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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. MENDEZ (Philippines) explained that at the preceding meeting his delegation had been unable to vote against the joint amendment of Afghanistan and Saudi Arabia (A/C.3/L.88) regarding the right of peoples to self-determination because it had been unwilling to depart from the traditional policy of the Philippines. Nor had it wished to abstain, for it was anxious to show that it was far from remaining indifferent in the face of the problem.
2. He emphasized, however, that his delegation had voted in favour of the amendment in the hope that the question would be taken up by the Commission on Human Rights at a favourable time and in appropriate circumstances.
3. Mr. ZELLEKE (Ethiopia) said that his delegation had abstained from voting, not because it was opposed to the principle at stake, of which it appreciated the importance, but because it was doubtful whether the method employed to put that principle into practice would be effective. Its chief complaint against the text of the amendment of Afghanistan and Saudi Arabia was that it was vague and did not state clearly whether it applied to the peoples of colonial territories only or to other peoples as well. His delegation felt that the question should be studied more thoroughly and that the Commission on Human Rights would be unable to do anything useful in that regard in so short a time.
4. For those reasons the Ethiopian delegation had voted in favour of the procedural proposal of Lebanon (A/C.3/L.104).

5. Mr. CHAMORRO (Nicaragua) said that in the course of the general discussion his delegation had come to the conclusion that the question of the right of peoples to self-determination was basically different from other matters studied by the Committee. It was a purely national and political question and outside the scope of human rights. The Committee was only competent to discuss the rights of the individual as a human being, and not political questions.

6. That was why the Nicaraguan delegation had voted against the amendment of Saudi Arabia and Afghanistan and against the procedural proposal of Lebanon.

7. Mr. CABADA (Peru) observed that his country had always believed in the principle of the self-determination of peoples, which was the basis of its national independence. Despite its sincere and unswerving devotion to that principle, the Peruvian delegation had been unable to vote for the amendment of Afghanistan and Saudi Arabia, because it felt that the Commission was not competent to discuss the rights of communities, but only the rights of the individual. It felt, moreover, that the amendment might introduce confusion into the discussions of the Commission on Human Rights and thus prove prejudicial to its high purpose.

8. On the other hand, the Peruvian delegation had voted in favour of the procedural proposal of Lebanon, and he expressed the hope that the problem would be carefully studied.

9. Mr. CHANG (China) said that he had not spoken on the item under discussion because it must be obvious to everyone that his delegation was in favour of the amendment of Afghanistan and Saudi Arabia.

10. However, he felt that the Commission on Human Rights and the Secretariat would be glad to have some explanation of the terms of the amendment and he would therefore try to bring out the principal ideas, of which there were three. First, the effect of the amendment was to reaffirm a principle—the right of peoples to self-determination. Secondly, the text requested the Commission on Human Rights to draw up an article

* Indicates the item number on the General Assembly agenda.

and he felt that it would be advisable for delegations to submit drafts to the Commission. Lastly, to use the phraseology of the amendment, a study should be made of ways and means which would ensure the right of peoples and nations to self-determination. Such a study should not be the exclusive responsibility of the Commission on Human Rights; the delegations also would have to take part in it. Some aspects of the matter might be outside the competence of the Commission on Human Rights but that need not prevent it from working for more extensive and tangible enjoyment of the right in question.

11. Sayed Ahmad ZEBARA (Yemen) pointed out that the right of peoples to self-determination was recognized explicitly in the Charter of the United Nations and that the provision in question was in no way incompatible with the terms of reference of the Third Committee or those of the Commission on Human Rights. He had listened with great attention to the arguments put forward by the opponents of the amendment, but had remained unconvinced. The delegation of Yemen had therefore voted in favour of the amendment of Afghanistan and Saudi Arabia.

12. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) said that he would first explain his delegation's vote, and then reply briefly to the comments made at the preceding meeting by the representative of the United Kingdom.

13. With regard to the vote, he recalled that his delegation had submitted an amendment (A/C.3/L.96) recognizing the right of every people and every nation to self-determination and inviting the Administering Powers to put that right into effect on the basis of the purposes and principles of the United Nations, particularly in the cultural sphere. Since the USSR amendment had not been adopted (305th meeting), he had voted in favour of the amendment of Afghanistan and Saudi Arabia, although it was rather different from the USSR amendment. He felt that the Commission on Human Rights was undoubtedly competent in that respect. On the other hand, he had voted against the procedural proposal of Lebanon, which he regarded as a tactical manoeuvre designed to secure the rejection of the amendment of Afghanistan and Saudi Arabia and to delay consideration of the matter as long as possible.

