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C O N T E N T S

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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, A/C.3/L.189 (continued) 135

Chairman : Mrs. Ana FIGUEROA (Chile).

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, A/C.3/L.189)

[Item 29]*

GENERAL DEBATE (continued)

1. Mr. PAVLOV (Union of Soviet Socialist Republics) defined his delegation's position on the three questions before the Third Committee.

2. With regard to the first question—the inclusion of economic, social and cultural rights in the covenant on human rights—he recalled that two diametrically opposite draft resolutions had been submitted to the Committee. One of them, submitted jointly by Chile, Egypt, Pakistan and Yugoslavia (A/C.3/L.182) called on the General Assembly to re-affirm the decision taken at its fifth session (resolution 421 (V), section E). The second draft resolution, which took the form of an amendment to the first and was sponsored by Belgium, India, Lebanon and the United States of America (A/C.3/L.184) called on the General Assembly to decide in favour of dividing human rights into two categories, each with a corresponding covenant. Those two proposals were clearly irreconcilable. He then made a critical analysis of the arguments advanced by those who favoured two covenants.

3. First, the distinction drawn between the two categories of human rights was artificial. It had been claimed that civil and political rights were to some extent traditional rights, and that economic, social and cultural rights were recent acquisitions, so that less time would be needed to implement the former than

the latter. He referred as an example to the political equality proclaimed at the time by the French Revolution. That equality was far from being implemented everywhere, not merely in the Non-Self-Governing Territories and under-developed countries, but also in such countries as the United States of America, where the existence of racial inequality was a well-known fact. It could not, therefore, be claimed that civil and political rights were very far ahead of economic, social and cultural rights, particularly as the latter had, as a result of the fight waged by the toiling masses, made headway since the middle of the nineteenth century, even in countries with an oligarchic system of government. The United Kingdom representative claimed that twenty-five to thirty years would be needed to implement economic, social and cultural rights. In reply he would cite the results obtained in a few years by the peoples' democracies, whose constitutions guaranteed all human rights.

4. Secondly, he would reply to the argument of those who claimed that it would be easier to implement civil and political rights since legislative action was all that was needed. However, if, for example, the right of association was not to remain a dead letter, the premises necessary for meetings would have to be provided. It was, similarly, futile to proclaim freedom of the Press if people had no paper or printing presses at their disposal.

5. Thirdly, the advocates of two covenants recommended two distinct types of supervision: a system of complaints, for civil and political rights, and a system of reports, for economic, social and cultural rights. In his view, there was only one method of implementation which conformed with international law—the adoption by governments, in their territories, of all the legislative and other measures needed to guarantee peoples the enjoyment of all their rights.

6. The fourth argument advanced by the opponents of the single covenant, who sought to re-phrase their

* Indicates the item number on the General Assembly agenda.

formula and to deceive the public by insisting that the two covenants would come into force simultaneously, was that it would be easier to get Member States to sign and ratify two separate instruments. That was no more than an attempt to shelve economic, social and cultural rights. The United States and United Kingdom delegations were again resorting to the sabotage and delaying manœuvres to which they had had recourse in the case of the Universal Declaration of Human Rights and, since the fifth session of the Commission on Human Rights, in regard to the draft covenant, in an attempt to postpone consideration of the articles relating, for example, to the right to work and leisure, trade-union rights and the right of association, which were strongly defended by the delegations of the peoples' democracies.

7. At the seventh session of the Commission on Human Rights the United States and United Kingdom delegations had intensified their efforts to have the Commission adopt articles which were merely vague declarations. They had also inserted in the draft covenant a sort of delayed-action bomb in the form of a second preamble in the body of the draft itself. The USSR delegation had strongly opposed that manœuvre, knowing that it was a prelude to the splitting up of the covenant. The manœuvre had failed in the Commission on Human Rights but had succeeded in the Economic and Social Council, which had decided (resolution 384 (XIII)) to ask the General Assembly to reconsider its decision. That attitude, which had no precedent in the case of a subsidiary organ, meant the loss of a year.

8. The opponents of a single covenant also claimed that civil and political rights could be exactly defined, whereas it was difficult to find exact formulas for economic, social and cultural rights. He would refer them to the draft articles submitted by the USSR, which contained formulae satisfying all the necessary conditions.

9. The USSR delegation had always maintained that all the rights proclaimed in the Charter of the United Nations and the Universal Declaration of Human Rights should be given legal sanction by being incorporated in a covenant. It had always maintained that economic, social and cultural rights formed the basis of the other rights. The right of association, for example, which was a political right, would be valueless without the right to leisure and to limitation of hours of work, a social right, which enabled the worker to exercise the right of association.

