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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, E/1681 and A/C.3/L.76) (continued)

[Item 63]*

DRAFT RESOLUTION SUBMITTED BY BRAZIL, TURKEY AND THE UNITED STATES OF AMERICA (A/C.3/L.76) (continued)

1. The CHAIRMAN reminded the Committee that a roll-call vote had been requested on paragraph 2 (c) of the joint draft resolution submitted by the Brazilian, Turkish and United States delegations (A/C.3/L.76) and on all the amendments to it, which were set forth in the synoptic table (A/C.3/L.100).

2. He reminded the Committee also that the Yugoslav delegation had withdrawn its amendment (A/C.3/L.92) (308th meeting).

3. Mr. NORIEGA (Mexico) wished, in the light of comments made during the general debate, to amend his own amendment (A/C.3/L.89/Rev.1) by the addition of the words: "five years after ratification of the covenant".

4. Mr. PEREZ PEROZO (Venezuela) thought that since in principle all States signatories to an international legal instrument should assume equal obligations, federal States should assume responsibilities on behalf of all units of the federation. As the draft covenant was not however, being drafted in its final form at the current session, the Commission on Human Rights might well be given an opportunity to consider the various formulas which had been suggested or might be suggested in the future and attempt to find a compromise.

5. He would therefore vote for the Lebanese amendment (A/C.3/L.86) and abstain on the others.

6. The new Mexican amendment seemed to be a step towards a compromise solution and he would in principle support it.

7. Miss BERNARDINO (Dominican Republic) said that as a number of delegations had advanced legal arguments against the inclusion of a federal clause, her delegation had concluded that the matter was so delicate and that the issue involved so vitally affected the interests of the federal States that the Commission on Human Rights should be given more time to make a really exhaustive study of the problem taking into account the views expressed in the Third Committee, and should make every effort to reach a text satisfactory to all countries which wished to sign the covenant.

8. She would therefore vote for the Lebanese amendment.

9. Mrs. ROOSEVELT (United States of America) could not accept the new Mexican amendment. The constitutional position of the United States was such that in certain matters of local concern the federal government was not in a position to undertake obligations on behalf of the constituent states, even if it waited for five years. There seemed to be no general desire for a revision of the United States Constitution, and, without such a revision, the situation was such that the United States Government could not assume certain responsibilities.

10. She would therefore vote for the Lebanese amendment.

11. Mr. LESAGE (Canada) said that the constitutional position of Canada was very similar to that of the United States of America. He opposed the new Mexican amendment because the provision in it, far from enabling the Commission on Human Rights to seek a compromise formula, would in fact tie its hands.

12. The CHAIRMAN called for the vote on the USSR amendment (A/C.3/L.96) to paragraph 2 (c) of the joint draft resolution (A/C.3/L.76).

A vote was taken by roll-call.

* Indicates the item number on the General Assembly agenda.

Pakistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Byelorussian Soviet Socialist Republic, Czechoslovakia.

Against: Peru, Philippines, Sweden, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Bolivia, Brazil, Canada, China, Cuba, France, Greece, Lebanon, Netherlands, New Zealand, Norway.

Abstaining: Pakistan, Saudi Arabia, Syria, Uruguay, Venezuela, Afghanistan, Burma, Chile, Denmark, Dominican Republic, Egypt, El Salvador, Ethiopia, India, Indonesia, Iran, Iraq, Israel, Mexico, Nicaragua.

The amendment was rejected by 21 votes to 6, with 21 abstentions.

13. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) asked that the Mexican amendment should be voted on in parts, the new addition being taken separately.

14. The CHAIRMAN put to the vote the first part of the Mexican amendment (as far as the word "federation") (A/C.3/L.89/Rev.1) to paragraph 2 (c) of the basic text (A/C.3/L.76).

A vote was taken by roll-call.

Pakistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Argentina, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Iraq, Mexico.

Against: Peru, Philippines, Sweden, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Bolivia, Brazil, Canada, China, Denmark, France, Greece, Lebanon, Netherlands, New Zealand, Norway.

Abstaining: Pakistan, Saudi Arabia, Syria, Venezuela, Afghanistan, Burma, Dominican Republic, Egypt, El Salvador, Ethiopia, India, Indonesia, Iran, Israel, Nicaragua.

The first part of the amendment was rejected by 21 votes to 12, with 15 abstentions.

