



Friday, 30 November 1951, at 3 p.m.

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Chairman: Mrs. Ana FIGUEROA (Chile).

Draft international covenant on human rights and measures of implementation (A/1883, A/1884 (chapter V, section 1), E/1992, E/2057 and Add.1 to 5, E/2059 and Add.1 to 8, E/2085 and Add.1, A/C.3/559, A/C.3/L.88, A/C.3/L.180)

[Item 29]*

1. The CHAIRMAN requested the Committee, in considering chapter V of the Economic and Social Council's report (A/1884), to start with section I, which concerned the draft international covenant on human rights. She enumerated the documents available for the Committee's review of the question (A/1883, A/1884 (chapter V, section 1), E/1992, E/2057, and Add.1 to 5, E/2059 and Add.1 to 8, E/2085 and Add.1, A/C.3/559, A/C.3/L.88¹); and, to help it decide on the best method of planning the discussion, outlined the history of the question and described the situation as it existed at the current stage.

2. The Committee's first task should be to study the report of the Commission on Human Rights (E/1992)²; it should then state its views on measures of implementation, and, finally, decide whether the articles on economic, social and cultural rights and the articles on civil and political rights should be included in one and the same instrument. She felt that those three questions were suitable for a general discussion, after which the Committee could consider the proposals to which the discussions would certainly give rise.

3. The first two questions did not necessarily involve any new resolutions, whereas the third did. So far

* Indicates the item number on the General Assembly agenda.

¹ See *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9*.

² See *Official Records of the General Assembly, Fifth Session, Annexes, agenda item 63*.

there had been placed before the Committee only one draft resolution of a general character, that submitted by Chile (A/C.3/L.180), which could be taken up during the general discussion.

4. Mr. DEHOUSSE (Belgium) thanked the Chairman for her explanations. In his view the main question, upon the solution of which depended the solution of others, was whether one or more covenants should be drawn up. He therefore proposed that the Committee should settle that question first and that it should then consider what rights should be included in the future covenant or covenants.

5. Mrs. ROOSEVELT (United States of America) felt that the members of the Committee should first indicate whether they were prepared to reconsider the decision which the General Assembly had adopted at its fifth session (General Assembly resolution 421 (V), section E) to include the articles on economic, social and cultural rights and other rights in one and the same covenant. If the Committee did not follow that method, it would be taking up matters of substance before settling matters of procedure.

4. Miss BERNARDINO (Dominican Republic) and Mr. MENDE BRUN (Argentina), asked, on a point of order, when the Spanish text of the documents mentioned by the Chairman would be circulated.

7. The CHAIRMAN replied that the report of the Commission on Human Rights, a subsidiary organ of the Economic and Social Council, was a Council document and had therefore been issued only in English and French. She felt that as the report had been transmitted to the General Assembly by the Council, it had become an Assembly document and should be issued in Spanish. The Spanish text of the draft international covenant on human rights would be ready the following Tuesday, 4 December. In the meanwhile the Committee could settle the procedural points.

8. Mr. SANTA CRUZ (Chile) also thought that the report of the Commission on Human Rights had

become an Assembly document and should be published in all the working languages of the Assembly.

9. He agreed with the Chairman that the Committee should start with a general discussion of the problems it was expected to settle. He also felt that the two questions of the work of the Commission on Human Rights and the inclusion in the covenant of economic, social and cultural rights, should not be separated but should be studied conjointly.

10. His draft resolution (A/C.3/L.180) was submitted as a suggestion for the planning of the Committee's work. As a member of the Commission on Human Rights, he could say that the seventh of that Commission had been strenuous and productive; but owing to lack of time the Commission had been able to perform only half the work assigned to it; the draft covenant raised such serious problems and gave rise to such wide differences of opinion that it had been difficult to make speedy progress.

11. It must be admitted that the draft had not reached a sufficiently advanced stage to enable the Committee and the General Assembly to review it in detail and submit for signature by Member States a text which met the desiderata of the majority and in which all the different clauses were finally harmonized.

12. That had been the Council's opinion (Council resolution 384 (XIII)). The Council had considered that it would be valuable to receive once again the views of the thirty-five countries which were members neither of the Council nor of the Commission on Human Rights. That was one of the reasons why it had sent the draft back to the General Assembly.

