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Chairman: Mr. G. J. VAN HEUVEN GOEDHART (Netherlands).

Draft first international covenant on human rights and measures of implementation (A/1384, A/C.3/534, A/C.3/535, E/1681 and A/C.3/L.76) (continued)

[Item 63]*

DRAFT RESOLUTION SUBMITTED BY BRAZIL, TURKEY AND THE UNITED STATES OF AMERICA (A/C.3/L.76)

1. The CHAIRMAN reminded the Committee that it had been decided at the previous meeting that the draft resolution submitted jointly by the delegations of Brazil, Turkey and the United States (A/C.3/L.76) would be taken as the basic working paper.

2. Amendments to paragraphs 2 (a) and 2 (b) of that resolution had been set out in document A/C.3/L.95.

3. It had been suggested that consideration of the preamble of the joint draft resolution and the amendments to it should be left until action had been taken on the operative part.

4. He therefore called for the vote on paragraph 1 of the operative part of the joint draft resolution (A/C.3/L.76).

That paragraph 1 was adopted by 39 votes to none, with no abstentions.

5. The CHAIRMAN said that as paragraph 2, sub-paragraph (a) did not seem to be affected by any amendment, he would suggest that that sub-paragraph and the preamble could be combined in a first part and the remainder of the operative part in a second part.

It was so agreed.

6. Mr. LEQUESNE (United Kingdom) requested that the vote on sub-paragraph (a) should be taken in two parts, the first part to end with the word "implementation".

7. He would vote for the first part, but did not think that the Commission on Human Rights should be posi-

tively directed to submit the revised draft to the General Assembly at its sixth session. The current debate in the Third Committee had presented the Commission with a considerable number of new views for its consideration and the Commission might find it impossible to digest them all in the short time at its disposal. There was a real danger that the Commission might be compelled to produce a draft covenant unworthy of the Universal Declaration on Human Rights. Hence, he would vote against the last part of the sub-paragraph.

8. Mr. CASSIN (France) warned the Committee against the danger of undue delay in producing at least a first draft covenant, limited in scope though it might be. To draft a covenant covering the entire ground of the Declaration would take years and the earlier articles would probably become outdated before the work was ended.

9. He would therefore vote in favour of the second part of the sub-paragraph.

10. Mrs. ROOSEVELT (United States of America) thought that the draft first covenant should be completed as soon as possible, as it could be a great contribution to world peace.

11. She entirely agreed with the French representative's views and would therefore vote in favour of the second part of the sub-paragraph.

12. Mr. AZKOUL (Lebanon) said the Commission on Human Rights should not be given the impression that it could protract its work unduly. The wording of the sub-paragraph did not prejudice the right of the General Assembly to revise the Commission's draft if it found it necessary to do so.

13. Mr. LAMBROS (Greece) requested a vote on the question whether the Committee wished to vote on sub-paragraph (a) by parts.

It was decided, by 18 votes to 16, with 15 abstentions, that the vote should be taken by parts.

* Indicates the item number on the General Assembly agenda.

The first part of paragraph 2, sub-paragraph (a), was adopted by 52 votes to none.

The second part of paragraph 2, sub-paragraph (a), was adopted by 41 votes to 3, with 6 abstentions.

Paragraph 2, sub-paragraph (a) of the joint draft resolution (A/C.3/L.76) was adopted by 48 votes to none, with 2 abstentions.

14. Mr. VLAHOVIC (Yugoslavia), introducing his amendment to sub-paragraph (b) (A/C.3/L.92), explained that the first two paragraphs of his amendment were not strictly speaking a preamble, but simply replies to the questions put to the General Assembly by the Economic and Social Council.

15. The intention was not to draft new articles but to give general directives to the Commission on Human Rights. His amendment was self-explanatory and reproduced the views expressed by a number of delegations.

16. He requested that the Yugoslav amendment should be voted on first.

17. Mr. ROSHCHIN (Union of Soviet Socialist Republics) said that paragraphs 1 and 2 of the amendment submitted by his delegation (A/C.3/L.77/Rev.1) dealt with civil rights and should be inserted in paragraph 2, sub-paragraph (b), of the basic text, whereas paragraphs 9, 10, and 12 of that amendment, dealing as they did with political rights, should form a separate sub-paragraph of paragraph 2. Paragraphs 1 and 2 of the USSR amendment were, it was true, similar in intention to the Yugoslav amendment—with the principle of which he agreed—but went a great deal further, being broader in scope and more precise.

18. It was therefore further removed from the basic text than the Yugoslav amendment and should be voted on first.

19. The CHAIRMAN suggested that the preamble of the Yugoslav amendment should be taken first.

20. Mr. PAZHWAQ (Afghanistan) said he did not see how the vote could be taken on the preamble proposed by the Yugoslav delegation before the Committee knew what were the operative parts which would follow.

