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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. Mr. NORIEGA (Mexico) noted that the revised text of the joint Afghan and Saudi Arabian amendment (A/C.3/L.88/Rev.1) to the basic text (A/C.3/L.76) no longer included a reference to the right of peoples to self-determination. Since it spoke only of the right of nations, it appeared to deal with a subject that fell within the competence of the International Law Commission, which was engaged in drafting a declaration of rights and duties of States.
2. He therefore hoped that the reference to peoples, whose right to self-determination should be protected by the covenant on human rights, would be restored.
3. Mr. BAROODI (Saudi Arabia) replied that the words "peoples and" had been deleted from the joint amendment at the suggestion of delegations which feared that their inclusion might encourage minorities within a State to ask for the right to self-determination.
4. He was, however, prepared to accept the Mexican representative's suggestion and to re-introduce those words.
5. Mr. PAZHAWAK (Afghanistan) also agreed to the suggestion of the representative of Mexico. He therefore re-introduced the original text of the amendment (A/C.3/L.88), withdrawing the text contained in document A/C.3/L.88/Rev.1.
6. Mr. NORIEGA (Mexico) said that it was obvious that the joint amendment should be adopted as it stood. At the preceding meeting, the Committee had adopted

the joint United States and Yugoslav amendment (A/C.3/L.101) which called on the Commission of Human Rights consistently to apply and assiduously to protect the principles and purposes of the Charter of the United Nations in drafting the covenant. There could be no doubt that the right of peoples to self-determination was one of those principles, and by adopting the joint amendment the Committee would merely be emphasizing a specific aspect of the United States and Yugoslav proposal.

7. It had been said that the covenant should be consistent with the Universal Declaration of Human Rights; but the third paragraph of the preamble to the Declaration said that human rights should be protected by the rule of law lest man should be compelled to have recourse to rebellion against tyranny and oppression. Rebellion was a collective action; to prevent it, the collective right of self-determination should be guaranteed. In addition, numerous articles of the Declaration, such as articles 1, 2, 3, 4, 12, 15, 18, 19, 21, 27 and 30, had a direct bearing on the right of peoples to self-determination.

8. It had been argued that the Third Committee was not the appropriate organ to discuss that right. He could not conceive of any organ more appropriate. The Security Council could deal with the question only if a conflict arose; and it was precisely the duty of the Third Committee to prevent conflicts on the grounds of violation of human rights. The Fourth Committee, in his view, would be competent, under Chapter XI of the Charter, to discuss the question; but a number of representatives on that Committee had stated in the past that those provisions of the Charter imposed no binding obligations on the colonial Powers. If that opinion were accepted, the question arose what Committee of the General Assembly could properly deal with the subject.

9. The pivotal point of the whole system of international economic and social co-operation was Article 55 of the Charter. That Article not only spoke of uni-

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

versal respect for, and observance of, human rights and fundamental freedoms for all, but specifically mentioned the principle of self-determination of peoples. Consequently the subject of self-determination was beyond any doubt within the competence of the Third Committee, as well as the Fourth Committee.

10. Furthermore, the General Assembly had on several occasions recognized the competence of the Commission on Human Rights and of the Third Committee to deal with human rights everywhere, including dependent territories. Thus, in the Standard Form for the guidance of Members in the preparation of information to be transmitted under Article 73 e of the Charter, annexed to resolution 142 (II), the General Assembly had included a section on human rights, while in its resolution 324 (IV) enjoining the Administering Authorities to further educational advancement in the Trust Territories, the General Assembly stated that discrimination on racial grounds was not in accordance with the principles of the Charter, the Trusteeship Agreements and the Universal Declaration of Human Rights.

11. The legal position of the Third Committee was consummately clear; it had not merely the right but the duty to concern itself with the right of peoples to self-determination. He therefore hoped that the joint amendment would be adopted.

12. Mr. PRATT DE MARIA (Uruguay) observed that the Committee had already indirectly sanctioned the idea contained in the joint amendment by adopting (306th meeting) the text of paragraph 2 (b) of the joint draft resolution which requested the Commission on Human Rights to take into consideration a number of rights set forth in the USSR proposal (A/C.3/L.96), among them the right to national self-determination. There should be no objection to laying greater emphasis on that right, which would be the only effect of the joint amendment.

