

Monday, 10 December 1951, at 3 p.m.

Palais de Chaillot, Paris



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Chairman : Mrs. Ana FIGUEROA (Chile).

In the absence of the Chairman, Mr. Dehousse (Belgium), Vice-Chairman, presided.

Draft international covenant on human rights and measures of implementation (A/1883, A/1884 (chapter V, section I), 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, A/C.3/L.182, A/C.3/L.186 and Add.1) (*continued*)

[Item 29]*

GENERAL DEBATE (*continued*)

1. Mr. MUFTI (Syria) enlarged upon the general comments he had made at the 362nd meeting.
2. The Syrian delegation appreciated the efforts of the Economic and Social Council, the Commission on Human Rights and the Third Committee, but regretted to note that the drafting of the covenant to ensure the implementation of the rights set forth in the Universal Declaration of Human Rights was far from complete. The covenant was, of course, a work intended to last for centuries and a delay of several months or several years was negligible; the difficulties encountered in drafting it should, however, be solved quickly. It was to be hoped that all the members of the Third Committee would help to overcome them.
3. In the matter of the right of peoples and nations to self-determination, he would submit an amendment to the joint draft resolution (A/C.3/L.186 and Add.1)

* Indicates the item number on the General Assembly agenda.

which would make it more specific with respect to Non-Self-Governing Territories.

4. There were two trends in the Committee; some members favoured a single covenant while others wanted several. He did not feel that the latter group had adduced any new arguments which would cause the General Assembly to go back on its decision (resolution 421 (V), section E). In that connexion, if the principles of the Charter were not to be distorted, the hierarchy of the organs constituting the United Nations must be kept in mind and the General Assembly's instructions must not be questioned.

5. Civil and political rights seemed to be more easily expressed in legal language because they had already been the subject of several universal declarations, because they had already appeared in several constitutions, and because they thus seemed to be the traditional rights *par excellence*. On the other hand, mankind had acquired economic, social and cultural rights only recently; they still seemed to be in process of development and were thus more vulnerable. By grouping all the rights in a single instrument, the General Assembly would be recognizing the completion of a historical development and indicating that all were of equal importance. On the other hand, if it divided them between several covenants, it would give the impression that it wished to establish a certain order of importance. There was no doubt of the good intentions of countries which advocated more than one covenant, especially as they were pioneers in economic, social and cultural reform, but in interpretation of legal instruments the intentions of their authors counted for little.

6. Everyone agreed that civil, political, economic, social and cultural rights were closely linked. Sometimes it was even impossible to state whether a right was specifically political or economic. Thus the right to protection against forced labour appeared in the part of the draft covenant referring to civil and political rights, whereas it would be equally apposite among the economic rights, where it appeared in the form of the right of individuals to gain their living by work which they freely accepted.

7. Another argument adduced by those who favoured several covenants was that civil and political rights could be implemented quickly, simply by adopting legislative texts, whereas economic, social and cultural rights required the setting up of complicated machinery. When it was a question of preparations for war, however, difficulties disappeared and efforts were made with less reluctance. All the Committees of the General Assembly should lead the campaign against the armaments race and the Third Committee should fulfil its duty by defending the covenant, which was an act of faith in a better world. Although the implementation of economic rights was a longer process, it would be enough to provide for a transition period during which they would gradually be extended.

8. Another argument was that civil and political rights, but not economic, social and cultural rights, could be defended in the law courts. That was to a certain extent true at the national level. At the international level, the only defence against violations of rights, irrespective of the rights involved, was to appeal to public opinion and the conscience of the world. The intervention of the International Court of Justice, whether it was called upon to elect a human rights committee or to consider the legality of certain matters under dispute, would not be enough to ensure respect for the rights if no appeal was made to the good faith and goodwill of States in asking them to send information and reports.

9. The two methods of implementation proposed by the Commission on Human Rights, one for civil and political rights and the other for economic, social and cultural rights, were not incompatible. It would be enough, first, to adopt the suggestions made by the Danish delegation (352nd meeting) and state that the reporting system would apply only in the case of economic, social and cultural rights, and, secondly, to add a third paragraph to article 53 to the effect that the human rights committee should refrain from considering any question for which no special procedure was provided in the covenant.

10. With regard to the provisions for implementation, it was to be regretted that the method of international inspection was not mentioned, although survey missions were already commonly used by the specialized agencies. The establishment of the petition system and the appointment of an attorney-general seemed interesting ideas, which ought soon to be the subject of positive decisions, but international inspection, with adequate guarantees of impartiality, should be considered as an additional method. It would produce good results in the economic, social and cultural fields.

11. With regard to the committee to ensure implementation, his delegation approved the suggestion of the Commission on Human Rights, although in principle it was opposed to the idea of enlarging the machinery of the United Nations. It reserved the right to study the method of election to the committee later.

