tional Justice had stated that nothing in international law precluded individuals from the direct acquisition of rights under a treaty, if that were the intention of the signatories.[5] In its advisory opinion of 1949 on reparations the International Court of Justice had ruled that the United Nations was competent to lodge complaints against States.[6] Although the Statute of the Court did not admit the right of individuals to be parties in cases before it, the individual was, under the terms of the Charter of the United Nations, the direct beneficiary of international co-operation.

68. Under contemporary international law an individual was no longer required to use the State as an intermediary in order to institute proceedings on the international level. The agreement concluded over forty years earlier for the establishment of the Central American Court of Justice[7] had recognized the right of individuals to address petitions to the signatory governments.

69. The system for the protection of minorities applied by the League of Nations had recognized the right of individuals to submit petitions against their own governments. The convention relating to the protection of Upper Silesian minorities, concluded in 1922, had also recognized the right of nationals of a State to petition against their own government, and had provided that individuals might have direct access to regional administrative and judicial organs of an international character. The International Labour Organisation likewise recognized the right of governments and of workers' and employers' organizations to lodge complaints relating to breaches of trade-union rights.

70. That development could not be halted. The United Nations must accept the new ideas of the time and enshrine them in the articles of the draft covenant. If it did not do so, it would be failing in its historic mission.

71. Objection had been made that recognition of the right of petition by individuals or groups of individuals would lead to the submission of cases on a scale which would make the international system for the protection of human rights impossible to operate effectively. That objection had some substance but was not conclusive. The difficulty could be overcome by laying down procedure for the submission of petition. In the Commission on Human Rights in 1949 Guatemala had put forward proposals providing for the establishment of a screening committee for that purpose.[8] The draft protocol submitted by the United States of America also contained useful suggestions on the same lines (E/1992, annex V).

72. The whole question should be thoroughly investigated by the Commission on Human Rights. To that end the delegation of Guatemala, together with the delegations of Haiti and Uruguay, were asking that the General Assembly should issue general directives to the Commission on Human Rights through the Economic and Social Council.

73. The creation of an attorney-general of the United Nations, as was proposed in another draft resolution (A/C.3/196/Rev.2), would allay the unfounded fears which had been expressed and would assign to the United Nations its proper function in the protection of human rights. The delegation of Guatemala was convinced that, if the proposals contained in the joint draft resolutions (A/C.3/195/Rev.2 and A/C.3/196/Rev.2) were adopted, the sixth session of the General Assembly would be an historic session, since it would represent a decisive stage in the thousand-year struggle for human rights.

74. Mr. CORLEY SMITH (United Kingdom) asked whether the text of the proposal made by the USSR representative could be circulated.

75. Mr. PAVLOV (Union of Soviet Socialist Republics) said that he would have liked to hear the reactions of members of the Committee to his suggestions. He would submit them formally in writing at the next meeting, or later if that seemed preferable.

The meeting rose at 1.15 p.m.

[5] See *Jurisdiction of the Courts of Danzig, Collection of Advisory Opinions of the Permanent Court of International Justice,* Series B-No. 15, March 3, 1928.

[6] See *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion: I.C.J. Reports 1949,* p. 174 (page 187).

[7] Established 20 December 1907.

[8] See documents E/CN.4/293 and E/CN.4/SR.115.

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United Nations

GENERAL ASSEMBLY

SIXTH SESSION

Official Records

THIRD COMMITTEE 406th
MEETING

Saturday, 26 January 1952, at 3.30 p.m.

Palais de Chaillot, Paris

CONTENTS

Chairman : Mrs. Ana FIGUEROA (Chile).

Programme of work of the Committee

1. The CHAIRMAN said that she had consulted the President of the General Assembly on the length of meetings necessary to enable the Committee to end its work in due time, and had concluded that the agenda could be exhausted if the Committee met from 10.30 a.m. to 1 p.m. and from 3 p.m. to 7.30 p.m., holding one night meeting on 30 January 1952 and one further night meeting if necessary. When there were night meetings, the afternoon meeting would be adjourned at 6 p.m.

2. Mr. BAROODY (Saudi Arabia) proposed that the meetings should last from 10.30 a.m. to 1.30 p.m. and from 3 p.m. to 7 p.m. and that only one night meeting should be held in the following week.

The proposal was adopted by 17 votes to 12, with 14 abstentions.

3. The CHAIRMAN invited the Secretary of the Committee to reply to a question asked by the representative of Haiti at the previous meeting.

