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Chairman: Mr. G. J. VAN HEUVEN GOEDHART (Netherlands).

Draft first international covenant on human rights and measures of implementation (A/1384, A/C.3/534, A/C.3/535 and E/1681) (*continued*)

[Item 63]*

1. The CHAIRMAN recalled that, in accordance with a suggestion which he had made at the preceding meeting, the Committee should take either the draft resolution submitted jointly by Brazil, Turkey and the United States (A/C.3/L.76) or that of the USSR (A/C.3/L.77/Rev.1) as a basis for its future work on the draft covenant which the Economic and Social Council had transmitted to it for consideration.
2. He invited the authors of those drafts to introduce their texts.
3. Mrs. ROOSEVELT (United States of America) presented the joint draft resolution of Brazil, Turkey and the United States (A/C.3/L.76).
4. According to that draft, the General Assembly proposed a programme of work to the Commission on Human Rights without prejudice to the decisions which the Assembly would take at its next session when the Commission's recommendations were before it. That draft complied with the request of the Economic and Social Council which had asked the General Assembly to indicate the principles which the Commission on Human Rights should follow in its future work.
5. In connexion with paragraphs 2 (a) and 2 (b) of the operative part of the draft, she noted that in its resolution 217 E (III) the General Assembly had requested the Commission on Human Rights to give priority in its programme of work to the preparation of a draft international covenant on human rights and measures for its implementation. It seemed appropriate that the Assembly should at the current juncture request the Commission to proceed with the work it had begun and to give priority to the completion of the draft covenant in question in order to be able to submit a revised text to the Assembly for final adoption. In accordance with the usual procedure, that request should be transmitted through the Economic and Social Council, which was the parent body of the Commission on Human Rights.
6. Paragraph 2 (c) of the operative part dealing with the federal State article was certain to be approved by the many delegations which had expressed the opinion that the Commission on Human Rights should re-examine that article, bearing in mind the suggestions made by the members of the Third Committee. She stressed the fact that, according to that sub-paragraph, the General Assembly did not adopt a decision of principle but merely requested the Commission to continue to study the article in question with a view to the preparation of recommendations.
7. Referring to sub-paragraph (d), she indicated that, in view of the Committee's adoption of the joint draft resolution submitted by the Philippines and Syria (A/C.3/L.71/Rev.1) at the 302nd meeting, that sub-paragraph was no longer necessary.
8. Paragraphs 2 (e) and 2 (f) called upon the Commission on Human Rights to continue the work which it had undertaken in the economic and social field and stressed the importance of obtaining the co-operation of other organs of the United Nations and of the competent specialized agencies in the consideration of economic and social rights. The representatives of ILO and UNESCO had already stated at the 299th meeting that they were ready to co-operate with the members of the Commission on Human Rights on the question of studying additional instruments and measures dealing with economic, social and cultural rights not covered by the covenant itself. It would be very helpful if the representatives of States which were members of the Governing Body of the ILO would communicate in due course with members of the Commission with regard to the consideration of economic and social rights. Their co-operation would make it possible to avoid reproducing in the instrument or instruments prepared by the United Nations for the protection of economic, social

* Indicates the item number on the General Assembly agenda.

and cultural rights provisions which already appeared in conventions or other legal instruments.

9. Paragraph 2 (g) of the operative part of the draft called upon the Commission on Human Rights to proceed with the consideration of separate protocols for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the international covenant on human rights.

10. In that connexion, the representative of the United Kingdom had asked whether the United States was prepared to sign such protocols. The time for a reply to that question had not yet arrived. The General Assembly should simply ask the Commission on Human Rights to continue its study of the problem and to submit proposals for consideration by the Economic and Social Council and later by the General Assembly itself. Only when the draft protocols had been submitted to it would the Assembly have to decide whether they should be adopted and submitted to governments for ratification.

11. The United States was opposed to the inclusion in the covenant itself of articles authorizing individuals to present petitions complaining of violations of the covenant but would not, however, wish to oppose the inclusion of those articles in separate protocols if States were prepared to adopt that procedure or wished to do so.

12. Paragraph 3 of the operative part of the draft requested the Secretary-General to invite Member States to submit their views by 15 February 1951 concerning the draft international covenant on human rights. The Commission on Human Rights had always benefited greatly by the opinions and views communicated to it by governments. It seemed desirable for it to continue to be informed of those views and opinions.

13. In conclusion, she stated that the joint draft resolution was designed solely to guide the Commission on Human Rights in the fulfilment of its tasks.

14. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) indicated that the fundamental provisions of the draft resolution submitted by his delegation (A/C.3/L.77/Rev.1) had already been explained to the Committee (289th and 297th meetings). He therefore did not consider it necessary to revert to them in detail.

15. He did wish, however, to stress the fact that the Economic and Social Council had put precise questions of principle to the General Assembly. The Committee must reply in equally precise terms.

16. That was what the USSR draft resolution sought to accomplish. It not only pointed out that the draft covenant prepared by the Commission on Human Rights was unsatisfactory but also gave concrete indications of how the gaps which had been left could be filled.

17. Thus, section I of the operative part contained drafts of texts which the USSR delegation considered it essential to include in the covenant in order to ensure the protection of fundamental human rights such as the right of each person to participate in elections in his country and to hold public office, the right of national self-determination, the right to employment and choice of occupation, the right to leisure time, etc.

18. The USSR draft also contained very important provisions concerning freedom of expression to serve the cause of democracy, and prohibition of all fascist or

nazi propaganda as well as all propaganda fostering racial discrimination and hatred among the peoples. Finally, it provided for a series of articles relating to economic, social and cultural rights without which the covenant on human rights would not be a really effective instrument for the defence of fundamental freedoms.

19. The USSR draft resolution proposed the deletion of articles 19 to 41 of the draft covenant, which were inadequate as they did not solve the problem of implementation and their retention would constitute an attempt at intervention in the domestic affairs of States and would encroach on their sovereignty.

20. Finally, in the light of the decision taken by the Committee at its 302nd meeting, in connexion with the colonial clause, the last part of section II of the draft resolution should be deleted. The section would then read as follows:

"Considers that all the principles of the covenant on human rights must be extended without any exceptions or restrictions to the peoples of federal States."

21. Mr. MACCAS (Greece) expressed the view that of the two draft resolutions in question, the first, submitted by Brazil, Turkey and the United States, was a positive one in relation to the draft covenant in that, on the basis of the draft, it made suggestions to the Commission on Human Rights; while the other, the USSR draft resolution, was negative, since it accepted neither articles 1 to 18 nor articles 19 to 41 and proposed that in their stead the Third Committee should adopt the USSR recommendations.

22. The Committee should therefore adopt the positive proposal of Brazil, Turkey and the United States.

23. Mr. LACHS (Poland) did not share the opinion of the representative of Greece who, in his view, was measuring the positive or negative character of proposals with a rather peculiar yardstick.

24. To determine which draft resolution complied with the requisite conditions, it was enough to refer to resolution 303 I (XI) of the Economic and Social Council, whereby the Council transmitted the draft covenant to the General Assembly for a decision on the principle to be followed in respect of the questions enumerated in the fifth paragraph of the resolution. What the Committee had to do was, therefore, to consider the two draft resolutions in relation to the Economic and Social Council resolution, in order to decide which one would enable the Assembly to comply with the Council's request.

25. Considering the two draft resolutions from the point of view of their form and substance, he regarded the joint draft resolution of Brazil, Turkey and the United States as a text dealing with questions of procedure rather than principle. The draft resolution submitted by the USSR, on the other hand, far from being negative, tried to formulate certain specific points. Hence, if a choice must be made between the two, it would be quite simple: the USSR draft resolution, dealing with points of substance and meeting the Economic and Social Council's request, should be adopted.

26. It might be wiser for the Committee, in considering the various draft resolutions, to try to reply to the questions asked and to follow the order proposed by the

Economic and Social Council in the fifth paragraph of its resolution 303 I (XI).

27. Mr. DAVIN (New Zealand) said his delegation would give preference to the joint draft resolution.

28. The USSR draft resolution ran counter to the general tendencies which had been manifested within the Commission, since its aim was to delete articles which some delegations would like to see included in the covenant, and to add economic, social and cultural rights, the application of which might for the time being involve difficulties, particularly in relation to conventions concluded under the auspices of the International Labour Organisation.

29. The joint draft resolution, on the contrary, provided the Commission with an excellent starting-point for its work. He acknowledged, however, that the joint draft resolution had its faults; in particular, it did not solve the question that had been asked concerning the first eighteen articles. Nevertheless, he thought that, when additions had been made to it in the form of amendments, it would serve the purposes the Committee had in mind.

