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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 58

Draft international covenants on human rights (A/2714, A/2686, chapter V, section I, E/2573, A/C.3/574, A/C.3/L.410/Rev.2, A/C.3/L.412, A/C.3/L.413, A/C.3/L.414, A/C.3/L.418) (*continued*)

FIRST READING (SECOND PART) (*continued*)

1. The CHAIRMAN recalled that when the Committee had adopted the Afghanistan proposals at its 577th meeting, it was understood that new amendments which might be submitted to the draft covenants on human rights (E/2573, Annex I) would not be debated or put to the vote. That decision could only be reversed by adopting a formal resolution.
2. Mr. BAROODY (Saudi Arabia) fully endorsed the Chair's interpretation of the decision taken at the 577th meeting. He wished to point out, however, that the Afghanistan proposals included the words "if possible in a brief statement". At the preceding meeting, the representative of Brazil had made a very long statement in which he had referred to a number of articles not mentioned in the Brazilian amendments to the draft covenants (A/C.3/L.412 and A/C.3/L.413). He had evidently found it necessary to express his delegation's views and Mr. Baroody, following his example, had also spoken—as had the representative of Uruguay—so that Governments would know the views of others besides the Brazilian delegation. The Brazilian representative had spoken of the structure of the covenants: that was his right, but the other delegations were also entitled to express their views so that Governments should have a general idea of the situation. He, Mr. Baroody, felt that the Committee should confine itself, at that meeting, to considering the Costa Rican draft resolution (A/C.3/L.410/Rev.2) and the relevant amendments (A/C.3/L.415, A/C.3/L.416, A/C.3/L.417 and A/C.3/L.419).
3. The CHAIRMAN pointed out to the Saudi Arabian representative that the Afghanistan proposals adopted at the 577th meeting had included the words "in one statement", and not "in a brief statement".
4. Mr. DE BARROS (Brazil) did not think that his speech at the preceding meeting had been unduly long. Moreover, the speeches of the Saudi Arabian repre-

sentative were frequently much longer than his own had been.

5. At the preceding meeting, the representatives of Saudi Arabia and Afghanistan had shown a clear understanding of the spirit and purpose of the Brazilian delegation's new proposals. The same had not been true of the Uruguayan representative: he had seemed to think that the draft covenants would be adopted without difficulty in their existing form and seemed not to understand why the Brazilian delegation had proposed that the question of the right of peoples to self-determination should be embodied in a complementary protocol. The Brazilian representative wished to reaffirm the fundamental importance which his country attached to that right and to the principle stated in article 1 of the draft covenants. The Brazilian proposals had been prepared strictly in a spirit of conciliation, with a view to reaching a compromise solution which would facilitate the adoption of the draft covenants as early as possible, as the Uruguayan representative desired. He wished to prevent his delegation's proposals from causing fresh arguments; he was merely asking that they should be brought to the attention of Governments without being discussed by the Third Committee.

6. Mrs. AFNAN (Iraq) considered that the Belgian proposals (A/C.3/L.414) and paragraphs 1 and 2 of the Brazilian proposals (A/C.3/L.412) were actually amendments and might be transmitted as such to Governments. On the other hand, the provisions of paragraph 3 of the Brazilian proposals (A/C.3/L.412) could be applied only if the Third Committee so decided. Lastly, she did not see how the provisions of paragraph 4 could be given effect if the Committee did not discuss the proposal made in paragraph 3.

7. The CHAIRMAN pointed out that the "debates" referred to in paragraph 4 of the Brazilian proposals (A/C.3/L.412) meant the Third Committee's debates on the question at the tenth session of the General Assembly, not those at the current session. He therefore saw no objection to transmitting the whole of the Brazilian proposals (A/C.3/L.412), including paragraphs 3 and 4, to Governments.

8. Mr. MENDEZ (Philippines), speaking on a point of order, suggested that the proposals other than the Costa Rican draft resolution should be considered to be observations of Governments, so as to close the discussion on the Brazilian proposals.