4. Mr. STEINIG (Secretary of the Committee) said that there would be no difference in the time spent if the Joint Second and Third Committee met after the Third Committee had exhausted its agenda or if the Third Committee interrupted its debates. It might, however, be found preferable to avoid such interruption, particularly as the Joint Second and Third Committee might have to meet with the First Committee to discuss a communication from the President of the General Assembly regarding the holding of a special session of the General Assembly to discuss a possible truce in Korea.[1]

5. Mr. ROY (Haiti) said that Mr. Steinig's argument could work equally both ways, but he would not press his point.

[1] See documents A/C.1/714 (A/C.2&3/105) and A/C.1/713 (A/C.2&3/104).

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.191/Rev.2, A/C.3/L.193, A/C.3/L.195, A/C.3/L.195/Rev.2, A/C.3/L.196/Rev.2, A/C.3/L.229) *(continued)*

[Item 29]*

DRAFT RESOLUTIONS CONCERNING MEASURES OF IMPLEMENTATION OF THE COVENANT (*continued*)

6. The CHAIRMAN invited the Committee to discuss the revised joint draft resolution submitted by Guatemala, Haiti and Uruguay (A/C.3/L.195/Rev.2) relating to measures of implementation of the international covenant on human rights.

7. Mr. CASSIN (France) thought that the joint draft resolution (A/C.3/L.195/Rev.2) fell into distinct parts. The first part raised the right of individuals, groups and non-governmental organizations to submit petitions, a right which his delegation had in 1948 unreservedly supported.[2] In the light of arguments adduced since then, he had come to doubt whether that right could be implemented immediately ; but he thought it important, nevertheless, that the covenant should be so worded as to allow a suitable clause to be inserted later. As the text of the covenant would afterwards be subject to amendment only by the States signatory to it, it was important at the current stage to put no formal obstacles in the way of later acceptance of a suitable clause by other States which believed that the right of individuals to petition should be guaranteed.

* Indicates the item number on the General Assembly agenda.

[2] See document E/CN.4/82/Add.10/Rev.1.

8. The French delegation would give full support to the last part of the operative paragraph of the Guatemalan draft resolution.

9. It could not fully support all the paragraphs of the preamble, some of which it considered premature.

10. Mr. MUFTI (Syria) did not consider that article 52 of the existing text of the draft international covenant on human rights (E/1992) would contain sufficient guarantees for the protection of individuals and groups, for whose benefit the covenant was designed, unless it granted the right of petition to them as well as to States. He stressed, however, that there must be an impartial body, composed in accordance with the principle of fair geographical distribution, to examine petitions and so prevent that right from being exploited as a propaganda instrument.

11. Subject to that important reservation, he would support the joint draft resolution.

12. Mr. GARIBALDI (Uruguay) reminded the Committee that his delegation, along with that of Guatemala, had already submitted a draft resolution (A/C.3/L.196/Rev.2) proposing the appointment of an attorney-general to provide the necessary machinery for considering violations of human rights. Article 52 of the draft covenant was unsatisfactory because it covered only violation by one State of the rights of another State and entirely disregarded the fact that a State might violate the human rights of individuals under its jurisdiction. That possibility must be covered ; human rights could not be effectively protected unless the covenant contained a clause granting individuals and groups, as well as States, the right to appeal against violation of those rights.

13. Recent jurisprudence of the International Court of Justice, suggesting that the difficulty might be circumvented by inducing States to sponsor complaints made by individuals, did not go far enough. His earlier proposal for the appointment of an attorney-general would give individuals the necessary access to international jurisdiction. He did not think there was any danger, provided that all complaints were carefully screened, of that machinery being abused. He therefore urged the Committee to support the joint draft resolution (A/C.3/L.195/Rev.2) of which his delegation was a co-sponsor.

14. Mr. DE ALBA (Mexico), though appreciating the praiseworthy motives of the sponsors of the joint draft resolution, said that he would not be able to support it.

15. It dealt with the crux of the problem, but he did not think the type of implementation it proposed could be enforced until the general international climate improved. Further, he wondered what kind of organ it was proposed to set up to receive communications from States, groups and individuals. Neither the International Court of Justice, whose caution was apt to engender ambiguity, nor the Security Council, whose members were not on an equal footing, was suitable. He thought the best solution would be a functional tribunal composed of representatives of the masses. He thought it important also to set up efficient machinery for screening complaints, to ensure that they were genuine and not merely advanced for propaganda purposes. The Uruguayan proposal to appoint an attorney-general to consider petitions was, he thought, premature ; the experience of the Office of the United Nations High Commissioner for Refugees indicated the nature of the disputes that might rage round so controversial a problem. That did not mean, however, that such an appointment might not be propitious later.