12. Both the form and the substance of article 19 and the following articles of the draft covenant, on which Member States had not yet submitted their written comments, might still be improved. It was to be hoped that at its next session the Commission on Human Rights would be able to draw up a more balanced draft. Some articles were given in too much detail and others in too little. Articles 65 and 68 should be redrafted. Finally, as the Guatemalan representative had suggested (360th meeting), some articles dealing with economic, social and cultural rights should be so amended as to bring out more clearly the obligations they imposed on States.

13. He would speak again when the Committee examined the articles of the draft covenant in detail.

14. Mrs. ROOSEVELT (United States of America) wished first to explain her delegation's views on the question of the right of peoples to self-determination; that question had not arisen when she had made her previous statement (360th meeting).

15. Respect for the right of peoples to self-determination had always been a basic element of United States foreign policy. Twice during the twentieth century the United States of America had fought against tyranny, and at the end of those wars it had refrained from annexing territory. It had supported the mandate system and the International Trusteeship System and had been glad to note the progress of the principle of national freedom and the appearance of new independent States. In its relations with associated territories, such as Puerto Rico, it had attempted to increase the self-government of the population as much as possible; it was currently giving consideration to the incorporation into its federation of some territories which had expressed a desire to that effect.

16. She referred to the operative part of the joint draft resolution (A/C.3/L.186) which proposed the insertion in the covenant of an article stating that "all peoples shall have the right to self-determination". Her delegation felt that that should be stated in a less limiting way. The resolution should clearly indicate that the right of peoples to self-determination was not a hope for the future, but a living reality expressed in the Charter and which Member States had recognized in signing the United Nations Charter.

17. Her delegation was therefore submitting an amendment—which she would like to discuss with the authors of the joint draft resolution at the appropriate time—the aim of which would be to recall that the principle of the right of peoples to self-determination was valid for all States Members of the United Nations and not only for countries which ratified the covenant. There must be no possible excuse for those who did not respect that principle.

18. After having quoted Articles 1, 55 and 56 of the Charter, she recalled that at the San Francisco Conference, in 1945, the report of Committee I to Commission I had stated that the question of the equal right of peoples to self-determination was connected with the free and genuine expression of the will of the people.

19. The Third Committee should draw certain conclusions therefrom. The principle of the right of peoples to self-determination was applicable in the first place to peoples which had not yet achieved full self-government; States Members of the United Nations should encourage such peoples to acquire the ability to govern themselves and should help them progressively to perfect freely chosen political institutions. In the second place, the principle of the right of peoples to self-determination was applicable to peoples which had formerly enjoyed independence but who were deprived of the possibility of governing themselves. It was deplorable that one country, which posed as the champion of the colonial peoples, should be pursuing imperialist aims and extending its domination over territories beyond its frontiers which were accordingly being practically isolated from the rest of the world. There were certainly grounds for re-stating the right of those peoples to self-determination. Finally, a third category of cases must be considered: that of peoples currently self-governing but living under the constant threat of foreign imperialism, which was striving to bring about their disintegration from within as well as from without by aggravating their difficulties.

20. She therefore hoped that the Third Committee would approve a draft resolution stating the principle of the right of peoples to self-determination in as broad a manner as possible.

21. The French representative had said (363rd meeting) that he would accept several covenants provided they had a common basis or were linked by some common factor, and the Commission on Human Rights should study that suggestion carefully. Her delegation was ready to agree to the simultaneous drafting of two covenants—for the sole reason that the implementation of two separate covenants would be quicker than that of a single instrument.

Order of discussion of agenda items (continued): action to be taken on a communication from the United Nations High Commissioner for Refugees to the Chairman of the Third Committee

22. The CHAIRMAN read a communication from the United Nations High Commissioner for Refugees, in which the High Commissioner indicated that, in order to be able to make plans, he must know what his budget for 1952 would be. In its second report for 1951 to the General Assembly (A/1853), the Advisory Committee on Administrative and Budgetary Questions had asked for clarification of the status of the High Commissioner, particularly with regard to representation of the Office of the High Commissioner in countries where refugees were living; such clarification was within the competence of the Third Committee. The High Commissioner hoped that the

Committee would study the question at its 366th, 367th and 368th meetings. The Fifth Committee would require the details for its examination of the budget for the High Commissioner's Office, and discussion of the budget might begin at the 316th meeting of the Fifth Committee on Monday, 17 December.

23. The Chairman asked whether the Third Committee intended to finish the general discussion on the draft international covenant on human rights and measures of implementation before taking up the study requested by the United Nations High Commissioner for Refugees or to interrupt that discussion in order immediately to examine the question of the representation of the High Commissioner in countries where refugees were living.

24. Mr. AZKOUL (Lebanon) wondered whether the Third Committee would be able, if it decided to interrupt the general debate, to hold enough meetings to dispose of that question before the meeting of the Fifth Committee. If not, it would be a pity to postpone the examination of the draft covenant.

25. Mr. STEINIG (Secretary of the Committee) informed the members of the Third Committee of the tentative dates for the next few meetings of the Third Committee and of the Joint Second, Third and Fifth Committees.

