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Chairman : Mrs. Ana FIGUEROA (Chile).

**Draft international covenant on human rights and measures of implementation (A/1883, A/1884 (chapter V, section 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.203/Rev.1) (continued)**

[Item 29]\*

JOINT DRAFT RESOLUTION SUBMITTED BY CHILE, EGYPT, PAKISTAN AND YUGOSLAVIA (A/C.3/L.182) (continued)

1. Sir Lionel HEALD (United Kingdom) said he gathered from the debate that, despite all differences, there was a great measure of agreement in principle and an abundance of goodwill. There was clearly much public support for a real effort to back human rights with binding international instruments. That in itself was a great advance ; and though the next stage was bound to be long and complicated, it should not be impossible to work out an acceptable covenant, since the opinions differed not on the principle but on the methods to be employed.

2. Before proceeding further, he felt bound to answer two allegations made by the representative of the Soviet Union (370th meeting). The United Kingdom representative had not suggested that economic and cultural rights, such as old-age insurance, were included in International Labour Organisation conventions, which suggested that the best way to give effect to economic rights was through practical use of the specialized agencies. Nor had he advocated that attempts to render such rights enforceable should be deferred for twenty-five years, though, admittedly twenty to thirty years might elapse before some national legislations were brought into line.

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

3. He agreed with the representative of the Lebanon (370th meeting) that the divergence of views between those who thought civil and political rights valueless without economic and cultural rights, and those who maintained that economic and cultural rights would follow gradually, in a real democracy, once civil and political rights had been guaranteed, was due to a fundamental difference of approach to the theory of democracy. Whereas he personally took the view that economic and cultural benefits were a natural corollary to an efficient democratic system, it was argued by others that economic and cultural benefits sufficed, and that civil rights were unnecessary or even undesirable. Because such differences had to be frankly admitted he advocated two separate conventions.

4. The first of the general arguments in favour of a single convention, the purely technical point that a General Assembly directive would have to be reversed, was not convincing, for there was nothing in the United Nations Charter or in the rules of procedure of the General Assembly to prevent the Assembly from reversing a decision. He did not agree that a single convention would encourage countries hesitant to do so to incorporate economic and cultural rights in their domestic legislation ; on the contrary, it would rather tend to deter those countries from acceding to the convention at all. If there were two conventions, however, delegations which were not convinced of the practicability of economic and cultural rights could at least affirm their support of civil and political rights.

5. Nor did he agree with the objection that two separate conventions would establish a hierarchy between two essentially equal sets of rights. It was doubtful whether economic and social rights, which were purely relative conceptions, were legally enforceable ; they came within an entirely different category. The joint amendment (A/C.3/L.185/Rev.1), which called for simultaneous submission of the two covenants, would dispel all doubts regarding the motives of the advocates of two covenants.



6. The USSR representative's statement (370th meeting) that, because some countries had extensive social legislation, the alleged difference between the two sets of rights had been disproved, did not appear to be logical; in any case, since uniform legislation on such matters was impossible, there could be no common standard of application.

7. Resolution 421 (V) of the General Assembly had not been based on any draft articles on economic and social rights prepared by the Commission on Human Rights; the difficulty of drafting such articles had only become apparent later, and he pointed out that several delegations, after reflection, favoured reconsideration of that resolution.

8. The United Kingdom delegation would therefore support the amendments (A/C.3/L.184/Rev. 1 and A/C.3/L.185/Rev. 1) to the Chilean (A/C.3/L.180) and the joint (A/C.3/L.182) draft resolutions, although unconvinced that economic, social and cultural rights could be formulated in a covenant. Unfortunately his delegation would be unable to support the French amendment (A/C.3/L.192/Rev. 2), on the grounds that the methods of implementation for the two sets of rights must differ.

