

GENERAL  
ASSEMBLY

SIXTH SESSION

Official Records

INDEX UNIT

4 FEB 1952



Thursday, 20 December 1951, at 3 p.m.

Palais de Chaillot, Paris

## CONTENTS

Page

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, A/C.3/L.191/Rev.1) (continued) . . . . .	141
---	-----

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, A/C.3/L.191/Rev.1) (continued)**

[Item 29]\*

## GENERAL DEBATE (continued)

1. Mrs. AFNAN (Iraq) said that in general her delegation approved of the articles in part III of the draft covenant, but had certain modifications to suggest. In article 21, for example, it was unnecessary to qualify "remuneration" by the word "minimum". In article 23 it was not clear why the Commission had thought it necessary to make specific reference to housing, while not mentioning food and clothing. Again, article 24 did not express sufficiently clearly the need for a continuously rising standard of living.

2. The artificial differences arising out of the unequal historical development of human rights were well illustrated by the relationship between rights in connexion with health and those in connexion with education. The right to primary education was generally accepted, but the proposition of the even more important and fundamental right to a public health service was greeted with the gravest suspicion, as denoting unwarranted State interference in the affairs of the individual.

3. Article 27, dealing with the right to form and join trade unions, would have been better placed in the position occupied by article 22, fitting in more logically between the articles dealing with economic and with social rights.

4. It was to be regretted that the references to cultural rights (article 30) contained no specific recognition of the right to join cultural unions. While fully supporting the provisions of article 31, which recognized the equal right of men and women to the enjoyment of all economic, social and cultural rights, she thought that that article would also have been more suitably placed elsewhere.

5. It was clear that the most important aspect of the covenant was the guarantee of its implementation, and the Iraqi delegation was convinced that the first responsibility for implementation lay with each individual State. Once it had been accepted that the individual could not exercise his rights in isolation, the proposition that isolated States could not exercise rights independently would gain ground as a logical consequence. However, the conceptions both of the right of the individual with respect to the State, and of the international guarantee of individual human rights were so novel that implementation would not fit into any hitherto accepted pattern. Once that difficulty had been overcome, however, she was convinced that the covenant would become a living instrument, susceptible of continual revision and improvement.

6. In principle the Iraqi delegation was in favour of setting up a human rights committee, but wondered whether the proposed membership of nine would suffice. Article 47 did not represent an improvement, since it excluded the presence of States parties to disputes and would probably require revision for that reason.

7. Her delegation had a reservation to make on paragraph 3 of article 52, since it doubted the advisability of permitting the committee to waive the preliminary stages of conciliation in connexion with disputes.

8. Article 53 stipulated that the committee should not have power to deal with certain specific matters coming within the competence of the specialized agencies. Since, however, the covenant would be open for

\* Indicates the item number on the General Assembly agenda.

signature to States Members and non-members of the United Nations and of the specialized agencies, it might have been preferable to make some provision for that point.

9. It should be possible to include various methods of implementation without affecting the harmony of the covenant as a whole. She welcomed the proposal for periodic reports on the progress achieved in the field of human rights and considered, with the French representative (363rd meeting), that that procedure might well be extended to all the rights in the covenant. Although the Commission on Human Rights was of course the organ primarily interested in human rights, its terms of reference might require some modification before it could properly receive the reports in question.

10. The Iraqi Government was fully conscious of the necessity of collaboration with the specialized agencies, particularly having regard to the fact that Iraq, like other under-developed countries, would require their assistance in the practical work of applying many of the rights enshrined in the covenant.

11. She greatly regretted that previous attempts to secure the inclusion of an article on self-determination had failed and expressed the hope that the omission would be rectified at the current session. Her delegation was co-sponsor of a draft resolution (A/C.3/L.186 and Add.1) for that purpose, and she reserved the right to speak further on the subject in due course.

12. With regard to the relative merits of a single covenant or two covenants, she wished to stress that the inequality of rights which had naturally given rise to the conception of two covenants could no longer be taken for granted. If therefore it were decided to have two covenants, mankind would not appreciate the—possibly very excellent—practical reasons underlying it but would conclude only that the United Nations had not considered that the two sets of rights were equally important for human progress. At the current time, when every under-developed country was putting forth great efforts to improve its political, economic and social conditions, it was vital that those efforts should be integrated and harmonized by the provisions of a unified covenant on human rights.

13. Mr. CASSIN (France) said that the General Assembly's efforts must be directed towards the signature of a covenant at as early a date as possible and that it must therefore not attempt to produce an absolutely comprehensive instrument.