21. Mr. VLAHOVIC (Yugoslavia) replied that the vote could certainly be taken on the first two paragraphs of his amendment; they were not a preamble but merely the reply to the question put by the Economic and Social Council concerning the adequacy of the first eighteen articles.

22. The CHAIRMAN agreed with the Yugoslav representative and suggested that the substitution of the word "considers" for the word "considering" would clear up the misunderstanding.

23. Mr. AZKOUL (Lebanon) objected that that change would not remove the difficulty. He agreed with the representative of Afghanistan.

24. His vote on the first paragraph of the Yugoslav amendment would depend on whether the statement of rights followed or not, and what those rights were. The second paragraph might be acceptable as a general statement, as it was very similar to an amendment submitted by his own delegation. If, however, certain rights were

subsequently adopted, that paragraph might become unacceptable. The Yugoslav delegation would suffer no disadvantage if the vote were taken first on the latter paragraphs of his amendment.

25. Mrs. AFNAN (Iraq) thought that the vote on the first two paragraphs would not prejudice the vote on the remainder but merely register the Committee's views on the adequacy or inadequacy of the first eighteen articles.

26. Mrs. ROOSEVELT (United States of America) suggested, in order to facilitate the work of the Committee, that the first two paragraphs of the Yugoslav amendment might be placed at the end of sub-paragraph (b) as matters for consideration by the Commission on Human Rights. All the points raised in that amendment and the USSR amendment could then be enumerated after some such phrase as "including the views relating to the following rights". That would constitute a directive to the Commission and would be in accordance with the task assigned to the Committee.

27. A final consideration of the draft covenant would not be undertaken before the sixth session of the General Assembly. The Commission should be given an opportunity to study the documentation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in regard to the part of the Yugoslav amendment dealing with minorities as well as the documentation of the International Law Commission which was to deal with the question of the right of asylum.

28. Mr. ROSHCHIN (Union of Soviet Socialist Republics) said he could not agree with the United States representative's suggestion, for it would lead to a substantive change.

29. The General Assembly was fully empowered to give the Commission on Human Rights binding instructions concerning the basic ideas to be embodied in the draft covenant. If only vague directives were given such as the views expressed, the Commission still would not know what provisions ought to be embodied in the draft covenant, the debate would have to be reopened at the sixth session of the General Assembly and the draft would have to be referred once more to the Commission for fresh revision. It was therefore obvious why the Economic and Social Council had asked the General Assembly for basic policy decisions.

30. Mr. VLAHOVIC (Yugoslavia) accepted the amendment to his amendment suggested by the Chairman, but maintained that it was essential that the Economic and Social Council's question concerning the adequacy of the first eighteen articles should be answered.

31. Mrs. ROOSEVELT (United States of America) said that, since the Yugoslav and USSR representatives had failed to accept her suggestion, she would formally propose the deletion of the paragraph beginning "Decides that . . ." from the Yugoslav amendment (A/C.3/L.92) and the paragraph beginning "Recommends" from the USSR amendment (A/C.3/L.77/Rev.1) and the insertion of the phrase "including the views relating to the following rights".

32. Mrs. MENON (India) agreed with the numerous speakers who had said in the course of the general debate that the first eighteen articles of the draft cov-

enant were inadequate and that certain articles dealing with political rights should be included. Since that was clearly the majority view, it would be pointless to ask the Commission merely to consider the summary records of the Committee and to draw its own conclusions.

33. She therefore supported the Yugoslav amendment. In that connexion, she agreed that its first two paragraphs should begin with the word "considers".

34. Mrs. ROOSEVELT (United States of America) pointed out that if the Committee accepted the USSR amendment, under which actual texts of articles would be transmitted to the Commission on Human Rights, it would be embarking on an improper course, since all texts should be considered first by the Commission, next by the Economic and Social Council and only then by the General Assembly. The Committee should give general directives to the Commission on Human Rights, but should not engage in drafting texts for inclusion in the covenant.

35. Mr. NORIEGA (Mexico) replied that the amendments before the Committee were not final texts; they simply conveyed the decision of the General Assembly that articles should be drafted covering the points listed. Since all members of the Committee were government representatives, such action would be tantamount to consultation with governments, a method previously resorted to by the Commission on Human Rights. It was quite proper for the General Assembly to give a concrete answer to the four questions put to it by the Economic and Social Council, rather than merely to refer the Commission to the summary records of meetings of the Committee.

36. The second paragraph of the Yugoslav amendment did not seem to express accurately its author's idea that the first eighteen articles were inadequate to protect the rights which they defined. That idea would be more clearly stated if the words "the present wording of" were deleted.

37. Mr. CASSIN (France) pointed out that the Commission on Human Rights was expected to present a revised draft covenant to the General Assembly at its sixth session; since it would have to revise the eighteen articles and also to consider articles relating to economic, social and cultural rights and the measures of implementation, the Commission would plainly have a great deal to do. If it were also instructed to include articles on all the points covered in the Yugoslav and USSR amendments, it might find itself unable to cope with its task.

