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CONTENTS

Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 58

Draft international covenants on human rights (A/2714, A/2686, chapter V, section I, E/2573)

PROCEDURE FOR CONSIDERATION OF THE DRAFT COVENANTS

1. Mr. AZMI (Egypt) said that the Commission on Human Rights had laboured for five years to complete the two draft international covenants on human rights. The texts were based on principles enunciated in the Universal Declaration of Human Rights (General Assembly resolution 217 A (III), annex). At its 292nd meeting, the Social Committee of the Economic and Social Council had decided unanimously, on the Australian representative's proposal, to insert in its report a paragraph to the effect that the Committee had noted with warm appreciation that the Commission on Human Rights had completed the lengthy and difficult task of preparing, as far as it could, the draft international covenants on human rights and that the Committee had felt that that fact marked the completion of one stage in that work which was of such great international importance. The peoples of the world wanted some assurance regarding the future of the draft covenants. The Commission on Human Rights had completed its work and it was now for the Third Committee to take a decision in the matter.

2. Two resolutions of the Economic and Social Council dealt with the draft covenants: resolution 545 B I (XVIII) and resolution 545 B II (XVIII). The first drew the attention of the General Assembly to the suggestions about procedure contained in paragraph 39 of the report of the Commission on Human Rights (E/2573), a paragraph inserted on the proposal of the four officers of the Commission. The reason for their suggestion that the General Assembly should give the drafts two separate readings at two consecutive sessions, the first reading dealing with the texts in their present state, was that they realized that some States, unwilling to accept some of the general principles laid down in the drafts, were reluctant to become signatories. The authors of the proposal, anxious that the covenants should be signed and observed, had thought that if action were not rushed such reluctance might be overcome, that those who hesitated would change their attitude and that the draft covenants would ultimately be signed by more States. He therefore attached great importance to paragraph 39 of the Commission's report, which dealt solely with a question of procedure; in his view, the draft covenants should be given two separate readings, one year apart.

3. Nevertheless, three questions arose: who would carry out the readings, what they would consist of, and when they would take place.

4. With regard to the first question, he thought that the reading of the draft covenants should be carried out by the sixty Member States. Only eighteen countries were represented on the Commission on Human Rights and the Economic and Social Council; those two organs had transmitted the draft covenants to the General Assembly so that all Member States could express opinions on them. It had been suggested that an *ad hoc* committee should be set up for the reading of the drafts. He failed to see the need for such a step. In the past the Third Committee had dealt with all questions relating to the draft covenants; consequently it, and it alone, should proceed to the reading of those texts.

5. With reference to the second question, he thought that the Committee should follow the same procedure in examining the draft covenants as was used by the General Assembly in the case of draft resolutions: first, there should be a general debate, in other words a first reading, to be followed a year later by a study of the different articles of the draft covenants, in other words a second reading. At the current session, therefore, the Third Committee should confine itself to a general debate on the draft covenants.

6. As regards the third question, several suggestions had been made. Some had proposed that the Third Committee should continue its work after the close of the current session of the General Assembly; but there were practical and budgetary reasons against that solution. Others had suggested that the Committee should devote the last three or four weeks of the session to a first reading of the draft covenants; but that, too, was open to objection. The wording of some articles of the covenants was largely the work of national experts and representatives of specialized agencies who had already arrived in New York; they could not be asked to wait until the Third Committee was ready to begin a first reading. The consideration of items 3 [28]*, 4 [29]* and 6 [59]* of the Committee's agenda would certainly give rise to lengthy debates, and the first reading of the draft covenants should be given priority. Lastly, still others had suggested that the Committee should devote every other meeting to the subject; such

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

a method seemed impractical and likely to create confusion.

7. He therefore felt that the Committee should begin forthwith the first reading of the drafts, in other words, hold a general debate which would last for a specified period, say three or four weeks; at the end of that period, the Committee would proceed to consider the other items on its agenda. In that way it would be possible to see what arrangements had to be made for the following session; the General Committee would allow for the fact that the following year the Third Committee's main task would be the second reading of the draft covenants and would limit accordingly the number of items on its agenda.