10. His delegation continued to support the principle of the single covenant, which had been accepted by the General Assembly in resolution 421 (V) and which the experience of the Soviet Union had shown to be both feasible and beneficial. It was aware that the situation in other countries was different in that respect but it was the General Assembly's duty to embody in the covenant the most elementary rights aspired to by millions of human beings, and to reaffirm its resolution. His delegation would therefore support the joint draft resolution submitted by Chile, Egypt, Pakistan and Yugoslavia (A/C.3/L.182).

11. Mr Pavlov turned to the second question before the Third Committee, namely that of the right to self-determination. The USSR delegation had always fought to have that right included in the Universal Declaration of Human Rights and sanctioned in the covenant. It therefore supported the joint draft resolution (A/C.3/L.186 and Add.1). Moreover, co-operation between all races was one of the basic principles underlying the Constitution of the Soviet Union.

12. He refuted the arguments of those who opposed the right. Some claimed that not all peoples were ready to possess it. Obviously, if the colonial Powers had their way, the peoples of the Non-Self-Governing Territories would never reach maturity. The metropolitan authorities prevented their development by refusing them economic aid, education and medical assistance and had the effrontery to reproach them for their immaturity. In support of his assertion he cited the example of Belgium and the Belgian Congo.

13. Some speakers had also stressed the difficulty of defining the term "nation". He recalled that the definition of "fascism" in the Commission on Human Rights had evoked similar objections from people who, three years previously, were still under the yoke of fascism. He quoted the definition of the term "nation" given by Stalin in a work on nationalities written in 1913.¹

14. The USSR delegation thought it an elementary truth that peoples should have the right to self-determination and to independence; to help them on the road to independence was to give effect to the principles of the Charter.

15. With regard to the third question to be studied by the Third Committee, namely measures of implementation, he could not accept the method proposed by the Human Rights Commission, which gave one State the right to interfere in the domestic affairs of another State and was liable to create or aggravate international disputes. The USSR delegation thought that under the covenant governments themselves ought to be made responsible for taking the necessary measures for its application. It was premature, however, to decide that question, as the draft covenant was not yet completed.

16. In conclusion, he expressed the hope that the majority which had voted for sections C and D of resolution 421 (V) would join his delegation in securing the inclusion in the covenant of economic, social and cultural rights and the right to self-determination. He was convinced that, in spite of certain colonial Powers and the manœuvres of certain delegations, most delegations would still have sufficient good sense and still be sufficiently attached to the cause of progress to see that the General Assembly maintained its decisions, which, moreover, were in accordance with the Charter. He was sure that the principles of the interdependence of human rights and respect for national sovereignty could not fail to triumph before long, for the good of democracy, human rights and the progress of mankind.

¹See J. Stalin, "Marxism and the National Question", *Prosveschenye*, Nos. 3-5 (March to May, 1913) (Vienna).

17. Mr. ROY (Haiti) wished to refer again to the main aspects of the question, which he considered of capital importance, stressing those which, in his opinion, previous speakers had not emphasized sufficiently.

18. Reviewing the historical background of the question, he recalled that, whereas the Universal Declaration of Human Rights set forth the fundamental freedoms, the safeguarding of which was essential to the development of human personality, the international covenant on human rights was intended to ensure implementation of the Universal Declaration by the conclusion of legal undertakings. After completing, in 1950, a draft covenant concerning civil and political rights and measures of implementation,² the Commission on Human Rights had intended to draft additional articles on the other human rights, in particular economic, social and cultural rights, since it regarded that draft covenant as the first of a series of covenants the drafting of which should be continued in 1951. Before confirming the Commission's decision, the Economic and Social Council had thought it should ask the General Assembly for directives (Council resolution 303 I (XI)). In 1950, after the Third Committee had devoted thirty-one meetings to the matter, the General Assembly had transmitted to the Commission on Human Rights specific directives which were contained in resolution 421 (V) and 422 (V).

19. Before considering how those directives had been carried out, he explained that it was not his intention to praise or criticize the Commission on Human Rights, whose work the Third Committee was required to examine. In any case, the Assembly's previous directives would remain in force, unless the Third Committee decided to undertake the drafting of the missing articles itself, as the representative of Afghanistan had proposed (362nd meeting).

20. In principle, the delegation of Haiti would not object to that solution.

21. The Commission on Human Rights had not yet taken any steps to carry out the General Assembly's first two directives, namely, to revise the first eighteen articles by completing the list of rights contained therein and improve the wording of some of the articles, and secondly, to study an article on federal States.