14. The representative of the United Kingdom had misinterpreted article 14 of the Constitution of the USSR. It was incorrect to claim that the republics making up the Soviet Union had no competence with regard to any aspect of matters of credit and currency or questions of war and peace. In fact, the right of peoples to self-determination had been systematically applied and respected since the Soviet State was first established. That principle had been guaranteed in the Proclamation of 7 November 1917, when the Soviets took power, and had later been reaffirmed in the Declaration of the Rights of the Peoples of Russia, signed by Stalin and Lenin on 15 November 1917. It was as a result of those declarations that on 17 December 1917 the Council of People's Commissars had published a decree proclaiming the right of the Ukraine to secede from Russia. Subsequently, another decree had given Finland its independence. Lastly, a proclamation of 3 December 1917, signed by Stalin and Lenin and addressed to all the Moslem workers of Russia and the East, had an-

nounced the abrogation of all agreements and conventions concluded by the Czars with regard to the partition of Turkey, Iran etc. Only after that had the federation of Soviet republics been set up on the basis of the free union of free peoples. That federal regime had been confirmed on 25 January 1918 by the Third Congress of Soviets and in 1934 by the Stalin Constitution. According to article 17 of that Constitution, every republic in the Union had the right freely to decide to secede from the Union. During the six months of public discussion that had preceded the adoption of the Constitution, Generalissimo Stalin had personally urged that article 17 should be retained. He had felt that, even though no republic wished to leave the Union, the elimination of the article would have been a violation of the principle of free and voluntary participation.

15. Lord MACDONALD (United Kingdom) explained that at the preceding meeting he had protested against the fact that the Committee seemed to be paying too much attention to the colonial Powers and ignoring other countries, such as the USSR. He had quoted article 14 of the Constitution of the USSR because he believed that some peoples under the control of the USSR did not enjoy the right of self-determination. Moreover, Marshal Stalin, whom Mr. Panyushkin had recognized to be the supreme authority in the matter, had himself said in 1923 and on several other occasions, that the right of peoples to self-determination must be subject to the right of the workers to win power.

16. If the supporters of the amendment wished to be fair they would not confine their attention to the colonial peoples, but would also consider the peoples of countries such as Lithuania, Estonia and Latvia.

17. Mr. AZKOUL (Lebanon), replying to the representative of the USSR, explained that, as the amendments submitted by Afghanistan and Saudi Arabia had been drafted before the Lebanese proposal had been put to the vote, he failed to see why his own proposal should lead to the rejection of the proposal of Afghanistan and Saudi Arabia, as the representative of the Soviet Union had maintained in explanation of his vote against that proposal.

18. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) considered that in allowing the United Kingdom representative to speak again the Chairman had not conducted the discussion fairly.

19. The Ukrainian SSR had voted for the amendment of Afghanistan and Saudi Arabia because it was in the interests of all the peoples.

20. The United Kingdom representative could not have read article 13 of the Constitution of the USSR, according to the terms of which the Union was formed on the basis of voluntary association; each Republic was therefore free and self-governing. Thus, if the republics did not leave the Union, it was because they were acting in accordance with their own wishes.

21. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) reserved his right to reply later to the accusations made against his country by the United Kingdom representative.

22. Mr. KOUSSOFF (Byelorussian Soviet Socialist Republic) had voted for the amendment of Afghanistan and Saudi Arabia because it was in accordance with

his country's views and because it represented a small step towards the practical application of the right of peoples to self-determination.

23. With regard to the question which had been raised concerning the competence of the Commission on Human Rights, that body was under the authority of the General Assembly and must abide by the Assembly's decisions. If the Third Committee recommended that the Commission on Human Rights should consider a question—in the case in point the amendment of Afghanistan and Saudi Arabia—the Commission must comply with that recommendation.

24. The CHAIRMAN asked the Committee to consider paragraph 2 (e) of the basic text (A/C.3/L.76).

25. He pointed out that that text and the amendments to it were reproduced in the synoptic table (A/C.3/L.100), and invited those representatives who had submitted amendments to speak.