8. To sum up, the first reading should be carried out by the sixty Member States, should be begun at once and should be continued for a specified period. It should be confined to a general debate, and the length of the speeches might even be limited.

9. Perhaps the States represented on the Commission on Human Rights and the Economic and Social Council should give precedence to States which were not represented on those bodies and had therefore not had the opportunity of expressing their views. The general debate should enable all States to give their opinions on the draft covenants; to indicate whether they were in favour of several covenants or a single covenant; and to state their views on the article dealing with international respect for the right of peoples and nations to self-determination, and on other provisions. Anyone who so wished could refer to specific articles in the general debate. He drew attention to the question of reservations and to that of an article on the right of property. The first had not been resolved; the Commission on Human Rights had decided to refer it to the General Assembly, as being a political question; with regard to the second, the Commission on Human Rights had decided to postpone its consideration *sine die*, and he thought that the Third Committee might discuss it. Those two questions deserved a special place in the general debate, which would constitute the first reading.

10. He was prepared to accept other proposals if the Committee preferred them to his own.

11. The CHAIRMAN thanked the Egyptian representative for his clear analysis of the situation. As it had decided at its 544th meeting, the Committee's first business was to settle the procedure to be followed in discussing the draft covenants.

12. Mr. PAZHWAK (Afghanistan) said that, as he had stressed at the 544th meeting, the Committee could take no procedural action on a question which was not before it in substance. The Third Committee had decided at the time only on the order in which it would discuss the various items on its agenda. Consequently, it could not take any procedural decisions regarding the draft covenants.

13. In any event, since the Egyptian representative had opened the procedural discussion, he wished to put two questions to him. The first was whether the proposed first reading would consist solely of a general discussion; if not, it might not be finished at the current session in view of the difficulties and delays that would probably arise. Secondly, the Commission on Human Rights stated in paragraph 39 of its report (E/2573) that the first reading would deal with the "drafts in their present state". He wished to know exactly what was meant by those words.

14. The CHAIRMAN pointed out that the draft covenants on human rights had been before the Committee from the beginning of the session. At the 544th meeting, he had suggested that when the time came, the Committee should first decide on the procedure to be followed in discussing the item, and his suggestion had been accepted.

15. Mr. PAZHWAK (Afghanistan) agreed with the course adopted, but felt that the Committee could have taken no decision in the matter at its 544th meeting inasmuch as it had not been considering the draft covenants at the time. A United Nations body could not settle a procedural point affecting a particular question until it was dealing with the question.

16. The CHAIRMAN stressed that the principle mentioned by the Afghanistan representative was perfectly valid, and that the Committee had not violated it. At its 544th meeting, it had taken a procedural decision, not as regards the procedure to be followed in examining the draft covenants, but simply to the effect that, when the time came, it would decide on that procedure first.

17. Mr. PAZHWAK (Afghanistan) maintained that the Committee could have taken no decision to that effect at its 544th meeting. He repeated the objections he had raised at the time, and recalled that the Chairman had agreed then that his interpretation was correct. At any rate, the Committee had just taken the decision in question.

18. Mr. AZMI (Egypt) briefly replied to the two questions the Afghanistan representative had put to him.

19. The first reading should consist solely of a general debate, and he had given his interpretation of the words "general debate". That, however, was his personal view and the other authors of the original proposal for a first reading did not necessarily agree with him on that point.

20. Concerning the words "drafts in their present state", he had noted that the question on which the Commission had taken no decision and which had not been covered in the revised draft covenants transmitted to the General Assembly still remained before the Commission. In particular, the Commission expected to consider at its forthcoming session a proposal by Uruguay for the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights (E/2573, annex III), and proposals submitted by the United States of America[1]; it had not wanted to draw the General Assembly's attention to them for the time being. That was what the words in paragraph 39 of the report meant.

21. Mr. ROY (Haiti), without going into the substance of the question, merely wished to make an appeal to the members of the Committee. He regretted, in that connexion, that, with all due respect to the Egyptian representative, he could not accept his suggestions.

