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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. DEDIJER (Yugoslavia) approved of the text draft covenant contained in the report of the Commission on Human Rights (E/1992)¹ and thought that the Commission deserved considerable credit for the work it had accomplished.

2. He noted also that the view that the covenant should include economic, social and cultural rights, as well as political and civil rights, had recently been gaining ground.

3. That welcome progress had, however, been checked when the Economic and Social Council, in its resolution 384 (XIII), had requested that the General Assembly should reconsider the decision embodied in Assembly resolution 421 (V), section E, in favour of a single covenant. He took exception to the Council resolution.

4. Although, clearly, provision should exist for any General Assembly decision to be reversed, it was

* Indicates the item number on the General Assembly agenda.

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

equally apparent that the reversal of a decision would be justified only on the grounds that the decision was legally unsound, or that conditions had subsequently changed.

5. Reference merely to the Preamble and to Article 55 of the Charter was sufficient to show that the authors of the Charter had before them the conception of the fundamental unity of all human rights and, consequently, the General Assembly's decision had in that respect been fully consonant with the spirit and letter of the Charter. Not only was the legal basis of General Assembly resolution 421 (V) sound, but so also was that of most of the other United Nations work in the field of human rights—particularly, of course, the Universal Declaration of Human Rights.

6. With regard to a change of conditions, it was abundantly clear that since the taking of the policy decision in question, there had been no important change—except one of intensification—in the objective circumstances and conditions which had produced it, and it was thus proved that there was no justification for its revocation on those grounds.

7. Furthermore, the arguments adduced by the Economic and Social Council in favour of revision only weakened the Council's case, and weighed heavily in favour of the General Assembly's point of view. The gist of those arguments was that economic and social rights were more difficult to implement than the classical political and civil rights. To adduce a mere technical difficulty in a matter of vital principle was a confession of weakness. A further serious weakness in the Council's case was that its recommendations had been made only after three meetings, whereas the General Assembly's policy decisions which those recommendations were intended to reverse had been reached

after several weeks' debate in which some sixty delegations had participated. The prematureness, or even rashness, of the Council's action was further emphasized by the fact that the Assembly's deliberations and decisions were an expression of the will of the United Nations as a whole, and the Economic and Social Council, narrower in composition, scarcely had the right to attempt to oppose its will in a matter of broad policy. The matter at issue was the elaboration of a covenant, the final preparation of which, under Article 62, paragraph 3, of the Charter, rested with the General Assembly. Paradoxically, the Economic and Social Council had become an obstacle in the way of the implementation of economic and social rights. Such a state of affairs would inevitably harm the entire work of the Organization.

8. He thought that all those who opposed a single covenant automatically rejected the fundamental unity of economic, social and cultural rights with civil and political rights, even though they might pay lip-service to it. He wished therefore to reaffirm the Yugoslav Government's belief in that unity. The argument that civil and political rights were capable of immediate implementation on a justiciable basis, whereas the other group of rights were not, was invalid. A study of prevailing conditions would show that in a number of countries where civil rights had been recognized under the constitution for a century, those rights were still not effectively implemented. The division of human rights into sharply differentiated categories was artificial. The only proper distinction that could be drawn between the various rights was based on differences in their historical development.

9. Unity of type in human rights automatically involved unity of implementation. While it might admittedly be difficult to establish a single system of implementation, that was a technical question which must on no account be allowed to hinder the application of the vital principles involved. The argument that economic, social and cultural rights were still in an early phase of their development, and that the material conditions of certain countries did not permit the enjoyment of such rights, should not be used as an excuse for any distinction in the implementation of those rights but should rather be advanced as a reason for the rendering of aid by the more advanced countries to under-developed countries, which would experience greater difficulties in implementing economic, social and cultural rights.

10. The aim must be for each country to implement all rights, without exception, to the utmost of its ability, while countries less fortunately situated should have recourse to the assistance of their more favoured neighbours as need arose. The latter should proffer their aid in a disinterested spirit and should not make any attempt to transform assistance into interference in the internal affairs of other States. Such a system would work only on the assumption of the fundamental unity of all forms of human rights, with the United Nations as the highest organizing authority.