9. The Third Committee should carefully consider what effect would be produced if the General Assembly again pronounced itself in favour of a single covenant. The aim was to produce a covenant enjoying the widest possible support; if there were two simultaneous covenants, practically every Member State might well be able to accept one of them; and the prestige of the principle of human rights would thereby be affirmed.

10. Mr. Altaf HUSAIN (Pakistan) said he could not support the joint draft resolution (A/C.3/L.182), because it asked the General Assembly to reverse the decision taken in its resolution 421 (V) and, consequently—a point which none of the advocates of revision had mentioned—involved re-writing the preamble to that resolution, which stated that the two categories of rights were interconnected and interdependent.

11. Various means were being attempted to resolve the dilemma. The joint amendment (A/C.3/L.185/Rev. 1) to the joint draft resolution (A/C.3/L.182) suggested adding, at the end of the preamble to resolution 421 (V), section E, another paragraph to the effect that the General Assembly, at the request of the Economic and Social Council, had reconsidered what it had earlier regarded as fundamental truths. That was an attempt to reconcile the irreconcilable.

12. The amendment proposed by Belgium, India, Lebanon and the United States of America (A/C.3/L.185/Rev. 1) represented another attempt to by-pass the problem by suggesting that two sets of rights should be drafted at the same time, submitted simultaneously to the General Assembly for consideration, and opened at the same time for signature. But surely that was not sufficient to illustrate the interconnexion and interdependence referred to by the General Assembly. The French amendment (A/C.3/L.192/Rev. 2) was based on the same misconception. Clearly, though some delegations, notably the United States delegation, claimed

to have made certain concessions in a spirit of compromise, their position was still far removed from the requirements of the resolution which was to govern the work of the Commission on Human Rights.

13. Neither Mr. Malik, the representative of Lebanon, speaking with the authority of a chairman of the Commission on Human Rights, nor any other speakers in the debate had produced any fresh arguments. Mr. Malik's statement (370th meeting) that the General Assembly decision ought to be changed in the light of the experience of the Economic and Social Council, was not borne out by the records of the Council's thirteenth session, where some divergences on form but no insuperable obstacles to the drafting of a single covenant had emerged. The United Nations could not admit itself defeated by such difficulties, real though they might be; or by the fact that economic and social rights could not be made justiciable. If the Commission on Human Rights had not spent so much time discussing the question whether or not to follow the General Assembly's directives, more progress would have been made.

14. As the President of the Economic and Social Council had said,<sup>1</sup> the difficulties which had arisen were due not to any real reasons making it impossible to comply with resolution 421 (V), section E, but to the existence, within the United Nations, of fundamental disagreements on the question of human rights. Some States insisted on implementation machinery, which others found unacceptable; some States insisted on the inclusion in the covenant of clauses on economic, social and cultural rights, whilst others were unwilling to commit themselves to such clauses, not because they were opposed to granting the rights but because they considered that a sound national economy constituted a sufficient guarantee. In short, the difficulties so frequently mentioned were not inherent in drafting a single covenant covering all human rights and methods of implementation, but were due to lack of impartiality on the part of the members of the Commission on Human Rights.

15. It was argued that some countries would refuse to sign a covenant covering both categories of rights. Actually, there were only two reasons why a country would refuse to sign a covenant containing reasonably well defined articles on economic, social and cultural rights: either that it objected to the principle of a State guaranteeing economic, social and cultural rights to its citizens; or that it objected to entering into commitments which it might not be able to fulfil with the resources at its disposal. No delegation had yet pleaded the first reason, nor was it likely that any enlightened modern State would. The second was a sounder reason; but no country should refrain from signing the covenant simply because some of its provisions could not be carried into effect for some years. Even a covenant proclaiming all the rights would not require acceding States to do the impossible, but only subject to resources being available, to take measures which would later enable it to discharge its obligations.

<sup>1</sup> See *Official Records of the Economic and Social Council, Thirteenth Session, 523rd meeting.*



Besides, some of the rights required no elaborate procedure, but only the will to give effect to them. He could hardly believe that any State could reasonably refuse to accede to a well drafted single covenant on human rights merely on the grounds that it also included economic, social and cultural rights.