22. For six long years the United Nations, after solemnly adopting the Universal Declaration of Human Rights, had been endeavouring to work out the draft international covenants designed to ensure universal

[1] See *Official Records of the Economic and Social Council, Sixteenth Session, Supplement No. 8*, paras. 263, 269 and 271.

observance of the rights set forth in the Declaration. The Commission on Human Rights had worked tirelessly, and other United Nations organs had discussed, sometimes heatedly, such specific questions as the federal clause, measures of implementation, and the right of peoples to self-determination, and the drafts had repeatedly been referred from the General Assembly to the Commission on Human Rights, and back again. The Commission had now completed its work: the Economic and Social Council had specifically noted that fact in its report (A/2686, para. 711) and had transmitted to the General Assembly the draft covenants, the report of the Commission on Human Rights and the records of its own discussions on the subject at its eighteenth session.

23. It was for the Third Committee to take further action, to put the drafts into final form and to adopt them. It should not shirk its responsibility or shift it to other organs. It had been suggested that a conference of plenipotentiaries should be called, but the members of the Committee were themselves accredited representatives of their governments. It had also been proposed that the final decision should be postponed until a later session; he could not agree with that proposal.

24. Surely it could not be maintained that the members of the Third Committee were not familiar with the draft covenants. For years they had been studying them, and they knew as much about the question as the members of the Commission on Human Rights. The drafts were in a provisional form and it was for the Third Committee, and the Third Committee alone, to put them into final form. It should proceed to do so at once at the current session. He urged all the members of the Committee, in particular those who in past years had fought to enable the United Nations to reach the stage it was then at, to adopt that course.

25. Mrs. ELLIOT (United Kingdom) said that the draft covenants on human rights were particularly dear to the Members of the United Nations. It was certainly difficult to work out covenants which would answer all the hopes that millions of people had placed in them ever since the Universal Declaration of Human Rights had been adopted in Paris, on 10 December 1948. The Commission on Human Rights had worked diligently for a number of years, and the United Kingdom Government believed that such important documents deserved careful consideration by the Third Committee. The time had not yet come for a discussion of substance, and she would therefore, like other representatives, consider merely what would be the best way of examining the proposals.

26. The report (E/2573) before the Third Committee contained over one hundred articles; some of them had been included in the drafts by a small majority vote, and most of them had given rise to lengthy discussion. While for the first time they were all before the General Assembly, they had been brought to the attention of Governments repeatedly in the past, specifically and in the reports of the Commission on Human Rights.

27. She gathered that the general opinion was that it was the Committee's duty to expedite the consideration of the texts with a view to putting them into final form as promptly as possible. Various suggestions had been made concerning the procedure to be followed. One of them was to set up a small sub-committee of some fifteen members of the Third Committee. The United Kingdom delegation thought that there was nothing to be gained from once again asking a restricted committee to study the drafts; the time had come for the sixty nations represented on the Third Committee themselves to study the texts.

28. Another idea suggested had been to set up a committee of the whole of the Third Committee; but probably many delegations would find it difficult to be represented on such a committee and moreover, the Secretariat might not have the necessary staff available.

29. It had also been suggested that the Third Committee, or an *ad hoc* committee on which all the States Members of the United Nations would be represented, should meet after the current session of the Assembly or at some other time in 1955. Such a solution would create many difficulties, particularly for countries which had no permanent delegation at Headquarters and probably also for the Secretariat.

30. Another suggestion was to hold a conference of plenipotentiaries. It was true that there were precedents for choosing that course and that non-Member States might profitably participate in the drafting of covenants which, as everyone hoped, would be universally applied; but, apart from the practical difficulties occasioned by such a conference, it had always been considered that such covenants should be the work of the United Nations, which had hitherto been responsible for their drafting. It was the General Assembly's function to complete the work and it was certainly the Committee's duty to have two readings of those texts, though participation by non-Member States at a later stage was not ruled out.