16. Mr. LANNUNG (Denmark) introduced a draft procedural resolution (A/C.3/L.229), submitted jointly by the Danish, New Zealand, Norwegian and Swedish delegations, to be voted on after full discussion of the substance of the draft resolutions (A/C.3/L.191/Rev.2, A/C.3/L.195/Rev.2, A/C.3/L.196/Rev.2) covered by it. The Third Committee could hardly at so late a stage of its discussions reach any valid decision on so far-reaching a question as detailed measures of implementation, which, as two of the draft resolutions acknowledged, the Commission on Human Rights had not yet been able to study thoroughly. The Danish delegation considered implementation provisions of great importance. Without implementation the covenant would have no significance. The Committee should, however, not hurry into a decision at the current stage. Under the joint draft procedural resolution the Committee would, of course, be free to discuss the draft resolutions but would not vote upon them until the Commission on Human Rights had submitted its recommendations.

17. In reply to Mr. NAJAR (Israel), he said that the draft procedural resolution (A/C.3/L.229) did not as it stood cover the Israel draft resolution (A/C.3/L.193), but he would be glad to discuss the matter and see if it could be extended to include that draft resolution.

18. Mr. MUFTI (Syria) opposed the joint draft procedural resolution. The Third Committee must not only discuss the three draft resolutions referred to therein, but, being more representative of the majority of the United Nations than was the Commission on Human Rights, must take a decision on them. The Commission could introduce any new features it deemed desirable for subsequent consideration by the General Assembly.

19. Mr. GARCIA BAUER (Guatemala) objected that the joint draft procedural resolution had been submitted after the time limit set by the Committee.

20. Mr. DAVIN (New Zealand) thought that the debate on the measures of implementation had been useful in enabling the sponsors of the draft resolutions to explain what they had had in mind, but that it was still too early to give the Commission on Human Rights specific instructions on the matter. His own Government had not yet come to a definite decision about the appeals procedure contemplated, but was still inclined to think that, if it were accepted at all, it should appear in a separate protocol. The final phrase of the first sentence of the operative part of the revised joint draft resolution (A/C.3/L.195/Rev.2) rather implied that there need be no separate protocol. The final phrase of the first paragraph of the preamble might be regarded as over-optimistic. No screening

procedure such as the Trusteeship Council applied to petitions from individuals had been provided. The joint draft procedural resolution (A/C.3/L.299) seemed the best way out of the impasse.

21. Mr. GARCIA BAUER (Guatemala) and Mr. PAVLOV (Union of Soviet Socialist Republics) felt that the Committee had not been prepared for anything in the nature of the joint draft procedural resolution. It could not be considered properly until the text had been circulated.

22. Mrs. ROOSEVELT (United States of America) and Mr. ALBORNOZ (Ecuador) thought that the Committee might usefully include the Syrian draft resolution (A/C.3/L.191/Rev.2) in the discussion.

23. The CHAIRMAN accepted that suggestion, but noted that the general debate on the joint draft resolution (A/C.3/L.195/Rev.2) had not been concluded.

24. Mr. MUFTI (Syria) explained that the main purpose of his draft resolution (A/C.3/L.191/Rev.2) was to find measures of implementing the covenant on human rights and of stopping the violations reported daily from all parts of the globe. That was the reason why the Syrian draft resolution called on the Commission on Human Rights to consider the possibility of including among the measures of implementation enquiries and investigations in the field by the United Nations, subject to adequate guarantees of good faith and impartiality. Such inquiries and investigations must, however, comply with certain requirements : they must be made with the consent of the governments concerned, completely, impartially and without discrimination, which implied that they must be carried out, through a carefully selected group of investigators, by the United Nations itself, which should take full responsibility and bear the expenses. Further, the government accused of violating human rights must provide full facilities for investigation and must also be allowed to supply its own version of the incident. Finally, the results of the enquiry must be published in the press.

25. Mr. MUFTI hoped that the Commission on Human Rights would embody those ideas in the text of the draft covenant. He pointed out that the idea of periodic visits to territories by inspection groups was not a new one ; Article 87 *c* of the United Nations Charter, as well as the constitutions of the specialized agencies, allowed for such visits.