11. With regard to the right of self-determination of peoples, he recalled that a number of countries, parti-

cularly in Asia, had advanced to independent nationhood since the Second World War. In some cases, however, there were already signs that national minorities within the boundaries of the new States were not being equitably treated and that the erstwhile oppressed were themselves becoming oppressors. In Europe also, there was the spectacle of a number of national States which had lost their independence to a military Power which held them in its grasp. In that connexion he wished to stress his belief that the importance of the Yugoslav complaint submitted to the General Assembly against the hostile activities of a certain number of States² lay in the fact that it raised the vital question whether a nation had the right to self-determination, independence and free development. Similarly, the case of Germany, which, after its period of expiation, was being prevented from obtaining its unity and independence by the selfish interests of the occupying Powers, and of Latin America, where the right to self-determination was also in danger, clearly showed the need for the inclusion of an article dealing with that right in the covenant.

12. While he agreed with the assertion of the Belgian representative (361st meeting) that the abolition of frontiers and a general *rapprochement* of all peoples was an ultimately desirable end, he firmly believed that that end could be attained only if the peoples in question had the prior right to absolute and untrammelled independence. Some representatives had argued that it was not practicable to include provision for a collective right in an instrument dealing with fundamental individual rights. To that he would reply that many rights, such as that of worship, although individually enjoyed, depended for their very existence on their collective exercise. Other representatives had pointed out that provision for self-determination was already made in the Charter; the principle of non-discrimination was also incorporated in it, yet no one had opposed its inclusion either in the covenant or in the Universal Declaration of Human Rights.

13. For all those reasons, therefore, he appealed to the Third Committee to support the joint draft resolution sponsored by thirteen delegations (A/C.3/L.186 and Add.1) proposing that the right to self-determination should be included, as a separate article, in the covenant.

14. To avoid any repetition of the kind of action so unfortunately taken by the Economic and Social Council, he would make an informal suggestion that the final drafting of the covenant should be entrusted to an *ad hoc* committee of the General Assembly. Indeed, it might be that the Council itself would welcome such a solution. In view of the good work which it had done, the Commission on Human Rights might perhaps be invited to supply the members of the proposed committee. In addition, the Third Committee could, at the current session, make a final draft of particularly important and controversial articles.

15. He would appeal to all those delegations which supported the Economic and Social Council resolution

² Item 68 of the General Assembly agenda.

384 (XIII) regarding the revision of the General Assembly's decision, to reconsider their attitude.

16. Mr. URQUIA (El Salvador) said that although the draft covenant on human rights was the historical starting point of the international guarantee of human rights, hitherto protected only piecemeal by national legislation, the draft submitted by the Commission on Human Rights had been—through no fault of the Commission—incomplete. In particular, the Commission had not been able to devote sufficient attention to the measures of implementation. Those measures were the most important part of the draft convention; most of the earlier articles were merely an expansion or a more specific statement of the broad rights laid down in the Universal Declaration of Human Rights and were already protected by most liberal national constitutions.

17. The attempt to enforce international supervision of the protection of human rights was the great innovation. In pursuance of that aim, the right of petition should be granted to individuals and groups as well as to States, since the international protection of human rights required the protection of individuals within national territories. The composition and functions of the human rights committee envisaged for that purpose should be left to the decision of the Commission on Human Rights, as it was mainly a technical question.

18. While he whole-heartedly agreed with most of the views expressed by the Yugoslav representative, in particular with his advocacy of a single covenant, he could not concur in his criticism of the Economic and Social Council, which had worked hard to comply with its instructions from the General Assembly and had had every right to request a reconsideration of Assembly resolution 421 (V), if it genuinely believed that a separate covenant on the economic, social and cultural rights was necessary—a view with which he, however, could not agree. The Commission and the Council could be trusted to do their utmost to comply with any request from the General Assembly to reconsider their own request for reconsideration and to submit a more thorough study of the draft covenant to the General Assembly at its seventh session.

19. His delegation would therefore vote for the draft resolutions submitted to the Third Committee in the belief that the directives embodied therein would be of assistance to the Commission on Human Rights. The single draft covenant recommended should include not only far more detailed measures of implementation but also a federal clause, a colonial clause and an article asserting the right of peoples to self-determination.

20. AZMI Bey (Egypt) had been convinced by the statements of the Chilean and French representatives and by his own observation that the Commission on Human Rights had done all that had been humanly possible at its seventh session to comply with General Assembly resolutions 421 (V) and 422 (V). The Commission had not only worked hard itself but had enjoyed the complete collaboration of the relevant specialized agencies.

21. Despite that favourable atmosphere, however, something more than lack of time had hampered the Commission's work. Its members had sometimes forgotten that, although they were technically the representatives of their governments, they were in fact expected to work as experts in their field and had inevitably re-opened discussions of matters which had been fully debated and settled by majority vote in the General Assembly. As if the subject had never been raised previously, members of the Commission had tried to plead that the General Assembly's decision with regard to the metropolitan and territorial clause set forth in Assembly resolution 422 (V) should be reversed. Similar votes had disclosed a majority against the Indian resolution³ dealing with the reconsideration of the request that the economic, social and cultural rights should be included in a single pact with the civil and political rights.