13. The Commission on Human Rights, guided by the directives given by the General Assembly at its fifth session and which the Assembly would doubtless reaffirm at its sixth session without there being any need to reopen the discussion, and by the views expressed by all Member States, would thus be in a position to put forward a complete text at the next session. Only then could the General Assembly take a decision on each clause in the draft.

14. He had made no reference in his draft resolution to the future position of the clauses on economic, social and cultural rights, because he felt that that matter should first form the subject of a general discussion and then of a separate draft resolution.

15. Miss BERNARDINO (Dominican Republic) urged that the Committee should not discuss a document of the importance of the draft covenant until the Spanish text had been distributed.

16. Mrs. ROOSEVELT (United States of America) pointed out that in order to settle procedural questions the Committee did not need any documents; before starting on the general discussion, the Committee should settle two questions. It should decide whether it would itself draw up the draft covenant using the material transmitted by the Commission on Human Rights, and whether it wished to reconsider the deci-

sion adopted at the fifth session concerning the inclusion of economic, social and cultural rights in the covenant.

17. The CHAIRMAN recalled that the Economic and Social Council, under its resolution 384 (XIII), was transmitting the report of the Commission on Human Rights, which contained the draft covenant, to the General Assembly "for its consideration" only. The Third Committee and the General Assembly were naturally entitled to undertake the drafting of the covenant, but she did not think it advisable for them to assume that function.

18. Mr. GARCIA BAUER (Guatemala) associated himself with the remarks made by the representative of the Dominican Republic. He was amazed that, three years after the adoption of Spanish as a working language, an item on the agenda should come up for discussions without the relevant documents being available in that language.

19. Mr. DE ALBA (Mexico) shared the opinion of the representatives of the Dominican Republic, Argentina, Chile and Guatemala; he thought, however, that the Committee could discuss procedural questions without the documents which it would need for questions of substance.

20. Mr. STEINIG (Secretary of the Committee) explained that documents issued by subsidiary organs did not automatically become General Assembly documents through the mere fact of being transmitted to it. He added that in order to assist the Committee the Secretary-General had given the services concerned instructions for the distribution of the draft covenant in Spanish, but it was not known whether it would be possible, at subsequent Assembly sessions, to translate documents as voluminous as all those mentioned by previous speakers. It would depend on the resources placed at the Secretary-General's disposal by the General Assembly; and it appeared that substantial reductions were visualized in the appropriations for the services concerned.

21. Mr. PEREZ CISNEROS (Cuba) thought, like the Chairman, that a document transmitted to the General Assembly became *ipso facto* a General Assembly document. He was disturbed by the information given by the Committee Secretary on the proposed reductions in credits; such reductions would obstruct the General Assembly's work. He asked that the Secretary-General should state in writing the reasons for which all the necessary documents could not be translated into Spanish forthwith, so that his delegations might give suitable instructions to its representatives on the Fifth Committee.

22. Mr. PAVLOV (Union of Soviet Socialist Republics) indicated that rule 58 of the rules of procedure made it possible to settle the question of the translation of documents relating to the draft covenant.

23. Mr. GARCIA BAUER (Guatemala) associated himself with the USSR representative's remark. Rule 58, according to which, upon the request of any repre-

sentative, any document, over and above resolutions and other important documents, should be made available in any or all of the official languages, made it possible to satisfy the request of the Latin-American representatives. He agreed with the Cuban representative that the question should be taken by the Committee to the General Assembly and that explanations in writing should be requested.

24. The CHAIRMAN said that the request of the Cuban and Guatemalan representatives would be complied with and representatives who wished to request the translation of documents under rule 58 might do so at the end of the meeting.

25. She called on the Committee to resume the procedural discussion.

26. Mr. PAZHAWAK (Afghanistan) dissented from the Chairman's view that the Third Committee should not undertake the drafting of the international covenant on human rights.

27. Some aspects of the covenant were of particular concern to his delegation. He referred to a question of substance which in his opinion was bound up with the procedural problem under discussion: the right of peoples to self-determination. Millions of people, inhabiting countries some of which were not even represented in the United Nations, looked to the United Nations for protection against infringements of that right. If the right of peoples to self-determination was not officially recognized and embodied in the covenant, it was to be feared that the latter would be of no avail.