14. Synthesizing the contributions so far made to the discussion, he said he believed that the essential feature which had emerged was the essential unity of all human rights, a unity which had inspired the Universal Declaration of Human Rights itself. However, even though it was fundamental, that unity did not necessarily extend to technicalities and, in his view, the question whether there should be one covenant or two was an essentially technical matter. In each State, for example, there existed separate laws dealing with separate subjects including, indeed, respect for individual human rights. Unification was assured by the fact that the country's

code of laws was designed for a single aim and purpose. Similarly, two or more covenants on human rights could well be interlinked by a common underlying design.

15. He had observed that some of the partisans of unity *à outrance* had not perhaps altogether lived up to their principles, in that they had disdained the inclusion of what they considered such elementary rights as the freedom from arbitrary arrest, on the ground that suitable provision was included in their national constitutions. Unfortunately, however, such inclusion did not necessarily mean that the right in question was loyally observed. Other delegations which keenly desired a single covenant had been, in his view, unduly insistent on the inclusion of all the economic and social implications of a general right. On the other hand, the partisans of two covenants tended to exaggerate the differences between civil and political rights, on the one hand, and economic, social and cultural rights, on the other. Indeed, among the latter there were many susceptible of immediate implementation. It was important not to be hypnotized by differences in the origin and development of various rights, and the only truly valid criterion was whether, and on what conditions, any given right could be implemented.

16. The adoption of two covenants was therefore permissible on grounds of convenience: a single, comprehensive covenant would secure only a restricted number of ratifications: on the other hand, two covenants, although theoretically less satisfying, would reduce the number of points of disagreement, and would enjoy greater support.

17. In any case, the partisans of complete unity would have to set some limits to their demands; otherwise the covenant would become so overloaded with provisions relating to almost every human activity that its operation would become an impossibility.

18. Turning to the categories of rights to be included in the covenant, he said he regretted that some delegations had taken exception to the specific mention of the liberty to change one's religion. It seemed to him quite incomprehensible that that should be in any way interpreted as a threat to the Mohammedan religion; as befitted an impartial organization such as the United Nations, it was natural to state that conversion to and from any religion could be freely practised as a right. He referred, by way of example, to the great religious freedom enjoyed in the French Union, where conversion, particularly to the Mohammedan religion, occurred very frequently.

19. With regard to the right of self-determination, he recalled that the situation in that connexion was more complicated than appeared at first sight. For example, France had, during the preceding one hundred and twenty years, refused, on no less than three occasions, an appeal by the members of a community living on its borders for union with France. Similarly, although a plebiscite held in the Austrian province of Vorarlberg has demonstrated the desire of the inhabitants for union with Switzerland, the Swiss Confederation had, in the interests of peace, refused to answer that appeal.

20. The principle of self-determination, which was mentioned twice in the Charter of the United Nations—in Article 1, paragraph 2, and Article 55—had both political and juridical connotations. In his opinion, the General Assembly could reaffirm the political significance of the principle by a simple reference to it in the covenant, but if it became the subject of a separate article, the juridical and other implications involved therein would raise very serious and complex problems. He therefore appealed to representatives not to insist on the inclusion, in a covenant dealing with specifically individual rights, of an article containing what was after all an extraneous principle, one, moreover, which would, in any case, involve different measures of implementation.

21. To advocate a single covenant but at the same time to refuse to include in it the measures of implementation on the ground that they involved infringement of national sovereignty, was inconsistent. Undoubtedly, the enforcement of the protection of human rights was primarily a matter for domestic legislation; but once that protection had been internationalized under treaty, international supervision of its implementation would have to be accepted. National sovereignty would in fact be more seriously infringed if the articles covering the rights were drafted in such detail that the provisions might well conflict with all existing domestic legislation on the subject. The USSR delegation had, for example, proposed at one stage that the covenant should include an article obliging the State and employers, but not workers, to contribute to social security; but many different systems existed in various States; thus, such an attempt to standardize the right to social security would imperil the structure of much domestic law. As between rigid uniformity in the measures of implementation for all States signatories of the covenant and an elastic system of implementation coupled with international supervision, the French delegation infinitely preferred the latter approach.

22. Periodic reports were undoubtedly the best method of applying the measures of implementation. There were many precedents for that system, which was open and above-board; he referred, in that regard, to the ideas which he had developed in his previous speech (363rd meeting). A system of penalties would be relatively useless, but there would be merit in the use of the principle of co-operation, in particular by means of technical assistance to countries which might wish to implement economic and social rights but were hampered by lack of development. Such assistance would undoubtedly act as a stimulus to governments for the protection of the most elementary rights.