13. Mr. MENON (India) warmly supported the joint amendment.

14. Individual and political rights could not be implemented if the people to whom they had been granted lived under a despotic régime. As had been recognized in article 21, paragraph 3, of the Declaration, the will of the people should be the basis of the authority of government.

15. The Charter of the United Nations laid down only general programmes and policies for the attainment of self-government. Development towards self-government was a slow and gradual process precisely because it was directed by foreign Powers and not by the people themselves. The Commission on Human Rights should certainly study, and make recommendations with respect to, the right of self-determination regarded as an actual human right, for only when that right had been assured would it be possible to hope for the effective implementation of all the other rights guaranteed in the covenant.

16. The argument that the question of self-determination would be more properly considered in connexion with the rights and duties of States was invalid, since the process of self-determination preceded, and indeed led to, the coming into being of a sovereign State.

17. Mr. PAZHWAQ (Afghanistan) repeated his appeal to the Committee to consider the right of self-determination with all due objectivity.

18. In reply to the statement made by the United Kingdom representative at the 309th meeting, he said that Articles 73 b and 76 b of the United Nations Charter which the United Kingdom representative had invoked were really the best arguments in favour of the adoption of the joint amendment, since the first of those Articles enjoined Members of the United Nations to take due account of the political aspirations of the peoples of Non-Self-Governing Territories, while the second called on them to encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion. The draft covenant was obviously one of the best means of encouraging respect for those rights. The joint amendment was clearly in the spirit of the Charter and should certainly not be opposed on those grounds. If, in the United Kingdom representative's opinion, principles already in the Charter should not be included in the covenant, all the articles of the covenant might as well be eliminated; there was no good reason to make any exception of the right of peoples to self-determination.

19. The United Kingdom representative's other point had been that the Commission on Human Rights was not the proper body to deal with the question. The right of peoples to self-determination was, however, a basic human right and therefore fell within the Commission's province. Since the United Kingdom representative himself had said that, whatever its past history, the United Kingdom was anxious to achieve the very goal envisaged in the joint amendment, it was to be hoped that he would not object to a study of the question by the Commission on Human Rights.

20. He added that while self-determination was admittedly a slow and gradual process, nothing in the joint amendment indicated any desire for undue haste.

21. The arguments advanced at the 309th meeting by the French representative had largely been answered already by the Mexican representative. Mr. Pazhwak merely wished to add that the draft covenant was not limited in scope to the contents of the Universal Declaration of Human Rights. Since the Committee was entitled to give directives to the Commission on Human Rights, it could certainly recommend to the Commission that the enjoyment of human rights should be extended to the peoples of dependent territories.

22. Mr. SOUDAN (Belgium) said that at first his delegation had favoured the joint amendment, but, after hearing the arguments put forward by the representatives of Afghanistan and Saudi Arabia in its support, it had come to realize that the question was much more far-reaching than it had believed.

23. Retracing the history of the Belgian mandate to administer the Congo, he said that his country had from the start done what it could to promote the welfare and raise the standard of living of the indigenous inhabitants by abolishing slavery, spreading enlightenment and education, and by other measures calculated to lead the people towards self-government. Admittedly, there had been some abuses in the Belgian system of metropolitan and colonial government, but no country could claim to be blameless in that regard.

24. If the principle of self-determination were to be applied forthwith in such territories as the Congo, and if popular elections were held for that purpose, the people would elect chiefs who would deprive them of

many of the human rights accorded by the authorities responsible for their administration. The result would be anarchy, as the populations were not yet sufficiently advanced to decide their own fate.

25. In 1945 it had been recognized that the people of the Non-Self-Governing Territories were not yet ready for self-government and Article 73 of the Charter had been drafted accordingly. The situation had unfortunately not changed a great deal in the intervening years.