30. Mr. BOKHARI (Pakistan) had no doubt that the joint draft resolution of Brazil, Turkey and the United States, from the viewpoint of procedure, was much to be preferred. The Pakistan delegation did not by any means entirely agree with the substance of the joint draft resolution in all its details. Moreover, it considered that the USSR proposal contained original ideas which Pakistan would welcome. The question, however, was which draft would best adapt itself to the vote.

31. He justified his choice by concluding that the form of the joint draft resolution would enable everyone to make amendments to its text without destroying its structure.

32. Mr. VLAHOVIC (Yugoslavia) observed that, if the Commission took as a basis one of the two texts in question, it would not be acting fairly towards the authors of the other draft resolutions, including Yugoslavia. In his view, the Committee should reconsider each of the questions in the order in which it had been put and, in each case, consider the draft resolutions relating to it.

33. He would accordingly vote against the principle of selecting a basic text.

34. Mr. LACHS (Poland) also expressed concern as to what would happen to the other draft resolutions if one of the two draft resolutions in question were chosen as a basic text.

35. The CHAIRMAN replied that, after choosing a basic text, the Committee would consider it paragraph by paragraph: the other proposals would be regarded as amendments.

36. Mr. KOHN (Israel) stated that, for the same reasons as those given by the Yugoslav representative, he would vote against the choice of a basic text, whatever that text was.

37. Mrs. MENON (India) also considered that it would be simpler to group the draft resolutions by subject. That would mean reverting to the order in which the questions were put, so that the Committee need not vote on the choice of a basic text.

38. Mrs. AFNAN (Iraq) stated that her delegation would vote against the adoption of a basic text, since she considered that the Committee should not, for that purpose, adopt any draft resolution which expressed the personal views of its authors.

39. The Secretariat should, in her opinion, have prepared a working paper, taking into account all the draft resolutions put forward.

40. Mr. SOTO (Chile) pointed out that, by taking one or other of the proposed draft resolutions as a basic text, delegations would in no wise be indicating their approval of the substance of proposals made in those documents, and would be free to submit their proposals in the form of amendments.

41. Mr. VOS (Belgium) wholly shared that viewpoint.

42. Mr. NORIEGA (Mexico) wondered under what rule of the rules of procedure delegations could be obliged to turn draft resolutions they had proposed into amendments. Some of the draft resolutions before the Committee, such as that of Yugoslavia, for example, deserved to be retained as separate proposals. It was for the authors of the texts to decide.

43. Moreover, the adoption of a single resolution in respect of all the questions put by the Economic and Social Council might give rise to difficulties, because some delegations might, if they objected to one of its paragraphs, be obliged to vote against the resolution as a whole.

44. Mr. LEQUESNE (United Kingdom) suggested that a vote should be taken in two stages. The Committee should first decide whether or not it wanted to adopt one of the two draft resolutions as a basic text, after which it could make its choice.

45. AZMI Bey (Egypt) expressed the view that the Committee had already taken its decision at the 302nd meeting on the question which the United Kingdom representative suggested should be settled first.

46. The CHAIRMAN replied that the Committee had taken no formal decision on the subject. It would perhaps be advisable to do so, in view of the rather strong opposition the procedure seemed to be encountering.

47. He accordingly put to the vote the question whether the Committee wished to adopt one of the two draft resolutions (A/C.3/L.76 and A/C.3/L.77/Rev.1) as a basic text.

48. Mr. RODRIGUEZ ARIAS (Argentina) wished the USSR representative to explain one or two points regarding the scope of his draft resolution.

49. The CHAIRMAN regretted that he was unable to receive such a request, as he had already announced that he was putting the question to the vote and therefore the vote had begun.

It was decided, by 28 votes to 13, with 4 abstentions, to adopt one of the two general draft resolutions as a basic text.

50. Mr. RODRIGUEZ ARIAS (Argentina) stated that, as his delegation had not been allowed to ask for an explanation of the meaning of the USSR draft resolution, it had been forced to abstain in the vote that had just taken place.

It was decided, by 31 votes to 8, with 10 abstentions, to adopt as a basic text the draft resolution submitted by the delegations of Brazil, Turkey and the United States of America (A/C.3/L.76).

51. The CHAIRMAN requested the authors of the various draft resolutions before the Committee to re-draft their proposals and submit them again as amendments to the basic text just decided upon.

52. He proposed that the time limit for the submission of the amendments should be set at 6 p.m.

It was so agreed.

It was decided that the time limit would apply only to amendments relating to paragraph 2 (a) and (b) of the draft resolution (A/C.3/L.76).

The meeting rose at 12.45 p.m.