28. He protested against the tendency to refer the question from one committee to another; lack of time seemed to him a poor excuse. His delegation considered that all the articles of the covenant should be discussed by the Third Committee during the current session. What mattered most was the content of the articles, and not the order in which they were drawn up. He pressed for consideration of the question at the current session, while the political atmosphere still allowed; for despite all the efforts of the United Nations it was to be feared that disputes were growing more bitter and that it was becoming more and more difficult to deal with humanitarian questions.

29. He recalled that in resolution 421 (V), section D, the General Assembly had requested the Commission on Human Rights, through the Economic and Social Council, to study means to ensure the right of peoples to self-determination. The report of the Commission on its seventh session (E/1992) indicated that the question had been placed on the Commission's agenda by a unanimous vote but that the Commission had been compelled by lack of time to defer its consideration. He therefore proposed that the Third Committee should return to that question at the current session.

30. His country's attitude towards freedom of information was the same as its attitude towards the right of peoples to self-determination. That matter was of special concern to the smaller States because they had

often suffered from erroneous information published concerning them in the Press of the major Powers.

31. Mr. BAROODY (Saudi Arabia) said that it was difficult to separate procedural questions from questions of substance. It appeared from the Secretary-General's memorandum (A/C.3/559) that the question of the right of peoples to self-determination had not been dealt with; and it was to be feared that under the procedure suggested by the Chairman the Committee might be unable to study it. His delegation, on the contrary, was anxious for the Third Committee to take up the question, approve a draft resolution on it and embody its conclusions in an article of the draft covenant. The covenant would be incomplete if it did not contain an article on a matter of concern to millions of people. He could not agree to any procedure which might result in its being shelved or postponed until later.

32. The Chilean draft resolution (A/C.3/L.180) was felicitous in that it reiterated the General Assembly's desiderata and invited the Economic and Social Council to take all appropriate steps to afford the Commission on Human Rights time to complete its work on the covenant before the Council's fifteenth session. It was, however, too vague and did not give any assurance that the problem would not be postponed once again. Paragraphs 52 and 53 of the Secretary-General's memorandum (A/C.3/559) summarized the discussion^a which had taken place in the Third Committee on that point (A/C.3/L.88). He too was in favour of a procedure which would enable the Commission to frame an article on the right of peoples to self-determination.

33. The CHAIRMAN recalled that, in accordance with the procedure she had suggested, the Committee was to begin with a general discussion on the report of the Commission on Human Rights (E/1992). One of the special subjects of the general discussion might be that mentioned by the representative of Saudi Arabia, since the intention was to enable States which were not members either of the Commission on Human Rights or of the Economic and Social Council to state their views. It should be remembered that, in accordance with the directives contained in section D of General Assembly resolution 421 (V), the Commission on Human Rights was to study means which would ensure the right of peoples to self-determination. The Commission not having had time to carry out that task, the Third Committee could legitimately undertake it and consider any draft resolutions that might be submitted.

34. Mr. DEHOUSSE (Belgium), agreeing with the Chairman, said that he would revert to that point later.

35. Mr. DE ALBA (Mexico) also agreed with the Chairman. The question of the right of peoples to self-determination was mentioned several times in the Economic and Social Council's report and it was per-

^a See *Official Records of the General Assembly, Fifth Session, Third Committee, 310th and 311 meetings.*

missible for any State to submit draft resolutions on the subject. Care must, however, be taken not to arouse undue hopes, for the study of the question was still in its infancy and it was hardly likely that the General Assembly would draft the covenant at the current session.

36. Mr. AZKOUL (Lebanon) thought that the Committee should decide whether it desired itself to draft the covenant or to refer it back to the Commission on Human Rights, but he did not agree with the United States representative's view that that was the first question to be decided. In his opinion, that issue was closely bound up with the question whether the Committee was going to reconsider its previous decision to include economic, cultural and social rights in the same instrument as political rights. If that question was answered in the affirmative, it would be necessary to know whether the Committee would carry out that task at the current session or assign it to the Commission on Human Rights.

37. The Third Committee would have difficulty in completing the job itself, for there were still many points outstanding which the Commission on Human Rights had failed to clear up, and it was therefore probable that the question would be referred back to the Commission.