It was so decided.

9. Mrs. TSALDARIS (Greece) recalled that at the preceding meeting, she had asked for the floor in order to comment on the Brazilian representative's statement, but a motion for the adjournment of the meeting had been adopted before she could speak. Although she would have liked to comment on the Brazilian proposals at the current meeting, she would not do so in view of the decision the Committee had just taken.

10. Mr. HOOD (Australia), speaking on a point of order, said that his delegation intended to submit a proposal on a fundamental question, namely the federal clause. He wished to know the time limit for the submission of new proposals.

11. The CHAIRMAN replied that all new proposals on the draft covenants had to be submitted at the latest at the afternoon meeting on 12 November.

12. Mr. BAROODY (Saudi Arabia), exercising his right of reply under rule 116 of the rules of procedure, wished to point out that he had not criticized the Brazilian representative for having made too long a statement: he had simply stated a fact. On the other hand, the Brazilian representative had accused the Saudi Arabian delegation of intervening too often in the debates. He considered that remark unjustified, the more so as his country could only make its voice heard in the General Assembly, since it was not represented in the other organs of the United Nations.

13. Miss BERNARDINO (Dominican Republic) recalled that at its seventh session, the Commission on the Status of Women had adopted a draft resolution asking the Economic and Social Council to invite the Commission on Human Rights to include in the draft covenant on civil and political rights the provisions of article 16 of the Universal Declaration of Human Rights, which proclaimed that men and women had equal rights as to marriage, during marriage and at its dissolution. In order to take account of that suggestion, the Commission on Human Rights had introduced into the draft covenant paragraph 4 of article 22, but the Commission on the Status of Women, of which she was Chairman, had found the words "shall be directed towards" unsatisfactory. In its judgment, the equality of the rights of the spouses should be placed on the same footing as the other rights recognized by the covenant. The amendment submitted by Cuba, Denmark, the Dominican Republic, Norway and Sweden (A/C.3/L.418) was intended to give the first sentence of paragraph 4 the clarity appropriate to a legislative text, and she, together with the other sponsors of the draft resolution, most of whom were members of the Commission on the Status of Women, hoped it would be taken into account in the final drafting of paragraph 4 of article 22 of the draft covenant on civil and political rights¹.

PROCEDURAL PROPOSAL SUBMITTED BY COSTA RICA
(A/C.3/L.410/Rev.2) (continued)

14. The CHAIRMAN, noting that there were no more speakers on his list wishing to present amendments to the draft covenants, suggested that the Committee take up the Costa Rican draft resolution (A/C.3/L.410/Rev.2) and the amendments to it. He observed that the amendment submitted by the Lebanese delegation (A/C.3/L.415), which applied to the first revision of the Costa Rican draft, also applied to the second. He also took note of the new amendments submitted by the Afghan delegation (A/C.3/L.419).

15. Mr. TUNCEL (Turkey) pointed out that it was the first time that the General Assembly had the draft covenants before it. For that reason, a paragraph should be inserted in the preamble to the draft resolution indicating that the Assembly took note of the

drafts and expressed its satisfaction at the work accomplished by the Commission on Human Rights.

16. He recalled that the Chinese delegation had suggested (579th meeting) that the word "Governments" in the draft resolution should be replaced by the words "Member and non-Member States of the United Nations". The right to make observations should be reserved exclusively to Member States. It was true that under the terms of the draft covenants the General Assembly could invite non-Member States to accede to the covenants, but the question of which non-Member States would be so invited was still unsettled. Moreover, the list generally used in sending invitations to States was incomplete; some very important countries were not on it while, on the other hand, the names of other States which had been accused in various United Nations bodies of not observing human rights were included. It would obviously be dangerous to ask for the observations of countries in which human rights were not observed.