16. Those in favour of two separate covenants had argued that there would be difficulty in enlisting support for a single covenant; and the United States representative had pleaded for two separate covenants on the grounds that one set of rights must not be allowed to delay the other. Mr. Husain thought, on the contrary, that the existence of the two covenants might be used as an excuse for failure to implement either. The Universal Declaration of Human Rights was a single, unified document; it would be better to dispense with a conventional instrument altogether than to detract from its moral force by splitting up the rights it proclaimed into two separate covenants.

17. Miss BERNARDINO (Dominican Republic) said that when presenting her delegation's views on a single covenant during the general debate, she had stressed that it would be preferable to draw up a covenant which would make no discrimination between civil and political rights on the one hand, and economic, social and cultural rights, on the other; for the modern realistic trend was to provide a social and economic basis for the political organization and structure of the State.

18. She had, however, appreciated the weight of the argument of some speakers who had said that their governments would be reluctant to subscribe to a single covenant and she would therefore abstain from voting on the joint Belgian, Indian, Lebanese and United States amendment (A/C.3/L.185/Rev. 1) to the joint draft resolution (A/C.3/L.182), although as a conciliatory gesture, she would vote for the draft resolution even if it were thus amended.

19. Mr. BEAUFORT (Netherlands) said he still felt that, if a single covenant were adopted by the majority of the Third Committee, many States in which economic, cultural and social rights were at an advanced stage of development would be unable to sign it. He also pointed out that the joint amendment, by referring to the simultaneous approval and opening for signature of two covenants, suggested that the two categories of rights were of equal value. The Committee could best serve the cause of human rights by enabling States to sign at least one covenant.

20. The French amendment (A/C.3/L.192/Rev.2) to the joint amendment represented a distinct improvement, and he would therefore vote for it.

21. Mr. DE ALBA (Mexico) expressed support for the joint draft resolution (A/C.3/L.182), because it reflected the stages through which the question had passed in the United Nations and represented the only solution which took into account the interdependence of the two categories of rights. The unity which characterized the Universal Declaration of Human Rights should likewise be a feature of the draft covenant.

22. Moreover, the joint draft resolution contained an explicit reference to the co-operation that had been

given by the competent specialized agencies, most of which had effectively applied the principles embodied in General Assembly resolution 421 (V). Those specialized agencies had proceeded on the assumption that there would be a single covenant and it was therefore inadvisable to make a *volte face* and advocate two covenants. The signing and ratification of two covenants would meet with the same difficulties as the signing and ratification of a single instrument, and he felt that economic, social and cultural rights were easier to implement than civil and political rights.

23. If the joint draft resolution was voted on first, he would vote for it and against the amendments; if the amendments were adopted, he would abstain from voting on the amended draft resolution.

24. Mr. ALEMAYEHOU (Ethiopia) said his delegation would support the joint draft resolution (A/C.3/L.182) for two reasons. In the first place, as indicated in its resolution 421 (V), section E, the General Assembly had decided in favour of drafting a single covenant, and if that decision were reversed a dangerous precedent would be created. Small countries were particularly anxious to preserve the sanctity of General Assembly decisions, for they, more than the large countries, depended on the maintenance of the authority of the United Nations; the Organization's prestige could be maintained only by abiding by former decisions.

25. In the second place, it had become obvious during the general debate that opinions were divided on the question of drafting one or more covenants: one group held that political and civil rights had to be protected before economic, cultural and social rights could be developed, whereas the other group considered that no political and civil rights could be enjoyed until economic, cultural and social rights were secured. In order to avoid further fruitless discussion of those conflicting views it would be advisable to recognize the interdependence and equal importance of those categories.

26. He would therefore vote for the joint draft resolution and against the joint amendment (A/C.3/L.185/Rev. 1). He thought, however, that the French amendment (A/C.3/192/Rev. 2) would improve the joint amendment, and he would abstain from voting on it.