15. The CHAIRMAN said the rest of the Mexican amendment lapsed as a result of that vote.

16. The Egyptian delegation had withdrawn the proposal it had made at the 308th meeting to delete the word "maximum" from the Lebanese amendment (A/C.3/L.86).

17. Mr. MOODIE (Australia) maintained the amendment he had proposed at the 308th meeting to the effect that the word "possible" should be inserted after the word "maximum" in the Lebanese amendment.

18. Mr. PEREZ PEROZO (Venezuela) remarked that the word "possible" was already in the Spanish text of the Lebanese amendment.

19. The CHAIRMAN replied that it appeared neither in the original French nor in the English texts; therefore the word "possible" should be deleted from the Spanish text in order to make all three texts consistent.

20. Mr. AZKOUL (Lebanon) explained that, in his interpretation, the word "maximum" implied "the maximum possible"; obviously, the Commission on Human Rights could not be asked to do the impossible.

21. Mr. MOODIE (Australia) withdrew his amendment.

22. The CHAIRMAN put to the vote the Lebanese amendment (A/C.3/L.86) to paragraph 2 (c) of the joint draft resolution (A/C.3/L.76).

A vote was taken by roll-call.

El Salvador, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: El Salvador, Ethiopia, France, Greece, India, Iran, Israel, Lebanon, Netherlands, New Zealand, Norway, Philippines, Sweden, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Australia, Belgium, Bolivia, Brazil, Canada, China, Dominican Republic, Egypt.

Against: Iraq, Mexico, Peru, Yugoslavia, Cuba, Denmark.

Abstaining: Indonesia, Nicaragua, Pakistan, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Afghanistan, Argentina, Burma, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia.

The amendment was adopted by 27 votes to 6, with 16 abstentions.

23. The CHAIRMAN drew the Committee's attention to an amendment submitted orally by the Chinese delegation at the 308th meeting, concerning the words "the federal State article" in paragraph 2 (c) of the joint draft resolution (A/C.3/L.76).

24. Mr. CHANG (China) observed that no federal state article currently existed for study, as appeared from the note under the heading "Article 43" in annex I of the report of the Commission on Human Rights (sixth session) (E/1681).

25. Mr. PRATT DE MARIA (Uruguay) suggested that that difficulty could be removed by substituting "a federal State article" for "the federal State article".

26. Mr. CHANG accepted that suggestion.

27. Mrs. ROOSEVELT (United States of America) thought the Committee should not indulge in mere semantics and preferred that no changes should be made in the original text at the current stage.

28. Mr. TEIXEIRA SOARES (Brazil) thought that the word "a" was very indefinite.

29. Mr. KAYALI (Syria) supported the Chinese representative and requested a vote by roll-call.

30. The CHAIRMAN called for a vote on the Chinese amendment proposing that the word "a" should be substituted for the word "the" in the phrase "the federal State clause" in paragraph 2 (c) of the joint draft resolution (A/C.3/L.76).

A vote was taken by roll-call.

Uruguay, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Uruguay, Venezuela, Yemen, Yugoslavia, Argentina, China, El Salvador, Ethiopia, Iran, Iraq, Netherlands, New Zealand, Peru, Philippines, Syria,

United Kingdom of Great Britain and Northern Ireland.

Against: Australia, Belgium, Brazil, France, Mexico, Nicaragua, Thailand, Turkey, United States of America.

Abstaining: Afghanistan, Bolivia, Burma, Byelorussian Soviet Socialist Republic, Canada, Cuba, Czechoslovakia, Denmark, Dominican Republic, Greece, India, Indonesia, Israel, Lebanon, Norway, Pakistan, Poland, Saudi Arabia, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics.

The amendment was adopted by 16 votes to 9, with 22 abstentions.

31. The CHAIRMAN drew the Committee's attention to a second amendment submitted orally by the Chinese delegation, calling for the deletion of the words "for the consideration of the General Assembly at its sixth session".

32. Mr. CHANG (China) explained that, in his opinion, the words were redundant, as that phrase already appeared in paragraph 2 (a).

33. Mrs. ROOSEVELT (United States of America) said that such repetition was usual in United Nations resolutions and that its retention would make the joint draft resolution more precise.

34. Mr. CHANG (China) withdrew his amendment.

35. The CHAIRMAN drew the Committee's attention to the proposal made by the Australian representative at the 308th meeting to the effect that the word "positions" should be substituted for the word "problems".

