph 2 of the preamble of the draft resolution (A/C.3/L.1182/Rev.2), as thus amended, was adopted by 49 votes to 8, with 26 abstentions.

(c) The draft resolution (A/C.3/L.1182/Rev.2), as a whole, as amended, was unanimously adopted.

RECOMMENDATION OF THE THIRD COMMITTEE

124. The Third Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

Draft International Covenants on Human Rights

The General Assembly,

Recalling its resolutions 1843 B and C (XVII) of 19 December 1962,

Having devoted attention, once again, to the draft International Covenants on Human Rights and, in particular, to the issues connected with the measures of

implementation, which are vital for the adoption and effectiveness of the Covenants,

Having regard to the presence of many new Member States, which have not had an opportunity to express their views on measures of implementation, owing in particular to the date on which the Commission on Human Rights approved the draft International Covenants on Human Rights,

Considering also the many different views expressed in the debate on measures of implementation,

1. Reaffirms its belief that final adoption of the draft International Covenants on Human Rights is urgent and essential for the universal protection and promotion of human rights;
2. Requests the Secretary-General to transmit to Member States the text of the articles of the draft International Covenants on Human Rights, which were adopted at the tenth to eighteenth sessions of the General Assembly, together with the records of the debates which took place in the Third Committee on measures of implementation of the said drafts, the explanatory paper prepared by the Secretary-General^{12/} and the observations received from Governments;^{13/}
3. Invites Member States to consider the text of the articles of the draft International Covenants on Human Rights which have already been adopted by the Third Committee and the measures of implementation and the final clauses relating to the said Covenants elaborated by the Commission on Human Rights, in order that they may be in a position to decide on the measures of implementation and on the final clauses of the Covenants;
4. Requests the Secretary-General, if observations are sent by Member States before the opening of the nineteenth session of the General Assembly, to transmit them to the other Member States as soon as possible;
5. Decides to make a special effort to complete, at its nineteenth session, the adoption of the entire text of the draft International Covenants on Human Rights.

^{12/} A/5411.

^{13/} A/5411/Add.1 and 2.

ANNEX

Text of articles 2 and 4 of the draft Covenant on Civil and Political Rights adopted by the Third Committee at the eighteenth session of the General Assembly

Article 2

1. Each State Party hereto undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant.
3. Each State Party hereto undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties hereto may take measures derogating from their obligations under this Covenant to the extent

strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the Covenant availing itself of the right of derogation shall inform immediately the other States Parties to the Covenant, through the intermediary of the Secretary-General, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Text on the new article on the rights of the child, to be inserted
following article 22 of the draft Covenant on Civil and Political
Rights

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as required by his status as a minor, on the part of his family, the society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

Text of a provision on the right to freedom from hunger to be added
as paragraph 2 of the combined articles 11 and 12 of the draft
Covenant on Economic, Social and Cultural Rights

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming

agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; and

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.