27. Mr. CASSIN (France) said that the fact that some supporters of the idea of the single covenant had criticized the French amendment (A/C.3/L.192/Rev. 2) and that some proponents of the idea of two or more covenants had also opposed it showed that it had merits. It had been intended to uphold and carry further the spirit that had inspired the Universal Declaration of Human Rights, in which the economic, social and cultural rights had only been included after very full discussion. The French delegation had always believed that the statement of the political and civil rights must be accompanied by a statement of the economic, social and cultural rights and that equal weight should be given to both categories. The French amendment was, moreover, based upon the decision taken at the fifth session of the General Assembly, which had resulted from the need for real coherence in the work of the United Nations. The joint amendment (A/C.3/L.185/Rev. 1) recommending the simultaneous



submission and approval of two covenants was in fact fully in accord with the decision taken by the General Assembly at its fifth session, but did not go far enough, for it was necessary to stress the unity of concept by which the two covenants were to be linked. The United Kingdom representative's contention that the gulf between the two categories of rights made similar implementation impossible could not be accepted. The United Kingdom Government, as a member of I.L.O., surely knew from experience that the submission of periodic reports on the implementation of economic and social rights was perfectly feasible.

28. Lastly, all the rights covered by the Universal Declaration must sooner or later be embodied in the covenant or covenants. All countries had many categories of human rights embodied in their constitutions; but obviously they were not embodied in a single code or body of statute law, as they had evolved gradually. Similarly, although there was greater freedom of action at the international than at the national level, all countries could not be expected to enforce all rights at the same time.

29. The Commission on Human Rights, despite its best endeavours, had been unable to complete the drafting of uniform texts in a single covenant. On some of the articles opinions had been irreconcilably divided. Yet, the Commission had had the valuable assistance of the specialized agencies concerned. The Committee must take practical requirements into account.

30. Inversely, some delegations had contended that a second covenant was required because certain rights would not be immediately enforceable, but would always require long-term programmes or even international technical assistance. Many of those rights could, however, be justiciable. Violations of such rights were already justiciable in many countries. The French delegation, therefore, did not share those views.

31. Every effort should be made to obtain the greatest possible number of ratifications of the covenants which the Assembly adopted, and the United Nations ought therefore to retain some powers of supervision. The French delegation would propose to the General Assembly at its seventh session that, as was customary with the enforcement of I.L.O. conventions, countries which found difficulties in the way of ratification should report periodically on the nature of their difficulties and explain what steps they had taken to overcome them. If two covenants were adopted by the General Assembly at its seventh session, the United Nations should make recommendations to that effect.

32. Mr. HAJEK (Czechoslovakia) said that all the arguments advanced by the proponents of the idea of two covenants had not altered his delegation's steadfast view that only a single covenant was consistent with the course of historical progress. The legislation of many countries, including France and Italy, adopted after the Second World War under popular pressure, recognized the interdependence of the enjoyment of civil and political freedoms and of economic, social and cultural rights. That interdependence had been regarded as natural by the United Nations, not only in the Universal Declaration of Human Rights but also in

General Assembly resolution 421 (V). Resolution 384 (XIII) of the Economic and Social Council had been a retrograde step, forced upon the Council by the growth of reactionary influence.

33. The proposals that there should be two covenants, because a single covenant would not be ratified by many governments, and that the two covenants should be ratified simultaneously seemed inconsistent. Too much attention should not be paid to the possibility that countries might not be able to ratify a covenant embodying all the rights; even the under-developed countries had stated that they were willing to endeavour to enforce all the rights at once.

34. Accordingly, the Czechoslovak delegation would vote against the French and all other amendments to the joint draft resolution (A/C.3/L.182). The United Kingdom amendment (A/C.3/L.188) was superfluous, as governments had already had ample time to submit comments; if they had failed to do so, the time limit stated therein would not be adequate. He would support the joint draft resolution (A/C.3/L.182) as it stood.

