



C O N T E N T S

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Chairman : Mrs. Ana FIGUEROA (Chile).

In the absence of the Chairman, Mr. Dehousse (Belgium), Vice-Chairman, presided.

Draft international covenant on human rights and measures of implementation (A/1883, A/1884 (chapter V, section I), E/1992, E/2057 and Add.1 to 5, E/2059 and Add.1 to 8, E/2085 and Add.1, A/C.3/559, A/C.3/L.88, A/C.3/L.180, A/C.3/L.182, A/C.3/L.186 and Add.1) (continued)

[Item 29]*

GENERAL DEBATE (continued)

1. Mr. DAVIN (New Zealand) said that his country, which attached great importance to the fundamental rights and liberties embodied in the Universal Declaration of Human Rights, did not feel that the progress made in translating a number of those rights into a covenant or covenants had been unduly slow. They were obligations which must be considered very seriously and, once undertaken, honoured in letter and spirit.

2. The Chilean (A/C.3/L.180) and the joint (A/C.3/L.182) draft resolutions were tantamount to a rejection of the request of the Economic and Social Council (Council resolution 384 (XIII), section C) that the General Assembly should reconsider its decision (Assembly resolution 421 (V), section E) to include the civil and political rights and the economic, social and cultural rights in a single covenant. The representative of New Zealand considered that the amendments (A/C.3/L.184 and A/C.3/L.185) to the effect that two covenants should be submitted simultaneously to the General Assembly should be supported. The recommendations of the Economic and Social Council, one of the principal organs of the United Nations, should not lightly be disregarded.

* Indicates the item number on the General Assembly agenda.

3. Civil and political rights differed from economic, social and cultural rights because the former assured to the individual certain basic freedoms which involved corresponding restraints on the power of the State, whereas the latter generally required positive action by the State. The former rights had been long established in many States and would be generally accepted as fundamental, whatever view was taken of the economic and social functions of the State; whereas the latter rights sprang from a concept of the State which held it responsible for the material welfare of its citizens. That concept was not static and there might be reasonable differences of opinion on the extent of such responsibilities.

4. The argument that political and civil rights were illusory unless material welfare was also guaranteed by the State could hardly be accepted without reservation. It might well be contended that the individual himself had a responsibility, within the framework of the broad political and civil rights he enjoyed, to see to his own material welfare in so far as he was able. When he was not able, his fellowmen had an obligation to help him; but such help was not necessarily best given through the State. Indeed, many governments were not yet prepared to accept in treaty form the obligation of guaranteeing material rights.

5. A stricter method of implementation should apply for civil and political rights than for economic, social and cultural rights. Hence, of the two different methods of implementation proposed by the Commission on Human Rights—the lodging of complaints and the rendering of reports—only the second should be applied to economic, social and cultural rights.

6. Precision in drafting was more likely to be achieved in two separate covenants: the civil and political rights should be guaranteed in precise terms, whereas the statement of broad objectives, which would probably be spelt out subsequently in separate conventions, required more general language.

7. Furthermore, some States might find difficulty in accepting treaty obligations with regard to the economic, social and cultural rights, but not with regard to the civil and political rights. Some governments, too, might require more time to study the articles, only recently drafted, covering the economic, social and cultural rights.

8. With regard to the proposal that the right of peoples and nations to self-determination should be included, undoubtedly the United States representative had been correct in stating (364th meeting) that all Members of the United Nations should support that principle because it was endorsed by the Charter. It was not so certain, however, that it should be included in the covenant; it was a group political right and thus not appropriate for insertion in an instrument dealing with the enforcement of individual rights. In any case, the drafting of articles in detail was a task for the Commission on Human Rights rather than the General Assembly, and so the joint draft resolution (A/C.3/L.186 and Add.1) dealing with that right was out of place.

9. His delegation had no settled views about the right of petition but believed that the question should be dealt with, if at all, in a separate protocol.

10. The Third Committee must give the Economic and Social Council and the Commission on Human Rights clear, logical and practical directives in order to help them expedite their work, which had been very successful, particularly with regard to the first eighteen articles. It was to be hoped that the whole covenant or covenants could be completed in time for consideration at the seventh session of the General Assembly.

11. Mr. ALFONZO-RAVARD (Venezuela) recalled that the two fundamental issues raised by the draft covenant on human rights were the question whether there should be one or two covenants, and the manner of implementation. Many arguments had been advanced for the adoption of a single covenant, but his delegation agreed with those who held that civil and political rights and economic, social and cultural rights should be embodied in two separate instruments.