26. Mr. AZKOUL (Lebanon) thought it instructive to compare the operative parts of the original version (A/C.3/L.195) and the second revised text (A/C.3/L.195/Rev.2) of the Syrian draft resolution respectively with the proposed text of article 52 of the draft covenant. Whereas article 52 provided for complaints regarding violations of the covenant to be submitted by States parties to the covenant only, the operative paragraph of the revised draft resolution contained no such restriction, though it limited the States against which accusations could be made to those which had ratified the covenant. That was a completely illogical position. In such conditions the only benefit States would derive from ratifying the covenant would be the right of reciprocity ; and few States would be willing to ratify from idealistic motives when States not parties to the covenant, non-governmental organizations, groups and individuals under their jurisdiction enjoyed equal rights to submit complaints or petitions. The revised text of the joint draft resolution also departed from the provisions of the proposed text of article 52 of the draft covenant in not making the consideration of complaints compulsory. That text as it stood lacked all force.

27. He thought, therefore, that the operative paragraph of the revised joint draft resolution should be deleted and replaced by the operative paragraph of the original text of the draft resolution (A/C.3/L.195), which stated clearly, first that States parties to the covenant had the right to file complaints in cases when they considered that other States parties were violating a provision of the covenant ; and secondly that the organ established by the Commission on Human Rights might on its own initiative institute proceedings when informed of serious violations of human rights.

28. Mr. ALBORNOZ (Ecuador) thought that the Syrian draft resolution (A/C.3/L.191/Rev.2) merited thorough consideration by the Commission on Human Rights, as it might provide a very good way of investigating the extent to which human rights were being exercised in every country. Any country that refused to admit such investigations would be automatically blackened in the eyes of the world, and world opinion was the strongest force supporting the United Nations. His delegation was heartily opposed to any impediment to the freedom of expression and investigation, and equally to the beclouding of facts by propaganda and their suppression by a conspiracy of silence. The very discussion of such a proposal as the Syrian draft resolution boded well for the future protection of human rights. If adopted, that draft resolution, above all, might make possible the practical fulfilment of the lofty promises made in the United Nations with regard to the eventual safeguarding of human rights.

29. Mr. GARCIA BAUER (Guatemala) recalled that the Commission on Human Rights, which had eighteen members, would find it harder to reach a decision on such an important question than the Third Committee, which comprised sixty members. The Commission on Human Rights had already transmitted to the General Assembly its report containing an article on complaints by States ; the joint draft resolution recommended a further step in that direction, which all Member States should examine immediately. The joint draft procedural resolution (A/C.3/L.229) referred to the substance of the question. The time limit for the submission of substantive resolutions and amendments had elapsed.

30. Mr. CORLEY SMITH (United Kingdom) could not agree with the Guatemalan representative that the joint draft procedural resolution related to the substance of the question ; it merely provided a method of dealing with the draft resolutions under consideration. The preliminary discussions of the draft resolutions submitted by Guatemala, Haiti and Uruguay (A/C.3/L.195/Rev.2) and Syria (A/C.3/L.191/Rev.2) had already shown the divergence of views on the subject and proved that it would be unwise to take any hasty

decision on such an important matter as measures of implementation. By approving the joint draft procedural resolution the Third Committee would in no way be signing away its competence to decide on the question, since the expert opinion of the Commission on Human Rights would in any case be referred to it at the seventh session of the General Assembly. The sponsors themselves had not insisted on the original texts of their drafts, since there had been two revisions of each.

31. Mr. LANNUNG (Denmark) agreed with the United Kingdom representative that the joint draft procedural resolution did not refer to the substance of the question. The time limit fixed for resolutions and amendments did not therefore apply to it.

32. Mr. NAJAR (Israel) wished to continue the discussion of the draft resolutions submitted by Guatemala, Haiti and Uruguay (A/C.3/L.195/Rev.2) and Syria (A/C.3/L.191/Rev.2) without dwelling on the procedural issue. Some clarifications of those texts seemed to be necessary. The operative part of the Guatemalan, Haitian and Uruguayan draft resolution referred specifically to article 52 of the draft covenant, which in turn was concerned with the proposed human rights committee. Nevertheless, mention was made, in that operative part, of an organ responsible for implementation. He wished to know whether that organ was the human rights committee, or another body. He also asked for an explanation of the exact relations between the United Nations and the proposed implementation machinery. Neither draft resolution stated what organs would be responsible for implementation. It was clear that some Member States would sign the covenants and that others would not; it would therefore be difficult for the United Nations, as an organization composed of signatories and non-signatories of the covenants, to appoint the missions of enquiry suggested in the Syrian draft resolution (A/C.3/L.191/Rev.2).