22. Undaunted by that set-back, those who wished to postpone indefinitely the inclusion of the economic, social and cultural rights had reintroduced the question in the Economic and Social Council. During the discussion in the Council, the Egyptian observer had been authorized to speak and had vainly advanced points of psychological significance⁴ likely to militate against the Assembly's acceptance of the request for the reconsideration of the decision taken in resolution 421 (V), section E. In fact, the Third Committee's first reaction had been the submission of the Chilean (A/C.3/L.180) and the joint (A/C.3/L.182) draft resolutions.

23. The two amendments (A/C.3/L.184 and A/C.3/L.185) submitted to those draft resolutions appeared to dispel fears that an attempt was being made to give priority to the civil and political rights, and seemed to ensure international recognition of all human rights and to overcome the difficulties hitherto impeding the greatest possible number of signatures. The question remained, however, whether the drafting of two covenants to be submitted simultaneously for the consideration of the General Assembly and to be opened at the same time for signature was really feasible. The French delegation had made some reservations (363rd meeting) with regard to the need to create a close link between the two pacts, which further complicated the situation.

24. If the amendments were adopted, either in their existing form or as amended by the French suggestion, the Commission on Human Rights would be faced with an extensive new task to be dealt with on entirely new bases, and to be accomplished, not in a year, but in six weeks or at the most two months. Very probably the draft covenant would be no more advanced by the Assembly's seventh session than it was at the sixth.

25. Even if the Commission was able to complete its work, a sinister precedent must be borne in mind—that of the fate of the draft Convention on the International Transmission of News and the Right of

³ See documents E/CN.4/SR.248 and E/CN.4/619/Rev.1.

⁴ See *Official Records of the Economic and Social Council, Thirteenth Session, 525th meeting, paras. 32 and 33.*

Correction (General Assembly resolution 277 C (III) and annex), which had been pigeon-holed pending completion of the draft convention on freedom of information, the signature of the former being made conditional on signature of the latter; both conventions had, in fact, become dead letters. The danger of the same fate overtaking two draft covenants on human rights could not be overlooked.

26. It was essential that the directives given to the Commission on Human Rights should be as precise and unambiguous as possible. The French representative's observations with regard to Non-Self-Governing Territories (363rd meeting) appeared to show that he had not fully appreciated the scope of General Assembly resolution 422 (V), which obviously covered that point.

27. A similar lack of understanding appeared to be prevalent with regard to the right of petition by individuals through non-governmental organizations—a right which the Commission on Human Rights had rejected, amid some confusion, by only one vote. Many members had believed that the individual, as the first victim of the violation of human rights, ought to have some form of redress; and that, furthermore, owing to international tension, complaints of one State against another, even though made in good faith, might give rise to the accusation of interference in the domestic affairs of the accused State. As that problem would undoubtedly be discussed at the Commission's next session, the Egyptian delegation would submit a relevant draft resolution to the Commission.

28. Clear directives to the Commission were also required in connexion with the right of peoples and nations to self-determination adumbrated in Assembly resolution 421 (V), section D. Delicate though the matter might be—and thus more appropriate for treatment by the Commission than by the General Assembly—it was an essential one. The United States representative's support was most welcome (364th meeting); he would await with great interest the amendments she had stated that she would submit.

29. As one of the co-sponsors of the draft resolution (A/C.3/L.186 and Add.1) dealing with the right to self-determination, he could not fail to take exception to the statement made by the Belgian representative at the 361st meeting. Egypt, which had been a cradle of civilization, was a constitutional monarchy, based upon the Belgian model, and it had employed Belgian jurists for years in official posts. Civil liberties were protected in Egypt quite as efficiently as they were in Belgium and any derogation from them had been the result of similar causes—war and foreign occupation.

30. Every effort must be made, in view of aroused public opinion, to dispel any suspicion that opposition to a single covenant and, in particular, to the inclusion of the measures of implementation in that covenant, derived from some attempt to draft a statement of rights exclusively for the more advanced countries, which were the chief supporters of the conception of two covenants. Any suspicion that such opposition came from unwillingness on the part of certain

countries to accept international supervision of the protection of human rights might well prove fatal to the United Nations itself.