38. In order to allow the Commission a margin of discretion, he would support the United States amendment.

39. Mr. ROSHCHIN (Union of Soviet Socialist Republics) was opposed to the United States amendment. He wished to make it clear that the United States representative had misunderstood his intentions and that the USSR delegation was not proposing texts or articles. It was proposing certain ideas for inclusion in the covenant and had stated those ideas as precisely as possible; the Commission would, of course, be free to draft them in any manner it pleased. He added that a revised text of his amendments (A/C.3/L.96) to the basic text would be circulated shortly, under which the Commission would be instructed to have in mind the inclusion of the various points listed.

40. He fully agreed with the Mexican representative that the Committee would be within its rights if it adopted the USSR amendments.

41. If the first two paragraphs of the Yugoslav amendment, which he supported in principle, were adopted, he reserved the right to make certain changes in his own amendments.

42. AZMI Bey (Egypt) said the Committee had plainly decided that the first eighteen articles were inadequate and that it wished to give directives to the Commission on Human Rights but did not wish to transmit actual texts to it.

43. All those objects could be achieved by amending paragraph 2, sub-paragraph (b), of the joint draft resolution by inserting after the words "revision of the draft covenant" the phrase "with a view to adding other rights thereto and defining the scope and limitations of such rights" and by adding at the end of that sub-paragraph the text of the Egyptian (A/C.3/L.85), Yugoslav, USSR and other amendments.¹

44. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) enquired whether the United States amendment was receivable, inasmuch as the time limit for the submission of amendments of substance had expired.

45. The CHAIRMAN replied that additions and deletions proposed in the course of a drafting discussion could always be entertained; the Egyptian amendment was of the same character.

46. Mr. MENDEZ (Philippines) pointed out that the first eighteen articles of the draft covenant dealt with civil and personal rights, while the suggestions of the Yugoslav representative included an entirely different category—political rights. It appeared illogical to instruct the Commission on Human Rights to include articles on certain political rights without a previous thorough discussion of all such rights and without first exhausting the list of civil rights, to which such points as double jeopardy, inviolability of the home and of private life and confiscation of private property without due compensation might well be added.

47. He would be prepared to accept the first paragraph of the Yugoslav amendment if it were to apply solely to civil rights.

48. For that reason he supported the United States amendment.

49. Mr. KAYALI (Syria) supported the Yugoslav amendment because it gave a definite answer to the question put by the Economic and Social Council concerning the adequacy of the first eighteen articles.

50. Since a clear answer was required, he was unable to accept the United States amendment.

51. He agreed with the Mexican representative, however, that the second paragraph of the Yugoslav amendment did not accurately reflect the idea its author must have had in mind.

52. Mrs. MENON (India) enquired precisely what the Economic and Social Council had had in mind when it had referred to the General Assembly the four questions formulated in Council resolution 303 I (XI). It

¹ The amendments proposed by Egypt were subsequently issued as document A/C.3/L.97.

was her impression that the Third Committee was expected to give precise directives to the Commission, rather than merely transmit general views.

53. The CHAIRMAN replied that by its resolution 303 I (XI) the Economic and Social Council had transmitted to the General Assembly the draft covenant together with all relevant documentation, so that the General Assembly might consider them "with a view to reaching policy decisions" on the four questions to which the Council had given particular consideration. There could be no doubt that the Committee had been asked neither for its general views nor for draft texts, but for clear and precise guidance on those four points.

54. Mr. CHANG (China) thought that it might be helpful if the sponsors of amendments to the joint draft resolution could present a joint and simplified text.

55. Mrs. ROOSEVELT (United States of America) said that the United States amendment would provide an adequate policy decision, since under it the Commission on Human Rights would be asked to take into consideration such of the rights mentioned in the Yugoslav and USSR amendments as the Committee would agree to refer to it.

56. Mrs. MENON (India) remarked that if some of the proposed amendments had the appearance of articles, it was only because their authors had been anxious to make entirely clear to the Commission on Human Rights how the inadequacy of the first eighteen articles of the draft covenant was to be remedied.

57. She urged the Committee to eschew vague generalities and to make real policy decisions.

58. Mr. VLAHOVIC (Yugoslavia) emphasized that his amendment gave a very definite answer to the question whether or not the first eighteen articles were adequate; those who considered them adequate could simply vote against the amendment.

59. In reply to the Philippine representative, he said that the Yugoslav amendment was perfectly logical if its first two paragraphs were considered in the light of its following clauses.

60. In view of the Mexican and Syrian representatives' objection to the words "the present wording of" in the second paragraph of the Yugoslav amendment, he requested that those words should be put to the vote separately.

The meeting rose at 1 p.m.