12. Although civil and political rights and economic, social and cultural rights were equally important, the difference between them was fundamental. Civil and political rights grew from the age-old struggle of the individual against undue intervention by the State; the concept of economic, social and cultural rights, which represented a complement to civil and political rights, was a more recent development.

13. The effective implementation of civil and political rights depended on the goodwill of the State and its subjects; whereas such goodwill was in itself inadequate for the implementation of economic, social and cultural rights. Thus the implementation of the former rights must involve certain sanctions; whereas the implementation of the latter rights called for mutual assistance by nations. Moreover, civil and political rights which had been established for centuries might be regarded as more or less static; whereas a covenant embodying economic, social and cultural rights must

be as flexible as possible, in order to keep pace with the evolution of civilization.

14. The most important aspect of the question was the ratification of the covenant by as many States as possible. Its basic purpose would not be achieved if States were prevented from ratifying the covenant as a whole because it contained certain provisions not included in their constitutions. Mathematically, therefore, more States would probably be able to sign one of two covenants than a single covenant.

15. No economic, social and cultural rights could be claimed without a firm basis of civil and political rights. That point was especially important to implementation, since only States in which civil and political rights were firmly established could be counted on to act in good faith.

16. The implementation procedure established in article 52 of the draft might give rise to serious difficulties and international friction. The Commission on Human Rights should therefore endeavour to devise a more acceptable procedure.

17. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) stated that, in the opinion of his delegation, the covenant on human rights had to meet the minimum requirements laid down in the Preamble to the Charter, and should not only proclaim those rights but also ensure their implementation. His delegation considered the first eighteen articles of the draft covenant unsatisfactory and hoped that the Commission on Human Rights would take the necessary measures to improve them.

18. The Ukrainian delegation considered that the federal clause was restrictive, since it prejudged the capacity of the component parts of federal States to enjoy certain rights.

19. His delegation also considered that the inclusion of an article on the right of self-determination could not even be in issue, since all nations and races had that right equally. The experience of the USSR in the matter could be especially useful to the United Nations. Alleged lack of political maturity could not serve as a ground for disregarding the national rights of any group, strong or weak. Indeed, arguments to the contrary proved the desire of certain States to achieve world hegemony.

20. His delegation would always insist that any covenant on human rights should include articles relating to economic, social and cultural rights, since the so-called civil rights, such as the right to life, were meaningless unless such rights as the right to work, to social security and to education were also ensured. The indivisibility of civil and political rights and economic, social and cultural rights had been shown by the experience of his own country, in which all rights were guaranteed by the Constitution. An extremely high percentage of the budget of the Ukrainian SSR was allocated to social security, public health, and education. If certain other States were indeed concerned with the welfare of their peoples, they would not only proclaim but implement the rights concerned.

21. The representative of the Netherlands had stated (363rd meeting) that the delegations favouring two covenants were mainly those of countries in which economic, social and cultural rights were already firmly entrenched. Nevertheless, the Ukrainian SSR, and other countries which favoured a single covenant, had also established those rights in their countries. The Netherlands argument could not therefore be regarded as valid. The assertion that civil and political rights could be protected by law, but that the same was not true of economic, social and cultural rights, seemed to be absolutely unfounded.

22. The argument put forward by the representative of the United States (360th meeting) that the drafting of a single covenant was virtually impossible had been refuted in theory by the representative of France (363rd meeting) and in practice by the conciliatory proposals that had been made. The French representative had advocated the drafting of two covenants on the same basis; if that could be done, there was no reason to draft two separate instruments. It was obvious in the circumstances that the purpose of those who advocated the drafting of two covenants, even with the proviso of simultaneous signature, was to provide an escape clause for States which had no intention of granting their subjects economic, social and cultural rights.

23. The standard of living in certain countries was becoming progressively lower owing to inflated military budgets; it was therefore impossible for them to allocate sufficient funds to raise the general standard of living. That was the real reason why such great emphasis was laid on the category of civil and political rights.

24. His delegation was against the proposal for the reconsideration of General Assembly resolution 421 (V) and would support the Chilean draft resolution (A/C.3/L.180), with certain reservations which it would make at a later date.

25. Miss BERNARDINO (Dominican Republic) admitted that insistence on a single covenant on human rights might lead to delay in its ratification by some countries. The United States representative, for instance, had told the Third Committee (360th meeting) that her country would find it difficult to support a single covenant covering two categories of rights, the one subject to legislation and the other not.