36. Mr. TEIXEIRA SOARES (Brazil), Mr. SAVUT (Turkey) and Mrs. ROOSEVELT (United States of America) were unable to accept that amendment to their text.

37. The CHAIRMAN put to the vote the Australian amendment to paragraph 2 (c) of the joint draft resolution (A/C.3/L.76).

The amendment was rejected by 12 votes to 9, with 24 abstentions.

38. The CHAIRMAN called for the vote on paragraph 2 (c) of the joint draft resolution (A/C.3/L.76) as a whole, as amended.

A vote was taken by roll-call.

Costa Rica, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Cuba, Dominican Republic, El Salvador, Ethiopia, France, Greece, India, Iran, Israel, Lebanon, Netherlands, New Zealand, Nicaragua, Norway, Peru, Philippines, Sweden, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Argentina, Australia, Belgium, Bolivia, Brazil, Canada, China.

Against: Denmark, Mexico, Yugoslavia.

Abstaining: Czechoslovakia, Indonesia, Iraq, Pakistan, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Afghanistan, Burma, Byelorussian Soviet Socialist Republic, Chile.

The paragraph, as amended, was adopted by 31 votes to 3, with 14 abstentions.

39. Mr. NORIEGA (Mexico) had voted against that paragraph because the federal clause was tantamount to a reservation and a unilateral escape clause. It violated the principle of the equality of States, which was the very basis of the United Nations, it ran counter to the principle of reciprocity and undermined unity in the struggle for the economic, social and cultural objectives of the United Nations under its Charter. The clause permitted the automatic abrogation of obligations under the covenant in advance and made its implementation impossible. That it should be impossible to call a federal State to account for failure to fulfil its obligations because one third of its components was not implementing the provisions of the covenant was a manifest absurdity. The arguments based upon the limitations to the powers of the senate of a federal State were untenable. The senate could approve or reject a treaty, and its members represented their states.

40. A further reason for his negative vote was that the Commission on Human Rights had had two different texts under consideration and still had failed to submit a text. The text of the joint draft resolution contained a basic error; the Commission was asked to make recommendations which would have as their purpose to meet the constitutional problems of federal States. It was impossible to see how it could do so. Those problems were entirely domestic in nature and it was extremely unlikely that the Commission would receive from the federal States entire freedom to concern itself with their internal affairs.

41. Paragraph 2 (c) was, therefore, highly objectionable on both general and technical grounds.

42. Mrs. AFNAN (Iraq) had voted against the Lebanese amendment (A/C.3/L.86) because it did not really alter the tenor of the paragraph and had merely the appearance of a compromise text. She had abstained in the vote on the paragraph as a whole because the Committee would have an opportunity to reject the federal clause at the next session of the General Assembly.

43. Mr. MOODIE (Australia) wished to make it clear that he had voted for the paragraph with all necessary reservations arising from the federal nature of the Australian Constitution.

44. The Australian representative on the Commission on Human Rights would collaborate in endeavouring to frame suitable recommendations regarding a federal clause; however, the Australian Government would wish to give the fullest consideration to the actual text of the federal State clause as ultimately drafted by the Commission.

45. Mr. PRATT DE MARIA (Uruguay) wished to explain his votes, which might have seemed contradictory. He was in full agreement with the Mexican representative, but he had wished to indicate by his last votes that he would like as vague a formula as possible for the federal clause.

46. The CHAIRMAN drew the Committee's attention to the joint United States and Yugoslav amendment (A/C.3/L.101) which the Committee had begun to consider at the previous meeting.

47. Mr. KOHN (Israel) could not agree with those who had intimated that an amendment of that nature would represent a reflection on the Commission on Human Rights. The Commission might, however, inad-

vertently draft provisions which were implicitly at variance with provisions of the Charter. Thus, to give one example, while the Charter enjoined heed against discrimination on grounds of race, sex, language or religion, such an injunction was not among the provisions from which no derogation was permitted under article 2, paragraph 2, of the draft covenant. There was consequently every reason to adopt the proposed amendment.

48. The CHAIRMAN put to the vote the joint United States and Yugoslav amendment (A/C.3/L.101).

The amendment was adopted by 43 votes to none, with 2 abstentions.

49. Mr. VLAHOVIC (Yugoslavia) withdrew the last paragraph of point 1 of his amendment (A/C.3/L.92) which began with the words "Calls upon the Economic and Social Council . . ." and ended with the words ". . . therein affirmed", as it had become superfluous.