31. Mr. GARIBALDI (Uruguay) advocated a realistic approach to the question whether there should be one or more covenants. The principal matter of concern was that international protection should be extended immediately to the greatest possible number of human rights by the greatest possible number of States. Obviously there must be differences between the measures of implementation concerning the civil and political rights, on the one hand, and the economic, social and cultural rights, on the other; under-developed countries might not be able, for lack of resources, to implement some of the latter immediately. Since, however, economic and social rights were essential to the enjoyment of other rights, his delegation thought that a definite decision should be taken in favour of a single covenant.

32. He would support the proposal for the inclusion of an article on the right of self-determination, because any limitation of such a right would deprive the other rights of reality. He was against the inclusion of a federal clause because it would discriminate against non-federal States and also because even in federal States the central government was responsible for the country's international affairs.

33. The proposal which the Uruguayan delegation had submitted for the appointment of a United Nations high commissioner or attorney-general for human rights (E/1992, annex VII) had some advantages over the machinery proposed by the Commission on Human Rights, which covered only petitions brought by States. It was to be preferred because all petitions should be taken to a single responsible organ for preliminary investigation and also because it would avoid the denunciation of one State by another and provide an elastic and effective procedure for the hearing of petitions. The Uruguayan delegation would submit that proposal anew and was ready to accept any improvements suggested.

**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 (concluded)**

At the invitation of the Chairman, Mr. van Heuven Goedhart (United Nations High Commissioner for Refugees) and Mr. Stone (Chairman of the Fifth Committee) took their seats at the Committee table.

34. Mr. VAN HEUVEN GOEDHART (United Nations High Commissioner for Refugees) wished to explain to the Committee the difficulties with which he was faced owing to the fact that the General Assembly had opened at a later date than usual and that the budget of the United Nations had to be submitted before the Christmas recess. His own estimate of \$US 800,000 had been cut down to \$US 585,000 by the Advisory Committee on Administrative and Budgetary Questions, and the difference between the two

figures was so great that he had thought it advisable to ask the Third Committee, which had established his office, for clarification of some issues.

35. He thought that two points which had been raised by the Advisory Committee might be cleared up by a discussion in the Third Committee. In the first place, some members of the Advisory Committee held the view that only the administrative expenses of the High Commissioner's headquarters at Geneva should be borne by the United Nations budget, whereas he considered that the expenses of the branch offices should also be included in that budget. In the second place, the Advisory Committee had asked for an explanation of the term "administrative expenses" in paragraph 20 of the Statute of the United Nations High Commissioner for Refugees (General Assembly resolution 428 (V), annex).

36. Although he realized the difficulties of interrupting a general debate on such an important item as human rights, action by the Third Committee on the item of its agenda concerning refugees was a matter of urgency. The International Refugee Organization would be closed at the end of the year, and in some areas work on behalf of refugees would be virtually suspended unless he could make immediate plans for the establishment of branch offices. He did not want to insist on interruption of the debate, but felt that the Third Committee should have a full picture of the situation.

37. Mr. STEINIG (Secretary of the Committee), speaking with regard to the Committee's future programme of work, pointed out that it was essential for the joint meetings of the Joint Second and Third Committee and the Fifth Committee to be held on the days scheduled, in order to consider questions to be referred to the Fifth Committee and to the Economic and Social Council, which was to meet on 18 Decem-

ber. It was therefore impracticable to consider any solution which did not take into account the joint meetings towards the end of the current week.

38. Mr. STONE (Chairman of the Fifth Committee) stated that it was essential for the Fifth Committee to begin its second reading of the United Nations budget at the beginning of the following week. He was sure, however, that it would be possible to grant a preliminary nominal allocation to the High Commissioner's Office at that time and to postpone the detailed consideration of the matter until after the Christmas recess.

39. Mr. VAN HEUVEN GOEDHART (United Nations High Commissioner for Refugees) asked for some explanation of the statement made by the Chairman of the Fifth Committee.

40. In the first place, he wished to be assured that the nominal allocation referred to would not be such as to prejudice the final decision to be taken by the Fifth Committee.

41. In the second place, if no time limit were set for the final consideration of the allocation for 1952, he would be placed in an extremely difficult position with regard to the planning of branch offices the establishment of which might therefore be postponed to May or June, leaving a gap of several months in the arrangements for the protection of refugees.

42. The CHAIRMAN proposed that the Third Committee should take up item 30, of the General Assembly agenda, concerning refugees and stateless persons, at its first meeting after the Christmas recess, so that the Fifth Committee would be in a position to take action on the budget not later than the middle of January.

It was so agreed.

The meeting rose at 6.35 p.m.