26. At the fifth session of the General Assembly, the Dominican Republic had argued in favour of two separate covenants to cover the two categories of rights,¹ a proposal which appeared at that time to be more realistic and to have more prospect of wide acceptance. The general debate in the Third Committee in the last few days, however, had indicated that a number of States were prepared to accept a single covenant. The delegation of the Dominican Republic too would vote for a single covenant, on the ground that all human rights deserved equal consideration. If the French delegation were able to produce a compromise formula,

that formula would receive the support of the Dominican delegation, provided it guaranteed both categories of human rights.

27. Miss Bernardino said that she had worked for years to obtain for women the same rights as those enjoyed by men and was glad to note that the Commission on Human Rights stressed that point. The principle of equal rights for men and women must be explicitly stated in the covenant or covenants finally adopted.

28. In that connexion article 31 of the draft covenant (E/1992)² should become the first article of the covenant: the first point of any covenant must be recognition of the equal right of men and women to all the rights set forth. Although fifty-six countries had granted women full political rights, women in many other countries still had no rights at all. The covenant must be clear and explicit on that point.

29. Miss Bernardino agreed with the view of the Mexican representative (360th meeting) that the Spanish version of the draft covenant should conform with the English text: the Spanish text as it stood spoke of the rights of man, whereas the English text spoke of human rights, that is, the rights of all members of the human race. She did not intend to make any formal proposal on the matter, but hoped the Commission on Human Rights would clear up the confusion.

30. The CHAIRMAN called upon Mr. Saba, representative of the United Nations Educational, Scientific and Cultural Organization, to make a statement.

31. Mr. SABA (United Nations Educational, Scientific and Cultural Organization) said that his Organization, which had been represented at the seventh session of the Commission on Human Rights, had been asked by the Secretary-General of the United Nations to study the draft covenant and to offer its comments to the Economic and Social Council at its thirteenth session. The General Conference of UNESCO, which had been held in June and July 1951, had adopted a resolution³ giving general approval in principle to the proposals of the Commission on Human Rights. It had stressed the importance of the right to education. In a world where half the population was still illiterate the right to education had to be implemented so that human beings might realize and secure respect for their rights.

32. Owing to lack of time, the General Conference of UNESCO had not been able, however, to comment in detail on the actual text of the clauses relating to the right to education and cultural rights as adopted by the Commission (E/1992). Accordingly, the Conference had indicated that UNESCO would offer relevant suggestions after consulting its member States.

33. The General Conference of UNESCO had also stated that the Organization would be prepared, so far

¹ See *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9.*

² See *Resolutions adopted by the sixth session of the General Conference of UNESCO, section II, second part, resolution 9.1.*

³ See *Official Records of the General Assembly, Fifth Session, Third Committee, 298th meeting.*

as the application of educational and cultural rights was concerned, to accept the responsibilities delegated to specialized agencies under chapter V of the Commission's draft.

34. While approving the general structure of the provisions, UNESCO reserved the right to submit proposals later to take into account the machinery of implementation as existing in the specialized agencies, and to avoid duplication.

35. The Director-General of UNESCO had, in accordance with the resolution adopted at the UNESCO General Conference, requested member States to submit their observations on the provisions of the draft covenant which touched on educational and cultural rights; and the observations had been examined by the Executive Board of UNESCO at its session in October 1951.

36. As replies had been received from too small a number of the members of UNESCO to allow of making any detailed comments and as, moreover, both the discussion of the draft covenant and the observations by member States were based on a single draft covenant as drawn up by the Commission on Human Rights, covering economic, social and cultural rights as well as civil and political rights, the Executive Board had decided to consult further with States members of UNESCO.

37. At the same time, however, the Executive Board had instructed the Director-General to inform the General Assembly of the United Nations that UNESCO was in favour of the adoption of a single covenant. The Board had also instructed the Director-General to communicate to the States members of UNESCO the decisions which the General Assembly took concerning the draft covenant if they should call for supplementary observations on their part.

38. The Executive Board of UNESCO, at its next session, would consider all supplementary observations received from member States, and formulate any suggestions it might wish to make in connexion with the final drafting of the provisions of the draft covenant relating to cultural and educational rights.