31. Not only should the Committee give those instruments all the attention they deserved, but it should also examine them immediately. As, however, the Committee had other important items on its agenda, perhaps half the time still available before the end of the session might be devoted to that question and the other half to the other agenda items; she accordingly proposed that henceforth one out of every two meetings should be devoted to the covenants, and the other to the other agenda items.

32. Her own delegation included several experts, but perhaps other delegations were not in the same position; if, therefore, the majority of the Committee preferred to fix a period to be reserved entirely for the draft covenants, she would agree and would then propose that, if six weeks remained before the end of the session, the period in question should be half of that. If, however, a fairly long period were reserved in that way, the time left for the other agenda items might be too short, whereas if the draft covenants were discussed at every other meeting, delegations would allow themselves a margin of time for reflection and possible consultations which, some of them thought, were essential at that first stage of the study of those important instruments.

33. Whatever method the Committee decided to adopt, it should begin its task immediately. The whole world was waiting for the United Nations to build a better world; by beginning work immediately, the Committee would show that it was resolved to add a fresh chapter to the history of mankind.

34. Mr. BARODDY (Saudi Arabia) supported the suggestion of the representative of Egypt. A general

discussion would undoubtedly be very useful, since it would produce fruitful exchanges of views on a very important subject. Besides, Committee members would be free to propose amendments to particular articles of the draft covenants. The proposals submitted would not necessarily call for a decision during the current session.

35. The representative of the United Kingdom had suggested that meetings should be devoted alternately to the draft covenants and to the other items on the agenda. He was opposed to such an arrangement, for it would create difficulties for the small and already overworked delegations. In addition, he thought that a certain atmosphere was necessary for a thorough and earnest examination of any question. He, personally, applied his whole mind to whatever problem was under discussion; he concentrated on it to such an extent that his conscious and perhaps even his subconscious life revolved round it. He could hardly give his undivided attention to two questions at the same time. Other representatives were no doubt in the same position; the proposed method would, therefore, probably be detrimental to the quality of the Committee's work.

36. Mr. JUVIGNY (France) wished to bring a few points to the Committee's attention.

37. The representative of Egypt had emphasized that he had been speaking in a personal capacity when recommending that the first reading should be limited to a general discussion. As co-sponsor of the initial proposal concerning procedure submitted to the Human Rights Commission, he (Mr. Juvigny) wished to point out that he had been guided by the example of the International Labour Organisation, which was in the habit of giving two readings, at an interval of one year, to draft conventions. Both readings related to the actual form and drafting of the articles. He considered that a method which had stood the test of time in the limited field with which that organization was concerned should be applied to covenants which affected practically all human rights.

38. The proposed covenants would not be mere recommendations but juridical instruments which would impose concrete obligations upon the signatory States and would be supplemented by measures of international supervision. Those covenants would have a wide scope on account of the extent of the rights stipulated in them and the importance of their procedural provisions. It was therefore essential that, first the General Assembly, and then Governments, should consider their drafting with scrupulous care. That need was met by the method of having two readings. During the first reading, the Assembly would examine the results of the painstaking work of the Commission; some articles would be adopted, others rejected and others, again, amended. At the end of that examination, Governments would have a clear idea of the general structure of the proposed instruments and would know exactly what was required of them and what they could undertake to do.

39. The representative of Egypt had referred to the question of reservations, on which the Commission had not taken a decision. That was precisely a matter to be settled by the General Assembly during the first reading. The reservations clause was of the greatest importance; it would complete the structure, reflect its true character, and make clear the actual scope of the undertakings expected of the parties. A Government could hardly form a clear idea of its proposed commitments so long as the question of reservations was not settled. The interval between the first and second readings would give interested parties time to reflect, to consult with each other, to exchange views and to prepare suggestions which would be submitted during the second reading.

40. The Third Committee might, quite conceivably, examine the draft articles immediately. Nevertheless, the representative of Egypt had rightly pointed out that the views of delegations which were not represented on the Human Rights Commission or on the Economic and Social Council would be most valuable. Those delegations had the right and the duty to express their opinions. Accordingly, a general debate seemed desirable in every way. The French delegation, however, still preferred the system of two readings, as defined by himself. He hoped that the Committee would be able to reconcile the advantages of that method with the necessity of holding a general debate.