50. Mr. TEIXEIRA SOARES (Brazil), Mr. SAVUT (Turkey) and Mrs. ROOSEVELT (United States of America) withdrew paragraph 2 (d) of their draft resolution (A/C.3/L.76), as it would conflict with the Philippine and Syrian resolution (A/C.3/L.71/Rev.1) already adopted by the Committee (302nd meeting).

51. The CHAIRMAN thereupon invited the representatives of Afghanistan and Saudi Arabia to introduce their revised amendment proposing a new paragraph 2 (d) (A/C.3/L.88/Rev.1).

52. Mr. PAZHWAQ (Afghanistan) remarked that the joint amendment was self-explanatory. A clause on the right of nations to self-determination was necessary both in the resolution and in the covenant because the right was a basic one, which had been violated on numerous occasions in the past and was still being violated, with tragic and dangerous consequences. It was being violated in the name of civilization, of freedom from want and ignorance, and of democracy; but those were poor excuses. Men who governed their own fate were guided by other motives than those who governed the fate of others; and poverty was preferable to slavery.

53. He asked the Committee to decide quite objectively whether or not the right of nations to self-determination was indeed a basic human right. If it was, the amendment should be adopted and an article dealing with the right should be included in the covenant. Such an article would be of great benefit to all nations, especially those which had not yet won their independence.

54. Mr. BAROODY (Saudi Arabia) said that there was no need to prove that the right of nations to self-determination had been violated countless times; hence he would cite no examples and name no names.

55. The first eighteen articles of the draft covenant defined the rights not of individual man, but of man as a member of society. The right to self-determination, however, appeared nowhere in the covenant; it was for that reason that the joint amendment had been submitted.

56. Some non-self-governing peoples lived in ignorance of the very existence of such a right; others, more politically conscious, were being deluded by promises of independence to be achieved at some indeterminate date under the guidance of colonial Powers. It was, however, not in the interests of the colonial Powers to ac-

celerate the implementation of human rights in the territories under their administration, since they feared that their own economies might suffer thereby.

57. The fact was that if those Powers conferred on their colonial subjects the right of self-government, both sides could become full-fledged partners in the economic field and both could profit by that new relationship. Unless the covenant contained an article ensuring the right of nations to self-determination, it would merely encourage colonial and mandatory Powers to postpone indefinitely the establishment of equal rights among all nations.

58. Lord MACDONALD (United Kingdom) was opposed to the joint amendment because the place for it was certainly not in the draft covenant and because the Commission on Human Rights was not the proper body to deal with the question, which was already adequately covered in Articles 73 b and 76 b of the United Nations Charter.

59. All nations, whatever their actions in the past, shared the desire of Afghanistan and Saudi Arabia that all peoples should achieve self-government. Self-determination was, however, of necessity a slow and gradual process, which would not be furthered by including an article on the subject in the covenant.

60. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) warmly supported the joint amendment: it was precisely in the spirit of Article 73 b of the Charter, which the United Kingdom representative had invoked as an argument against the amendment. If the covenant failed to include an article on the right to self-determination, it would be woefully incomplete; not only was that right already enunciated in Article 1 of the Charter, but the first paragraph of article 2 of the Universal Declaration of Human Rights guaranteed human rights and freedoms to all without distinction of any kind.

61. He therefore urged the Committee to adopt the joint amendment, which was in full conformity with the Charter and the Declaration and would meet the aspirations of millions of under-privileged human beings.

62. Mr. CASSIN (France) found it difficult to accept the joint amendment. It was quite true that the Charter sanctioned the principle of self-determination; but it had also set up organs which were responsible for the implementation of that principle. Those organs were the Security Council, the Trusteeship Council and the First and Fourth Committees of the General Assembly, but not the Third Committee or the Commission on Human Rights. The latter was competent to deal with all human rights, both individual and collective; but it was clear from its very name that "the right of nations to self-determination" was not even a collective human right, but a right of nations as such. It was for that reason that the right had not been included in the Declaration and, inasmuch as the first paragraph of article 2 of that document, to which the USSR representative had referred, spoke only of "the rights and freedoms set forth in this Declaration", that article did not apply to the right of self-determination.

63. Since the Commission already had a tremendous task before it, he urged the Committee not to assign to it work which did not properly fall within its province.

The meeting rose at 1.5 p.m.