26. Mr. PLEIC (Yugoslavia) considered that the proposal to mention economic, social and cultural rights in the covenant was both natural and logical. The history of the last half-century had shown that there was a close link between what were usually called human rights and social, economic and cultural rights. The second half of the twentieth century would certainly bring about further progress. If the Committee included those rights in the covenant, it would merely be keeping abreast of history; if it did not, it would show itself to be reactionary.

27. The Yugoslav delegation had come to the conclusion that its amendment (A/C.3/L.92) summed up the views of the various delegations as expressed during the discussion which had taken place in the Committee. While realizing that the covenant would not include all the rights covered by the Universal Declaration of Human Rights, it had considered that its underlying principles should be the same and had drafted its amendment with that end in view.

28. The first four paragraphs of the Yugoslav amendment were entirely based upon the Declaration. As the covenant did not include all the political rights embodied in the Declaration, it must include social, economic and cultural rights. That was the meaning of the last paragraph of the preamble.

29. With regard to the operative part, the simplest possible answer had been given to the question raised by the Economic and Social Council whether articles on social, economic and cultural rights should be included in the covenant. Inasmuch as it had decided "to include economic, social and cultural rights in the draft covenant on human rights", the Yugoslav amendment left it to the Commission on Human Rights to draft the articles.

30. If there were any objections to the fact that the first four sub-paragraphs constituted a preamble, he pointed out that there was nothing new in such an arrangement: in order to avoid a procedural discussion, he would ask the Committee to consider the Yugoslav amendment from the point of view of substance, the first four paragraphs being regarded merely as a necessary outline.

31. Mr. DAVIN (New Zealand) said he would prefer the Committee to keep the text of paragraph 2 (e) as it appeared in the joint draft resolution of Brazil, Tur-

key and the United States (A/C.3/L.76), rather than to adopt the Yugoslav amendment.

32. He doubted very much whether a revised text of the draft covenant, in which all economic, social and cultural rights would be included, could be ready in time for the sixth session of the General Assembly. The conception of those rights was still in course of development and it would be rash to affirm that the Commission on Human Rights would, at its seventh session, define all the existing rights in that field which should be included in an international instrument.

33. If the Commission on Human Rights decided to include some of those rights in the draft covenant—as it appeared to be invited to do under sub-paragraph (b) adopted at the previous meeting—it would have to choose the most important of those rights, those which were generally recognized, and leave the consideration of other rights until later.

34. The New Zealand delegation therefore approved paragraph 2 (e) of the basic text. The amendment which it had submitted jointly with the Greek delegation (A/C.3/L.83) was merely intended to clarify that text by adding the words "after the completion of work on the first international covenant on human rights" after the words "To proceed".

35. The word "first" before the words "international covenant" should be deleted, so that the text would conform to the other paragraphs which had been adopted previously.

36. Mr. LAMBROS (Greece) agreed with all that the New Zealand representative had said. He thought that paragraph 2 (e) of the joint draft resolution was preferable to the Yugoslav amendment, as the latter had already been dealt with when sub-paragraph (b) of the joint draft resolution was adopted as amended. He thought, however, that the amendment of Greece and New Zealand made the text of sub-paragraph (e) clearer.

37. By its adoption, at the 306th meeting, of the Mexican amendment to sub-paragraph (b), the Committee had decided that the Commission on Human Rights should endeavour to make the covenant very broad, but, in view of the scope of economic, social and cultural rights, the Commission on Human Rights could not be expected to specify them completely and finally in the covenant. It therefore appeared that certain economic, social and cultural rights would not take their final form in the covenant or could not be included in it and should be the subject of subsequent instruments and conventions. The meaning of the joint Greek and New Zealand amendment was that that vast subject should not be completely disposed of by the covenant, and that work on it should continue.

38. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) said that his delegation had frequently stressed the importance of economic and social rights and the necessity of guaranteeing them in the international covenant on human rights.

39. He had noted with satisfaction that in adopting the Mexican amendment to paragraph 2 (b) at its 306th meeting, the Third Committee had deleted from the draft resolution it was preparing for the Commission on Human Rights any reference to other possible

covenants. Consequently, there would be only one covenant on human rights, which should cover all fundamental rights and essential freedoms to whatever field they applied.

40. The USSR delegation therefore considered that it should be specifically stated which economic, social and cultural rights were to be included in the covenant. It was not a question of drafting the actual text of the articles—that was a task for the Commission on Human Rights—but of recommending principles for the guidance of the Commission. It was with those considerations in mind that the USSR delegation had submitted its amendment (A/C.3/L.96).