26. With regard to the question of competence, he felt that as the Commission on Human Rights was required to deal with the rights of individuals, and not of peoples or nations, it was more appropriate for the countries which were responsible, under Article 11 of the Charter, for developing the Non-Self-Governing Territories to continue to do so.

27. He had not been convinced by the argument advanced by the Mexican representative and would continue to adhere to the views expressed by the representative of France.

28. Mrs. ROOSEVELT (United States of America) said that her delegation supported the principle of self-determination, but pointed out that under the Charter of the United Nations the promotion of that principle was the responsibility of the Trusteeship Council and the Fourth Committee. It would therefore be unwise for the Third Committee to take up the matter as it was not as well equipped to deal with it as those other bodies and it would be duplicating their work.

29. For those reasons her delegation would vote against the joint amendment, although it was not opposed to it in principle.

30. Mr. TEIXEIRA SOARES (Brazil) was also unable to support the joint amendment, although agreeing with it in principle, because he felt that the covenant would not be the appropriate instrument to deal with the right of self-determination. Moreover Article 1, paragraph 2, of the Charter already spoke of respect for the principle of self-determination of people and any re-affirmation of that principle was unnecessary. In any case, although not included in the covenant, the right of self-determination would be achieved if all the other rights which had been included were applied.

31. He would abstain from voting on the joint amendment but reserved his delegation's position with regard to any recommendations submitted to the General Assembly at its sixth session.

32. Mr. LESAGE (Canada) said that, although his delegation would be the last to oppose the principle of self-determination, it would vote against the joint amendment, for the reasons already stated by the United States representative.

33. Mr. SZYMANOWSKI (Poland) supported the joint amendment whole-heartedly, as the right of self-determination constituted the source of all other fundamental human rights. That was very clearly seen in the case of his own country, which had been deprived of that right for 150 years and had in consequence been denied the full enjoyment of human rights.

34. He disagreed with the United Kingdom representative's view that the United Nations Charter contained a clear formulation of the principle of self-determina-

tion; on the contrary, the Charter made it incumbent upon the Third Committee to implement and safeguard that right in international covenants and agreements generally.

35. To the French representative's contention (309th meeting) that the joint amendment would be out of place, since the covenant dealt only with individual rights, he would reply that man was part of society and could not be dissociated from it. The right of self-determination was a right of a group of individuals in association and its exclusion from the covenant would render the whole instrument unreal.

36. Mr. LAMBROS (Greece) emphasized that the right of self-determination had been a foremost guiding principle for the Greek people ever since the Greek war of independence against the Ottoman Empire in 1821 had started a revolutionary trend of national liberation in Europe. That principle had inspired his people throughout their wars of liberation, including the one in the preceding decade, that had happily ensured their survival as a nation.

37. It was the profound belief of all Greeks, not only of those who were citizens of the Greek State, but also of those still under foreign rule, that every people and every nation should have the right to national self-determination.

38. His delegation certainly supported that principle but felt that while it was within the competence of the United Nations to define that right, it was not within the competence of the Third Committee, the Economic and Social Council or the Commission on Human Rights to do so. The right to self-determination had nothing in common with the other rights dealt with in the Third Committee, being a political right which could be exercised only collectively, as the Mexican representative had pointed out.

39. The French representative had quite rightly observed that the Universal Declaration of Human Rights did not deal with the right to self-determination, because it lay outside its scope. It should be left to the political bodies of the United Nations, assisted if desired by the International Law Commission, to supplement the relevant provisions of the United Nations Charter if necessary, and to study ways and means to ensure that the right to self-determination was implemented satisfactorily.

40. His delegation would therefore support a proposal if it were submitted in another Committee, but it could not do so in the Third Committee.

41. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) could not agree with the delegations who had in principle warmly espoused the right of people to self-determination, yet had argued that the Third Committee's competence did not extend to political questions, but only to social and cultural matters. Article 73 e of the Charter clearly showed that the two categories were inseparable.

42. The French representative had stated that the first paragraph of article 2 of the Universal Declaration of Human Rights did not cover the right to self-determination; the second paragraph of that article, however, stipulated that human rights should be enjoyed not only by all individuals but also by all countries or territories, irrespective of their political status. The

maintenance of international peace and security itself depended on the achievement of self-determination by all the dependent peoples.