26. Mr. DE ALBA (Mexico) thought that, in the interests of orderly discussion, the Third Committee should complete its discussion of the draft covenant before proceeding to any other question. It might be well, however, if the members of the Committee had time, after the general debate had ended, to consider the texts before them. The Committee could continue the general debate on the draft covenant during the meetings of the next two days, and if necessary, take up another question at the end of the week.

27. Mr. PAVLOV (Union of Soviet Socialist Republics) thought that, in order to avoid confusion, the Committee should continue with the general debate on the draft covenant. When that debate was completed, it would be possible to decide what other questions to study.

28. There was no reason to change the order fixed by the Third Committee for consideration of the questions on its agenda; those who proposed a change in the order were perhaps secretly moved by a desire to curtail discussion of the draft covenant.

29. Further, by deciding to close the general debate in two days' time, the Committee would be inflicting a glaring injustice on representatives who had not yet taken part in the debate; a body responsible for defending human rights could scarcely violate the rights of its own members.

30. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) also thought it essential to complete the study of the draft covenant before passing on to any other question.

31. Mr. VALENZUELA (Chile) asked for confirmation of the reasons why priority had to be given to the

investigation called for in the High Commissioner's communication.

32. He wished to know whether it was true that the general budget estimates of the United Nations, from which the administrative costs of the Office of the United Nations High Commissioner for Refugees were allocated, were to be drawn up before the end of the year. If that was so, and if, as the second report of the Advisory Committee on Administrative and Budgetary Questions implied (A/1853, para. 295), a clear definition of the term "administrative expenses" was needed, then the Fifth Committee must have the Third Committee's definition of that term before drawing up the budget estimates for the High Commissioner's Office. The High Commissioner himself appeared to have interpreted the words in a broad sense, since paragraph 30 of his report to the General Assembly¹ indicated that the costs of the establishment of representatives of the High Commissioner's Office in countries where there were considerable numbers of refugees would be included in the administrative expenditures.

33. If, as the Chilean delegation thought, the question was urgent, it could be settled in one or two meetings, since it was of limited scope.

34. Mr. HARRY (Australia) endorsed the observations of the representative of Chile.

35. Mr. CORLEY SMITH (United Kingdom) fully supported the principle the USSR and Ukrainian representatives had invoked. In the case in point, however, and in view of the urgency of the request, the Third Committee could examine the question of the representation of the Office of the United Nations High Commissioner for Refugees in the countries where there were considerable numbers of refugees between the close of the general debate and the study of the draft resolutions on the draft covenant.

36. The CHAIRMAN noted that the members of the Third Committee were reluctant to interrupt the general debate on the draft covenant, which had already started. He therefore proposed that the Committee should continue that debate during the next two days, and then take up the question of the status of the High Commissioner's Office:

37. Mr. CASSIN (France) said the French delegation accepted the Chairman's proposal, on the understanding that the Committee would confine itself, at its next few meetings, to questions on which the Fifth Committee needed a ruling before voting the budget estimates for the High Commissioner's Office.

38. Mr. BAROODY (Saudi Arabia) agreed with the French representative.

39. Mr. PAVLOV (Union of Soviet Socialist Republics) did not see how the members of the Third Committee could take any decision when they had not seen the communication from the High Commissioner.

There was no good reason to interrupt the general debate, and it would be better not to settle the question immediately.

40. Mr. HARRY (Australia) agreed with the USSR representative that the Third Committee should not decide until it had more information.

41. He therefore proposed that the Committee should continue the general debate the following day, and then decide what steps should be taken regarding the communication from the United Nations High Commissioner for Refugees.

42. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) proposed that the Committee should first complete its general debate on the draft covenant, and then decide what to do about the High Commissioner's communication.

43. The CHAIRMAN put the Ukrainian representative's proposal to the vote.

The Ukrainian representative's proposal was rejected by 14 votes to 9, with 18 abstentions.

44. The CHAIRMAN put the Australian representative's proposal to the vote.

The Australian representative's proposal was adopted by 27 votes to 3, with 11 abstentions.

45. The CHAIRMAN declared the list of speakers in the general debate on the draft covenant on human rights closed.

Procedure for submission of the reports of the Third Committee to the General Assembly

46. The CHAIRMAN suggested that, in accordance with the usual procedure, the Rapporteur should be authorized to prepare the Committee's reports on the different items on its agenda and submit them direct to the General Assembly, after the officers of the Committee had approved it.

47. Experience had shown that that method saved considerable time, effort and money.

48. Mr. PAVLOV (Union of Soviet Socialist Republics) proposed that the text of the reports should be circulated to all delegations at least twenty-four hours before it was submitted to the General Assembly. If, during those twenty-four hours, no member had proposed any amendment to the text, the report should be considered as adopted and submitted to the Assembly. If that proposal were adopted, the USSR representative would accept the procedure the Chairman had suggested.

49. The CHAIRMAN announced that, as there were no objections, the procedure he had suggested would be considered as adopted; the Rapporteur would bear the USSR representative's proposal in mind.

The meeting rose at 5.15 p.m.

¹ Document E/2036.