35. He had not challenged the Chairman's ruling at the previous meeting concerning the applicability of rule 129 of the rules of procedure to the joint amendment (A/C.3/L.185/Rev.1). The Chairman might, however, be well advised to reconsider her ruling. The joint amendment did not only affect parts of the joint draft resolution, but proposed the deletion of essential passages and in fact constituted a fresh proposal.

36. Mr. MUFTI (Syria) wished to submit an amendment to the joint amendment (A/C.3/L.185/Rev.1) to the joint draft resolution (A/C.3/L.182) in order to provide common ground between the two groups, whose views were not totally irreconcilable.

37. The CHAIRMAN said such an amendment was in order.

38. Mr. MUFTI (Syria) submitted the amendment (A/C.3/L.219).

39. Mr. GARCIA BAUER (Guatemala) observed that the latter part of the Syrian amendment, dealing with reservations, was closely connected with the Guatemalan draft resolution (A/C.3/L.190), which was not currently before the Committee. That part of the Syrian amendment should be discussed jointly with the Guatemalan draft resolution.

40. The CHAIRMAN suggested that the discussion of the second sentence of the Syrian amendment and the Guatemalan draft resolution should be deferred to the appropriate stage in the debate.

41. Mr. MUFTI (Syria) and Mr. GARCIA BAUER (Guatemala) accepted the Chairman's suggestion.

42. Mrs. BEGRUP (Denmark), speaking on a point of order, asked the Secretariat whether it was a fact that all the rights set forth in the Universal Declaration of Human Rights were covered by the articles of the draft covenants under discussion.

43. Mr. VALENZUELA (Chile) observed that the Danish representative had spoken on substance rather



than on procedure. Eventually, all the rights embodied in the Declaration would have to be incorporated in a single covenant.

44. Mr. PAVLOV (Union of Soviet Socialist Republics) enquired whether the Commission on Human Rights could be prevented from including in the draft covenant any article based upon provisions of the Declaration.

45. Mrs. ROOSEVELT (United States of America) took issue with the implication of the Chilean representative's remark. Many human rights could not be covered by one or even by two covenants; there would always be a need for further separate covenants, and the General Assembly could not be prevented from drafting them, if it deemed fit.

46. Mr. AZKOUL (Lebanon) said the Commission on Human Rights, as master of its own procedure, could in theory make any recommendations it thought fit, but in practice its conduct would be determined by the views of the governments represented on it.

47. The CHAIRMAN asked Mr. Humphrey, the Director of the Division of Human Rights, to reply to the Danish and USSR representatives' questions.

48. Mr. HUMPHREY (Secretariat) said that the articles of the draft covenant in their existing form did not cover all the rights embodied in the Declaration. Without wishing to commit himself, he said he thought

the Commission on Human Rights was subject to the instructions of the General Assembly and of the Economic and Social Council, but could also make any recommendations it deemed fit to those bodies.

49. Mr. PAVLOV (Union of Soviet Socialist Republics) expressed satisfaction with the Secretariat's reply, but wished to remind the United States representative that it was premature to talk of subsequent covenants when the Third Committee had not even decided what the covenant on which it was working would contain.

50. Mr. DE ALBA (Mexico) said a so-called point of order should not lead to a fresh debate.

51. The CHAIRMAN, after inviting representatives who had not already done so, but who desired to have their names included on the list of speakers to the joint draft resolution (A/C.3/L.182) and amendments thereto to do so, declared the list of speakers on that draft resolution and amendments thereto closed.

52. Mrs. BEGTRUP (Denmark) asked the Secretariat to prepare and submit a list of the articles in the Universal Declaration of Human Rights which had not been covered by the existing articles of the draft covenant.

53. The CHAIRMAN said the Secretariat would comply with the request.

The meeting rose at 1.15 p.m.