22. In the case of the third directive, namely, to include an article on the question of territorial application, the Commission on Human Rights had inserted the text suggested by the General Assembly itself.

23. The fourth directive, regarding the inclusion of articles on economic, social and cultural rights, had only been partially carried out: the Human Rights Commission had drafted the articles but had not inserted them in the draft covenant, thus leaving open the question whether there should be one or more covenants.

24. His delegation would be in favour of a single covenant and against the reconsideration of the Gene-

ral Assembly's decision which the Economic and Social Council had requested. He agreed, however, that there was a difference between certain economic, social and cultural rights and civil and political rights; he would accept, for instance, a covenant divided into several chapters, in which the economic, social and cultural rights that were immediately and universally applicable would be grouped together with the civil and political rights, and the rights which depended for their application upon a country's stage of development or resources would figure in another chapter. In conclusion, he said that the Third Committee should discuss the question thoroughly and give its opinion as to how the General Assembly's fourth directive had been carried out by the Commission on Human Rights.

25. As regards the fifth directive, relating to implementation measures, the Commission on Human Rights had drafted new implementation articles and revised those which it had drawn up at its sixth session. The delegation of Haiti felt that, just as there should be only one covenant, so there should be only one way of implementing it. It agreed, however, as it had done in connexion with the preceding point, that clauses referring to human rights generally should be grouped in the first chapter, special clauses being grouped in the following chapter.

26. His delegation did not object to the system of periodic reports envisaged by the Commission provided that the obligation to submit those reports was imposed on all States Members of the United Nations whether they were parties to the covenant or not, and that those reports mentioned all the rights set forth in the covenant. It would agree to the setting up of a human rights committee if the committee's powers covered all petitions, whatever rights they referred to. It objected, however, to any restriction of the powers of the International Court of Justice and would ask for the deletion or amendment of article 59 of the draft covenant.

27. With regard to the procedure to be followed before the human rights committee, the delegation of Haiti and some other delegations would submit a joint draft resolution³ asking that the right to lodge a complaint or a petition should be extended to individuals and non-governmental organizations. Referring to an observation submitted to the Economic and Social Council by India,⁴ his delegation would also request that the committee on human rights should be authorized to deal on its own initiative with cases of non-observance of the provisions of the covenant by States parties thereto.

28. The Commission on Human Rights had taken no action on the General Assembly's sixth directive, concerning ways and means of ensuring the right of peoples to self-determination. As that question, however, was to a certain extent distinct from the actual drafting of the covenant, he would not object to the Third Committee itself adopting on that point any provisions it considered advisable. He reaffirmed his

³ Subsequently issued as document A/C.3/L.195.

⁴ See *Official Records of the Economic and Social Council, Eleventh Session, Supplement No. 5, annex II, article 42.*

² See *Official Records of the Economic and Social Council, Eleventh Session, Supplement No. 5.*

delegation's intention to fight for the right of peoples to self-determination.

29. Mr. C. MALIK (Lebanon) said that his country took a special interest in the work of the United Nations on the question of human rights. The Lebanese delegation had played a decisive part at the San Francisco Conference in that connexion, as it considered that a peace which did not protect human rights would be illusory. Human rights, he pointed out, were mentioned seven times in the Charter—in the Preamble and in Article 1, paragraph 3; Article 13, paragraph 1b; Article 55c, Article 62, paragraph 2; Article 68, and Article 76c. He also referred to the importance which the United Nations had from the outset attached to the question of the violation of human rights by fascism and militarism—a fact which was mentioned in the preamble of the Universal Declaration of Human Rights. Ever since the San Francisco Conference, Lebanon had fought for human rights—in the Economic and Social Council, the Commission on Human Rights and the General Assembly. Lebanon's interest in that question was not accidental—it was explained by historical facts and especially by the fact that its very existence was linked up with the question of human rights.

30. He then explained his delegation's position on the important questions referred to the Third Committee. Lebanon had asked that the covenant should contain an article on the right of peoples to self-determination. That request was based on the provisions of the Charter, especially on Article 1, paragraph 2, Article 73b and Article 76b, as well as on the natural rights of peoples. The Lebanese request represented a minimum. It merely involved stating a principle. He emphasized the relation between individual rights and the collective right of peoples to self-determination—the further people progressed towards self-determination the more they would respect human rights and *vice versa*. Mankind would be richer if the non-self-governing peoples obtained greater independence. Replying to the objection that strict observance of the right of peoples to self-determination might result in the multiplication of States, he said that the contrary might also happen and that free peoples might be reunited in larger units.