41. He fully agreed with earlier speakers that it was for the General Assembly itself, for the sixty Member States, to consider the drafts and adopt the covenants. To refer them to a small group would only delay the work. It would be pointless to set up a sort of second Human Rights Commission; that Commission having completed its difficult task, it was now for the General Assembly to give the covenants their final form, and to extract from the various views a common denominator which would be acceptable to the great majority of nations.

42. Mr. ROY (Haiti) thanked the representative of France for the explanations concerning the joint proposals submitted by four members of the Commission on Human Rights. If he had understood correctly, however, the term "first reading" did not mean quite the same thing to the French representative as it did to the representative of Egypt. The latter thought that the first reading should consist of a general discussion while the second reading should be a detailed examination, article by article. According to the French representative, however, there was no real difference between the two readings, all representatives being free at any time to consider one or other of the articles in detail if they so wished.

43. Mr. JUVIGNY (France) said it was still too early to make up one's mind. If the general debate became very technical, if, for instance, a large number of delegations expressed very definite views for or against certain articles, the general debate could later be regarded as a first reading. If, on the other hand, delegations expressed only very general views on the drafts as a whole, that could hardly be called, technically, a first reading. He would therefore reserve the position of his delegation on that matter for the time being.

44. The CHAIRMAN, summing up the discussion, noted that most delegations were in favour of considering the draft covenants on human rights at the current session, for which purpose various suggestions had been made. The representative of Egypt, following the lines of the proposal made by four members of the Commission on Human Rights, had proposed that there should be two readings, to take place at two consecutive sessions; the same representative had also suggested, in his personal capacity, that the first reading should take the form of a general debate which might begin at once and continue for three or four weeks. The United King-

dom delegation, however, had suggested that half the time remaining before the close of the current session of the General Assembly should be devoted to a consideration of the draft covenants.

45. He observed that if the Committee were to hold six meetings a week until 10 December, meeting on five days a week, it could reach a total of forty meetings. It could hold more meetings if it sat on Saturdays as well; the representatives of the United Kingdom and Saudi Arabia, however, were reluctant, for the time being, to consider Saturday or night meetings.

46. Miss MASAS (Cuba) said that, as the Chairman of the Cuban delegation had already informed the General Assembly (483rd plenary meeting), her country wished the draft covenants to be studied thoroughly forthwith. The Commission on Human Rights had done excellent work and the time had come for the Third Committee to tackle the examination of its draft boldly.

47. The Cuban delegation would support the proposal made by the Egyptian representative on behalf of four members of the Commission on Human Rights, namely, that the draft covenants should be given two readings. It would also support the United Kingdom suggestion that the Committee should devote half its remaining meetings at the current session to the drafts, on the understanding, however, that that question would not alternate with other items on the agenda, for, as the representative of Saudi Arabia had said, that would create difficulties for the small delegations.

48. By setting aside twenty meetings for the debate on the draft covenants, the Committee would prove that the sixty States Members of the United Nations were keenly interested in the drafts and anxious to see them brought into force as soon as possible. The Committee might wish to wait until the next meeting before deciding on the procedure to be adopted, but she hoped that a decision would shortly be reached and that the Committee would begin its study of the draft covenants without delay. Between the current session and the next, the Governments of the sixty Member States would be able to study the question more thoroughly, in the light of the Committee's debates, in preparation for the second reading, to be held during the 1955 session.

49. Mrs. AFNAN (Iraq) agreed with other representatives that the Committee should itself study the draft covenants. So far as the procedure was concerned, however, she doubted if the methods proposed were practicable. She was not sure exactly what was meant by the expression "general debate". Reference had been made to the question whether there should be one covenant or several covenants, to the question of reservations, and to the possibility of drafting a third covenant on the right of peoples to self-determination. If the intention was to discuss such questions during the general debate, the debate would then be initially a first reading, as understood by the representative of France. She was inclined to question the wisdom of such a debate. In fact, as the representatives of France and Egypt had observed, the question of reservations had been discussed at great length by the Commission on Human Rights, whose eighteen members had been unable to agree on a text for submission to the General Assembly.