23. Two opposing trends were observable with regard to the idea of establishing a committee on human rights. Some were over-cautions and felt that the committee's competence should be limited to certain rights, whereas others believed that it should go beyond the mere furnishing of good offices and that it should have supervisory powers or even act as an international court of human rights. The French delegation leaned towards the latter view, but felt that the greatest caution should be exercised with regard to any complete innovation

in international law. The proposed organ should first be established and the methods by which it should become cognizant of petitions decided. The incorporation of those two principles in international law, with the greatest possible number of signatures and ratifications, would be a great step forward in any case. The French delegation was prepared to go a considerable distance in that direction, but only on the basis of strict reciprocity.

24. Finally, if the General Assembly was to complete its work on the draft covenant at its seventh session, the directives given to the Commission on Human Rights must not be too complex and onerous.

25. To give concrete expression to all those considerations, the French delegation had submitted its amendment (A/C.3/L.192) to the amendment proposed jointly by Belgium, India, Lebanon and the United States of America (A/C.3/L.184).

26. The CHAIRMAN announced that the general debate was closed. Under rule 114 of the rules of procedure, he would however permit delegations to reply to statements made by previous speakers.

27. Mrs. ROOSEVELT (United States of America), replying to statements made by the Byelorussian, Czechoslovak, Polish, Ukrainian and USSR representatives, questioned their sincerity in citing for their own purposes the Universal Declaration of Human Rights, for which they had not voted at the third session of the General Assembly. Those representatives had expressed their concern lest the covenant finally drafted should turn out to be illusory; yet some of them, by repeatedly proposing the deletion of all measures of implementation on the ground that their inclusion would constitute an attempt at intervention in the domestic affairs of States, seemed themselves to desire an illusory instrument. That might be said to be a reflection of the state of human rights in those countries, in which there was no enjoyment of the basic freedoms of speech and expression.

28. The allegation that the United States Government was disregarding the interests of the Negroes was baseless. True, there had been instances of Negroes being victimized by unreasoning racial prejudice in the United States of America; but such incidents were not condoned, and President Truman himself had on numerous occasions issued executive orders to ensure the protection of Negroes in employment under government contract. The official policy of the United States Government was that the remaining imperfections in the practice of democracy, which resulted from the conduct of small groups, must be corrected as soon as possible. Furthermore, Negroes were taking an increasing part in the political life of the United States of America; the number of Negroes holding civil service positions had increased from 80,000 in 1938 to 270,000 in 1951. The poll-tax laws restricting the Negro vote were being rapidly amended. Much remained to be done, but the very recognition of that fact was a stimulus to more effective action. The countries whose representatives had criticized the United States in that respect had not, in her opinion, made nearly so much



progress in the safeguarding of fundamental human rights and freedoms.

29. The allegation that the United States of America was not concerned with the economic and social progress of its own people or of the people of other countries was unfounded. The standard working week in the United States was fixed by law at forty hours and the penalty payments for overtime labour established under the Federal Fair Labor Standards Act were a deterrent against longer hours of employment. In assisting the economic and social progress of other countries, especially the under-developed countries, the United States had made available during the past six years more than US\$30 billion apart from its subscriptions to the International Bank for Reconstruction and Development and its contributions to the humanitarian specialized agencies and similar international bodies. The figures cited showed that the Government and people of the United States were very much interested in the economic development of other countries.

30. In contrast, the countries whose representatives had criticized the United States of America had made virtually no contributions to the specialized agencies and similar bodies to which the United States had contributed so much. Her delegation appreciated the fact that the USSR was confronting great difficulties in restoring its war-devastated economy and was expending funds to assist the countries along its borders. If, however, that country were not currently spending such large sums on its armed forces, it might well be better able to assist the development of other countries.

31. The United States' support for the idea that two covenants should be drafted did not spring from any lack of concern for the economic and social progress of other countries or of people in the United States itself; it rather believed that the more practical approach to the achievement of human rights throughout the world lay in the simultaneous completion of two covenants—one on civil and political rights, the other on economic, social and cultural rights.

32. Mr. DEHOUSSE (Belgium) wished to reply to certain criticisms of the statement he had made at the 361st meeting. Two aspects of the attacks made had been especially interesting. In the first place, he had hardly expected such a violent reaction from representatives of the Middle Eastern States and wished to assure them that he had not intended to refer to their countries specifically in his remarks. In the second place, he thought that the only explanation of the evident misunderstanding and distortion of his statement lay in a spirit of fanaticism which seemed to prevail in the Third Committee.