39. He read the pertinent resolutions adopted by the Executive Board of UNESCO.

40. Mr. BAROODY (Saudi Arabia) believed that the Commission on Human Rights had done its utmost to comply with General Assembly resolution 421 (V), particularly in formulating the economic, social and cultural rights; without them the draft covenant would be valueless, since the civil and political rights were already embodied in the constitution or statutory legislation of most countries. The Commission's suggestions with regard to the measures of implementation had been helpful, but his delegation would not support any measures likely to lead to encroachment by one State on the domestic jurisdiction of another. The suggestions must therefore be examined with the greatest care.

41. It was most earnestly to be hoped that in redrafting article 13 of the covenant the Commission on

Human Rights would take into account the view held so strongly by the Saudi Arabian delegation that it had been compelled to abstain from voting in connexion with the similar article 18 of the Declaration of Human Rights—that guaranteeing the freedom of thought, conscience and religion. The objectionable phrase inserted in that article had been: "This right includes freedom to change his religion or belief". Freedom of thought, conscience and religion in itself implied the individual's right to change his belief of his own free will without compulsion. To single out the right to change beliefs might not only ruffle religious susceptibilities but—far worse—might be interpreted as giving missionaries and proselytizers a free rein. Missionaries might harbour the best intentions but, in their zeal, might unwittingly act as agents, as they had in the past, for organizations or countries bent on colonial exploitation. With the best intentions such missionary bodies might attempt to put pressure upon the Commission on Human Rights for the inclusion of such a phrase. The power of propaganda had become so strong that it was tantamount to actual pressure. Yet, no monotheistic creed such as Islam had ever preached or practised compulsory conversion; and it must be remembered that Islam was not only a religion, but a way of life, as very many social practices were based upon the Koran.

42. General Assembly resolution 421 (V), section D, concerning the right of peoples and nations to self-determination, had been based upon a joint Afghan and Saudi Arabian draft resolution adopted by a considerable majority of the Third Committee.⁴ The Commission on Human Rights, despite all its praiseworthy efforts, had been unable to comply with that resolution, and the matter thus remained on its agenda. The joint draft resolution (A/C.3/L.186 and Add.1) concerning the right of self-determination had been submitted not because its sponsors lacked patience, but because the agitation for self-determination throughout the Non-Self-Governing Territories had increased vastly during the past year and was growing daily, while efforts were being made to repress it in the name of law and order. The disturbances and the repression were due precisely to the fact that the persons striving for self-determination were not articulate enough to appeal to reason. An explicit statement of that right was therefore essential to the draft covenant.

43. Representatives of the metropolitan Powers had argued that the right of self-determination pertained to groups rather than individuals and should thus be excluded from the covenant for technical reasons. Such an argument was wholly erroneous. In the Universal Declaration of Human Rights itself, for which the same Powers had voted, article 16, paragraph 3, and article 21, paragraph 3, among others, clearly referred to groups—which in fact were merely collections of individuals.

44. The argument that, as the right of self-determination was already covered by Article 1, paragraph 2, of the Charter it should not be included in the cove-

⁴ See *Official Records of the General Assembly, Fifth Session, Third Committee, 311th meeting.*

nant, was equally untenable. If a general reference in the Charter had been deemed sufficient, there would have been no need for the Universal Declaration of Human Rights or for the draft covenant.

45. Public opinion tended to suspect—perhaps not wholly without justification—that great efforts were being made to exclude from the draft covenant effective measures of implementation of the economic, social and cultural rights. The metropolitan Powers, in particular, seemed anxious to defer the implementation of economic, social and cultural rights that their own citizens so amply enjoyed. They argued that such rights as that of self-determination would be attained in due course, but evaded the question how long that would be. In fact, they would not implement such rights so long as their own economic interests were bound up with the possession of dependent territories. But the people in those territories could not and would not wait, because their very lives and livelihoods were at stake. They could no longer be soothed by pro-

mises of civil rights which they could not enjoy without economic rights. If their aspirations were frustrated much longer, they would inevitably rise in revolt. It would indeed be a tragedy if reform could be achieved only by rebellion. The only sensible solution was for the metropolitan Powers to relinquish their hold upon their dependencies and gracefully to share their wealth and knowledge with those who lacked both.

46. In reply to Mr. PAZWAK (Afghanistan), Mrs. ROOSEVELT (United States of America) said that her delegation was anxious that the principle of the self-determination of peoples and nations stated in the Charter should be reaffirmed in the covenant.

47. At the close of the general debate she would submit an amendment so drafted as to include a broader expression of that idea and hoped that it would prove acceptable to the sponsors of the joint draft resolution (A/C.3/L.186 and Add.1).

The meeting rose at 5.55 p.m.