50. The representative of France had said that the sixty Member States should have an opportunity of expressing their views on the drafts; the Iraqi delegation for its part could not take up a position without knowing the terms of the reservations clause. If the eighteen delegations represented on the Commission had been unable to agree on a text, she thought it unlikely that sixty delegations would succeed in doing so in three weeks. The same applied to the question of the right of property. In that way, she feared, consideration of the drafts would drag on in inconclusive debate from year to year.

51. The Committee could not give careful attention to the seven remaining items on its agenda and, in addition, agree on the wording of more than a hundred articles on which the Human Rights Commission and the experts had been working for five years. She did not actually wish to make any suggestions but simply to point out that none of the suggestions made was really practicable.

52. Mrs. LORD (United States of America) congratulated the representative of Egypt on the patience and initiative he has shown as Chairman of the Commission on Human Rights, the excellent results of whose work were before the Committee.

53. The suggestions made by the representative of Egypt regarding consideration of the drafts were constructive and would enable the Committee to complete its work in an orderly and methodical manner; she therefore supported them.

54. The Iraqi representative had referred to the important question of reservations. The general debate would give delegations an opportunity to express their views on that and other controversial questions, and the General Assembly could invite Member States, the specialized agencies and non-governmental organizations to submit proposals on those subjects, as well as amendments to the draft covenants before 1 June or 1 July 1955. Those proposals could then be compiled by the Secretariat and circulated so that the Committee would have definite texts before it when it began its examination of the draft covenants, article by article, at the next session.

55. Mr. PAZHWAK (Afghanistan) said that the representative of Iraq had already mentioned most of the points which he himself wished to raise. He would therefore say a few words only.

56. The Chairman had said that the Committee was in favour of the draft covenants being considered during the current session and that it had also accepted the principle of two readings. It seemed, in fact, that that was so because apparently no objections had been raised.

57. Most of the members had then discussed how long the first debate should last and how meetings should be divided. He did not think that questions of secondary importance should be discussed before the main questions had been disposed of. For the time being, therefore, the main point of the procedural discussion was to define the nature of the first reading of the draft covenants, or of the general debate on those drafts, since those terms seemed, in the minds of some members, to mean the same thing.

58. He did not see very clearly what form the general debate, or first reading, would take. It would be very difficult for him to vote on that matter before knowing precisely what was at issue. He therefore suggested that the Committee should vote immediately on the following procedural questions: first, whether the question of the draft covenants on human rights would be considered at the current session, and secondly, what form that

consideration would take, or, more correctly, what exactly was meant by "first reading".

59. The duration and organization of the meetings might be considered after the vote, when the two questions had been settled.

60. He emphasized that the proposal he had just made was a formal one. If the two questions were settled by a vote the procedural discussion which followed would be much shorter and the Committee would save time.

61. He thanked the representative of Egypt for answering his earlier question. The reply showed how necessary it was to agree on the definition of the expression "first reading". He also gathered from the Egyptian representative's remarks that not all questions had been referred to the General Assembly by the Commission on Human Rights. In the circumstances, it seemed premature to plan the first reading as a general debate, unless there were some assurance that the same questions would not be discussed again at the next session, for that would mean a delay in the adoption of the covenants.

62. The CHAIRMAN pointed out that under rule 110 of the rules of procedure no question could be put to the vote unless a majority of the members of the Committee was present.

63. Mr. MACHTENS (Belgium) said that his delegation agreed that the draft covenants should be discussed by the Third Committee and should be the subject of two readings. He agreed with the French delegation that the first reading should not be limited to a general debate and that States should be free to propose amendments to certain articles, if they so desired.

64. He was prepared to agree to either of the suggestions made for the arrangement of proceedings, although he would prefer the draft covenants and other items to be dealt with at alternate meetings.

The meeting rose at 5.40 p.m.

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