31. Turning to the question of the revision of General Assembly resolution 421 (V), he said that those who opposed such revision seemed to be divided into two groups: some held that the Economic and Social Council had no formal right to ask for revision, others affirmed merely that it was wrong for a subordinate organ to ask for reconsideration of a decision taken by a higher organ. He did not think it could be inferred from the provisions of the Charter that the Council's decision was illegal or incorrect. Article 60 certainly laid down that the functions set forth in Chapter IX should be vested in the General Assembly and, under its authority, in the Economic and Social Council. Article 62, however, gave the Economic and Social Council the right to make recommendations and did not restrict that right. Besides, under Article 7 of the Charter, the Council was one of the principal organs

of the United Nations. It was therefore not true to say that the Council was not formally entitled to ask for revision.

32. As to the advisability of that step, he would refer the Committee to section I of the memorandum by the Secretary-General (A/C.3/559) and he recalled the history of the question. Opinions had differed on that point from the beginning and in its resolution 303 (XI) the Economic and Social Council had invited the Commission on Human Rights to carry out the General Assembly's directives, which the Commission had faithfully tried to do. A distinction should be drawn between an *a priori* decision and the reconsideration of a decision. It was not wrong for a subordinate organ to inform a higher organ that, though it had carried out its instructions as far as possible, it had met with difficulties which, in its opinion, made it necessary to reconsider those directives. The decision had been taken before there had been any experience obtained and experience had shown that there were difficulties which prevented the decision from being put into effect.

33. There could be no doubt that the Commission on Human Rights and the Economic and Social Council had honestly tried to carry out the General Assembly's instructions. It was only after closely studying the questions referred to it and estimating the difficulties which might arise if two categories of rights and obligations were incorporated in the same covenant, that they had quite frankly declared that the General Assembly should reconsider its decision.

34. If those bodies known as the "subsidiary organs of the General Assembly"—and he wondered whether the Economic and Social Council could be so described—had thus fully complied with the General Assembly's request, the latter should in its turn give the Council's request all the attention and consideration it merited. To reconsider the decision taken did not necessarily mean a change of mind but simply reconsideration of the question in the light of new information.

35. The representatives of Belgium, India, Lebanon and the United States of America had felt that the General Assembly should to some extent amend the decision it had taken at its fifth session in view of the weighty arguments put forward in the Commission on Human Rights and the Council. They had therefore submitted an amendment (A/C.3/L.184), under which the General Assembly would ask the Economic and Social Council to request the Commission on Human Rights to draw up two covenants, one on civil and political rights and the other on economic, social and cultural rights. There would not be a first or a second covenant; the two instruments would be given equal attention, would be approved simultaneously by the same bodies and would be opened for signature on the same date. In adopting that amendment the General Assembly would not, strictly speaking, be reversing its decision of the previous year—it would be more correct to say that it would simply be putting it in another way.

36. The general debate which had taken place had shown that such a solution would meet with three main objections. Those who were firm believers in a single covenant stated that the division of rights between two covenants would imply that the United Nations did not attach equal importance to economic, social and cultural rights and to civil and political rights. In that connexion it should be pointed out that there was a difference in degree between the intrinsic value of fundamental rights and the value conferred on them by the extent to which they were implemented in the various countries. The mere fact of including economic, social and cultural rights in a separate covenant could not affect their intrinsic value, especially since both covenants would receive the same treatment.

37. A number of representatives raised a second and much more serious objection in asking what was the significance of civil and political rights without economic, social and cultural rights. That question could be interpreted in two ways. It could be taken to mean no more than that civil and political rights as such were incomplete without economic, social and cultural rights, in which case the only reply could be that it was indeed hardly open to question that economic, social and cultural rights were complementary to the other rights; and the Universal Declaration of Human Rights had already recognized, in article 22, that economic, social and cultural rights were indispensable to human dignity and the free development of human personality. On the other hand, the objection could equally well be interpreted as meaning that civil and political rights were meaningless unless they were accompanied by economic, social and cultural rights, their enjoyment was conditional upon the enjoyment of economic, social and cultural rights and that they did not therefore represent an end in themselves. His delegation noted that that concept was at the root of the ideological conflict which divided the modern world. In its view, the theory that civil and political rights meant nothing in themselves was untenable.

38. It was for the very reason that those rights had been violated by fascism that the United Nations had considered it necessary to reaffirm them, and if they had not been flouted, the Third Committee would not be studying the question of a draft covenant on human rights.