17. With respect to paragraph 1 (b) of the operative part, he failed to see how the specialized agencies could be invited to encourage public debate. Since such debates would inevitably have some political overtones, that task could not be made one of the specialized agencies' activities, and the agencies themselves would certainly be unable to accept it. The non-governmental organizations had had every opportunity to make their views known during the five years of preparatory work, and, at the current stage, as the Australian representative had pointed out, (579th meeting), drafts had to be submitted to Governments for their comments. He did not think it advisable to invite the non-governmental organizations to encourage public debate, since they represented different political, racial and other interests, and there was a danger that those interests might not always be made to serve the cause of human rights.

18. He had no objections to the other provisions of operative paragraph 1 (b) of the draft resolution, and he could also accept paragraph 2.

19. He could not support paragraph 3 however. As the Philippines representative had pointed out, each session of the General Assembly was quite independent of the others. At the beginning of each session officers were elected and the agenda was drawn up; all that could be done before the beginning of a session was to request the Secretary-General to include an item in the provisional agenda. Thus, no decision could be taken then and there which would bind the Third Committee with respect to a future session. In those circumstances he thought that operative paragraph 3 should do no more than express, in general terms and without going into detail, the desire that the Committee should resume consideration of the draft covenants as soon as possible. The Indian amendment (A/C.3/L.416) followed that procedure the most closely and his delegation would therefore vote in favour of it.

20. Mr. PAZHAWAK (Afghanistan) wished to submit some amendments (A/C.3/L.419) to the Costa Rican draft resolution.

21. He proposed that in paragraph 1 (a) of the operative part the words "Members and non-Members of the United Nations" should be added after the word "Governments".

22. In paragraph 1 (b), the words "and non-governmental organizations to encourage public debate on the provisions of the draft international covenants on human

¹ See *Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 6, annex 2, draft resolution G.*

rights in all possible spheres and in all countries; and" should be deleted, as well as the words "in the light of the public debate" at the end of the paragraph. The amended text would then read:

"The specialized agencies to communicate to the Secretary-General, within six months after the end of the present session, any observations they may wish to make with regard to the draft international covenants."

23. On the other hand he proposed the addition of the following sub-paragraph (c) to operative paragraph 1:

"The non-governmental organizations, including such organizations in Non-Self Governing and Trust Territories, to encourage public debate on the provisions of the draft international covenants on human rights in all possible spheres and in all countries and to communicate to the Secretary-General, within six months after the end of the present session, any observations they may wish to make with regard to the draft international covenants in the light of the public debate."

24. Lastly, he proposed the addition of the words "including new articles, if any" after the words "article by article" in operative paragraph 3.

25. He explained briefly the reasons why his delegation had submitted those amendments. They were based on a number of principles which had also been stated by other representatives and which had met with no objection.

26. The first Afghan amendment was based on the principle of universality. It was self-explanatory: plainly, the application of the principle of universality required that all States, not only Member States, should have the right to submit their observations. Moreover, there were precedents for that procedure. The United Nations should be kept informed of the measures to protect human rights taken by States which had not yet become Members, and, at the same time, should take into account the views of all human beings on a question which was of common concern.

27. The second Afghan amendment was based on the principle of universality and on other considerations. He recalled that the delegations which had opposed that amendment when it had first been submitted had done so by invoking that same principle of universality. An understanding should therefore be reached on the meaning of the word "universality". It had to be decided whether it meant that an attempt should be made to secure the adoption of the draft covenants by as many States as possible, or whether it was a question of ensuring the widest possible respect for human rights. He believed that universal respect for human rights was the essential consideration, the consideration to be stressed. It would serve no purpose to try to obtain signatures and at the same time leave millions of human beings deprived of the benefits of the covenants.

28. Several provisions of the draft covenants were aimed at extending the enjoyment of the rights they recognized to territories which were not yet self-governing. He would refer only to article 53, which had been much debated. He would merely point out that the representatives who had voted in favour of that article could not but vote in favour of the Afghan amendment also, since to vote against it would give Member States—and he hoped non-Member States as well—the right to present their observations, and would

deny that right to territories administered by certain Member States. He also wished to recall another important argument. During the general debate, almost all the representatives of countries which administered territories had claimed that they could not agree to give effect to the provisions of the covenants in the territories under their administration without consulting them. The precise purpose of the Afghan amendment was to give those territories the means of expressing their views, and if the administering States really wished to consult those territories, they could not but vote in favour of that amendment.