38. If, on the other hand, the Third Committee decided to include the two categories of rights in two separate covenants, a new question would arise, namely, the question whether both instruments would have to be adopted simultaneously or whether one could be adopted after the other. If both instruments had to be adopted simultaneously, a decision would probably be taken to refer both to the Commission on Human Rights. If, on the other hand, the Committee decided to include the two categories of rights in two separate instruments which need not be adopted at the same time, then the Third Committee might perhaps be able to complete and adopt the first instrument at the current session and refer the second to the Commission on Human Rights. The whole question therefore hinged on the point whether or not the Committee would go back on its previous decision to include both categories of rights in a single instrument. That was the first issue to be settled.

39. The question of the right of peoples to self-determination, mentioned by the representative of Saudi Arabia, was of the utmost importance, but, whatever the procedure adopted, there would be no difficulty in taking up that subject in the Third Committee. The Committee might perhaps also include in the draft covenant an article on the right of peoples to self-determination, though that would not necessarily mean that the question was closed.

40. In conclusion, he pointed out that there was no need for a decision on the priority of the different questions; the essential point was that the general discussion should cover every important question.

41. Mr. CASSIN (France) agreed with the Chairman that the general discussion should be divided into three stages.

42. In the first stage, the Committee would have to consider whether it wished the General Assembly to approve the draft covenant at its sixth session or whether it preferred to refer the draft back to the Commission on Human Rights. The French delegation was ready to fall in with the wishes of the majority, but wondered whether many delegations had received adequate instructions for a discussion of substance at the current session. Should the majority vote for reference of the draft back to the Commission on Human Rights, it would then be possible to consider the directives to be given to the Commission.

43. The second stage of the discussion would consist of a review of the work accomplished by the Commission on Human Rights and particularly of its proposals for measures of implementation.

44. When that stage had been completed, and only then, the Committee could consider whether or not it would be appropriate to include in a single covenant the articles on economic, social and cultural rights and those on civil and political rights.

45. That was the logical order and it was in accordance with the order followed by the Economic and Social Council in its resolution on the draft covenant. That resolution was a useful guide, although it had no binding force for the Committee.

46. The Third Committee should follow the example set by the General Assembly at its fifth session and, on the conclusion of the general debate, vote successively on the draft resolutions dealing with the questions raised during the debate in the order in which the questions had been considered.

47. The Committee would be unable to carry out its work efficiently unless it first established an order of priority for the consideration of the questions before it. Without such an order of priorities, the discussion would inevitably be confused.

48. Mrs. AFNAN (Iraq) said that in order to decide whether economic, social and cultural rights and civil and political rights should be dealt with in a single instrument, the Committee would have to proceed to a general discussion on the report of the Commission on Human Rights and consider the difficulties the latter had encountered and the reasons which had led the Council to ask the Assembly to reconsider its decision. A general discussion would also provide an opportunity for hearing the views of members of the Third Committee the governments of which were not represented on the Commission on Human Rights or the Economic and Social Council.

49. She approved the suggestions of the representatives of Afghanistan and Saudi Arabia regarding the right of self-determination of peoples.

50. AZMI Bey (Egypt) also supported the Chairman's suggestion regarding the procedure to be followed.

51. Speaking as a representative on the Commission on Human Rights, he said that the Commission had been able to perform useful and constructive work on matters concerning which the General Assembly had

furnished clear directives, but had run into difficulties in cases where no such directives had been given. Further, one article, the text of which had been approved by the Third Committee and which should therefore have been included in the draft covenant without any discussion whatsoever, had been the subject of renewed objections on the part of the delegations which had voted against its adoption in the Third Committee.

52. It was not sufficient for the Third Committee to transmit the records of its discussion of the draft covenant to the Commission on Human Rights. At the end of the general discussion, in which all representatives would have had an opportunity to state their views, the Third Committee should lay down specific and clear directives for the Commission on Human Rights.

53. Mr. DEDIJER (Yugoslavia) said that a general debate would be of great value since it would enable the representatives of countries not members of the Council or of the Commission on Human Rights to state their views on the draft covenant. The general discussion should not, however, deal merely with the question whether the Third Committee should consider the draft covenant itself or refer it to the Commission on Human Rights. The Third Committee should not neglect the possibility of other solutions. Since some delegations regarded the work of the Commission on Human Rights as unsatisfactory, the Committee might for example propose that a special committee of the General Assembly should be set up to meet between sessions and draw up the final text of the covenant.