39. Moreover, civil and political rights had an absolute character which other rights had not. Article 2, paragraph 2, of the draft covenant provided that no derogation could be made by contracting States from the articles relating to a number of civil and political rights, whereas in cases of public emergency or national disaster they could take action derogating from their obligations under the articles relating to economic, social and cultural rights. The purpose of that distinction had been to emphasize the fundamental nature of civil and political rights, the right to life, the right to work and the right to freedom, loss of which entailed the loss of human dignity.

40. It all depended on the importance attached to freedom. In his view a people could not attain to

the enjoyment of economic, social and cultural rights in full freedom until its civil and political rights were ensured. It must not be forgotten that some peoples preferred to secure their rights by their own efforts rather than have them bestowed upon them by some higher authority. It seemed that one of the most widespread errors in the modern world was precisely to place the enjoyment of economic, social and cultural rights above the enjoyment of those rights which were the very basis of human dignity.

41. If the General Assembly decided in favour of two separate covenants, States would have no excuse for not signing the covenant in which the most sacred rights of the human personality would be enshrined, even if they could find valid arguments for not ratifying the covenant relating to economic, social and cultural rights.

42. It was no mere chance that for some years past the study of problems arising in connexion with economic, social and cultural rights had engaged the attention of various specialized agencies, whereas none of them had turned their attention to civil and political rights. Neither was it a chance that the two categories of rights had always been regarded as distinct. In the Charter of the United Nations, as in the Universal Declaration of Human Rights, the international problems of an economic, social, cultural or humanitarian character were never confused with those involving respect for human rights and basic freedoms. It would be a pity, therefore, if all rights were included in one and the same covenant.

43. The solution proposed in the joint amendment (A/C.3/L.184) had given rise to a third objection, in a sense the most important. If the Committee decided to recommend the drafting of two covenants, it might happen, even if they were both submitted for ratification by States at one and the same time, that a State would ratify one covenant and not the other. If so, it would seem that the State in question would be able to derogate from its obligations under the Charter.

44. First of all, it should be borne in mind that that objection applied to any covenant, whether or not it covered all human rights. Secondly, it was clear that, if the obligations resulting from the covenant were less than, or even the same as, those resulting from the United Nations Charter, it would be useless and even dangerous to draw up such a covenant, since it would prejudice the implementation of the principles laid down in the Charter. To reply to that third objection, therefore, it would be sufficient to prove that the obligations resulting from the draft covenant went further than those resulting from the Charter and that, in consequence, a State which wished to make reservations or to sign one covenant and not the other could not, by so doing, evade the obligations imposed on it by the Charter.

45. Undoubtedly, the obligations connected with the application of the first eighteen articles of the draft covenant went beyond the principles proclaimed in the Charter. Article 1, paragraph 1, of the draft covenant, indeed, provided that the high contracting parties under-

took to ensure to all individuals subject to their jurisdiction the rights recognized in the covenant. Under Articles 55 and 56 of the Charter, however, Member States merely undertook to co-operate with the United Nations in promoting universal respect for, and observance of, human rights. The articles of the draft covenant dealing with economic, social and cultural rights went beyond the provisions of Article 56. Under article 19, paragraph 4, of the draft covenant, for example, the States parties to the covenant would undertake to take steps, individually and through international co-operation, to the maximum of their available resources with a view to achieving progressively the full realization of economic, social and cultural rights.

46. The mere fact that the draft covenant enumerated the various rights was a step forward from the Charter, which contained no such enumeration. Lastly, the system of reports, which would make it possible to check the fulfilment by governments of their obligations under the covenant, had no equivalent in the Charter, which provided for such a system only in the case of the Non-Self-Governing and Trust Territories. The Charter, indeed, gave Member States the right to lodge complaints, but it was always possible for them to invoke Article 2, paragraph 7, which forbade the Uni-

ted Nations to intervene in matters essentially within the domestic jurisdiction of States. The States parties to the covenant, however, would undertake voluntarily to accept the obligations of the covenant, which were far in advance of those imposed by the Charter. It followed that States which accepted the covenant with reservations would not thereby be derogating from their obligations under the Charter.

47. The objections raised by those who were opposed to the idea of having two separate covenants had no foundation. The solution he advocated would make it possible to recognize the importance of civil and political rights on the one hand and of economic, social and cultural rights on the other hand without creating confusion between them. From the practical point of view, those proposals would make it impossible for countries to refuse to sign a single covenant under the pretext that they were not sufficiently developed economically and socially. The adoption of the draft resolution submitted by Belgium, India, Lebanon and the United States of America (A/C.3/L.184) would enable the General Assembly to give a new direction to the work already begun and to help to achieve further progress, in a spirit of co-operation, towards safeguarding universal human rights.

The meeting rose at 6.30 p.m.