29. As regards the mention of the non-governmental organizations, he thought that if those organizations were given certain rights in sovereign States it would be unfair to deny them those rights in countries which had not achieved their independence. He made that observation not from a political, but from a purely humanitarian, point of view. It might be asked why the Afghan delegation had proposed that sub-paragraph (b) should be divided into two parts. Its reasons for doing so were the same as those to which the Turkish representative had referred: he agreed with the latter that the specialized agencies could not accept the task of encouraging public debate, since such an activity did not come within their scope. The non-governmental organizations, on the other hand, could assume the task and for that reason he had embodied that idea in a separate sub-paragraph.

30. The third Afghan amendment was intended to ensure that at the next session of the General Assembly the Third Committee should examine any new drafts submitted by Governments. There were already a number of such proposals, the provisions of which did not appear in the existing text of the draft covenants, but which should not on that account be excluded from the debate. That amendment was of particular importance. The arguments in its favour seemed to be sufficiently simple and obvious, and there was no need to emphasize them.

31. The Turkish representative had rightly pointed out, with respect to paragraph 3 of the operative part of the draft resolution (A/C.3/L.410/Rev.2), that the General Assembly drew up its agenda at the beginning of each of its sessions, which were independent of one another. Nevertheless, owing to special circumstances which were known to all, the Third Committee was obliged to come to a decision forthwith on its work at the tenth session of the General Assembly. There were two reasons why the adoption of that procedure was justified. First, delegations should know for what task they should prepare. Perhaps Governments would want to appoint experts to take part in the discussion of a particular point and in order to do so, they had to be notified in advance. In its own best interest, the Committee should, at its current session, adopt a general plan of work for the following year. Secondly, it was to be hoped that if the Member States were to take a decision of principle at the current session, they would confirm it at the beginning of the next session, but nothing need prevent their taking a new decision if some unforeseen event occurred in the interval. The General Assembly would retain its full freedom of action, and the procedure envisaged would apparently raise no difficulties. Mr. Pazhwak wondered incidentally what tangible results would be achieved at the current session if the Committee were not to adopt any decision.

32. He reserved the right to speak again on the amendments proposed by other delegations. He hoped that the Committee would welcome his comments and proposed amendments in the spirit in which he had submitted them. The amendments he was proposing would, he thought, improve the draft resolution and thus serve the cause of human rights.

33. Mr. HOOD (Australia) said that the draft resolution the Committee adopted would have great importance. It should take account of existing facts and at the same time look to future possibilities. The Costa Rican draft resolution did not quite fulfill both those requirements. The fundamental question was what work the United Nations should do on the covenants during the following twelve months. The stage of governmental action had been reached and the resolution should therefore be drafted in a form which made it intelligible to Governments.

34. The Costa Rican draft resolution put forward several different ideas. Its chief aim seemed to be to express a wish with regard to the work at the tenth session, without definitely committing the General Assembly. The Australian delegation found that part of the proposal acceptable. It further suggested that the Secretary-General should be requested to prepare a compilation, which would be extremely useful to Governments. It was to be hoped that the document mentioned in paragraph 2 of the operative part would be accompanied by a summary of the discussions of the Commission on Human Rights and the comments on particular articles submitted to that Commission. The Australian delegation approved of that part of the proposal in principle, but it considered the passage relating to the "public debate" unrealistic. It was difficult to see how such a public debate could be organized or what results it would yield. The Turkish representative had already pointed out that the terms of reference of the specialized agencies did not cover activities of that kind; as for non-governmental organizations, their participation would be of little use at the current stage; those that had consultative status had already submitted their views to the Commission on Human Rights, at the proper time. The proposed arrangements were not normally a Government concern and might form the subject of a separate draft resolution. The Australian delegation was in sympathy with the Costa Rican delegation's main purpose, but it could not accept the text of the proposal in its existing form.