33. For example, one of his statements had been interpreted as an inference that certain delegations were unworthy of membership of the United Nations, whereas he had merely stated that the delegations concerned were less qualified than others to expatiate on human rights. Some speakers had alleged that he was opposed to the right of self-determination, although he had

only questioned the advisability of including a summary article on the question in the covenant. Others had accused him of asserting the supremacy of Western civilization. In refuting those allegations, he quoted passages from his previous remarks, and recalled that sound-recordings were available to any members of the Third Committee who wished to consult them.

34. He regretted that so much emphasis had been laid on the question of the inclusion of an article on the right of self-determination and pointed out that no reply had been made to the technical objections he had raised to that proposal. The term "people" had never been adequately defined, and certain statements in the Committee had shown that there was a disquieting confusion between the concepts of "peoples" and "majorities". Moreover, a sub-committee of the Fourth Committee was still discussing the definition of the term "Non-Self-Governing" Territories, six years after the signature of the Charter.<sup>1</sup>

35. In reply to the USSR criticism (361st meeting) that he had contradicted himself on the subject of self-determination, he quoted certain statements made by Generalissimo Stalin—which were included in a single anthology—as proving that the same author could express different views on the same question and that, from the point of view of the USSR, the concept of self-determination must frequently be subordinated to the interests of the world proletariat. He further recalled that Hitler had invoked the right of self-determination in all the successive stages of his dismemberment of central Europe.

36. Another technical problem with regard to the right of self-determination no solution to which had been proposed was that of the organ competent to decide on the independence of a given people. It might be said that the State currently responsible for the population concerned was competent to take that decision: if, however, that State refused to consider such a claim, there arose the question of the organ to which an appeal could be made. If an international organ was responsible, the problem was to decide which was the specific organ concerned, since no such responsibility was laid on the United Nations by the Charter. Guarantees were a *sine qua non* condition of self-determination; before the First World War, the procedure had been that of plebiscites reinforced by bilateral agreements guaranteeing their implementation; it was therefore obvious that a mere vote provided insufficient guarantees for the transfer of a population from one administration to another. He quoted President Wilson's specifications for effective self-determination, which were based on three principal considerations: the existence of well-defined national aspirations, the best interests of the populations concerned—which did not necessarily involve national independence—and the overriding considerations of the maintenance of peace. Moreover, although the Atlantic Charter provided that no territorial changes should be made without the consent of the populations concerned, it also referred to the right of peoples to select the government they wanted.

<sup>1</sup> See document A/C.4/SC.9/L.14.

37. In reply to representatives who had alleged that his attitude towards the right of self-determination was influenced by the fact that he represented a colonial Power, he stated that he subscribed to no doctrine of relations between metropolitan States and their overseas dependencies and recalled that he had stressed the desirability of a world-wide trend towards federalism.

38. Moreover, there was a tendency to forget the appreciable progress that had been made in the administration of dependent countries. The USSR representative had criticized medical and social facilities in the Belgian Congo, although considerable amounts of money had been contributed by Belgium as subsidies to the Native Welfare Fund. The Polish delegation's assertion that the provision of paid leave and holidays was inadequate in that territory was refuted by the existence of certain decrees prescribing adequate leisure for indigenous workers.

39. His delegation, speaking generally, approved of the Syrian draft resolution (A/C.3/L.191/Rev.1) and agreed that field investigations could do useful work for the implementation of the covenant; it would be interested to hear the Syrian representative's explana-

tion of that draft resolution and might be prepared to support it.

40. With regard to the question whether there should be one or two covenants, he recalled that at its second session, in 1947, the Commission on Human Rights had contemplated not a single covenant, but two or more.<sup>2</sup>

41. In conclusion, he hoped that the existing atmosphere of attack and counter-attack would disappear and that the co-operative spirit which had prevailed in the early days of the consideration of the question of human rights would be re-established.

42. Mr. AZKOUL (Lebanon) recalled the Chairman's ruling on the closure of the general debate and stated that an unduly broad interpretation of the right of reply under rule 114 would be dangerous. He pointed out that views on substantive matters, such as the right of self-determination, could be expressed when the relevant draft resolutions were under consideration.

The meeting rose at 5.55 p.m.

<sup>2</sup> See *Official Records of the Economic and Social Council, Sixth Session, Supplement No. 1.*

\*