33. The Guatemalan representative had not explained why the joint draft resolution (A/C.3/L.195/Rev.2) referred only to civil and political rights, although it had been decided that the two types of measures of implementation should be put into effect simultaneously. The joint draft resolution implied that the organ which was to receive communications from parties to the covenants would have to decide whether the charges contained in those communications were serious. It was important to clarify this screening function since it was difficult to imagine that States would accept that an intermediary body should decide whether their communications were or were not serious enough to be decided upon. He wished a clear distinction to be made between the right of petition, which seemed to refer to individuals and groups, and the right of complaint, which seemed to apply to States. Moreover, the reference to the protocol in the operative part of the joint draft resolution was not clear. His delegation had not taken up a final position on those matters, but he thought that they should be clarified.

34. The CHAIRMAN ruled that the joint Danish, New Zealand, Norwegian and Swedish draft procedural resolution (A/C.3/L.229) referred to procedure only and that the time limit fixed for the submission of draft resolutions and amendments did not therefore apply to it. She quoted a precedent from the preceding session on the same issue, when a Mexican proposal in the Third Committee to refer draft resolutions on the same matter to the Commission had been adopted and had become General Assembly resolution 421 (V), section F.[a]

35. Mr. MUFTI (Syria) pointed out that agenda item 29 referred to the measures of implementation of the draft covenant and that three draft resolutions had been submitted on that subject. The Third Committee should not follow the dangerous precedent of stifling resolutions by means of procedural motions. Any delegation could express its objection to a resolution by voting against it after due discussion.

36. Mr. GARCIA BAUER (Guatemala) reiterated that the joint draft procedural resolution referred to the substance of the question. There was ample evidence in the report of the seventh session of the Commission on Human Rights (E/1992) that that organ had considered the question thoroughly. Paragraph 85 of that report referred to a Guatemalan amendment to a Danish and French amendment on the question that had been rejected by only 9 votes to 7. Moreover, the report showed that the Danish delegation had considered the matter with sufficient care to submit a concrete amendment to a draft article on the subject. It therefore seemed useless to refer back to the Commission a question that it had already decided by a narrow majority without giving it directives approved by a majority of the sixty Member States.

37. In reply to the United Kingdom representative, he pointed out that the joint draft resolution (A/C.3/L.195/Rev.2) had in fact been revised only once, since the first revision had merely corrected a drafting error.

38. Mr. AZKOUL (Lebanon) pointed out that under rule 112 of the rules of procedure there could be no substantive discussion of a question on which a ruling had been given by the Chair, unless an appeal were made against that ruling.

39. The CHAIRMAN asked whether there were any appeals against her ruling.

40. Mr. GARCIA BAUER (Guatemala) stated that, although he objected to the ruling, he would make no formal appeal against it.

41. Mr. ROY (Haiti), speaking as a co-sponsor of the joint draft resolution (A/C.3/L.195/Rev.2), said that the Commission on Human Rights was already fully acquainted with the proposals before the Committee. The proposal to refer the question back to the Commission would therefore merely result in redundant recommendations. The Commission on Human Rights needed specific directives to enable it to submit a constructive draft to the General Assembly at its seventh session. Although the subject was a delicate one, it was essential for the Third Committee to take its deci-

[a] See *Official Records of the General Assembly, Fifth Session, Third Committee*, 314th meeting.

sion by the straightforward method of voting on the draft resolutions before it.

42. Mr. PAZHWAK (Afghanistan) thought that the full consideration of the measures of implementation which the sponsors of the draft resolutions required could be best achieved by adopting the joint draft procedural resolution (A/C.3/L.229) with the addition, after the words "(Guatemala and Uruguay)", of the phrase "as basic working papers within the limits of the provisions of the said draft resolutions". The Commission on Human Rights would thus be instructed to take special note of the drafts but would be left a free hand.

43. Mr. D'SOUZA (India) moved the adjournment of the meeting.

The motion was adopted by 20 votes to 5, with 18 abstentions.

The meeting rose at 6.5 p.m.

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