35. He reserved the right to speak again on the amendments that had been submitted. He had noted with interest the very pertinent remarks made by the Turkish representative. He urged the Committee to think carefully about the draft resolution it was going to adopt.

36. Mr. MATTHEW (India), introducing the amendment submitted by his delegation (A/C.3/L.416), said that the importance of drafting should not be underestimated. The Committee should agree on its wishes and express them as clearly as possible; but the terms employed in operative paragraph 3 of the draft resolution seemed ambiguous. The expression "first preference should be given" might be interpreted to mean merely that the draft covenants should be taken up first, which did not correspond to the wish expressed by most delegations. India therefore proposed a more definite formula specifying that the meetings should be "mainly" devoted to that item. The words "article by article" need not oblige the Committee

to keep strictly to the numerical order of the articles or prevent it, for instance, from considering two connected articles simultaneously. In any case, there would have to be an article-by-article discussion at some time or other and the Indian delegation felt that it should take place at the next session. The expression "if possible" was not clear. It might give the impression of an ironical reservation underlining the improbability that the covenants would be adopted at the next session. India therefore proposed that it should be replaced by the words "at the earliest possible date".

37. While not wishing to go into the substance of the question of "public debate", he thought that the world Press and the various cultural and other associations could not but be interested in the draft covenants. Public debate would take place without any need of "encouragement".

38. Mr. NUSEZ (Costa Rica) thanked the Turkish representative for having suggested the addition of a new sub-paragraph to the preamble and asked him for a draft of his text.

39. The Legal Department of the United Nations Secretariat had stated that when the word "Governments" was not qualified, it should be interpreted to mean "Members and non-Members of the United Nations". Mr. Núñez had therefore kept the word, as it was in line with the principle of universality, the importance of which had been stressed by the Afghan representative.

40. He had drafted a revised text to deal with the difficulty mentioned by Turkey with regard to the role of the specialized agencies. The new text of operative paragraph 1 would have three sub-paragraphs and would incorporate part of the Afghan amendment. The non-governmental organizations should be mentioned. With regard to the Non-Self-Governing Territories, he asked the Afghan representative to submit a separate proposal.

41. His delegation was willing to accept the Indian amendment (A/C.3/L.416), provided that it contained the words "including new articles, if any" suggested by Afghanistan (A/C.3/L.419).

42. Mr. JUVIGNY (France) agreed that the reference to the new articles should be included. He noted that, according to the Indian representative, the expression "article-by-article" need not compel the Committee to follow the strict numerical order.

43. With regard to non-governmental organizations, the French delegation wished to point out that in its opinion, as apparently in the opinion of the Secretary-General's representative, the organizations to be consulted should be not the national, but the international, organizations with consultative status that had affiliations both in Non-Self-Governing Territories and in the metropolitan territories. Consequently he could not see the use of the amendment proposed by Afghanistan.

44. Mr. PAZHWAQ (Afghanistan) was surprised to hear the Secretariat's opinion mentioned when the Secretary-General's representative had not yet given a final answer to the question he had been asked. He hoped that the Secretary-General's representative would be able to give the necessary information at the following meeting.

45. Mr. HOARE (United Kingdom) reserved the right to introduce the amendments proposed by his delegation (A/C.3/L.417) at the next meeting. He thought that the Costa Rican representative might be

able to accept them immediately since they were only drafting changes.

46. Mr. NUÑEZ (Costa Rica) stated that he would consult the authors of amendments and agree with them on a new text that would satisfy most delegations.

47. Replying to a question from Mr. JUVIGNY (France), the CHAIRMAN recalled that in principle

the Committee would close its discussion of the draft covenants on Friday evening, 12 November, unless it then decided otherwise.

48. Mr. PAZHWAQ (Afghanistan) moved the adjournment of the meeting.

It was so decided.

The meeting rose at 1.20 p.m.