54. The Third Committee could not draw up its programme of work unless it first took a decision of principle. At the fifth session of the General Assembly, the Third Committee had taken such a decision but the justification for that decision had been disputed by the Economic and Social Council. The Committee would therefore have to take a new decision at the current session.

55. Mr. MUFTI (Syria) endorsed the suggestion of the representatives of Afghanistan and Saudi Arabia regarding the necessity for reconsidering the question of the right of peoples and of nations to self-determination. The need arose because, although the principle of the right had been stated in an earlier draft resolution approved by the Third Committee incorporating a proposal of the representatives of Afghanistan and Saudi Arabia (A/C.3/L.88), the resolution (General Assembly resolution 421 (V)) had not been acted upon, as the Commission on Human Rights had been unable to consider it.

56. The Committee should take into consideration any proposal which would have the desired effect, for a discussion which omitted such a crucial question would be meaningless. From the reaction of certain States it would be possible to judge whether the right of peoples to self-determination, which the Committee was seeking to establish, would be faithfully and genuinely observed.

57. His delegation did not entirely share the French delegation's view on the relative priority of the questions to be considered. If the Third Committee

adopted the order of priority proposed by the Economic and Social Council, it would be accepting an expedient solution and the direction of the discussion would thus be fixed in advance. The essential point about the discussion was that it should enable the Third Committee to hear the views of countries which were not members of the Economic and Social Council or of the Commission on Human Rights and which had no intention of allowing an order of priority to be dictated to them.

58. He therefore proposed that the Third Committee should first consider the questions which had been the subject of previous Third Committee resolutions and which the Economic and Social Council had been unable to consider.

59. Mr. GARCÍA BAUER (Guatemala) approved of the procedure suggested by the Chairman. The Third Committee had to decide whether to consider the text of the draft covenant in detail or refer it to the Commission on Human Rights. If the Committee chose the first solution, it should avoid reopening discussion of the questions previously settled by the General Assembly and not studied by the Commission on Human Rights owing to lack of time—the revision of the first eighteen articles and the article on federal States—and of the colonial clause, the text of which had received the Assembly's approval. Accordingly, the general discussion on the report of the Commission on Human Rights should relate only to that part of the draft covenant which had been prepared in the course of the year, that is, the articles relating to economic, social and cultural rights and measures for their implementation.

60. The CHAIRMAN said she gathered from the preceding discussion that the Committee was to open a general discussion on the report of the Commission on Human Rights, during which it would be possible to consider also the question of the right of peoples and nations to self-determination. However, the Committee should—unless it decided otherwise—refrain from discussing the contents of the first eighteen articles, and also of the article on federal States, for both those questions were to be studied by the Commission on Human Rights.

61. After concluding the general discussion of the report, the Committee would consider the question of measures of implementation. Its decision thereon would determine the terms of its reply to the third question to be settled by it, namely, whether economic, social and cultural rights should be embodied in a separate document or not.

62. Mr. GARCÍA BAUER (Guatemala) said the colonial clause should not be discussed in the Third Committee.

63. The CHAIRMAN said that if there were no objection, she would regard the procedure she had suggested as adopted.

64. Mrs. AFNAN (Iraq) said it was her impression that the colonial clause did not figure in the draft covenant as it stood.

65. The CHAIRMAN assured her that the necessary action had been taken and drew her attention to article 72 of the draft covenant as it appeared in the report of the Commission on Human Rights (E/1992).

66. M. PAVLOV (Union of Soviet Socialist Republics) asked the representative of the Secretariat how many meetings had been devoted to the articles of the Universal Declaration of Human Rights in 1948, how many articles there were in the draft international covenant on human rights and how many meetings of the Committee were planned for considering it.

67. Mr. STEINIG (Secretary of the Committee) said that eighty or eighty-five meetings had been devoted to

the Universal Declaration of Human Rights in 1948. He was unable to state how many meetings were planned for the discussion of the draft covenant, but he hoped to be able to give more precise information at the meeting fixed for Tuesday, 4 December.

68. Mr. GARCIA BAUER (Guatemala), speaking on a point of order, pointed out that it was impossible to compare the Universal Declaration of Human Rights with the draft covenant. In 1948 it had been necessary to draft each single article of the Declaration, whereas, in the case of the covenant, a general discussion similar to that held at the fifth session would be sufficient.

The meeting rose at 6.15 p.m.