41. The amendment contained only the essential economic, social and cultural rights: the right to work and the free choice of an occupation, the right to rest and leisure, and trade-union rights. It also set forth such fundamental principles as equal pay for equal work and affirmed the duty of the State to provide social security for workers and employees in accordance with the laws of each country and to take all measures necessary to ensure decent living accommodation for everyone. The amendment provided that the State must give everyone access to education and guarantee that right by the provision of free elementary education, a system of scholarships and the requisite number of schools.

42. The amendment was in keeping with the interests of all peoples and in complete conformity with the objectives of the United Nations Charter.

43. Mrs. ROOSEVELT (United States of America) felt that the Committee should reject the Yugoslav and USSR amendments, giving the Commission on Human Rights a mandate to include additional articles on economic and social rights in the covenant, just as it had already rejected the proposals made by those countries to include other rights in the covenant.

44. The solution they proposed was too extreme. To adopt it might seriously jeopardize the completion of the covenant on human rights and would in any case postpone it for many years more.

45. She pointed out in that connexion that the USSR proposal was merely an empty declaration, since in another amendment the same delegation had called for the deletion of all the machinery provided to implement human rights.

46. It seemed scarcely necessary to point out the extent of United States' support for efforts made to improve economic and social conditions in the present-day world, and the way in which it sought to enable all peoples to enjoy individual freedoms. The United States lent its support to all agencies of the United Nations working in the economic and social fields, such as the World Health Organization, the United Nations Educational, Scientific and Cultural Organization, the International Bank for Reconstruction and Development and the International Labour Organisation. It seemed unnecessary to stress all that the United States had done to promote the development of economic and social rights in other countries as well as at home.

47. The Committee apparently wondered whether adoption of the revised text of paragraph 2 (b) would have any effect on paragraph 2 (e). It should be noted that sub-paragraph (b) had been variously interpreted.

Some took the view that it would not bind the Commission on Human Rights to add further rights to the existing covenant, but would simply call upon it to consider the advisability of so doing. Others thought that it would compel the Commission on Human Rights to add certain rights which were not so far included.

48. Whatever view was taken, the United States delegation was convinced that the Third Committee could and should adopt the provisions of paragraph 2 (e).

49. In fact, under any construction of paragraph 2 (b), it was not possible for all conceivable economic and social rights to be included in the draft covenant. Even if it were possible to visualize the inclusion of all the rights set forth in the USSR and Yugoslav proposals, there would still be many rights not covered by the covenant. A comparison of the rights set forth in the Universal Declaration of Human Rights and those set forth in the USSR and Yugoslav proposals showed immediately that some rights in the Declaration were not included in either proposal.

50. Thus, whatever construction was placed upon paragraph 2 (b), those who wished to secure the speedy adoption of adequate measures to protect and safeguard human rights must vote for paragraph 2 (e), which called upon the Commission on Human Rights to proceed with the consideration of additional instruments and measures relating to economic, social, cultural and other human rights not included in the covenant.

51. Mr. PRATT DE MARIA (Uruguay) recalled that at its 306th meeting, the Third Committee had adopted a text in which the Commission on Human Rights was invited to study the possibility of adding other rights to the covenant, taking into account *inter alia* the rights set forth by the USSR in document A/C.3/L.96 and by Yugoslavia in document A/C.3/L.92.

52. In view of the fact that the amendments submitted by the USSR and Yugoslavia to paragraph 2 (e) simply recapitulated certain provisions of the above-mentioned documents, it might be wondered whether the question had not already been settled and whether it should be reopened.

53. Mr. NORIEGA (Mexico) said that, after consulting various members of the Committee, he had reached the conclusion that his delegation would be able to accept paragraph 2 (e) in the amended version proposed by the delegations of Greece and New Zealand, provided it were amended by the insertion of the words "acts or protocols concerning articles of the covenant which may require regulation and" after the words "additional instruments and measures dealing with".

54. That amendment would enable the Commission on Human Rights and the Economic and Social Council to have a clear idea of the Third Committee's position on the question under consideration.

55. Explaining his proposal, he recalled that when paragraph 2 (b) was adopted (306th meeting), he had said that in his view the adopted text automatically annulled sub-paragraph (e). Subsequently, after his exchange of views with other delegations, he had come to the conclusion that his opinion was not wholly justified. In fact, the various problems raised by the covenant

on human rights did not fall exclusively within the jurisdiction of the Third Committee. Other organs of the United Nations were considering different aspects of the question: he need only refer to the work of the Sub-Commission on Freedom of Information and of the Press, which was preparing two international conventions, and the Commission on the Status of Women, which was drawing up a convention on the political rights of women.