43. The joint amendment contained no drastic provision; in it the Commission on Human Rights was requested merely to make a preliminary investigation of ways and means with a view to preparing recommendations. There was nothing in it that should prevent delegations which professed such hearty support of the principle involved—provided that some other committee saw to its implementation—from joining his own delegation in supporting the joint amendment.

44. Mrs. AFNAN (Iraq) scouted the Belgian representative's fears about the dire results likely to ensue if self-determination were granted to certain territories. The joint United States and Yugoslav amendment (A/C.3/L.101) adopted almost unanimously at the 309th meeting stipulated that in the drafting of the covenant account should be taken of the principles and purposes of the Charter of the United Nations. The right to self-determination was implicit in the relevant provisions of the Charter, so that the Third Committee was plainly competent to deal with it for that purpose. That right was the essence of all human rights.

45. She would support the joint amendment.

46. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) also supported the joint amendment. The guiding principle in drafting the covenant should be the equality of all nations and races in the enjoyment of the human rights set forth in it. The implementation of the rights embodied in the Declaration—inadequate though it was—hinged upon the right of the people concerned to determine their own destiny without outside interference. The proposal made by the USSR representative for the inclusion of that right (A/C.3/L.96) in the draft covenant would, in accordance with paragraph 2 (b) already adopted at the 306th meeting, be considered by the Commission on Human Rights, and the joint amendment submitted by the Afghan and Saudi Arabian delegations, although not entirely satisfactory, was a further step forward.

47. The argument that the right to self-determination was already embodied in the Charter was an even more cogent argument for its inclusion in the covenant. If it were not incorporated in that instrument, it was hard to see what other instrument should include it. The general Committee was wholly competent to request its inclusion, since it was the prerequisite for the enjoyment of all other human rights. No delegation had raised the principle as such; none should therefore object to the joint amendment.

48. Mr. SAVUT (Turkey) said that the question was not whether the right to self-determination should

be recognized—undoubtedly it should be—but whether it should be included in the covenant. There were three categories of human rights. First, there were individual rights, such as those already embodied in the draft covenant. The draft covenant also included some rights which were exercised in groups, such as the right, stated in article 13, to freedom to manifest one's religion, the right of peaceful assembly, stated in article 15, and the right of association, stated in article 16. Secondly, there were the rights recognized to groups of individuals and exercised by groups of individuals, such as the rights of associations as such, or trade-union rights. Thirdly, there were the rights of nations, peoples or sovereign groups.

49. A very clear distinction should be drawn between those three categories. The draft covenant, like the Declaration, dealt with individual rights. The right to self-determination clearly fell outside that category. On the other hand, the Commission on Human Rights was not competent to deal with that particular right.

50. A further objection to the joint amendment was that in parliamentary parlance the phrase "ways and means" generally meant financial arrangements.

51. His delegation would, therefore, vote against the joint amendment (A/C.3/L.88), not because it was opposed to recognition of the right to self-determination but because it considered that that right fell outside the scope of the covenant and outside the field of activities of the Commission on Human Rights.

52. Lord MACDONALD (United Kingdom) wholeheartedly agreed with the explanation given by the Turkish representative. The Third Committee was not competent to deal with the right to self-determination. It was a question of the method to be employed. While no delegation was more attached than his own to the principle involved, he felt that for the Third Committee to adopt it would merely mean duplication of the work of a more appropriate committee. To vote against the amendment was not to vote against the principle, which both opponents and proponents had equally at heart.

53. Mr. AGUILAR CHAVEZ (El Salvador) drew attention to the fact that many of his countrymen had died on foreign battle-fields in defence of the principle of self-determination. That principle was embodied in the United Nations Charter and the Third Committee was competent to deal with it. The Committee should attach particular importance to the statement of that right, because it had been so frequently violated.

54. Mr. Aguilar Chávez considered the joint amendment entirely satisfactory.

The meeting rose at 12.55 p.m.