56. The Mexican delegation had therefore made an effort to find a formula which would allow the Commission on Human Rights to include in the draft covenant the greatest possible number of economic, social and cultural rights which did not raise special difficulties of application, while at the same time leaving it free to study the other rights and to supplement the covenant later by conventions or protocols, as the case might be.

57. In doing that, the Mexican delegation had been moved by a desire not to delay the preparation of the covenant on human rights unduly and to see that the Commission on Human Rights did not cease to expand and improve that document until it became a truly effective instrument of human progress.

58. The Mexican delegation still believed that a covenant on human rights which did not safeguard economic, social and cultural rights would be of no greater service to the cause of individual freedom than the old liberal constitutions of the nineteenth century, whose beneficent effect had been reserved for one sector of mankind. However, it was conceivable that for economic reasons, for example, a State might not be in a position immediately to undertake to respect all the economic rights which were worthy of inclusion in an international instrument effectively guaranteeing the protection of human rights. That was why, for the time being, the wisest course seemed to be the preparation of a covenant which the greatest possible number of States could sign at once, to be completed later by protocols to which governments could accede as soon as they felt in a position to do so.

59. It should not be thought that progress achieved that way would be useless or defective: even if the covenant and the supplementary instruments were not generally applied at once, the mere fact of their existence would constitute an encouragement to the peoples and an aim towards which the efforts of governments would be directed.

60. Mr. AZKOUL (Lebanon) wished to point out that the Lebanese delegation was among those which had urged that economic, social and cultural rights should be included in the Universal Declaration of Human Rights. It did not necessarily follow that those delegations must take the same stand with regard to the inclusion of the rights in the covenant.

61. The difference of attitude was to be explained by the different nature of the two documents. It must not be forgotten that the covenant was a legal instrument, which would not only be binding on States but would also expose them to attacks from the international community or the other signatories of the covenant if

they failed to respect its provisions. It was therefore conceivable that a government anxious scrupulously to fulfil its undertakings might hesitate to sign an agreement which it was not sure it could carry out forthwith to the full.

62. He felt that he should warn the Committee against the danger of considering all those who spoke in favour of including economic, social and cultural rights in the draft covenant as defenders of those rights and champions of their application. Such confusion had already had regrettable consequences. On the other hand, it would be easy to prove that delegations which advocated the preparation of several mutually complementary conventions were anxious to secure the effective enjoyment of fundamental freedoms on a universal scale. It would be better to ask the Commission on Human Rights to prepare, for the next session of the General Assembly, a draft acceptable to all, which could immediately be open for signature, than to give it too ambitious a task which it would have neither the time nor the means to bring to a successful conclusion. In fact, although the first eighteen articles set forth traditional rights which were already included in many national legislations, the same was not true of certain other rights, which had not yet been legally defined.

63. In that connexion he noted that even if the Commission on Human Rights confined itself to drawing up a draft covenant including only the eighteen articles referred to, its work would be by no means negligible since the result would be to give international sanction to those traditional rights.

64. But that was not the only question involved. In fact, according to paragraph 2 (e), amended as proposed by the delegations of Greece and New Zealand, the Third Committee would be asking the Commission on Human Rights on the one hand to draw up a covenant containing certain other rights likely to receive general approval, in addition to those guaranteed in the first eighteen articles, and on the other hand, immediately to take up the study of means of drawing up one or more supplementary conventions dealing with the economic, social and cultural rights. The United Nations would thus be able to submit to the world a legal instrument ready for adoption and promulgation and, at a later date, one or more other instruments which States would sign as and when they were in a position to do so.

65. The Lebanese delegation was of the opinion that to insist on the inclusion of economic, social and cultural rights in the first covenant at that stage would be to jeopardize the whole work that was being undertaken, for it would delay the completion of the covenant and its adoption by the General Assembly and would oblige a large number of countries which were ready to sign the first eighteen articles not to accede to it because they could not, for the time being, guarantee fully all economic, social and cultural rights.

66. For those reasons, the Lebanese delegation would vote for paragraph 2 (e), as amended by Greece and New Zealand.

The meeting rose at 1 p.m.